

EXAMINATION OF THE STOGUMBER NEIGHBOURHOOD PLAN

Procedural advisory note from the examiner

1. I have been appointed by the Local Planning Authority ('the LPA'), the West Somerset District Council (WSDC) to undertake an examination of the Stogumber Neighbourhood Plan in accordance with the provisions of Schedule 4B of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act') and the Neighbourhood Plan (General) Regulations 2012 (and amendment 2015) ('the Regulations'). I act independently of any party to the plan, including the Stogumber Parish Council ('the qualifying body') and the LPA.
2. The plan was submitted to the LPA, in accordance with Regulation 15, in November 2016 and a formal consultation period under Regulation 16 took place between 18 November 2016 and 13 January 2017. I was sent copies of all of the representations submitted in that consultation period shortly after the close. My examination of the plan officially commenced today.
3. My duties under the 1990 Act are to consider whether the submitted plan meets what are termed 'the basic conditions'. In short, they concern conformity with the strategic policies of the development plan (the West Somerset Local Plan); whether regard has been had to national planning policy and guidance and whether the plan contributes to sustainable development. I also have to consider whether various EU obligations have been satisfied including Human Rights, Strategic Environmental Assessment and compliance with Habitats Regulations. Should I consider that the plan, taken as a whole, does not meet the requirements of the 1990 Act then I may make recommendations to the LPA that the plan be modified in order that it does meet those requirements and may, as modified, proceed to referendum. Alternatively, should the nature and scope of the necessary modifications be significant I may recommend that the plan should not proceed to the next stage.
4. Over the next two weeks I will be studying the plan and the representations made on it. Should I consider that these give rise to issues upon which I require clarification or further information I will produce a list of questions to be addressed by the Qualifying Body. I may also have questions of the LPA. The general rule is that the examination is undertaken by written exchange but should I consider it necessary to ensure an adequate examination of an issue I may cause a public hearing to be held. Should I deem that to be necessary the earliest feasible date for it would be in early March. Although the hearing would be held in public only representatives of the Qualifying Body (Parish Council) and the LPA as well as any person who has made representation on the issue to be discussed would be permitted to speak.
5. This examination is unusual in that the LPA has submitted a formal representation under Regulation 16 raising a wide range of issues and indicating that, in their view, the submitted plan fails to meet the basic conditions and that modifications are required before the plan might proceed to referendum. I may,

or may not, accept or agree with any representation by the LPA or any other party. I may also raise points in my questions in addition to those raised in the representations if they are relevant to my consideration of the basic conditions and other matters under examination. It is for this reason I have produced this note so that all concerned are clear on the examination process and the possible outcomes.

6. It is important that the Stogumber Parish Council should be aware that now that the plan has been submitted to the LPA it is, effectively, 'out of their hands'. It is not open to the Parish Council to change it in any way. The only way that could be done would be for it to be withdrawn from examination. The 1990 Act provides that a neighbourhood plans may be withdrawn at any time prior to it being 'made' by the LPA. The effect of withdrawal is that the pre-submission (Regulation 14) draft plan would need to be subject to consultation again and representations on it be considered by the QB before the plan was re-submitted to the LPA for examination.

7. There is no procedure whereby the Qualifying Body may make what would amount to a series of responses to the points raised in the Regulation 16 representations. I would not be minded to accept such a counter-representation even if it were to be made. Rather, the Qualifying Body must await my list of questions (see paragraph 4 above) which will cover all of the issues I regard as relevant to my examination and they should respond to them. It may very well be that the QB would wish to suggest a modification in the context of my question(s) and that would be entirely in order. Should a hearing be held it would also be appropriate to discuss modifications which would meet or overcome concerns raised by participants.

8. In due course, I will be submitting a report to the LPA and the QB which will contain my recommendations as to the way forward (see paragraph 3 above). However, from my early reading of the plan and the LPA representation in particular there would appear to be a distinct possibility that, should the plan proceed to referendum, it will be on the basis of an significantly modified plan upon which there will have been no further public consultation. The only statutory provision for any further consultation is if the LPA disagree with my recommendations and introduce new modifications. There is also discretion for the LPA to hold a further examination into such new modifications.¹

9. Unless I informed to the contrary I will now commence preparatory work with view to the issue of an initial set of questions by the end of next week (10 February).

John R Mattocks

Examiner, 01.02.17

¹ Provisions introduced by the Housing and Planning Act, 2016. See NPPG Ref IDs 41-092&3-20161116