

**BATH AND NORTH EAST SOMERSET - CORE STRATEGY EXAMINATION**

**INSPECTOR'S NOTE – IMPLICATIONS OF S112 OF LOCALISM ACT**

The Council has sought clarification of the implications of S112 of the Localism Act regarding the nature and scope of the recommendations I can eventually make on the submitted plan.

1. Given the scope now given to Councils to make *additional modifications* (S23 (3)) prior to adoption, I will be concerned only with the *main modifications* necessary to make the plan sound. I will not need to pay any attention to currently proposed or possible future minor modifications, as we have currently called them. In my report, I would address only the main modification necessary for soundness and would not include any schedule of minor modifications.

2. Disregarding for the moment the big controversial issues, the Council has accepted that parts of the submitted plan are not sound and need to be changed and on some of these matters I have indicated that this is also my own view. Accordingly, even to put into effect some of the significant changes on which the Council has consulted, I would need to recommend that the submitted plan be not adopted and give reasons. I could then only proceed to make *main modifications* if requested to do so.

3. I currently envisage issuing only one formal report at the end of the Examination which would contain my conclusion in relation to S22(7A) and then proceed to set out the *main modifications* necessary to make the plan sound if the appropriate request has been made.

4. Any main modifications I recommended must make the document sound (S22(7C)). Soundness in this regard includes matters such as appropriate public consultation and ensuring that a change can be introduced fairly. Revised SA may also be required. Accordingly, before I could make any *main modifications* not already included in the Council's published schedule of significant changes, the Council would need to undertake consultation and ensure any other requirements are met. In this respect there is no change to existing practice.

5. In addition, as any *main modification* needs to make the plan sound, I would need to specify precisely how the plan needs to be changed, as has been the practice to date. There would be no scope for me to formally recommend as a main modification broad areas of further work for the Council to subsequently undertake and include in a revised plan.

6. There may be some difficulty or complexity if I were to find the plan unsound in relation to some of the big controversial issues, requiring a significant change of the strategy to be made sound. In the past, such a fundamental finding might have led to a recommendation that the plan be withdrawn. That does not now seem possible. In such circumstances, I would need to indicate to the Council, informally but publicly, the further work and broad nature of the further changes that needed to be pursued

and then consider the results of that further work. This might well result in further hearings in relation to the changes.

7. I believe Councils now have the freedom to withdraw a submitted plan at any stage. Accordingly, even if the Council had made a request under 22(7C), the Council could withdraw the plan if I were to indicate that a substantial change of strategy was required. Once a plan was withdrawn (or if the Council indicated that that was its intention) I would normally expect to cease work on the Examination to save expense.

8. We will need to keep the position under review. If there were to be no formal request under S20(7C) by the end of the hearings, I would proceed to write up my report under S20(7A). That might not take very long. I presume that once a report has been formally issued, then that will be the end of the Examination.

**Simon Emerson**  
**Inspector**  
**12 January 2012**