

Chris Banks

From: Andrew Lainton [andrew.lainton@btopenworld.com]
Sent: 27 April 2012 18:40
To: chris.banks@zen.co.uk
Subject: Apologies again pasted old version - Long week - Corrected letter

Bath and North East Somerset Council
 Local Development Framework
 Examination of Core Strategy DPD
 INSPECTOR:
 Mr Simon James Emerson BSc DipTP MRTPI
 PROGRAMME OFFICER: Mr. Chris Banks

Dear Sir

Bath and North East Somerset Council Local Development Framework Core Strategy- **Revised Post NPPF Soundness Tests**

I am writing because of the implications of the publication of the National Planning Policy Framework on proceedings.

I note that the inspector has written to parties asking for comments on the implications of this publication and that of the Travellers policy statement.

It is surprising though that the note [ID47](#) did not specifically refer to the new 'positively prepared' soundness test, and the major change to the effectiveness test, and ask for comments on implications, though it did ask for comments concerning housing.

The issue of the 'Duty to Cooperate' was raised during the Examination and the PINS legal advice – that it is not retrospective (though challenged) was discussed. However there is now general consensus in planning that the Localism Act Duty is quite different from the soundness tests relating to larger than local planning.

The issue being that the **duty relates to process at the time the plan was being prepared, whilst the soundness tests apply to outcomes at the time of your decision over the prospective plan period.**

May I refer firstly to new [PAS Guidance](#) and [advice from a senior inspector issued at an RTPI event this week](#) both of which make this point very clearly.

Though the implications of cooperation/co-operation were of course discussed during hearing a key aspect of the NPPF is that it is read as a whole (paras 6 and 14). So it is not until the final version is out that one can fully assess the impacts of the new policy on each of the soundness tests including the new test (para 182). For example larger than local issues don't only effect the 'positively prepared' test but also in terms of justification of strategic based on proportionate evidence of that impact & effectiveness '*based on effective joint working on cross-boundary strategic priorities*' - as well as of course consistency with national policy (the NPPF as a whole).

I do not represent clients at this examination however as this is very like to be the first examination to conclude post NPPF it may very well be seen as a precedent and may very likely be subject to legal challenge. Therefore I am writing solely to ensure that the process is not derailed by avoidable challenge

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and that other authorities learn appropriate lessons from the outcome.

I would advise then that parties be given opportunity to comment on the implications of the revised soundness tests and if necessary an additional hearing held. If this matter has already been considered and dealt with you in another way I apologise.

Yours Faithfully

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