

BRIDLINGTON TOWN CENTRE AAP EXAMINATION**Response to ERYC's Statement concerning 'The Consistency of the AAP with the National Planning Policy Framework' on behalf of the Bridlington Harbour Commissioners****Introduction**

1. This Statement is prepared by Barton Willmore LLP on behalf of the Bridlington Harbour Commissioners (BHC) and, as permitted by the Inspector, provides a response to ERYC's Statement of 14th May (of which the BHC were unaware until reference was made to it during the examination hearing on 16th May: the length of the statement was not appreciated at that time either) concerning 'The Consistency of the AAP with the National Planning Policy Framework'. This Statement should be read in conjunction with BHC's own Statement on the 'Implications of the National Planning Policy Framework' (lodged on 9th May) and the additional oral evidence that it has already given to the Inquiry. For ease of reference, we use the paragraph numbering in ERYC's Statement.

Para 3 - Heritage

2. As set out in evidence, we do not consider that English Heritage (EH) is content that the proposals for the Harbour Top are consistent with the NPPF. EH made clear at the examination hearing on 16th May that it had not seen the plans that had been prepared for the Harbour Top which showed the two storey car park, the retail/leisure units, the three levels of residential accommodation and hotel (Figure A6 to Appendix A to BHC's RO4 Matter 2 Statement). EH made the point that these plans were prepared before the issue of the draft 'Bridlington Quay Conservation Area Character Assessment' (April 2012) and that the scheme for the Harbour Top would need to be amended to reflect the conclusions of this Assessment. For example, EH confirmed that the plan (Figure A6) would not preserve panoramic or principal views from South Cliff Road.
3. EH relies on the proposed new policies to be incorporated into the AAP, adherence to the conclusions of the Assessment and a new SPD to protect the listed structures and

their setting so that 'less than substantial harm' would occur. ERYC state that the plans for the Harbour Top are flexible and their scale could be reduced so that they can meet the policy requirement of no substantial harm. The BHC reiterate their stance, however, that the scale of the proposed development anticipated for the Harbour Top will inevitably have a substantial impact unless the proposed allocation of a multi-storey car park, retail/leisure units, housing and hotel is reduced considerably. The AAP itself refers, for example, to a "hotel of 100 bedrooms or more" (p.16, para. 1.24), about 5000 sq m of retail and leisure floorspace (p.130) and 150 space public car park (pp 42, 43, 47), quite apart from the provision of housing and accommodating the needs of BHC and harbour users. A significant reduction in the scale of development proposed for the Harbour Top will be required to meet the 'less than substantial harm' criteria. The reduction in development would affect the financial appraisals and also reduce any returns from a development that BHC has shown will have a high initial infrastructure cost. NPPF stresses the importance of careful attention to viability and costs when plan-making, so that plans are deliverable (para. 173).

Para 3 – Flood Risk

4. The NPPF reiterates previous advice that development in areas at risk of flooding should be avoided and that development should be directed away from areas of highest flood risk. The NPPF requires Local Plans to apply a sequential, risk based approach to the location of development to avoid where possible flood risk to people and property. In preparing their Local Plans, LPAs are asked to apply the Sequential and the Exception Test (para 100).
5. Para 101 of the NPPF makes the point that 'the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding'. Whilst a Strategic Flood Risk Assessment has been provided for the AAP area, no sequential test has been carried out.
6. Para 102 of the NPPF states that if, 'following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be

applied if appropriate. For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- a site specific Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking into account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

Both elements of the test will have to be passed for the development to be allocated or permitted'.

7. The development proposals contained within the AAP have not been subjected to the sequential or exception tests and are, therefore, contrary to the requirements of the NPPF.
8. Thus, in the context of the AAP, the ERYC has produced a Strategic Flood Risk Assessment but has not carried out either the Sequential or Exception Tests (including a site-specific Flood Risk Assessment). The housing and hotel development proposed for the Harbour Top has not been subject to the Sequential Test and, as set out in their previous Matter Statements, the BHC is aware of other sites in the town that are available for these uses which are not subject to flood risk.
9. It is important that the Sequential Test and the Exception Test (if necessary) is carried out for the development proposed for the Harbour Top before the site is allocated in the AAP for hotel and housing uses. If the Sequential Test is not carried out at the plan-making stage then it is too late to carry it out at the planning application stage. The NPPF makes clear at para 104 that if development is allocated in a plan then it is not necessary for applicants at the planning application stage to apply the Sequential Test.

Para 4 – Starting Point

10. "Plans should take account of market signals" (NPPF para 17, 3rd bullet point): BHC believes that this has not occurred in respect of Harbour Top and the financial appraisals are not supported by robust evidence.

Para 10 - Sustainability

11. Para 10 of the NPPF deals with sustainability and the BHC has already made clear its concerns about the Sustainability Appraisal and that sustainability cannot be assessed in the absence of strategic policies. It is clear from the NPPF that allocations proposing development which (for example) does not meet flood risk policies or which is not deliverable renders such development unsustainable (see paragraph 6 of the NPPF which refers to paragraphs 18 to 219).
12. The BHC also consider that ERYC has under-estimated the economic importance of the harbour to the town and over-estimated the contribution that the development of the Harbour Top would make to the Burlington Parade and the regeneration of the town centre. The reduction in the development that is proposed for the Harbour Top required to meet heritage issues exacerbates this situation.
13. Reference has been made to the number of jobs and businesses that are dependent, either directly or indirectly, on the harbour; the tourism that the harbour attracts; and the expansion that has occurred over the past 10 years. ERYC accepted at the Examination on 16th May that there has been an increase in jobs and fishing vessels since the 2001/2 Inquiry. ERYC seem to be blaming the BHC for the underperformance of the town centre but the harbour has been one of the success stories for the town. It is not the fault of the BHC that the town centre is not functioning as it should and that existing assets such as the 'Old Town', the Bayle Museum, the Priory Church and the Georgian High Street have been so little publicised by ERYC. The BHC responsibility is for the management of the harbour and fulfilling their statutory duties. The proposed development for the Harbour Top is of little benefit to the town but would be very damaging to the harbour.
14. Para 173 of the NPPF makes clear that pursuing sustainable development requires careful attention to viability and costs in plan-making and that plans should be effective and deliverable. In the Bridlington context, the BHC have already made clear in their previous Matter Statements and evidence their concerns about the deliverability of the marina and the Harbour Top development. It is clear from the evidence submitted to the Examination that the Marina proposal is not financially viable and that the proposed development of the Harbour Top cannot be seen as Phase 1 of a scheme that may not take place.
15. The AAP states that the inclusion of the Harbour Top within the Burlington Parade

scheme is subject to agreeing certain conditions with the BHC. If agreement is not reached then the ERYC may attempt a CPO which, by its very nature, is uncertain and outside the control of ERYC. As such, the inclusion of the Harbour Top within the AAP cannot be 'justified' or 'effective' as required by the NPPF.

16. As well as being 'justified', 'effective' and 'consistent with national policy', the NPPF requires Local Plans to be 'positively prepared' (para 182) and flexible. Para 14 states that 'local plans should meet objectively assessed needs with sufficient flexibility to adapt to rapid change'. The BHC continues to argue that the development of the Harbour Top as part of the Burlington Parade is not justified and is inflexible when it should be flexible; and is not based on any objective assessment.
17. The Council state that the AAP has flexibility to adapt to change but this is not the case. Reference has already been made for example to the problems of the Lords Feoffees in obtaining planning permission for a multi-storey car park at Beck Hill despite the fact that is allocated for such in the AAP. At the Harbour Top, ERYC has raised concerns about the BHC proposals for a lobster hatchery to meet the needs of local fishermen. The development of the Harbour Top will also reduce the flexibility of any future design for a marina and/or restrict future growth and development of the current harbour. The AAP has little or no flexibility to accommodate change and as such it remains contrary to the advice set out in the NPPF.

Para 13 -14 Model Policy

18. The BHC suggest that the model policy is most appropriate (ERYC Option 1). Although policies of plans should be read together, the BHC consider that this policy should be placed early in the AAP rather than as a new policy at Brid TC10. Ideally, it should be provided as Brid TC1 as an introduction to the plan along with its vision, aims, objectives and strategy.

Para 15 – 34 Core Planning Principles

19. In respect of the NPPF's Core Planning Principles, the BHC would reiterate their evidence that:
 - There has been a lack of meaningful consultation (or "collective vision"/"agreed priorities") and the AAP proposals for the Harbour Top do not have the support of the BHC; the Harbour Consultative Body (comprising

representatives from the Bridlington and Flamborough Fishermens Society, the Royal Yorkshire Yacht Club, the Pleasure Boat operators, private craft owners and tenants of the harbour estate); the Bridlington Town Council; local councillors; and local people.

- There has been a lack of an objective evidence base and a need to provide new evidence (e.g. the draft Bridlington Quay Conservation Area Character Assessment) after the submission of the AAP. The submission of the Conservation Area Assessment has already put in doubt the AAP proposals for the Harbour Top.
- There has been a failure by ERYC to consult the public on new evidence in accordance with the requirements of the NPPF.
- There has been a failure by ERYC to consider reasonable alternatives which may be more viable and which have a less damaging impact on the environment and heritage assets.
- Sustainable economic development does not mean undermining the jobs and businesses that already exist and which are expanding at the harbour.
- It is not sustainable to provide vulnerable uses such as housing and hotel in a Flood Risk Area where alternative sites in lower flood risk zones are available.
- It is not sustainable to promote development that harms heritage assets and their setting.

Para 35 - Timescale

20. In Para 35 (v)(b) ERYC state that the time scale for the AAP meets the requirements of para 157 of the NPPF but this advises a 15 year time horizon.

Para 37-42 Sustainable Economic Growth

21. The BHC have set out their comments on the success of the harbour as an attraction and the growth of businesses and jobs at the harbour which contrast with the state of the town throughout the boom years and the efforts of ERYC to generate growth. The success of the harbour is being put at jeopardy by the AAP proposals for the development of the Harbour Top as part of the Burlington Parade Scheme and in advance of the Marina, which may never be built.
22. As set out in the Matter Statements, the Burlington Parade should be terminated at Bridge Street; thus avoiding the need to develop the Harbour Top and leaving the land in the control of the BHC so that they can continue to fulfil their statutory duties. The Harbour Top should remain part of the harbour estate until additional

land has been provided at the new marina (if it goes ahead) to accommodate the requirements of the BHC.

Para 43 – Housing

23. The BHC have no issue with the provision of housing in the AAP area or the wider town insofar as this lies in Flood Zone 1. However, the provision of housing at the Harbour Top is contrary to the NPPF in that the housing proposed is in a high risk flood zone and there are alternative available sites elsewhere in the town.

Para 44 - 47 Positively Prepared

24. The AAP is not positively prepared in that it is not supported by many of the key stakeholders in the town, including the BHC in respect of the proposed development for the Harbour Top.

Barton Willmore

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