

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

Introduction

1. This paper sets out the Council's response to objectors' additional statements (ND12 and ND13) on the Council's assessment (ND08) of the consistency of the AAP with the National Planning Policy Framework (NPPF).

Colin Seymour, ND12

2. Mr Seymour argues that it was the intention of the NPPF to require equal importance to be given to the three dimensions of sustainable development – economic, environmental and social – and therefore to require that the three are always to be in balance in a development plan document (ND12 para 1, although Mr Seymour acknowledges in his para 2 that the NPPF does not actually use the word 'equal').
3. He goes on to infer that it follows that if a plan gives one dimension of sustainable development more weight than the others, the balance must be restored if a plan is to be considered consistent with the NPPF.
4. He then purports that the Harbour Top produces two disadvantages – social and environmental – which he gives a weight of one each, against the economic advantage which he gives a weight of one. He argues that the plan, if were to be in balance, the economic advantages would have to be twice as large but are not and therefore concludes that the AAP fails to balance the scales (ND12, para 12).
5. Mr Seymour also contends that the economic advantages are in any case wishful thinking because they are dependent on the harmful developments – buildings at the west end of the Harbour and the reclamation of land from the south beach – that he doubts are deliverable.
6. The Council points out in response:
 - i. The NPPF refers to the long-standing "Bruntland" definition of Resolution 24/187 of the United Nations General Assembly. However, para 6 of the NPPF specifically states that:

"The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development means in practice for the planning system."

**The Council's Response to ND12 and ND13 on the Consistency of the AAP
with the National Planning Policy Framework**

8 June 2012

- ii. This strongly suggests that in order to comply with the requirement for sustainable development, regard must be had to those paragraphs of the NPPF and compliance with those provisions, rather than carry out a different exercise.
- iii. The NPPF does not require 'balance' of the three dimensions in the mechanistic way that Mr Seymour contends. It states instead (NPPF para 2) that planning has all three roles, and (para 8) that no one of the roles should be undertaken in isolation because they are 'mutually dependent'. The NPPF goes on to explain that the achievement of one (economic growth) can be the means of securing the others (higher social and environmental standards and well designed buildings and places that can improve the lives of people and communities (NPPF para 8).
- iv. The same understanding of sustainable development underpins the SEA Directive (2001/42/EC) with which the AAP is compliant (CD03, CD04). The AAP promotes the most appropriate alternatives having regard for the plan's regeneration objectives and geographic scope. The plan's objectives have economic, social and environmental dimensions, and the principal means of achieving the latter two is to regenerate the town economically.
- v. The AAP, consistent with the SEA Directive and the NPPF's definition of sustainable development, has full regard for the fact that economic improvements in Bridlington are required precisely in order to secure the area's environmental assets (natural and built) and deliver the social benefits that follow from a thriving place.
- vi. Because the town centre is declining, its present situation – the way its assets are used and its communities are served – does not constitute sustainable in the terms of the NPPF. The need for regeneration is pressing, and leaving the Harbour as it is will not redress the situation.
- vii. All three statutory agencies with responsibility for the environment – English Heritage, Natural England and Environment Agency – are content both that:
 - a) the AAP, with the minor changes the Inspector has accepted as part of the AAP that is being examined, makes the provisions necessary for the protection of the environment; and

**The Council's Response to ND12 and ND13 on the Consistency of the AAP
with the National Planning Policy Framework**

8 June 2012

- b) the developments proposed can be delivered without substantial harm to the built and natural environmental assets that the AAP's policies aim to protect.
7. English Heritage (ED56) also states – in its statutory role as the conservator of the nation's built heritage – that the economic advantages the AAP will deliver are essential to the preservation and enhancement of its heritage. At the hearing, English Heritage's Mr Smith said he would go so far as to state that the Bridlington Quay Conservation Area is close to being a conservation area at risk.
8. As the Council has set out (ED50 paras 15-16), the precise use mix, scale and design of the anchor development needed at the west end of the Harbour will be determined by a combination of four considerations – the Harbour's efficient function and the needs of its users, the impact of the development on heritage assets, the development's commercial viability and the works for mitigating flood risk. The Council has done enough work to be confident that all of these considerations, in combination, can be satisfied. EH's Mr Smith, who has very considerable experience in these matters, agrees from a heritage perspective and concurs with the judgments in ED55. He concludes appropriately on this basis that at plan-making stage the AAP's policies, informed by when they are in final form by the heritage evidence and SPD, will provide the protection required to ensure unacceptably harmful development could not be permitted.
9. The Council has also pointed out, with reference to Mr Seymour's para 12, that the beach take is 12% of the area that would have been reclaimed by the 2001-2 marina (ED19, Matter 3, Appendix 3.10). This area of beach is largely unused by bathers and attracted no objections by the RSPB or Natural England in relation to the impact of the habitat of wading birds. The impact on the listed piers will also be very different than the earlier scheme (as ED50 explains in summary and ED55 sets out in detail).
10. Mr Seymour is not correct that the AAP's economic benefits are 'wishful thinking'. The AAP's strategy is founded on a robust and proportionate evidence base (NPPF paras 158-177) on how much of what type of developments will be deliverable and it lays the ground for the interventions by the Council that are needed both to assemble sites that the market will take up and to deliver and finance the essential infrastructure.
11. There are no parallels in this regard with the marina applications and orders that were considered by the Inspector and Secretary of State in 2003.

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

12. The evidence base covers all three dimensions of sustainable development that affect Bridlington and the performance of its town centre and that will determine its prospects, in line with NPPF para 158 (e.g., AAP Appendix 1, LD01 Section 3, SD04, SD05 and SD06). The evidence base has also had regard for, and the AAP applies the lessons from, effective regeneration tactics in town centres and in other seaside towns with which it is reasonable to benchmark Bridlington (LD01, paras 2.3-2.4, 2.30-2.43 and Section 3).

BHC, ND13

13. The Council's responses to ND13 are set out below. Many of the statements in ND13 refer to issues that the Council addresses, outwith the question of the AAP's consistency with the NPPF, in the AAP's evidence base, in the AAP itself and in its submissions to the examination. Where the Council responds in these instances, it does so to set the record straight.

ND13, para 2 - heritage

14. English Heritage did not say, as BHC state, that the Harbour Top scheme would need to be 'amended' following the designation of the Bridlington Quay Conservation Area. There is no scheme at this stage to amend. What EH did say, as the Council also has long stated, that the *SPD's design guidance* would need to be amended in response to the designation.
15. It is not correct in plan-making terms to assert that EH is at fault for relying on the policy provisions of the plan to achieve the plan's heritage objectives. EH (ED56) find the evidence base to be appropriate, considers that enough work has been done to indicate that the Harbour Top scheme will be capable of delivery and is unlikely to cause more than 'less than substantial harm' and, in Mr Smith's considerable experience, can be managed by the provisions (as amended) by BridTC3 and BridTC4.
16. EH also did not say that the Harbour Top proposals would fail to preserve the key views from South Cliff Road along the South Pier. The Council corrected these mis-statements at the hearing. The Listed Building Assessor, an acknowledged expert whose evidence has informed the AAP from the start, set out the important views. She said (LD15b, para 3.6), "*The harbour basin is a focal point within the town, and is full of maritime activity. It is overlooked by higher ground to the west and by the commercial centre to the north. There are striking views down narrow alleys leading down from Queen Street and*

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

Prince Street and from the root of the North Pier. Most striking of all is the view looking out to sea along the seaward length of the South Pier from South Cliff Road."

17. ED55 also points out, drawing on the Listed Building Assessor's report, what the important views are, how they are likely to be affected by the Harbour Top proposals and what mitigation is possible.
18. There is, as the BHC themselves acknowledge, flexibility in the proposals for the Harbour Top so as to allow the objectives for the scheme to be met without causing substantial harm to the significance of the heritage assets (ND13, para 3). The BHC, however, have no basis for asserting that 'a significant reduction' is required in the scale of the proposals in order to accomplish this.
19. Nor have the BHC any basis for asserting that schemes that conserve and enhance the heritage assets will affect the viability of the proposals. The facts are as follows:
 - i. ED06 and ED53 explained that the infrastructure costs of Burlington Parade (including the costs of the works to regenerate the Harbour and introduce the Harbour Top platform as a first phase of the Marina) sit outwith the appraisals of each development parcel.
 - ii. The Council will dispose opportunities on a commercial basis, and the land receipts will *contribute* to, but will not finance all of, the costs of the infrastructure. This is wholly routine in regeneration projects, and it is the way that the public sector can use its resources to correct market failures. And, as ED53 also explained, it is entirely routine in regeneration projects for higher value uses to cross-finance (and make deliverable) lower value uses that are also needed to achieve the objectives of policy.
 - iii. The Harbour Top is a prime site, the development of which will deliver a type and quality of scheme that will signal a new future for Bridlington.
20. No other scheme, in any other location, is capable of achieving the same transformation in market conditions and it is these that matter to the scheme's viability. No case to suggest that there is has been advanced by the BHC or anyone else. It will regenerate a major, even iconic, heritage asset, it will recover the historic functional relationship of the Harbour with the town centre at the western end and improve access to it, and the Harbour's setting on its northern side, it will deliver year-round leisure uses and it will

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

provide a continuous public walkway at deck level that will increase the public's access to and appreciation of the heritage asset. It will attract new customers to Bridlington from the catchment and beyond, and it will encourage residents and visitors to come more often, stay longer and spend more. It will deliver a hotel in a location that is iconic of Bridlington and beneficial for the Spa; and it will lever the comprehensive development of Burlington Parade that is necessary for the achievement of the AAP's objectives. And it will do all of this with no harm to the Harbour's operation.

21. All of this is *enhanced* by the designation of the conservation area which was triggered by the process of preparing the AAP. The need to design the Harbour Top so as to preserve and enhance the heritage asset is a positive benefit, both for the commercial value of the Harbour Top scheme and for the town as a whole. The Harbour Top gives the town centre a unique competitive advantage. The Harbour is interesting now, but it does not extend the town's visitor season nor attract a more diverse and higher spending visitor market. The addition of a modest number of pontoons in the tidal harbour, though welcome, will be beneficial but is far too small of a change to make any significant difference in the town's performance.
22. The BHC also misconstrue what NPPF para 173 states. The NPPF's concern is that plans are *deliverable* and, therefore, that local authorities in preparing their plans need to be mindful of the effects on the viability of sites of requirements like affordable housing, sustainability standards, infrastructure contributions and the like.
23. The Council (as ED02, ED06 and AAP para 5.85 explain) will be financing much of the infrastructure cost so as to ensure that each development parcel is commercially viable and produces a return for each developer in line with their risks (as ED02 and ED06 explain). The fact that the Harbour Top proposals may not yield a land receipt capable of financing the costs of the share of the infrastructure that lies within the Harbour does not make the Harbour Top development unviable.
24. The development appraisals have been kept up to date so as to ensure that the gap between the costs of the developments within Burlington Parade and the expected return to the Council in land receipts is within the range that the Council is prepared to finance. There is purposeful flexibility in this approach – both in the balance between the uses that make up the mix and in the scale of development on any one parcel – precisely so as to ensure that the each development parcel will be market-responsive.

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

25. The Council, in line with Government policy and best practice, will use its powers to remove the obstacles that stand in the way of recovering the town centre's vitality and viability and put in place the conditions the market requires if it is to be willing to respond to Bridlington's opportunities.
26. In the terms of the NPPF para 173, therefore, the AAP's proposals are deliverable. The Council has provided the evidence to show that the scale and types of development proposed are within the capacity of the town's economy to attract and sustain (SD06, SD09), and the proposals provide for the flexibility needed to adapt to market conditions (AAP, para 3.5vi). The AAP's strategy – as is any regeneration strategy – all about making otherwise unviable development in the town centre viable. The AAP places no burdens on development that threaten its viability (LD07).
27. ED53 explained why the development of the Harbour Top is essential to the deliverability of Burlington Parade as well as to the viability of its individual parcels. These reasons relate to far more than the scale of the development, and explain why the provision of the scale and mix of these designated uses elsewhere will not achieve the AAP's regeneration objectives. The Harbour's location is iconic (on the non-seasonal part of the seafront and overlooking an iconic heritage asset), the Harbour Top adjoins the commercial core of the town centre with which it will become functionally integrated at the Harbour's west end, *and* it will provide a mix of uses in a high quality development that will be wholly new to the town centre. For all these reasons, the Harbour Top will have the transformational effect required.
28. ED50 also explains that the scale of development will be determined by the combination of considerations set out in ED50 paras 15-16. The BHC have no basis for stating that the scale of the development will have to be reduced to a level that will mean it will no longer be viable commercially.
29. The Council has presented all of the financial evidence it can without compromising its public duties to show that the scheme works commercially and is deliverable as part of the comprehensive development of Burlington Parade. The Council has also presented detailed evidence to show that the scheme can be made to work technically without harm to the Harbour.
30. The Council's approach is wholly consistent with the NPPF's provisions at para 173.

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

ND13, paras 4-9 – flood risk

31. The AAP's proposals for the Harbour Top followed the requirements of PPS25 which have not been significantly changed by the NPPF. The Council applied the Sequential Approach and this is documented in the SA/SEA (CD03). The Environment Agency is content that the AAP's preparation has complied with PPS25 and, with the minor changes that are part of the AAP for the purposes of the examination, that the AAP makes the provisions needed for the Harbour Top (CD18.2, no 16). The AAP explains at paras 1.42-1.44 (with CD18.2, nos 13-15) and paras 3.17-3.19; and the SA/SEA final report documents the process and the decisions made (the summary of the process is provided in CD03, pgs vii, ix-xi).
32. There are two parts to the Exception Test: the wider sustainability benefits to the community that outweigh the flood risk; and a site specific flood risk assessment that demonstrates that the development will be safe for its lifetime without increasing flood risk overall and where possible will reduce flood risk overall (NPPF para 102).
33. **The sustainability benefits:** The central purpose of the AAP is to achieve the economic benefits that are the means of securing the town's environmental assets and the wellbeing of its communities. The Harbour Top development plays a fundamental part in transforming the economic conditions required to deliver these environmental and social benefits. That is why, taking into account the AAP's objectives and its geographical scope and having applied the Sequential Test, there was no reasonable alternative to the Harbour Top for the purposes the AAP assigns it.
34. The facts are that unemployment in Bridlington is high and economic engagement rates are low, the current complement of retail, leisure and visitor businesses in the town centre (a complement that includes the Harbour) is unable to compete for the levels of trade required either to resolve these problems or to generate enough income to conserve or enhance the town centre's heritage assets. The town's communities and businesses suffer accordingly.
35. Yet, as the AAP's evidence base shows, Bridlington has the asset base, population and expenditure growth that is needed, through the regeneration of its town centre, for it to become the kind of thriving place that the NPPF seeks and states the planning system has the role of helping to deliver (NPPF para 17, bullet 3).

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

36. The Burlington Parade development, with the Harbour Top as an essential component, will create directly some 1,900 badly needed jobs for the town. In doing so, it will help to bring the local labour market closer to the balance required between the numbers available to work in the town and the numbers of jobs available (AAP, Appendix 1, para 18). Moreover, these jobs – in the Harbour Top and in the rest of Burlington Parade – can be created with no loss to the jobs in the Harbour (ED50 para 13.iv.b). Instead, the development at the west end of the Harbour will create *many additional* jobs while also improving the efficiency of the Harbour and making the optimal viable use of this significant heritage asset consistent with its conservation (NPPF para 126 bullet 1, para 131 bullet 1 and para 134).
37. By contrast, the 'do nothing' or 'do minimum' alternative for the Harbour will create no (or very few if any) new jobs for the town. If parts of Burlington Parade were to proceed at all, there would be less development and many fewer jobs, and the schemes would be of a lower quality (ED53 para 6.2ii). The consequent imbalance, as ED53 para 6.2i points out, would risk the still further decline in the fortunes of the established shopping core and the Gypsy Race valley would remain as it long has (the same unsightly and underused land that the 1997 Local Plan referred to at para 14.58).
38. Thus the Harbour Top constitutes sustainable development in the terms of the NPPF's policies taken as a whole (NPPF para 6), having regard for local circumstances and Bridlington's particular opportunities (NPPF para 10).
39. The Harbour Top therefore is capable of delivering the wider sustainability benefits that outweigh the flood risk (NPPF para 102, bullet 1).
40. **Impact on the safety of the development and flood risk elsewhere:** The Harbour Top development places the more vulnerable uses two floors *above* the quayside. It will be accessed from South Cliff Road where it is *outwith* the flood risk zone, and the development will be safe. CB18.2 no 16 explains that the works to the Harbour will *increase* its flood carrying capacity, and therefore will not only *not* increase flood risk elsewhere in the town, it will *reduce* flood risk overall.
41. For these reasons, the Council considers that the terms of the Exception Test have been satisfied, appropriately and sufficiently, for the allocation of the Harbour Top consistent with the provisions of the NPPF, para 102. There are very substantial public benefits associated with the development of the Harbour Top, the proposals themselves will be raised two floors above the Harbour's quayside, the means of access will be

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

outwith the flood risk zone (LD06), and the works to the Harbour will reduce flood risk both within the Harbour itself and in the town centre beyond. A detailed FRA will be carried out as part of the design work for the planning application in line with BridTC3.6, and the scheme will be designed to comply with its recommendations. The Council will have complied with the NPPF Technical Guidance (pg 3) policy aim in Flood Zone 3a by having taken the opportunity to reduce the overall risk of flooding through the design and layout of the Harbour Top development.

42. The Council also points out that the Rags building contains more vulnerable uses that are presently on the quayside within flood risk zone 3a. The Harbour Top proposals take the opportunity, fulfilling a policy objective in the NPPF Technical Guidance (pg 3/4), to remove the building and accommodate these uses instead as part of the mix on the development platform two floors above the quayside. The further benefit is the removal of a building that ED54 finds to have an adverse effect on the character of the conservation area.
43. Contrary to the statement in ND13 para 9, there is no inconsistency between the AAP's provisions for the Harbour Top and NPPF para 104. The AAP's designation of the Harbour Top applied and satisfied the Sequential Test (AAP, paras 1.39-1.43 and 3.17).
44. CD20.2, RO15 shows that the Environment Agency (EA) is content that the AAP complies with the provisions of PPS25. The NPPF (paras 99-102) and the Technical Guidance do not change these provisions. It follows that the replacement of PPS25 with the NPPF does not affect the EA's position.

ND 13, para 10 – market signals

45. The statement that the AAP disregards market signals is without foundation. The AAP's entire strategy is centred on harnessing the market, having regard for the fact that it has chosen not to invest in the town centre, despite a lengthy property boom, a growing catchment population and rising retail and leisure expenditure. The town centre's decline persisted *despite* the buoyant economic conditions that preceded the credit crunch and recession and *despite* the success of the Harbour's fishing industry. The fact that the market has not chosen to date to make substantial investment in the town centre is itself inherently unsustainable in the terms of the NPPF. The AAP's principal tasks, therefore, were to understand why this was the case and target the proposals both to solve the problems and create sustainable development opportunities that will enable the town centre to become competitive once again. These persistent past failures are of themselves the strongest market signals.

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

ND13, para 11 – the SA/SEA

46. The SEA directive places no obligation on the SA/SEA process to have 'strategic objectives' in place. Instead, as para 14 of the directive states, the assessment of reasonable alternatives is to take into account the objectives of the development plan at issue together with the geographical scope of that plan. It is important to remember that the NPPF specifically directs at para 23 that,

“In drawing up Local Plans, local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.”

47. The strategic basis for the AAP is provided by the RSS, which remains in place, and by the saved policies of the Structure Plan. The Council set out the details in ED19, Appendix 3.9.

48. The Council also points out that the NPPF para 102 acknowledges (as did PPS25) that there will be instances – and the Harbour Top is one – where the objectives of plan cannot be met wholly on land that is outwith land at risk of flooding. This fact does not make a plan inherently unsustainable, as NPPF para 102 makes clear (as the Council explains again at paras 13-24 above).

49. The AAP's regeneration strategy was shaped by the SA/SEA process and is corroborated by the final report of the SA (CD03) as the most appropriate and sustainable combination of alternatives, taking into account the AAP's objectives and its geographical scope.

ND13, para 12 – the economic importance of the Harbour

50. The Council has stated several times that there is no question of having underestimated the economic importance of the Harbour. On the contrary, because the AAP recognises its great value – both as an economic unit and a heritage asset – the AAP proposes to increase the economic importance of the Harbour. The AAP's proposals both aim to enhance its efficiencies in meeting the needs of its existing users and to make it competitive for wholly new markets. The AAP proposes this while also, through the development of the Harbour Top and the investment it levers in the preservation and enhancement of the Harbour's historic fabric and setting, very significantly adding to its appeal as a visitor destination of regional significance.

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

51. There is also no basis for claims that direct, indirect or any other jobs supported in whole or part by the Harbour will be lost as a consequence of the AAP's proposals. The AAP makes this clear, and the technical evidence that shows this will be the case is set out in full in SD03, SD04, SD05, ED51 and ED52. As the Council is stated at the hearing, it would be a logical nonsense for the AAP to identify the Harbour as a key asset and then to promote the development of the Harbour Top in ways that would harm the economic and heritage reasons for promoting Burlington Parade and the Marina in the first place.
52. Finally, the Council does not overestimate the value of the Harbour Top proposals to the AAP's regeneration strategy. The Harbour is a considerable, but still under-exploited, heritage asset that adjoins, but has virtually no functional relationship with (though it did historically), the town centre. The Harbour Top proposals restore that historic relationship, increase the opportunities for the public to appreciate and enjoy that asset and give it – both as a first phase of the Marina and subsequently when the Marina is constructed – its optimal viable use consistent with its conservation in terms of NPPF paras 126 and 130.
53. ED51 promotes one option for increasing operational land for the Harbour that achieves, in advance of the Marina, the very confidence the BHC seek that it will not be left with a no-marina scenario. For reasons which have not been explained, the BHC reject that option too.

ND13, para 13 – the BHC's duties and the effect of the Harbour Top proposals

54. The Council does not suggest that the BHC are responsible for the underperformance of the town centre. Instead, the Council is seeking to work in partnership with the BHC so as to invest the significant sums needed to ensure that the Harbour is able to do all it can for the regeneration and sustainable development of the town. The BHC are simply not 'market-responsive' in the normal sense of the term. Its business is focused on its statutory duties and meeting the needs of its users. Yet the BHC control assets of considerable prospective value to the town's regeneration, but this prospective value lies outwith the narrower remit within which the BHC have the inclination and resources to work.

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

55. The AAP builds on that fact plus the fact that the BHC have wider obligations under the Government's provisions for the governance of Trust Ports. The Council's aim is to seek to work in partnership with the BHC to fulfil those wider obligations. Government policy on Trust Port governance requires the BHC to take into account the interests of *all* its stakeholders, and counts amongst these the local community, local and regional economies and the Council (AAP, para 1.38 and Appendix 1, paras 124-138). ND13 is incorrect in suggesting that its duties for the management of the Harbour limit its duties to the wider community of which it is part (see also CD08 pg 69 where the Royal Yorkshire Yacht Club comment on these wider duties).
56. The Harbour is a significant asset for the whole of the East Riding, but its *potential* value both to the region and to Bridlington is much greater than its actual value. That value – existing and prospective – has to be understood in the context of a declining town centre and the BHC's obligations to the local and regional economies within which the Harbour operates. The Harbour has been one of the success stories. To say that its success could be greater still is not to diminish what the BHC have achieved. Instead, it is to recognise that the BHC, by working positively in partnership with the Council and in collaboration with the wider groups of stakeholders in the local and regional economies, could achieve very much more in the wider public interest and with no harm to its ability to fulfil its statute or serve the interests of its direct users (ED51).
57. It is incorrect for the BHC to state that the Harbour Top proposals would have little benefit for the town and would be very damaging to the Harbour. This overlaps with the issues on which ample evidence has been put before the examination:
- i. The Harbour Top proposals – both in their own right and because of their regenerative value for the Harbour as whole – make it feasible to deliver the *comprehensive* development of Burlington Parade (ED53). That scheme, as the extensive and robust evidence base shows, is capable of recovering the vitality and viability of the town centre as a whole and, as a consequence, of delivering a large range of direct and qualitative benefits for the town.
 - ii. ED51 shows that the Harbour Top proposals can be delivered with no harm at all to the Harbour; the greater likelihood is a more efficient and more competitive Harbour long into the future. ED50 also shows that there would be no loss of jobs other than those in the Rags building, and even these jobs would be replaced within the c 1,900 additional jobs for the town that the Harbour Top proposals make it feasible to deliver.

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

58. Finally, the Council has not disregarded the town's other heritage assets. The Old Town and all its assets are marketed by the Council's tourism materials. The Old Town does not figure in the AAP's regeneration strategy for the simple reason that it is not part of the town centre, whereas the Harbour is.
59. It is also the case that the regeneration of the town centre will benefit the Old Town (as part of the package of things to do and see, particularly out of season), whereas the town centre's decline impacts adversely upon it.

ND13, para 14 – viability

60. The BHC have not provided evidence to show that the Marina is not viable despite ample opportunities to do so. The Council has, however, provided evidence to support the AAP's position that the Marina is fundable (ED02, paras 1.4.1-1.4.4; ED19, Matter 3: the Marina, paras 21 and 40 and Appendix 3.11, paras 5 and 6.iii).
61. The BHC have also not provided evidence to show that the Harbour Top proposals cannot be undertaken as a first phase of the Marina. Instead, the Council's experts have shown that it can and, moreover, the fact that it can provide the BHC with the 'insurance' they require that the scheme could stand alone if, in the very unlikely event, that the Marina is delayed beyond the timeframe of the plan.

ND13, para 15 – deliverability contingent on confirmation of a CPO

62. Simply because a plan requires the use of orders for its implementation does not make a plan unjustified or ineffective (it is the Planning and Compulsory Purchase Act 2004 which makes provision for the preparation of statutory land use plans). The AAP is a regeneration plan, and as Circular 06/04 (para 1) states, "*...compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – whether at local, regional or national level – are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay.*"

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

63. Para 23 of Circular 06/04 explains that s38(6) of the PCPA 2004 requires that the development for which the land to be acquired is needed should be in accordance with the development plan unless material considerations indicate otherwise. Paras 12-13 of Annex A to the Circular covers CPOs made under the provisions of the PCPA 2004, and state that any programme of land assembly needs to be made within a clear strategic framework that is founded on a robust evidence base, and that the planning framework should be as detailed as possible.

ND13, para 16 – objective assessment

64. The evidence base for the AAP (listed and summarised in Appendix 1 of the AAP), the SA/SEA (CD03, CD04), ED06, SD04-SD06, ED51-ED55 are all objective assessments prepared by acknowledged experts in their fields. The town's needs have been, therefore, objectively assessed in the terms meant by the NPPF.

65. The fact that the Lords Feoffees sought planning permission for a car park that was refused is not evidence that the AAP is inflexible. Rather, the Council worked hard with the Lords to design a scheme that would meet the Lords' objectives without making key parts of the strategy of the emerging development plan document undeliverable (the Gypsy Race park and avenue). The Lords car park was also designed before the conservation area was designated and had no regard to it.

66. The Lords, however, rejected the Council's efforts to find a compromise solution despite the fact that the Council's alternatives had met, up to a last minute change in the dimensions of the spaces the Lords wished to have, all of their objectives without increasing the costs of their scheme. The Lords' preference was to seek a determination on their original scheme rather than to continue to work with the Council. The Council nonetheless fully supported the principle of the car park for the Lords and the AAP promotes it.

ND13, para 18 – the Council's draft presumption policy

67. The Council points out that the Council's option 1 for a presumption policy would become BridTC0 (ND11, Appendix 1, para 3 and the policy set out in the box on pg 3 of the Appendix).

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

ND13, para 19 – the core planning principles

ND13, para 19, bullet 1

68. The proposals for the Harbour Top have been consulted on fully and in line with the requirements of national policy (CD19 and ED19 Matter 1, para 6).
69. The NPPF does not require the BHC's agreement to the AAP's proposals (nor could the NPPF require agreement and still be consistent with Circular 06/04). The Council has had 36 meetings with the BHC during the course of the AAP's preparation. It is also a fact that none of the groups the BHC mention other than the Town Council has put in any objection to the AAP or its proposals for the Harbour Top. Even the resolution by the Harbour's Consultative Body (quoted in ED59) makes no objection to the proposals. The resolution simply says that the interests of the users come first. The Council agrees these interests come first, the AAP makes the needed undertakings to protect the BHC's and the harbour users' interests, and the Council proposes an amendment to BridTC3 to insert the undertakings into AAP policy. The Royal Yorkshire Yacht Club also made representations on the AAP (e.g., CD08 pg 69) and has not objected.

ND13, para 19 – bullet 2

70. There is no basis for asserting that the AAP has not got a proportionate, comprehensive and robust evidence base in line with the requirements of the NPPF. ED50 sets out a full explanation of the consistency of the evidence base on the heritage assets and the part that consultation will play in the final version of ED54 and the SPD. ED54 does not doubt the deliverability of the Harbour Top, as ED55 and ED56 confirm.

ND13, para 19 – bullet 3

71. The Council has explained from the outset the plans for the consulting on ED54 (following the designation statement on which it did consult) and on the revision to the draft SPD. The public were consulted on the first draft of the SPD, and the BHC commented (CD08, pgs 15-17). The principal concern (CD08, pg 16) in respect of the SPD was the same as it was generally: undertakings in respect of sufficient replacement land. These undertakings have been provided and the evidence put forward to demonstrate it is technically feasible and commercially advantageous for the BHC (ED51).

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

ND13, para 19 – bullet 4

72. The Council has complied with the SEA Directive, and CD03 and CD04 set out the process by which alternatives were considered and the basis upon which decisions were made. ED52 shows that nothing has changed in respect of the harbour alternatives to make the decisions out of date. An in-harbour alternative to the AAP's proposals is not feasible, nor could it achieve the AAP's objectives as was explained at length to the examination in May 2012.

ND13, para 19 – bullet 5

73. As stated during the hearing and ED50 para 13.iv.b, the Harbour Top proposals will not result in a loss of jobs, and the BHC have submitted no evidence to substantiate the claim.

ND13, para 19 – bullet 6

74. As submitted in evidence, stated at the hearing and reiterated above at paras 22-34, the AAP's proposals comply with national policy on flood risk and has only located uses on the Harbour Top because it is the only site for these uses capable of achieving the AAP's objectives. Moreover, the proposals raise the more vulnerable uses two floors above flood level (which is the quayside) and, in line with the NPPF policy aims, removes the exiting Rags building which contains more vulnerable uses within the flood risk zone 3 area (a building which also has an adverse effect on the character of the conservation area).

ND13, para 19 – bullet 7

75. The proposals could not cause unacceptable harm to the significance of the heritage assets without also compensating for this harm with substantial public benefits and complying with BridTC3 and BridTC4 (with the minor changes that form part of the AAP that is being examined).

ND13, para 20 – AAP timescale

76. The NPPF only advises the 15 year timescale; the fact that the AAP proposes a time horizon to 2021 does not make it inconsistent with the NPPF. The timescale for preparing the AAP has been elongated both by changes in the planning system itself

The Council's Response to ND12 and ND13 on the Consistency of the AAP with the National Planning Policy Framework

8 June 2012

and by the time the Council has expended in the effort to reach agreement with the BHC.

ND13, paras 20-21 – sustainable economic growth

77. The Council agrees that the town has benefited from the Harbour, but points out that the town is still declining. The Council does not propose to and would not cause harm to the Harbour or its users, and the BHC have provided no evidence to demonstrate the contrary. The BHC simply argue that they are concerned that the changes would pose risks. All development comes with risks, and the evidence submitted demonstrates that these risks can and would be managed. However, this does not permit the decline of the Harbour and its potential to assist the town to be ignored, especially when considering the objectives of the NPPF.
78. The greater risks to Bridlington's economic, social and environmental wellbeing, as the evidence for the AAP shows, lies in continuing to believe that minor incremental changes will make any real difference to a town centre economy that is inherently unsustainable. The BHC have wider obligations to the economy of Bridlington than they have acknowledged and the AAP provides a platform for the BHC to discharge these obligations at no cost to itself or harm to its ability to serve its users or fulfil its statutory duties.

ND13, para 24 – positively prepared

79. It is incorrect to state that the AAP has not been positively prepared because it has not got the wide support of its communities and those it serves. The test is a different one: whether the strategy seeks to meet objectively assessed development and infrastructure requirements. The AAP does this. Nonetheless, the AAP has wide support as CD19 and the reports of consultation throughout its preparation amply demonstrate (CD08, CD11 and CD13). Bridlington is also more than a local town: it is the principal town for a catchment that will serve in 2021 a population of c 92,000 and its significance as a tourism destination is wider still. The Council's duty, in seeking to regenerate the town centre and recover its vitality and viability as a place to live, work and visit is to this wider catchment in the public interest. The AAP also has the full support of the Chamber of Commerce and the Yorkshire & Humber Local Enterprise Partnership (what are the document refs pls?)

**The Council's Response to ND12 and ND13 on the Consistency of the AAP
with the National Planning Policy Framework**

8 June 2012

80. ED06 explains how the Council is using its land, funding and powers to deliver the changes the AAP's evidence base shows are required to restore the proper function of the town's markets. These are changes that the market has not, cannot and will not deliver unaided (which is why they are called market failures).
81. The Burlington Parade development is viable within the margin between its costs and the returns to the Council in land receipts that the Council can justify financing (ED06, ED53, LD14). Like the great majority of regeneration schemes, most particularly in weak property markets, Burlington Parade is not viable without public sector intervention. The Council has the political support required to use its powers under the PCPA 2004 so that the AAP's proposals for Burlington Parade will be deliverable and to commit its resources in land and finance so that the scheme will be commercially viable. All of this constitutes a proper response to market signals in the circumstances of the town centre.
82. The Council's duty is to the wider public interest. Bridlington town centre serves a community that comprises a resident population of some 38,000 and a catchment, for which Bridlington is the principal town, that will have a population of some 92,000 by 2021 (LD06, pg 5).