

Bridlington Town Centre Area Action Plan

Note of Pre-Hearing Meeting held on Tuesday 27 September 2011

Present

Inspectorate team in attendance:

Siân Worden (SW), Inspector; Carmel Edwards (CE), Programme Officer;

For East Riding of Yorkshire Council (ERYC) in attendance:

Graeme Keen (GK) Counsel

John Lister (JL), Head of Bridlington Renaissance, ERYC

Nora Galley (NG), Partner, Peter Brett Associates (Roger Tym & Partners)

Alan Menzies (AM), Director of Planning & Economic Regeneration, ERYC

1 Introduction

1.1 Siân Worden, the Inspector, opened the proceedings. She introduced herself and presented her professional background.

1.2 Housekeeping arrangements for the meeting were then covered.

2 Examination Opening Date and Location

2.1 The inspector pointed out that the Examination refers to the whole process from the time of submitting the AAP to the Secretary of State to the submission of her report to the Council. The AAP was submitted in April 2011.

2.2 The hearings part of the Examination will commence on Monday 5 December 2011 at 1 o'clock here in the Spa.

2.3 Ms Worden explained that the purpose of this Pre Hearing Meeting was to provide an opportunity for her to explain the procedural and administrative matters relating to the management of the examination including a programme for the hearings, matters to be examined, the running order and participants at the hearings, timetable for submitting statements and further material and any other relevant matter.

2.4 It was not intended to discuss the contents or merits of the AAP or the representations which have been made at this meeting. There would be an opportunity to ask questions about the examination arrangements at the end of the presentation.

2.5 An agenda for the meeting along with Guidance Notes for Participants, an initial Programme of hearing sessions and Schedule of Matters and Issues had

already been sent to all those who had made representations on the AAP. Copies were available at the back of the room.

- 2.6 A note of this Pre Hearing Meeting will be circulated to all those who have made representations and placed in the examination library and on the Council website. The aim was to have it available by a week from today.

3 The Programme Officer and her role

- 3.1 The inspector introduced Carmel Edwards who has been appointed as Programme Officer for the Examination. She stressed that Ms Edwards was acting as an independent and impartial officer, working under her direction.
- 3.2 Ms Edwards is responsible for:
- liaising with all parties to ensure the smooth running of the examination
 - ensuring that all documents received during the examination are recorded and distributed,
 - maintaining the examination library,
 - assisting the Inspector with all procedural and administrative matters.
- 3.3 Ms Edwards would be able to advise on any programming questions. All procedural queries or any other matter that the Council or anyone wishes to raise with the Inspector should be addressed through the Programme Officer.

4 The Council's Team

- 4.1 The inspector asked the Council to indicate who was representing them at the meeting and introduce their team.
- 4.2 Mr Graeme Keen, barrister, introduced himself. He was instructed by the Head of Legal Services. He was standing in for David Elvin QC who would be representing the Council at the hearings.
- 4.3 Also present for the Council were:
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| John Lister, | Head of Bridlington Renaissance, ERYC |
| Nora Galley, | Partner, Peter Brett Associates (Roger Tym & Partners) |
| Alan Menzies, | Director of Planning & Economic Regeneration, ERYC |
| Stephen Hunt | Housing and Spatial Strategy Manager |

5 Examination Process

- 5.1 The inspector explained that her role was to consider whether the AAP as submitted to the Secretary of State meets the requirements of the 2004 Act and associated Regulations against the soundness criteria set out in Planning

Policy Statement 12 [PPS12]. This is what the examination will focus on. To be found sound the AAP must be:

- **Justified:** founded on a robust and credible evidence base and the most appropriate strategy when considered against the reasonable alternatives;
- **Effective:** deliverable, flexible and able to be monitored
- **Consistent with national policy.**

- 5.2 In addition the AAP had to satisfy certain legal requirements regarding preparation in accordance with the Local Development Scheme and Statement of Community Involvement; have been subject to sustainability appraisal; conform generally with the Regional Spatial Strategy and have regard to the Sustainable Community Strategy.
- 5.3 After publishing the AAP in October 2011 the Council produced schedules of further changes which will be incorporated into the submission version of the document. There are quite a number of these and some are lengthy but overall the inspector agrees that they are minor corrections which do not significantly alter the AAP. The schedules are core document no. 18 (part 1 deals with changes necessary because of the altering position regarding RSS, part 2 covers other changes to the main document, part 3 records changes to the sustainability report). It is important that respondents are aware of these changes and take them into account in producing further written material.
- 5.4 The starting point for the examination was going to be the AAP as formally submitted in April 2011 and the inspector would begin with the assumption that the Council has submitted what it considered to be a sound plan. The Council should rely on evidence collected whilst preparing the AAP to demonstrate that it is sound. Those seeking changes to the AAP have to demonstrate why that is not the case.
- 5.5 The inspector outlined how the process of examining plans under the new Local Development Framework system is different from the previous local plan system.
- Firstly, the focus is on the plan rather than the objections. Under the present system the inspector's role is to examine the soundness of the plan having regard to the representations made, rather than simply considering the objections. She is not required to consider each and every point made in the representations in considering whether the plan is sound.
 - Secondly, the hearing process is intended to be an inquisitorial process under her direction with round table and hearing sessions addressing particular topics, rather than the traditional form of public inquiry considering individual objections.
- 5.6 Following the hearing sessions the inspector will prepare a report to the Council with her conclusions and decisions as to the action it needs to take with regard to the soundness of the AAP. This report is binding on the Council

and, on receipt, it should amend the AAP in the light of the recommendations and move swiftly to its formal adoption.

6 Exploratory Meeting

- 6.1 The inspector held an exploratory meeting in June to deal with concerns which she had identified during her initial consideration of the AAP. These were largely with regard to the delivery of the two main development projects at the Marina and Burlington Parade. The note of the meeting is on the website. The inspector asked the Council now whether any progress has been made in negotiations with the interested parties particularly with regard to;
- finding a realistic alternative piece of harbour operational land, and
 - enabling the existing supermarket to relocate?
- 6.2 John Lister (JL) for the Council gave an update.
- Marina – at the Exploratory meeting the Council had been on the point of issuing a brief to consultants. They had now had three meetings (with Harbour Commissioners and consultants) with a fourth scheduled for the 3rd October. They have had an interim draft of the business plan report which was considered at a meeting on 14th September. There will be more work on the financial appraisals by 3rd October, but they hoped to have the full report out by the end of October.
 - Tesco – There is the need to acquire Network Rail land and the Council were positive about being able to do this. The work had been delayed by the illness of Network Rail's engineering consultant. They would be meeting again on 7th October, and were hoping to sign off the engineering work. There is also a meeting scheduled with Tesco on the same day and the Council expects to finalise heads of terms.
- 6.3 The inspector noted that it sounded as if they were attempting to make progress.

7 – Procedural questions for the Council

- 7.1 The inspector asked various procedural questions that she had to ask formally. Formal responses were provided by Nora Galley for the Council
- 7.2 Can the Council confirm that the AAP has been: -
- Prepared in accordance with the statutory procedures under section 20 of the 2004 Act and the associated Regulations?
Yes
 - Prepared in accordance with the Council's Local Development Scheme?
Yes, the AAP is in conformity with the structure of the LDS. However in 2009 the timetable had slipped, but bi-monthly updates of the LDS timetable have been provided on the website and a new LDS is to be submitted to the Council's Cabinet on 18th October.

- Been prepared in accordance with your Statement of Community Involvement?
Yes, see paragraphs 2.12 and 2.22 of the Statement of Consultation (CD19)
- Is it supported by a sustainability appraisal?
Yes, the final report is in the document library (CD03)
- Has it been screened for likely significant effects on any European Wildlife (Natura 2000) sites within and near the plan area?
Yes. See the AAP, paragraphs 3.44 and 3.45, and the fuller explanation in Appendix 3. There is also a proposed minor change. (CD18.2, number 42)
- Are there any fundamental procedural shortcomings?
No.

7.3 Can the Council also

- Update on the position with the Regional Spatial Strategy. Is the AAP consistent with the approved RSS?
Yes, entirely consistent. CD18.1.1 proposes a minor change to reinstate the references to the RSS.
- Did the former Regional Planning Body have the opportunity to consider whether the AAP was in general conformity with the Regional Spatial Strategy?
Yes, GOYH were consulted and commented on all stages prior to publication.
- Confirm the position with saving policies of the adopted Local Plan – what is being saved and until what date? Certain saved policies will be superseded by the AAP?
These are set out in full in Appendix 4. There are also minor changes to clarify, CD18.2, changes 80-86.
- What is the Council's programme for preparing other LDF documents following this AAP?
The Core Strategy was due to be published in spring 2012. A preferred options stage Site Allocations DPD is also planned for spring 2012, at preferred options stage.
Has the AAP taken account of the Council's other plans such as the Sustainable Communities Strategy?
Yes, the AAP, Appendix 2 sets this out in full.
- And has the AAP taken account of the plans of adjoining local authorities and the County Council such as the Community Strategy and the Local Transport Plan?
EYRC is a unitary authority, authority (there is no County Council), but has consulted with adjoining authorities, including Hull City Council. The Local Transport Plan was influenced by the AAP, and was fundamental to the award of £7m to Bridlington.

7.4 The inspector asked whether the Council had produced its own Self Assessment of the AAP against the soundness criteria in PPS12. NG for the Council confirmed that it was a working draft at the moment but the plan was

to append to their written response to Matter 1. The inspector commented that it might be an advantage for her to have it before then, but it would be satisfactory to receive it with the Council's written statements.

- 7.5 192 duly made representations from 47 organisations or individuals were received at the formal publication stage. These representations cover general concerns that the overall strategy is not appropriate, deliverable or sufficiently flexible, and that the evidence base is wanting. There are also specific concerns about the two main development projects at the Marina and Burlington Parade, the effect on the existing town centre and sea front and about the parking and traffic movement strategy.
- 7.6 The inspector asked the Council to confirm that they had formally considered all the representations.
- 7.7 JL for the Council confirmed that they had. The Council's responses are set out in CD20.1, CD20.2 and CD20.3. All changes in response are minor, and are listed in CD18.2 and 18.3. As part of the process a report was presented to the Council's Cabinet Working Group on the Local Development Framework on 13th September this year. It was an update of the current AAP position and consultation. It included minor changes as a specific appendix, and was approved by the Cabinet.

8 – Main Matters and Issues for Examination

- 8.1 The inspector had drawn up a list of the main matters and key issues for this examination, having regard to the representations made in the context of the three aspects of soundness and legal requirements set out in PPS12. These Matters and Issues provide the focus for the examination and will enable her to assess whether the AAP is sound and complies with the legal requirements.
- 8.2 For each main matter and key issue she has posed a number of questions. These questions should be used to structure any further submissions that are made. She will be using them to guide and focus discussion at the hearings and will be addressing them in her report.

9 – Hearings Programme

- 9.1 Those who have made representations on the AAP need to decide whether their views can be dealt with in a written form or whether they do in fact need to come and present them orally at a hearing session. Both methods will carry the same weight and the inspector shall have equal regard to views put orally or in writing.
- 9.2 Attendance at a hearing session will only be useful and helpful to the inspector if participants wish to participate in a debate. Those people who

wish to proceed by written means need take no further action; they can rely on what they have already submitted in writing.

- 9.3 However, if anyone does want to submit further written evidence in support of their position, these submissions should be focussed upon the issues the inspector has identified. Most representations will be considered by the written method. Written representations are not discussed at the hearings and attendance at the hearing sessions is not necessary.
- 9.4 If any respondent has previously requested an oral hearing, they were asked to let Ms Edwards know before **24th October** at the latest whether they still wished to take part in a hearing session. The inspector has assigned those who have not made any indication to written representations. If any of those representors wished to participate in a hearing please let Ms Edwards know by that date, **24th October**. Anyone indicating that they wished to have an oral hearing, must, in advance of attending a hearing session, prepare a statement of their position, focussed upon the questions identified for that session. The relevant points in the representations are dealt with at a Round Table Hearing session, where the Council and participants debate the main points on the key issues the inspector has identified in a structured discussion.
- 9.5 The inspector reminded the meeting that her role is to consider the soundness of the plan in the light of the representations received, rather than considering all the points raised in those representations. Only those parties seeking specific changes to the AAP are entitled to attend the hearing sessions of the Examination. There is no need for those supporting the AAP or merely making comments on the plan to attend the hearings.
- 9.6 As already indicated, the hearing sessions will commence on 5 December 2011 at 1 o'clock at the Spa. The initial programme indicates that the hearings will all take place within that week. This may change and it is the responsibility of participants to keep in touch with the Programme Officer and check progress of the examination to ensure that they are present at the appropriate time.
- 9.7 A separate hearing session will be held on each of the main matters identified. The initial programme shows that she will start with those matters that take an overview of the whole plan. Then there will be a separate hearing session for each element of the overall strategy and the development plan policies in turn finishing with a session on overall effectiveness. Respondents are welcome to attend to listen to the debates even if they are not taking part and, of course, all sessions are open to the public and the press.
- 9.8 The sessions will normally take the form of Round Table Sessions, where several parties are present, or an informal hearing where there are only one or two parties present. This approach will provide an informal setting for

dealing with issues, by way of a discussion led by the inspector. Those attending may bring with them professional advocates and witnesses, though there will be no formal presentation of evidence or cross-examination. There is no need for parties to bring advocates/legal representation. The inspector understood that the Council will be legally represented at all sessions. This was confirmed by Graeme Keen.

- 9.9 Before each session a detailed agenda will be sent out, based on the Matters and Issues that she has identified and the written statements received. The discussion will focus on the issues identified in the agenda and the questions she has posed. She will begin by asking those present to introduce themselves. She will then make brief comments on the matters to be covered, then invite individuals to make their contribution in response to the points raised. The hearing will then progress under her guidance, drawing those present into the discussion to enable her to gain the information necessary to come to a firm decision on the matters identified. All participants can ask questions and join in the discussion. Each participant will have a nameplate which they can upend to let the inspector know each time they wish to speak. At the end of each session participants are asked to sum-up the main points of their arguments.
- 9.10 Hearings are conducted on the basis that everyone has read the relevant documents, although participants will be able to refer to and elaborate on relevant points.
- 9.11 The inspector would endeavour to progress the Examination Hearings in an effective and efficient manner, keeping a tight rein on the discussions and time taken. As part of that process she would aim to minimise the amount of material to that necessary to come to informed conclusions on the issues. In that way she hoped to conduct a short, but focussed, series of hearings and, in turn, produce a short, focussed report.
- 9.12 Participants will be grouped together according to the issues and matters being considered. If several people have the same viewpoint, She will expect them to appoint one or two people as spokespersons to represent them at a hearing session and not to hear from everyone on the same or very similar points.
- 9.13 The inspector pointed out that not all matters, issues and projects may be discussed at the hearings. Some matters may be dealt with by written representations, depending on who attends the hearings.

10 – Programme for Submission of Statements

- 10.1 The Council has prepared a list of Reference Documents (called Core Documents) that will be available in the Examination Library. These will

include the Regional Spatial Strategy, Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs), and any other documents that the parties are likely to need to refer to. There is no need to attach extracts of these documents to statements, but do refer to them as necessary.

- 10.2 The Council confirmed that all documents are in the Core Document library now. The Council may also add the Jacob's consultant report, once finalised. A comparison plan of the 2003 Yorkshire Marina with the 2010 agreed 'Preferred Outline Harbour/Marina Layout' is now on the website, and hard copies being made available for the inspector.
- 10.3 It was confirmed that there will not be any proposed significant changes to the submitted documents put forward prior to the hearing sessions, however there would be some minor amendments that address the RSPB's representation. The Inspector confirmed that would be satisfactory as long as the changes were published on the website.
- 10.4 Representations already made should include all the points and evidence to substantiate respondents' cases. It is not necessary to submit further material based on original representations. The inspector asked people to note that she only had copies of the representations that were made at formal publication stage.
- 10.5 From now on, all written submissions should address the Matters and Issues for Examination identified in the schedule. The inspector referred to the draft National Planning Policy Framework, recently published by government, which, when finalised, will replace the existing national policy set out in PPGs and PPSs. She commented that participants might want to refer to this in their statements but must bear in mind that it is still in draft form, and that although it may be a material consideration it is up to her to determine how much weight she attaches to it.
- 10.6 Written submissions, by the Council and by those wishing to submit papers, based on the Matters and Issues for Examination should be submitted by **17.00 on 7 November 2011**.
- 10.7 Ms Worden reiterated that the Examination starts from the basis that the Council considers the AAP to be sound. Essentially, she needed to know the following from those people submitting statements:
- What particular part of the AAP is unsound?
 - Which soundness test(s), set out in PPS12, does it fail?
 - Why does it fail?
 - How can the AAP be made sound?
 - What is the precise change/wording that you are seeking?

- 10.8 From the Council she also required a succinct response statement to the papers submitted by representors, setting out why it considered the AAP to be sound in that respect and why the changes sought by other parties would make it unsound. The Council confirmed that a deadline for submission of its responses to representors of 17.00 on 21 November was acceptable.
- 10.9 The inspector emphasised the need for succinct submissions, avoiding unnecessary detail and repetition. There is no need for verbatim quotations from the AAP or any other sources of policy guidance. Nonetheless, it is vital that the fundamental elements of cases are set out clearly and succinctly. Participants should attempt to reach agreement on factual matters and statistics before the hearings begin. Statements of Common Ground can be helpful to narrow the issues in dispute. The hearing sessions are not the place for new evidence to be produced. It is the quality of the reasoning that carries weight, not the size of the documents or the width of the appendices!
- 10.10 Details of what is required from participants in terms of statements are set out in the Guidance Note. Basically, the Programme Officer will require 4 copies of all submitted statements, which should be concise and focussed on the issues identified. As a general rule, these should be no longer than 3,000 words, be they for a hearing session or further written representations.
- 10.11 Ms Worden urged everyone to adhere to the timetable for submitting further statements. No additional statements will be accepted at the hearings. Late submission of evidence can cause disruption and result in unfairness, so those who fail to meet deadlines may lose their right to be heard, unless there is a genuine and unavoidable reason, and the representation will then be considered by written representations.

11 – Handling Changes to the AAP

- 11.1 The inspector explained that the focus of the examination is the plan as submitted. She can only make a change to the AAP if she considers that this change is needed to make the plan sound. She can also only recommend a change if such a change would not undermine the basis on which the plan has been prepared, that is the sustainability appraisal and consultation that have already been carried out.

12 – Any Questions on the Guidance Notes

- 12.1 Ms Worden advised that details of the Examination Library and website are in the Guidance Note. There is a web page devoted to the examination on the Council's website. Participants were advised to keep a close eye on this as it has links to relevant documents and updates to the programme as they come available.

- 12.2 The inspector has already walked around the central part of the AAP area to familiarise herself with it and will visit all those places referred to in the representations before, during, or after the hearings. This will be done unaccompanied by the parties. Only exceptionally, if it is necessary to gain access onto private land, will the visit be accompanied. In such cases, she will ask the Programme Officer to contact the parties involved so that a mutually convenient date and time can be arranged for the visit. John Lister for the Council suggested that an accompanied visit may be advisable for parts of the harbour, for safety reasons.
- 12.3 Mr Colin Seymour suggested from the floor that the inspector might want to go out in a boat, to view the harbour jurisdiction area that takes in a circle of water around the harbour. Ms Worden said she would consider this.
- 12.4 Once the inspector has gathered all the information necessary for her to come to reasoned conclusions and decisions on the main issues, she will write her Report. The Examination itself remains open until this Report is submitted to the Council, however once the hearing sessions part of the Examination is completed she can receive no further information from any party, unless it is a matter on which she has specifically requested it. Any unsolicited items sent in will be returned to the sender.
- 12.5 The date for submitting the report to the Council largely depends on the content, extent and length of the examination. The current expectation is that this report will be submitted to the Council by March 2012. The inspector would be able to make a better estimate after the hearings.
- 12.6 The inspector asked the Council if they considered the matters and issues and questions to be correct and relevant. GK answered that the Council confirmed they are relevant. The inspector asked the question of other parties, but received no comments.
- 12.7 The inspector invited any other questions about procedure or management of the examination.
- 12.8 Mr Richard Humphreys QC, instructed by the Harbour Commissioners, raised two procedural matters.
- He raised a concern over the timing for presentation of evidence, with a deadline of 7th November. As had been heard from Mr Lister in relation to the marina proposal, there was still an incomplete technical report, with only headings for financial aspects. JL had indicated that by the end of October the full report would be available. Mr Humphreys was concerned that they may not have time to produce written statements by the 7th. They may need to reflect and consider the consultant report. If it became a problem they would flag it up with the Programme Officer, but he was flagging it up as an issue now. Mr Lister made clear that the AAP's proposals were not dependent on the evidence in the technical report.

- Mr Humphreys informed the inspector as a matter of courtesy that the Harbourmaster and Chief Executive of the Harbour Commissioners had written on the 2nd August to the Secretary of State, requesting the presence of environmental and listed building assessors to assist the inspector at the hearings. He referred to the previous marina inquiry and the environmental issues which were relevant then.

12.9 The inspector asked the Council to respond to the two points raised. GK responded that, as already explained, the Council was hopeful that progress was being made, and that there should be no need for any delay by the Commissioners in producing their statements. However, the Council noted that RH QC wished to reserve his position and so if the Harbour Commissioners ask for an extension, the Council will address and deal with such an application if made. JL added that at the further meeting on 3rd October they would discuss a more complete business plan, but stated again that the AAP's proposals did not rely on the business plan.

12.10 Ms Worden commented that her feeling was that the examination should proceed as she has set out. We would find out more during the hearings, which could be suspended if necessary. The point had been noted.

12.11 In response to the second point raised, GK commented that it was not a matter the Council thought necessary, but that it was a matter for the inspector and JL added that both English Heritage and Natural England had provided consultation responses. Mr Humphreys said that he considered that it was not completely irrelevant and could have some bearing. The inspector was aware that similar requests had been made to CLG. She felt that having received comments from English Heritage and Natural England, she didn't feel it necessary to have additional assessors, but if at any point she changed her mind it was a possibility.

12.12 Michelle Bath of DPD representing Tesco Stores Ltd asked a procedural question regarding the 3000 word allocation. It was confirmed that this was per matter.

13 Any Other Matters

13.1 Councillor Charlesworth for Bridlington Town Council asked whether they could have an assurance that East Riding Council would not sign a binding contract with Tesco before the hearings.

13.2 The Council had no comment to make on this.

13.3 Barry Guildford commented that he had understood this inquiry to be into the town centre, but it was also clearly, to him, about the marina. He felt that previous points raised about listed buildings were being ignored in this proposal. He had also asked for specialist support, and felt that reports produced for the first inquiry should be made available.

- 13.4 The inspector said they could be helpful. She confirmed that she was not considering a planning application, and one would be needed. The AAP set the context for a marina, if found sound.
- 13.5 JL for the Council said that they had two minor changes, drawn up to satisfy RSPB objections, which they would like to bring forward. They had been agreed with the RSPB. The inspector had no objection, as long as they were put on the website.
- 13.6 Since there were no further questions the inspector thanked everyone for their attendance and closed the meeting at 1pm.