

**BRIDLINGTON TOWN CENTRE
AREA ACTION PLAN 2011-2021
EXAMINATION HEARING
December 2011**

SUMMARY OF POINTS ON BEHALF OF ERYC

1. This is a summary of some of ERYC's points which arose during the Examination and is neither a comprehensive closing speech, nor a summary of all our responses during the Examination, nor is it intended to replace the evidence or detailed written papers put in response to the matters set by the Inspector.
2. A number of issues were raised which simply do not go to the soundness of the AAP e.g. rewording policy on a basis other than soundness (e.g. many of Tesco's suggestions re BridTC3), the leases granted for the fair in the 1980s, the existing pedestrianisation of King Street, BridTC12 etc.
3. Despite comments from some, including Mr Pickering and Mr Guildford, there has been extensive consultation on the key elements of the plan and the proposed components of the regeneration, including the draft SPD in 2009. It is unfortunate that Mr Guildford may not have participated in some of the consultation exercises, or been aware of them, but they did take place and many participated: see e.g. CD06, CD08, CD11, CD13, CD15, and CD19. It is always necessary to be cautious that those who say they have not been consulted are not confusing that with their views not being accepted by the authority.
4. AAPs may bring about consensus (see PPS 12, 5.5) but it is not a necessary requirement. In any event, the number of objections from local residents and businesses who may be thought to have the greatest stake in the success of the AAP have been few despite the extensive consultation. Many local bodies signed up to the strategy which underpins in the AAP in the 2005 Charter [CD08].
5. A number of issues were covered in our opening submissions including our response to Mr Seymour's claim that the AAP could not lawfully include policies relating to the Harbour.
Note:

- (1) No structure is proposed which is freestanding in the sea but new structures which build on existing structures or land and which are themselves undisputedly within the Council's jurisdiction - see the *Easington DC* case;
 - (2) Although only theoretical at this stage, powers exist in any event in terms of CPO, TWA 1992 and Harbours Act 1964 (several HROs have been made) which are agreed with the BHC.
6. With regard to the vision and fundamental aims of the AAP:
- (1) Few if any question the problems facing Bridlington. Decline and difficulties facing Bridlington not challenged and plain. Indeed, many of the comments of examination participants such as Mr Guildford and Councillor Charlesworth underlined the need for radical intervention;
 - (2) Retail studies are detailed and clear - the only empirical and detailed evidence on the current state of the town centre and assessment based on it. Not correct to say out of date since updated last year applying nationally accepted data and standard methodology;
 - (3) This is a plan not a planning application, but being an AAP it is more detailed than might be expected of CS or spatial policies. That does not obviate the need for planning applications or detailed assessments and there has been some confusion between the level of information and detail needed for an AAP and that needed at the application stage;
 - (4) No credible alternative is advanced by any party which would restructure the town centre to transform its ability to recapture trade going elsewhere and to strengthen all year round economy to replace economy still too dependent on contracting, seasonal trade. See ED22 esp. 9-18. No evidence base is advanced for the viability or deliverability of other proposals in terms of achieving the regeneration strategy of the AAP. E.g. a modest alternative scheme for a marina is not a scheme to regenerate the town in terms of the AAP nor is it remotely capable of dealing with the structural defects exposed by the retail and economic evidence;
 - (5) In this context -
 - (a) BHC have not explained how their alternative marina scheme will overcome issues with the fishing fleet or provide the necessary change in attraction to assist the town centre regenerate. It is no more than tinkering with the existing harbour and will not work a transformational change. BHC have simply not carried any viability appraisal with that element and excluding the

HT to show how a restructured town centre could be made to work. In the absence of evidence, the BHC scheme must be assumed to be unworkable;

- (b) The Town Council have suggestions for the town centre which are also little more than moving around the existing elements of the centre and which cannot work the transformation necessary to reverse the decline of the centre and recapture a significant proportion of 2/3 of comparison spending going elsewhere. However, elements of their proposals may in any event be possible options within the scope of the AAP;
- (c) The investment proposed by Tesco and the Lords Feoffees is not evidence of investment sufficient to transform the centre -
 - (i) The LF's car park proposal has been refused permission and is in any event wholly inadequate to meet the defects identified in the retail reports;
 - (ii) Tesco is already present and no doubt already contributes to the significant retention of convenience expenditure by Bridlington. Their investment is welcome and necessary to anchor BP but is not sufficient to bring about the transformation especially to comparison shopping.

It follows that without the AAP there are no significant or viable proposals needed to reverse the market failure in the town centre, recognised and accorded significance in the 2003 Marina decision by the Sec of State.

- (6) Critical to the AAP are both the BP and Marina elements of which BP transforms the structure and attractiveness of the town centre to investors to reverse decades of decline and attract the scale of investment which flexibility and a buoyant market were unable to deliver;
- (7) Key to the BP element is the creation of a mixed use structure including unit comparison shops currently lacking and key to making the structure work is the classic model of the retail circuit with anchors at both ends to draw potential customers along from end to end. Further, the Harbour Top will be an anchor as an attractive destination in its own right that will generate footfall and be functionally integrated with the town centre's core and other attractions;
- (8) HT is critical to the AAP and the regeneration proposals and has been an element of Bridlington strategy since 2004 [see CD06, CD10, CD19, LD01, LD09] and builds on the most attractive and valuable asset of the town centre. As Mr Lister explained, contrary to BHC's case the extent of operational land and facilities for the BHC will be

improved even on an interim basis. See also ERYC Response to Objectors [ED22] Matter 2 pp 4-12 and Appx 2.1;

- (9) Although demands made for evidence -
- (a) Evidence base extensive, supported by established experts in the various fields and has been gathered over an extended period (note the 2004 and 2005 reports LD01 and LD09);
 - (b) Planning assessments underlie defects in town centre gateway and structural weakness in town [LD01, LD09, SD06, SD09];
 - (c) Retail studies and economic assessments provide compelling evidence of economic weakness of town [SD06, SD09];
 - (d) Assessing future development and requirements is self evidently incapable of being the subject of factual evidence, contrary to Mr Guildford's objections, since it is an assessment of future performance and effect. There is ample evidence to support the AAP in the form of survey and expert assessment;
 - (e) Roger Tym, Drivers Jonas Deloitte and other experts have advised ERYC on the cost, viability and delivery of the strategy in the AAP [summarised as approved by DJD in ED06]. Robust, conservative assumptions used [see ED06 Section 4 and paras 5.1, 5.2];
 - (f) HT said to be key element in providing anchors at each end to make it "feasible to achieve commercially viable development" [ED06 4.16]. It will be a major generator of footfall in its own right, a gateway to and overlooking a major heritage asset. Enabling investment for its preservation and enhancement.

7. With regard to the HT element of BP and the Marina proposals:

- (1) Both are central to the AAP and the BP and restructuring of the t/c cannot be achieved without the HT as a key piece of land within the town and as an anchor for the east end of BP and PSA;
- (2) Although BHC's current scheme does not include the HT the alternative they advanced in representations in 2009 did develop the HT. BHC has not been consistent in a context where they have not produced any viability, retail or demand assessments themselves;
- (3) The demand for the Marina is underpinned by expert evidence from PLB [SD02];
- (4) Although BHC suggested the demand issue was not without doubt;

- (a) PLB specifically divided their assessment into two parts and considered it to be robust. The second phase will be delivered as and when economic conditions justify it. No expert report assessing demand has been commissioned by BHC to counter it;
 - (b) BHC suggestions regarding demand not consistent with their own plans to increase the number of berths plus the plans they referred to for further berths at Scarborough and Whitby;
- (5) BHC concerns regarding the delivery of the Marina -
- (a) It was accepted they agreed the plan found in the AAP (and provided to the Examination at A3 scale);
 - (b) The concern appeared to be only with phasing which was allied with a late suggestion that the policy be amended to require the marina to be completed as a whole before the HT should be released
 - (c) Failed to take into account that the AAP in policy and text requires BHC interests to be accommodated and protected;
 - (d) Are not supported by the draft Jacobs report (jointly commissioned by ERYC and HBC) which at p. 61 deals with the points referred to by Mr James and Mr Trevitt and which stated they were not insuperable. They are matters of detail to be worked through and there is no reason to expect them not to be resolved;
 - (e) Jacobs are respected experts in the field and the expertise of the team is detailed at the end of the main report;
 - (f) BHC has not yet even sent its detailed comments to allow Jacobs to comment on them and focused on putting in a very late statement criticising it when it might have been thought more appropriate to await their comments given that they were jointly commissioned as experts. Although BHC wished to labour Mr Trevitt's own expertise at this Examination (which is not in issue), it is notable that BHC nonetheless were content to commission and place the detailed technical report on the marina in the hand of Jacobs and have stopped short of direct criticism of Jacobs. Indeed, since they have yet to submit their comments on the draft it is difficult to see how they could fairly do so;
 - (g) The BHC also noticeably stopped short of contending that the issues could not be resolved (characterising the issues as matters of concern or difficulty)

and Mr Lister explained how he thought BHC were unnecessarily concerned about the available space and mitigation to accommodate their requirements during the construction of the HT element of BP;

(h) ERYC have funding which means that the scheme is not wholly dependent on being commercially self-financing;

(i) A further written response will be submitted by ERYC as discussed.

8. Heritage issues should not be a concern. EH has no objection and is satisfied with the policies in principle. This does not guarantee their support for any specific proposal but is a clear demonstration that EH considers a scheme can be worked up which will be satisfactory and which will enhance the heritage assets of the town and harbour. The details are being worked on in the context of the SPD with EH, with whom ERYC has an excellent working relationship. It is noted that at the harbour BHC's own proposals also show the same extent of fill at the west end of the harbour and works which will impact upon the listed structures.
9. Flood risk issues:
 - (1) No issue with remaining para of PPG20 since compliant with saved local plan policies which are the only applicable policies to the coastal zone designated at Bridlington;
 - (2) AAP properly assessed in PPS25 terms, EA content with the flood risk assessment of the AAP;
 - (3) Applications for permission will be required to undergo PPS25 assessment.
10. Transportation, parking and public realm aspects of AAP all to aid regeneration. The ERYC transportation department has been fully consulted and involved. Funding through the transportation plan has been linked specifically to regeneration [see e.g. LD03]. Not all the proposals are fully worked up in detail at this stage but there is sufficient in the supporting evidence and in the AAP to give a clear indication of how this is likely to proceed. Specific concerns about on street parking, free parking, pedestrianisation and the like are matters to be resolved in due course though it is necessary to recognise that the general public interest of the town has to be promoted and what might be convenient on street parking to one person shopping may be an obstruction to others.
11. The issue of flexibility has been much misunderstood:
 - (1) PPS4 EC3.1 dealing with a strategic level of policy, not AAP which intended to be detailed at a local level often taking the place of a masterplan. See PPS12 4.7 (*"site specific criteria set out to allow more precise definition through masterplanning using*

an area action plan (if required) or through a supplementary planning document (SPD)...”) and 5.4-5.6

- (2) The purpose of the AAP is to provide a blueprint for restructuring and much needed major change in the town. To water this down as some would prefer would be to remove certainty and confidence from the scheme and would repeat the errors of the past. Flexibility has been present for many years, but the market has not worked the necessary transformation and it requires public intervention and funds for it to succeed. Flexibility has not been Bridlington’s friend.
 - (3) Flexibility is not there to provide a commercially attractive solution to a retailer’s own alternative plans, as with the LF or Tesco objection. The public interest must take precedence.
 - (a) The negotiations over the Tesco relocation are progressing suitably and there is no proper basis to doubt the soundness of that aspect of the AAP.
 - (b) The LF’s proposals would prejudice the AAP and it has not been explained to the Examination why the LF cannot submit a different application which would allow them to make their investment in a manner which is consistent with planning terms. The LF duty to utilise their assets as best they can does not override the greater public interest in the regeneration of the town centre and Mr James observations suggested that the matter might be one where the LF thought they would benefit more from the rejected scheme, without claiming they would not benefit from a reconfigured scheme. ERYC has offered joint working on what might be acceptable proposals and it is to LF’s disbenefit that they have not availed themselves of this.
 - (4) BridTC10 does provide sufficient flexibility in any event and refers to all the key elements of the AAP and not mere BridTC3.
12. The purpose of AAP and vision is to transform Bridlington and to reverse its decline and economic weakness. This will assist in terms of dealing with social exclusion and providing environmental benefits. ERYC have devoted extensive resources to regeneration and to take active steps to make it happen. It has sought and obtained expert assistance which supports its proposals. It has not attracted considerable objection and despite the suggestions of some there is no outcry from the business and retail community. The only assumption is the obvious one - they see the difficulties the town is experiencing and see the AAP as a means of addressing those difficulties.
 13. The ERYC Cabinet meeting of 21.9.10 [LD14] unanimously supported the AAP and its

scheme to regenerate Bridlington.

14. Taken fairly and with all the evidence, the plan (in the context of the various changes proposed and agreed by ERYC) is sound in all aspects and there simply is no alternative and no evidence that supports any alternative which would make Bridlington thrive again and change the fortunes of the town, its residents and businesses for the better. Indeed, the removal of key elements of the scheme or its significant watering down would themselves be unsound.
15. The Inspector is asked to find the AAP sound so that ERYC can progress the strategy as soon as it reasonably may to the benefit of Bridlington.

DAVID ELVIN Q.C.

For East Riding of Yorkshire Council

Landmark Chambers,
London EC4A 2HG
8 December 2011

Additional points arising with regard to BHC "summary"

1. BHC case on lack of CS or non compliance with current DP lacking in force. See Matters papers:
 - (1) ED19 - Appx 3.9
 - (2) ED22 - Matter 2 pp. 3-4
2. BHC pay lip service to the needs of Bridlington but act in a manner which is a recipe for procrastination and further decline e.g. await a CS, carry out wider sequential testing etc. A plan for the regeneration of the t/c does require a focus on the t/c and not some other location. The BHC claim to act in the best interests of the town as a whole but their actions do not support such a claim. Their actions smack of a narrowness of view, one which will damage Bridlington's future if endorsed. BHC makes many points in summary but necessary to see how many simply assertions and how many are supported by evidence.
3. What is wholly lacking from BHC is any commissioned work analysing what town needs, no retail or economic assessment even limited to the harbour etc. and importantly nothing to support the alternative scheme advanced by the BHC.
4. Number of surprising and unsupported claims -
 - (1) No evidence of loss of jobs - BHC not even analysed impact of their scheme on fishing fleet - proposals should increase jobs
 - (2) SA is not costs benefit analysis but a sustainability appraisal and Mr James' points failed to compare the link of the AAP approach into wider regeneration and the much weaker relationship of a limited in harbour marina scheme to achieving significant transformation of the town centre
 - (3) No-one is suggesting proceed with 320 berth marina at present and BHC's submissions just ignore this. Deliberate misleading of the evidence where a significant proportion (i.e. the second phase) expressly made dependent on future economic growth and timing of that is not critical, whereas earlier elements are based on the
5. Quart into pint plot is simply an unwillingness of BHC to engage responsibly and meaningfully with the issues. Mr Lister has explained how this is simply incorrect and that more operational land can be provided than may be needed. Even today they have yet to respond to Jacobs with their detailed comments but have been prepared to devote time and cost to preparing statements and additional statement for the examination.