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Ms Colette Longbottom
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Your Ref: NC/92617
Our Ref: PINS/X1355/429/1
Date: 8 May 2015

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Dear Ms Longbottom

County Durham Plan (CDP): Inspector's Interim Report

1. I refer to your letter dated 21 April 2015, which addresses the Interim Report that I issued on 18 February 2015, and which encloses a report prepared by Matthew Spry and Martin Taylor, both of Nathaniel, Lichfield & Partners.
2. I first confirm that the Interim Report does not represent a final view on the soundness of the plan, pending completion of the examination. This is made clear in paragraph 2 of the Interim Report. Paragraphs 112-114 set out the options for completing the examination and explain the potential implications of options (a) and (b) in particular. The Council has not yet confirmed which of the options set out in paragraphs 112-114 that it wishes to elect. Instead, it requests that stage 1 of the examination be re-opened in order that additional evidence can be provided. I refuse this request, for the following reasons.
3. I made clear from an early date that I would conduct the examination in stages and would not proceed beyond stage 1 if not satisfied that the fundamental strategic elements were sound. I arranged hearings on the stage 1 matters, a number of which were closely inter-related, in order to be satisfied that the evidence underpinning these elements was adequately tested. While it might have been possible for me to have foreshortened stage 1 and issued a 'concerns' letter at an earlier point, this could have entailed risks of pre-judging matters and denying an opportunity for a fair hearing to the Council and objectors and therefore I decided it was necessary to proceed with the hearings.
4. It is notable that the Procedural Guidance states at paragraph 2.9, in relation to the early stages of the examination, that "*Inspectors are unlikely to reach any conclusive findings of unsoundness at this stage...it would be difficult for an Inspector to reach a conclusive finding prior to holding the hearing sessions where*

the evidence can be properly tested". I do not accept that the spirit of the Procedural Guidance was breached or that there was procedural unfairness in this regard.

5. It is important that the Procedural Guidance is applied in a way that takes account of the circumstances of each case. The CDP is in effect a full-scale local plan and the submission document was accompanied by a very large volume of evidence and some 4,000 representations on a wide range of matters from strategic policies to small-scale/detailed considerations. As the Procedural Guidance also makes clear, at the point that a plan is submitted, it should be accompanied by a complete evidence base. This was a matter also emphasised in the bespoke guidance notes prepared for this examination.
6. There was a considerable volume of evidence initially submitted by the Council (26 boxes). Moreover, the Council (and representors) submitted many additional documents during the stage 1 examination sessions following questions and discussions. It was for the Council to consider how best to present its case and respond to my questions and the views of those who oppose the CDP. The Council was represented by Counsel throughout. I do not recall any significant concerns or complaints from the Council in relation to the way in which the evidence on OAN or Relief Roads was considered, or any other aspect of the examination, before or after the hearings stage of the examination process.
7. You refer to some participants at the examination who have written to PINS about the conduct of the examination raising concerns about the fairness of the process and about the refusal to accept part of their submissions /evidence. In this regard I have seen letters from Eversheds LLP, Swinburne Maddison LLP and GSC Grays who have voiced similar concerns to those of the Council. I am aware that comprehensive replies have recently been sent to each of these parties strongly rebutting such accusations. There is no need for me to repeat the details of PINS' replies here. Suffice it to say, it is not accepted that any participant in the examination has been denied an effective opportunity to make representations such that there has been any breach of natural justice.
8. With regard to the submission of documents, the Notes of the Pre-Hearings Meeting and the Guidance Notes for Participants, together with subsequent letters from the Programme Officer when arranging the hearing sessions, all make clear that only documents not longer than 3,000 words, submitted by the due date (Friday 29 August 2014) and relating to representations that contended that the Plan was unsound would be accepted. I do not accept that my actions in this matter were prejudicial to the fair conduct of the examination or the proper testing of relevant evidence, or that they were not in accordance with the Planning Inspectorate's Procedural Guidance. It is notable that complaints as to fairness have only arisen subsequent to the issue of the Interim Report.

9. Accordingly, I do not accept that my decisions in this regard were prejudicial to the fair and open conduct of the examination or to the Council's opportunities to support the CDP with relevant evidence at the examination stage.
10. I have also considered the points made about the substantive findings made in the Interim Report, in particular as to OAN and Relief Roads. As the Council will be aware, the views expressed in the Interim Report are a culmination of all the statements, session discussions and representations that I have received. As the appointed Inspector I am required to come to my own professional view on the matters and issues raised in light of all the evidence I have seen and heard. It should be noted that the question of whether or not a Local Development Document passes the test of soundness required by s20 of the 2004 Act is a question of planning judgment for the independent examiner. The interim judgments that I have reached in this regard are supported by detailed reasoning.
11. I have nonetheless carefully considered the contents of your letter and the accompanying report. However, there is insufficient justification for me to re-open discussions about methodology in the OAN or the evidence on the Relief Roads, or on any other matter. With regard to the comments on the need to improve the economic position of the County, it is clear from the 29 page Interim Report that the CDP's economic aspirations were fully understood. By way of example, specific reference to the Council's vision for a successful local economy can be found at paragraph four. Paragraphs 24 and 25 also make clear references to the CDP's key aim of creating jobs and improving the economic performance of the County. The Council's concerns in this regard are not accepted.
12. I have also (exceptionally) considered the report by Matthew Spry and Martin Taylor. Nothing in this report causes me to alter my position that the stage 1 examination should not be re-opened as the Council requests. Firstly, the authors of the report readily accept that not all the evidence submitted to the examination has been reviewed. There were 26 boxes of evidence initially submitted by the Council and many more submitted during the examination sessions. The authors have not read all of these documents nor did they attend any or all of the examination sessions. Therefore there can be little doubt that their assessment is incomplete. Secondly, their assessment has also not been tested at an examination hearing or indeed by anyone. Thirdly, the authors have not visited any or all of the development locations in the preparation of the report. Fourthly, it does not deal with other fundamental soundness issues raised in the Interim Report such as those relating to landscape, the spatial strategy or distribution of development, the Green Belt and student accommodation. Accordingly, I can give only very little weight to this report.
13. While the findings in the Interim Report are not final, and so are subject to change (including if the Council requests the suspension of the examination to address all or some of my interim views), it is also worth pointing out that my concerns about the CDP were not just in relation to OAN or Relief Roads. The Interim Report identifies many fundamental flaws, including the effect on the Green Belt, the

spatial strategy and distribution of development, the policies on executive housing and student accommodation. These are summarised at paragraph four of the Interim Report. All of these matters are interrelated. Even in the event that I had been able to agree with the Council on the OAN figure, in all probability, as set out in paragraph 112 of my Interim Report, I would ultimately have concluded that the CDP was unsound on environmental grounds, the adverse effects of which would significantly and demonstrably outweigh any benefits¹.

14. In sum, the Interim Report does not represent a final view on the soundness of the CDP. Nevertheless, I do not accept that there are legal and fundamental errors in the Interim Report as the Council asserts. Nor do I accept that the hearing sessions ought now to be re-opened in order for these matters to be addressed. The Council and all parties have had an effective opportunity to make representations on all of the matters now relied upon.

15. The Council is reminded that I require confirmation as to which of the options set out in the Interim Report it elects. This confirmation should be provided as soon as possible. I await your response before seeking the return of the evidence documents.

Yours sincerely

Harold Stephens

Harold Stephens

¹ National Planning Policy Framework, paragraph 14.