

# INDEPENDENT EXAMINATION OF THE WAREHAM NEIGHBOURHOOD DEVELOPMENT PLAN

EXAMINER: Bob Yuille MSc DipTP MRTPI

Sue Bellamy  
Purbeck District Council

Cc: Steven Sensecall  
Carter Jonas LLP

Cc: Mr. K. W. T. Critchley  
Wareham Neighbourhood Plan Steering Group

Examination Ref: 03/BY/WNP

30 July 2019

Dear Ms Bellamy and Mr Sensecall

## WAREHAM NEIGHBOURHOOD DEVELOPMENT PLAN EXAMINATION

Further to my letter of 22 July 2019, I have a number of further questions below for Dorset Council which would assist me in my examination of the Wareham Neighbourhood Plan. A copy of this letter has also been sent to Mr Senescall at Carter Jonas, as he acts for Welbeck Land who have an interest in the Suitable Alternative Natural Green Space (SANG) areas referred to in the questions. I would welcome his views on questions 4 and 5. In addition, should the Town Council wish to comment on any of these questions, I would have no objection.

May I request the submission of responses to my questions below within **four** weeks of the date of this letter, although an earlier response would be most welcome.

1. The Plan was screened for Strategic Environmental Assessment (SEA) by the Council, which found that it was necessary to undertake SEA<sup>1</sup>. A SEA was prepared<sup>2</sup> which concluded that while the Plan would have various significant long-term benefits by providing for local housing, employment and retail needs, such provision would lead to some minor localised adverse effects on biodiversity. However, the approach taken in the Plan, particularly the proposed provision of SANGs would '*...limit the potential magnitude of these adverse effects and secure enhancements.*'<sup>3</sup> Is that correct?
2. Given the presence of nationally and internationally important wildlife sites (also referred to as the European sites) in and around the Plan area, a Habitats Regulation Assessment (HRA) has been carried out. This report concludes that, subject to certain modifications to the Plan's policies and text, it '*...will not result in an adverse effect on the European sites either alone or in combination with other projects or plans.*' Is that correct?
3. Have the statutory consultees been consulted on the SEA and HRA and, if so, where will I find their responses?
4. Paragraph 2.5 of the HRA makes the following points.

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<sup>1</sup> Wareham Neighbourhood Plan Strategic Environmental Assessment Screening Determination, January 2017.

<sup>2</sup> Strategic Environmental Assessment for the Wareham Neighbourhood Plan, October 2018.

<sup>3</sup> Ibid paragraph 5.39.

*More recently, the Court of Appeal\* ruled that providing the Council (competent authority) was duly satisfied that proposed mitigation could be “achieved in practice” to satisfy that the proposed development would have no adverse effect, then this would suffice. This ruling has since been applied to a planning permission (rather than a Plan document)\*\*. In this case the High Court ruled that for “a multistage process, so long as there is sufficient information at any particular stage to enable the authority to be satisfied that the proposed mitigation can be achieved in practice it is not necessary for all matters concerning mitigation to be fully resolved before a decision maker is able to conclude that a development will satisfy the requirements of reg 61 of the Habitats Regulations.”*

*\*No Adastral New Town Ltd (NANT) v Suffolk Coastal District Council Court of Appeal, 17th February 2015*

*\*\*High Court case of R (Devon Wildlife Trust) v Teignbridge District Council, 28 July 2015*

Given the concerns that have been raised about the feasibility of delivering SANG areas necessary for the development of proposed housing sites H5 and H6, is the Council, as competent authority, satisfied that the provision of such areas ‘*can be achieved in practice*’?

5. Natural England<sup>4</sup> has stated that the SANG areas in question have an initial capacity to serve some 200 housing units and it is likely that this could be increased with the addition of some infrastructure. Leaving aside for the moment the question of feasibility, it appears to be common ground that, in principle, this land would be suitable and sufficient to serve as a SANG for housing sites H5 and H6 as proposed in the Plan together with H4 as proposed in the emerging Local Plan. I understand the owner of the SANG areas is promoting an alternative housing site through the emerging Local Plan. Would these SANG areas be suitable and sufficient to serve that site as well as those already mentioned?

In the interests of transparency, may I prevail upon you to ensure a copy of this letter is placed on both the local authority and Town Council websites.

Thank you in advance for your assistance.

Your sincerely

*Bob Yuille*

Examiner

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<sup>4</sup> Heathland Mitigation Requirements, Land North of Wareham. 23/10/2018.