

Appendix B – reasons for deletion of text in recommendation 5 of the Examiner Report

Harborough District Council received a communication from the land owner affected by the recommended text below in recommendation number 5 of the Examiners Report (**Appendix A** to the Executive Committee report)

Add to remaining supporting text on page 26 "The landowner of land Adjacent to Barnsdale House has committed to ensuring that, as part of the development of the site, permissive pedestrian access to an area of former railway track elsewhere will be provided, as a contribution towards the creation of a circular path for the benefit of the people of Great Easton."

On 4th July 2017 a letter was received from Gateley PLC on behalf of Bybrook Builders Ltd (BBL) contesting the inclusion of the text. The letter stated that the Examiners report contained a false and misleading statement at paragraph 83 (concerning provision of a permissive footpath) and prejudiced the position of BBL under the GENP and within the village of Great Easton.

A meeting with Legal Services on 20th July 2017 confirmed that a Planning Obligation, either through a Unilateral Undertaking or a Section 106 agreement, was not the right vehicle to secure the permissive footpath.

The Great Easton Examination Report recognises this with the following text:

Policy H3 seeks to impose a planning obligation in respect of something to which it is not party and over which it has no control. Furthermore, it seeks to impose undefined "other terms," yet to be agreed, on other parties. This element of Policy H3 is imprecise .

It is unclear why Policy H3 allocates land for a single dwelling for a rural worker when national policy provides for such dwellings, subject to demonstrating need. No substantive evidence is provided in this regard.

It is unclear why the provision of " pedestrian access" in one place relates directly to the allocation of land somewhere else. Planning obligations must be directly related to development, as set out in Paragraph 204 of the Framework. They must also be necessary to make development acceptable in planning terms and it is unclear how "providing for a permissive path for pedestrian access" as a contribution to something that does not exist meets this test. In addition, planning obligations need to be fairly and reasonably related in scale and kind to development. There is no evidence that Policy H3 achieves this.

Legal Services have subsequently confirmed this to Gateley PLC after receipt of a Unilateral Undertaking received by HDC from the Gateley PLC on behalf of the Director of BBL in January 2017.

On 29th August 2017 an email (Appendix 1 below) was received from Gateley PLC as a 'Letter Before Claim' notifying HDC of their clients intention to seek an order for quashing the Decision Statement of August 2017 insofar as it approved so much of the emerging neighbourhood plan as contains the alleged Prejudicial Statement.

Legal Services sought the opinion of Counsel regarding the timing of the referendum, the issuing of the Decision Notice and the course of action that should be taken by the Authority if the Examiners recommendation as set out above were to be rejected.

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The Decision Notice had not been formally issued and Counsel advised that the LPA notify and invite representations from all those prescribed by Regulation 17A(2) Neighbourhood Planning (General) Regulations 2012 (as amended) being:

- (i) the qualifying body,
- (ii) any person whose representation was submitted to the examiner of the plan proposal in accordance with Regulation 17(d); and
- (iii) any consultation body which is referred to in the consultation statement mentioned in Regulation 15.

A consequence of not accepting one recommendation from the Examiner's report is that a proposed modification is needed to the Neighbourhood Plan and it is relation to that proposed modification, and no other matters, that representations were invited.

The proposed modification arises as a result of new evidence which leads the District Council to take a different view concerning one of the recommendations made by the Examiner in their report.

The Qualifying Body (QB) have been contacted with regard to the requested deletion of the text by Gateley PLC on behalf of their client, BBL. The QB have confirmed that they are in agreement with the deletion of the text via the following email:

The Parish Council, in its capacity as the Qualifying Body(QB) for the Great Easton Neighbourhood Plan, agreed at this evening's meeting that the paragraph below on page 23 referring to the landowner's commitment to provide a a permissive pedestrian footpath, should be deleted from the Referendum Version of the Neighbourhood Plan.

'The landowner of land Adjacent to Barnsdale House has committed to ensuring that, as part of the development of the site, permissive pedestrian access to an area of former railway track elsewhere will be provided, as a contribution towards the creation of a circular path for the benefit of the people of Great Easton.'

The formal minute recording the decision of the Parish Council will be forwarded separately.

The attached PDF incorporates the amendment and should please be placed on both the HDC and Great Easton websites.

Other persons as specified above have been asked for representations concerning the proposed rejection of the Examiners recommendation between 2nd October 2017 and 15th November 2017. A summary of the representations received as a result of this consultation can be found at **Appendix D** to the Executive Committee report.