

CHARNWOOD LOCAL PLAN EXAMINATION

SUSTAINABILITY APPRAISAL ADDENDUM

OPINION

Introduction

1. I am asked to advise Charnwood Borough Council (“the Council”), as a matter of some urgency, as regards a Note dated 6th February 2023 written by Paul Tucker KC for his professional client, Pegasus Planning.
2. In short, his client is concerned to ensure that adequate opportunity is provided for the making of representations concerning the Sustainability Appraisal Addendum (“the SAA”), prepared by AECOM for the Council.

Brief factual background

3. I am instructed that the SAA was submitted by email to the Inspectors (via the Programme Officer) on Monday 16th January 2023. The Hearing Statement to which it was appended was required to be submitted by noon on that date: see the “Examinations Guidance Notes for the Examination Hearings Sessions 2023” issued on 5th December 2022. Those further hearing sessions began on 7th February 2023.
4. I am further instructed, the matter having been reconfirmed with and by the Programme Officer today, that all hearing statements (and their appendices) were uploaded on to Examination website on Thursday 19th January.

5. The Council's hearing statement (Matter 2, Issue 3, Answers 1 and 2 to Supplementary Questions) expressly refers to the SAA. Moreover Supplementary Question 2 itself envisaged that such "further SA testing of the options for the level and distribution of growth" might be necessary.
6. Although reference is made in the Note (paragraph 1.4) to the SAA only having been uploaded (with other documents), that appears to be a factual error: the SAA has been in the public domain, as at the date of this Opinion, for some 3 weeks.
7. I am also instructed that:
 - (i) the Council's intention regarding the preparation and publication of the SAA has never been other than that it should be the subject of public consultation;
 - (ii) the SAA was commissioned to inform the Council's approach to meeting the Council's share of the increased housing needs (as apportioned in the draft Statement of Common Ground between the Leicester and Leicestershire Local Authorities);
 - (iii) the Council agrees that "the provisional views of the parties upon the new evidence" may be provided at the examination hearings "with the opportunity to provide more considered comments in writing thereafter within a clear timetable" (paragraph 2.11 of the Note).

Legal framework and its application

8. I respectfully agree that the well-known legal principles are set out in the Note.
9. On the basis of the factual background set out above, including the suggested procedure set out in paragraph 7 (iii) above, it is my view that the Council would be acting in accordance with those legal principles and a fair process would have been followed.

10. It will of course be a matter for the Inspectors' judgment, in the light of all the circumstances, as to the appropriate length of time to be afforded to those who wish to make representations on the SAA (and to the Council to respond to such representations by way of clarification and/or correction of any factual points).
11. It may, for example, be considered that, since the SAA has been in the public domain already for some 3 weeks, a further express, formal 4 weeks' consultation period for written representations to be made (with 2 weeks for the Council to respond thereafter) would, respectively, be reasonable periods of time.

Conclusion

12. There appears to be no reason to doubt that an adequate opportunity is being, and will be, afforded for the making of representations regarding the SAA.

8th February 2023

**Richard Humphreys KC
No 5 Chambers,
London and Birmingham**