

Examination Arrangements Query and Examiners and NSC response

Resident Query

Dear Planning Policy Team,

Thank you for sending me this update in respect of which I have some concerns about the Examiner's references to:

Stage 3: If a hearing is required, I will make separate arrangements with North Somerset Council and the parish councils. Plainly those arrangements would need to take account of Covid:19 and the restrictions in place at the time of any hearing.

The limits on the judgment and discretion he will personally use in deciding whether a public hearing to hear oral submissions is to take place or not.

Stage 4: Once the visit has taken place, I will issue a clarification note. It will raise a series of questions on the Plan in general and its policies in particular. The answers to these questions will help me to understand the Plan better and, where appropriate, to recommend modifications to ensure it meets the basic conditions. The clarification note will suggest a timescale for responses based on the issues it addresses.

Whether those who have made comments will have a further opportunity to comment at this stage.

Stage 5: I will prepare a fact check report before the final report. This gives an opportunity for North Somerset Council and the parish councils to comment on any factual inaccuracies and/or omissions. It will not present an opportunity for the examination to enter another phase.

Restricting the examination in this way has the potential to advantage the two parish councils in making further submissions to correct factual inaccuracies and omissions whilst at the same time precluding those who have submitted comments from commenting further on those submissions.

Other related matters: In the case of the submitted Plan I anticipate being able to prepare the fact check report by the end of May 2021. Plainly this will depend on the timeliness of the responses to the clarification note.

When, assuming the fact check report is issued by the end of May 2021, does the Examiner expects to make his final report to North Somerset Council and what form the final report will take, i.e. to recommend the Plan for a referendum of the electorate as submitted with or without minor correctional changes which do not change the substance of the Plan; to recommend the Plan with changes that fundamentally alter the substance of the Plan, particularly where this bears on the demand for housing and where housing is to be built; or to recommend the Plan is rejected as not 'well made'. And, finally, what appeals procedures exist to challenge the decision of the Examiner including bringing the Plan to the attention of the Secretary of State for Housing, Communities, and local Government?

I would be very grateful if the Examiner could expand on these points in his Examination Arrangements Note.

Abbots Leigh, Ham Green, Pill and Easton-in-Gordano NDP

Examiner responses to Ham Green Residents

Stage 3

I will come to a decision on the need or otherwise for a hearing based on a professional judgement taking account of Schedule 4B of the Town and Country Planning Act 1990 Part 9.

Stage 4

There is no further opportunity for those who have commented on the Plan to make further representations on the parish councils' responses to the clarification note.

Stage 5

The fact check report stage is simply an opportunity for the two principal parties to check the factual accuracy of the report. This was highlighted in the examination arrangements note.

Stage 6

The timing of the final report will relate to the receipt of the comments on the fact check report. I will aim to send the final report with one working day of their receipt.

The examiner has to recommend one of three outcomes:

- that the Plan should proceed to a referendum; or
- that the Plan should proceed to referendum as modified; or
- that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

The examiner's role ends once the final report is published. At that point the local planning authority (here North Somerset Council) has to consider the examiner's report in general, and any recommended modifications in particular.

Andrew Ashcroft

Independent Examiner

12 April 2021

North Somerset Councils email response regarding appeal procedures

Hopefully the following information will help with the final part of your query.

An explanation of the Examination process is given at <https://www.gov.uk/guidance/neighbourhood-planning--2#the-independent-examination>

As stated in this government guidance, North Somerset Council will make the final decision whether to accept each of the Examiners recommendations. If the decision differs from the Examiners recommendations then North Somerset Council must consult for 5 weeks before coming to a final decision.

The Secretary of State can only intervene at the Parish Councils request.

There are a number of stages following examination where persons can make a legal challenge to the Plan making process under section [61N of the Town and Country Planning Act 1990 as amended](#). This is done through an application to the High Court for [Judicial Review](#) of a decision. The stages are - following the Local Planning Authorities consideration of an Examiners recommendations; "anything related to a referendum"; and the Local Planning Authorities making of the plan after a referendum.

A local referendum will ultimately decide whether the Plan is made and allows the local community to have the final say.

Kind regards

Planning Policy Team

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