

Croxley Green Neighbourhood Plan Examination

Questions of clarification from the Examiner to the Parish Council and TRDC and initial findings requiring remedial action

Having completed my initial review of the Neighbourhood Plan (the Plan) and visited the area, it is not uncommon for some queries to arise. I would therefore be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available. In addition I have identified issues in relation to EU obligations which I suggest are remedied.

1. Please confirm the dates of the Regulation 14 (pre-submission) stage period of consultation. It looks as if the Regulation 14 period started and was then extended so I would like to know what version of the Plan was consulted upon and when the Regulation 14 period began and ended.*
2. It would appear that the PC submitted the Plan to TRDC, then withdrew it and resubmitted it. Please could I have a brief outline of events with dates from the point the Plan was first submitted to TRDC? This is because it seems that the Plan was revised (from Annex J in the Consultation Statement) after it was submitted?*
3. I note that the representation from TRDC states that “the Council considers the...Plan to fail to meet the basic conditions and supports the recommendations made in the POSe Ltd ‘health check’. I was therefore about to ask for further information from TRDC on this when I received an email from TRDC of 26 July which did just that. This email should be shared with the Parish Council and I would like to give the Parish Council an opportunity to respond to those comments should they wish to do so. This period should last two weeks from when it begins. It should be noted that the Council’s email and any comments from the Parish Council will be in the public domain.
4. The Basic Conditions Statement contains a section on Strategic Environmental Assessment (SEA). Although this indicates that consultation was undertaken with the three statutory consultees, please
 - a) would you confirm what was consulted upon with the statutory consultees and send copies of that consultation request/invitation i.e. the letter/email that was sent
 - b) the dates of the consultation with the statutory consultees
 - c) provide copies of the responses received (or confirmation that there were no replies)
 - d) confirm that publicity for the determination made has been undertaken in accordance with Regulation 11 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR)
 - e) given that the work has been carried out by the Parish Council, confirmation from TRDC, as responsible authority, they are satisfied the SEA screening requirements have been carried out in accordance with the EAPPR.
5. Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation. Only Regulation 32 is applicable to neighbourhood plans and this states “The making of

the neighbourhood plan is not likely to have a significant effect on a European site¹ or a European offshore marine site² either alone or in combination with other plans or projects.” A section in the Basic Conditions Statement refers to such considerations, but it is not clear to me what assessment or consultation has been carried out in respect of this basic condition.

I consider that it would be prudent for a Habitats Regulation Assessment (HRA) screening assessment to be carried out. If one has been produced, then I apologise; I have not found it in the bundle of submitted documents and this should be sent to me without delay. However, if I am correct that one has not been produced, I would recommend this matter be remedied.

I suggest that I suspend the examination whilst the requisite HRA screening work is carried out and a period of consultation, with both the statutory consultees and the public, for six weeks is undertaken.

It should be made clear that all other representations made at the submission stage consultation period will be ‘rolled forward’. As soon as the consultation period ends, any representations received should be forwarded to me and I will recommence the examination.

I appreciate that this and the ensuing delay will come as a disappointment to you and particularly the Parish Council and others involved in the development of this Plan. Yet it is important to ensure that all the basic conditions are satisfactorily met and that the Plan, once it proceeds to its latter stages, can do so with confidence.

Given the nature of the situation in that there is a remedy to this outstanding issue, I therefore seek your further instructions as to whether you and the Parish Council wish me to suspend the examination to allow the situation to be remedied along the lines suggested above or whether you wish me to continue the examination which may unfortunately result in a report that recommends the Plan does not proceed to referendum. Once the Council has decided on the course of action it wishes to take, please let me know how you wish to proceed.

Assuming you will wish me to suspend the examination to carry out the requisite HRA work, to avoid any unnecessary delay it would also be helpful to me to indicate when the consultation period might start so I can programme the examination restart in and ensure that I can continue with the examination very promptly after the consultation period ends.

I am also mindful that I have asked some questions about SEA. Given that I find work on HRA is necessary, I suggest that before any work on the HRA or consultation on it begins, that you allow me to check whether I am satisfied in the light of your responses above that no further work needs to be done on SEA. If further work is needed on SEA, this can be carried out at the same time and a combined screening report on both SEA and HRA produced and consulted on at the same time. In many ways this would be the preferable course of action and ‘belt and braces’ these requirements. I am able to look at any SEA

¹ As defined in the Conservation of Habitats and Species Regulations 2012

² As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

and/or HRA screening report before it goes out to consultation to ensure it will meet the basic conditions.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of questions and findings on the SEA and HRA is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate in due course.

With many thanks.
Ann Skippers
30 July 2017

* These queries were sent via email to TRDC on 11 July (I have reproduced them here) and the Council kindly replied via email of 18 July. Please could the TRDC email response and its attachments of 18 July be shared with the Parish Council for checking and if correct, then these queries have been satisfactorily answered from my perspective, but will form part of the response to these questions and therefore be in the public domain.