

## **FURTHER NOTE**

### **PROCEDURAL ISSUES – BROADWAY NEIGHBOURHOOD PLAN**

1. I have now considered the conundrum which the Parish Council and the District Council face in relating to the procedural issue which has come to light over the Consultation process. My view on the issues raised is as follows –

- (1) Although the Parish Council was aware of the stance taken by Turley Associates Limited (“Turley”) at the consultation stage, the written response from Turley dated 16<sup>th</sup> October 2020 was omitted from the Regulation 14 Consultation Statement. It should have been added into the Appendices, and the representation noted and addressed in terms. However, apparently as a result of an oversight this did not occur.
- (2) As a matter of principle, the process was therefore flawed. There has been a failure to comply with Regulation 15(2)(c) and (d) of the Neighbourhood Planning (General Regulations 2012). This failure would need to be explained in the Examination Report if it were to go ahead at this stage.
- (3) There is therefore the possibility of legal challenge by Turley if the process of Examination currently on foot, continues.
- (4) Thus, although it could be argued that no prejudice has been occasioned if I dealt with the representation through the Examination process, a challenge to the whole process by Turley cannot be ruled out. This is especially so in the context of the fact that the representations made by Turley have in effect already been rejected. The reference documents included within the Broadway Neighbourhood Plan do not provide me with insight into how the sites evaluation and assessment process was completed, nor provide me with a clear and logical narrative as to how and why the identified site has been included for the particular mix of development proposed.
- (5) I have not been instructed as to whether there has been subsequent correspondence on the issue with Turley. In particular, I am currently unsure as to their stance taken. However, I must advise that the appropriate and acceptable way forward is for an appropriate amendment to be made to the Consultation Statement and for the Regulation 16 process to be re-run.

2. I understand that this will undoubtedly be disappointing. In the circumstances I consider that the appropriate way forward is for the District Council to engage on a without prejudice basis to this effect so as to avoid any possible subsequent legal challenge if the Examination were to proceed at this stage.

Edward F Cousins

Examiner

15<sup>th</sup> November 2021