

Subject: FW: OFFICIAL: FW: PINS advice on POW - Brixham Neighbourhood Plan
Attachments: Brixham Neighbourhood Plan HRA Review.pdf; Brixham NP HRA Review Advice Note.PDF

From: Andrew Maltby [mailto: Redacted]
Sent: 31 May 2018 15:03
To: 'Luscombe, Adam' ; 'thomas.westrope'
Cc: MikeHarris[Redacted]; [Redacted]
Subject: FW: PINS advice on POW

Adam,

As mentioned when we spoke yesterday I attach the Advice Notes we have received today from NPA and DAC regarding the changed legal circumstances concerning the HRA / AA and the Evidence Base for the Brixham Peninsula Neighbourhood Plan.

We are advised that these notes should be brought to the attention of the Examiner for her to consider.

Please confirm this has been done.

Thanks,

Andrew.

From: Aubrey, Gareth [mailto: Redacted]
Sent: 31 May 2018 14:50
To: [Redacted]
Cc: Harrison, Anne <[Redacted]>
; Andrew Maltby <[Redacted]>
Subject: RE: PINS advice on POW

Dear [Redacted],

Further to Anne Harrison's emails of 4 May and 17 May regarding the habitats directive position for the Brixham Peninsula NP, my clients have commissioned a review of the evidence set out in the submission HRA, assessing this against the updated Appropriate Assessment requirements arising from the People Over Wind case.

I attach the review report together with a further Advice Note that I have prepared updating Anne's previous notes in the context of the review findings and the PINS guidance. As my note sets out, I believe these findings should be communicated to the Examiner promptly and I trust that this can be arranged.

Kind regards,

Gareth Aubrey
Solicitor - Real Estate
DAC Beachcroft LLP
Portwall Place, Portwall Lane, Bristol, BS1 9HS

T: [Redacted]

E: [Redacted]



From: Harrison, Anne
Sent: 17 May 2018 22:16
To: [Redacted]
Cc: Aubrey, Gareth
Subject: FW: PINS advice on POW
Importance: High

Dear [Redacted]

I wanted to let you know that my client's planning consultant has come across the PINS advice to inspectors referred to below regarding the POW case (see link and extract below) which he is intending to forward to the Council's officers – presumably to be shared with the neighbourhood plan Examiners.

Also to let you know that I am on leave after today until 4th June. My colleague Gareth Aubrey (cc'd into this email) will be covering in my absence.

Many thanks

Kind regards

Anne

Anne Harrison
Legal Director (Barrister) – Planning & Environmental
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From: Mike Harris [mailto: Redacted]
Sent: 17 May 2018 09:14
To: Harrison, Anne; Aubrey, Gareth; Andrew Maltby
Cc:
Subject: PINS advice on POW
Importance: High

Morning

Of interest, Inspector Advice Note posted on LinkedIn having been found on a Local Plan Examination site. Provides internal steer as to how to handle POW in emerging Plans (and casework). Nothing explicit on Neighbourhood Plans.

https://www.aylesburyvaledc.gov.uk/sites/default/files/page_downloads/ED32A%20PINS%20note%20052018_0.pdf

Key Extract:

8. For local plan examinations which are ongoing or for which examining Inspectors have not yet issued their recommendations by 12 April 2018 (the date of the CJEU judgment), the HRA report for the plan should be reviewed:

- If the HRA report identifies that the plan is likely to have significant effects on European site(s) and their designated features and an appropriate assessment of the plan has been carried out then no further action is required.
- If the HRA report includes information that concludes that there are no pathways for the policies/allocations in the plan to cause significant effects on European site(s) and their designated features then no further action is required.
- If the HRA report includes information that identifies likely significant effects on European site(s) and their designated features but concludes that they can be mitigated through avoidance or reduction measures (and does not go on to the AA stage) then examining Inspectors should:
 - o Ask the he LPA to confirm the extent to which they consider their HRA report is legally compliant in light of the judgment and ask them to re-visit the screening assessment in doing so.
 - o If the revised screening assessment concludes that an AA is required this should be carried out.
 - o Consider whether the AA necessitates any main modifications (MM) to the plan. The extent to which MM are likely will decrease where adequate avoidance and reduction measures were already identified and secured. If the avoidance and reduction measures are adequate to exclude adverse effects on European site(s) integrity, the approach required is primarily a procedural one ensuring that the AA has been undertaken where required.

My view is that we should be drawing this to the attention of Officers.

Happy to discuss.

Mike

STRIDE TREGLOWN
TOWN PLANNING

Mike Harris BSc (Hons) MA MRTPI
Senior Associate Town Planner

T [Redacted]
DD [Redacted]
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