



Andre Sestini
Senior Planning Officer
Mendip District Council
Cannards Grove Road
Shepton Mallet
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BA4 5BT

2 August 2019

Dear Mr Sestini

Norton St Philip Local Green Spaces

My wife and I, and Mr J Warmisham [redacted] and Mr G McIntyre [redacted] attended the Parish Council Meeting yesterday evening at which the NSP Neighbourhood Plan and Mendip Local Plan Part II were discussed. The Chair advised that the Village has passed control of the Plan to MDC and that it is to be considered at Cabinet on 5 August. I have therefore decided to write to you with my assessment of the 25 July session and my views on what the immediate way ahead should be. I have discussed and agreed this note with Mr McIntyre and Mr Warmisham, who both object equally strongly to the LGS designations that have been applied to their properties.

The Chair also advised that you believe that the boundary of NSP LGS004 no longer cuts through the kitchen and bedroom of our house but you are wrong. I have affirmed this against the latest maps in both the NSP NP and the MDC LP. Both maps should reflect the planning permission granted by MDC Planning Department in December 2012 for an extension to the property. The planning reference is 2012/1988, work was completed in 2013 and it has an associated completion certificate that is available in the Planning Department. Such an error, raised by me in writing and verbally with appropriate individuals and organisations on many occasions throughout the consultation process, indicates that LGS NSP004 has not been through proper consideration. Indeed, I can but agree with the NSP PC's written

statement at their meeting yesterday which say, "It would clearly be nonsensical for part of a house to be LGS".

That the error in boundary is reflected in the NSP NP draws into question the NP Examiner's report. I am confident that were she to have been presented with the correct information, she would at the very least have suggested that LGS NSP004 needed a review of its boundary. I therefore request that you provide me with a copy of her instructions from the Council as well as any papers provided to her as evidence. Please treat this as a Freedom of Information request and I do understand that such information may need to be redacted to protect commercial interests.

The following points are what I presented to the PC this week. Please would you take responsibility for the actions I have suggested and advise me accordingly.

Thoughts on Mendip Local Plan Part II Examination 26 July – Matter 5

- Based on what was said during the Hearing, I believe it is highly likely that the Inspector will conclude that the LGS elements of the Mendip Local Plan Part II do not comply with the NPPF.
- His examination seemed to show that this is an MDC wide issue which appears particularly acute in NSP. I am sure my conclusion is shared by most other participants.
- The issues and contention revolved around a lack of evidence and objectivity in the analysis used to justify LGS designations and a failure to follow both the NPPF and MDC's own policies.
- A boundary line for NSP LGS004 in both the NP and LP still runs through the kitchen and bedroom of an extension to [REDACTED] approved by the Council in 2012 and completed in 2013. Such an obvious error reinforces the conclusion that insufficient diligence has been applied in the preparation of the NP and LP.
- If the MDC Local Plan is non-compliant so too is the NSP Neighbourhood Plan because it deliberately contains exactly the same LGSs as the MDC Plan.
- Lochailort employed a QC for the Hearing, which demonstrates the strength of their intent. Bell Hill Garage and others employed planning consultants to represent their interests and all are likely to pursue their challenges further.
- It is not unlikely that Lochailort will pursue their interests in NSP right up to the Secretary of State. Indeed, they may well seek a Judicial Review on at least 2 of the 3 traditional grounds in an effort to halt the Neighbourhood Plan's progress in the short term. Participating in any such review would likely cost an excessive amount of time and money to answer claimants and to bear any attributable costs arising from the hearings. Research suggests a single day in court would cost between £25,000 and £40,000.

- The justifications used to support LGS designation appear so demonstrably out of sorts with National Statutory Guidance and District Council Policies that it would not be surprising if recompense for costs were to be granted to the claimants.
- It is conceivable that vicarious liability issues could arise for Councillors and Council Officers.
- Based on what was said at the Hearing, it is implausible that NSP should warrant 10 LGSs, especially those that encompass gardens and parts of a house. The consequences of all of these LGS appears to be in contradiction of the intent of paragraph 76 of the 2012 NPPF.
- The Inspector at his Examination Hearing stated that he would be commenting in his report, due in the next six weeks, on the veracity of the LGS, even though responsibility for identifying LGSs might be transferred to Neighbourhood Plans.
- In view of the preceding points, it seems that ongoing efforts to rush the Neighbourhood Plan through are procedurally flawed and unreasonable. They run the risk of compromising the democratic integrity of any referendum held before the Examiner's report is available. It is relevant that a Parish Councillor stated at the PC meeting yesterday that the outcome of the Inspector's examination should not be pre-judged.
- The statement from the NSP PC representative late on in the meeting that the developers are trying to turn the village into a town perhaps demonstrated true intent. In my opinion it simply reinforced the deduction that the LGS component of both Plans were being used to stop development at all costs.
- Quoting local democratic support for the both Plans as a justification of their content and as mechanism to rush through the NP is flawed. For local democracy to be valid it must take place within an overarching statutory framework developed by Government, approved by Parliament and enshrined in law. The NPPF is part of that statutory framework as are MDC's planning policies and guidance; all must be applied in a demonstrably fair and equitable way.
- Simply saying that circa 100 people in NSP have come out in favour of all of the LGS designations is neither democratic nor fair. Local democracy must take place within the bounds of the statutory National frameworks and cannot on its own change the law. For example, and in much the same way, the village community might strongly desire to make the High Street One-Way or a No-Through-Road or knock down a house. They would not be able to do this based solely on a local referendum or PC Meeting because such actions would be illegal.

Suggested Actions

- Halt the progress of the Neighbourhood Plan immediately to include withdrawing it from MDC's Cabinet Meeting on 5 August 2018 pending the Planning Inspector's comments on the Local Plan Part II.
- Should this not be possible, recommend to the Cabinet that the NSP Neighbourhood Plan be put on hold pending the Planning Inspector's report on his examination of the District Plan and only brought to Cabinet once all issues have been resolved.
- Direct, or recommend if direction is not possible, that LGS designations in the NSP NP and MDC LP be reviewed against both the NPPF and MDC policy using evidence-based analysis that is robust, repeatable and able to survive 3rd party scrutiny.

I am also keen to identify that all the i's have been dotted and t's crossed from a procedural perspective to ensure the what has happened throughout the LP and NP process is in accordance with the Local Government Act and other relevant legislation and statute. To this end, I plan to check over the coming weeks that appropriate written delegations have been made, ToRs approved, minutes recorded and so on.

Finally, I would welcome any questions or comments that you may have on the contents of my letter and ask that you confirm receipt. I have copied it to my neighbours, the Chair of the PC, to my District Councillor, to the Planning Inspector and to Ann Skippers Planning so that they may take forward any consequential actions.

Yours sincerely

C G Parsons on behalf of CG and KJ Parsons