

## WEST SOMERSET LOCAL PLAN TO 2032

### MATTER 1 AGENDA

14 MARCH 2016

14:45

#### **Matter 1: Legal Compliance and the Duty to Co-operate**

*Issue 1: The Council has been asked to publish a self-assessment document showing how it considers it has met the legal requirements. Other than with regard to the Duty to Co-operate (dealt with separately), if it has not, in what way has it failed and what now needs to be done by way of correction?*

1. As I understand it Document SD1 is not the plan published for the purposes of Regulation 19 but the version that includes the 'minor' changes proposed in SD2. Is that correct and is it also correct that these changes have not been subject yet to any public consultation?
2. The Council's self-assessment document is at Appendix 1a to ED34/1. Does the Council have anything it wishes to add to what is set out there?
3. Does any participant consider that the Council has failed to comply with any legal requirement?

*Issue 2: SD17 sets out how the Council considers it has met the Duty to Co-operate. However, this is dated December 2014 and cannot take into account what may have been continuing activity up to the submission of the Plan in July 2015 or, at the very least, the finalisation of that document. Would it be reasonable for me to conclude from the evidence in that document and any further evidence that the Council wishes to provide that the Council had engaged constructively, actively and on an ongoing basis with those prescribed in statute in maximising the effectiveness with which the preparation of the Plan has been undertaken? If not, in what specific ways has the Council failed to meet the Duty?*

Failure to meet the requirements of s33A of the 2004 Act would be fatal for the Plan since this is not something that can be remedied after submission. As will be known to all, it is not a duty to agree. Section ID:xx-011-20140306 of the Planning Practice Guidance (PPG) contains more advice. It confirms that the Duty is about co-operation to achieve effective policy on issues of strategic importance and refers to the role of both officers and elected members. The Duty goes beyond simply approaching others (paragraph 10). The Council has set out in SD17 and under section 1.2 of ED34/1 how it considers that it has met the Duty up to the date of submission. At Appendix 1a it sets out in various answers what it considers to be the evidence provided.

1. With evidence, can the Council explain the part that elected members have played in the Duty process, in particular their participation in meetings with other bodies, their endorsement of the outcomes of those and other, purely officer, meetings and how the outcomes have been incorporated into the submitted Plan?
2. The Exmoor National Park Authority (ENPA) explains in ED25/1 at 2.5 onwards the remaining outstanding issue. Is this an example of a failure to engage constructively, actively and on an ongoing basis or is it a failure of the parties to agree on the outcome having done so?
3. The ENPA would appear to be in the reverse of the position envisaged by paragraph 19 of the PPG section. What are the implications for both this Plan and that being prepared by the ENPA?
4. Can the House Builders' Federation explain why what is said in ED33/1 under this issue is a failure in respect of the Duty rather than a failure on the part of those bodies having engaged constructively, actively and on an ongoing basis to produce a 'positively prepared' Plan? In other words is not this a matter of soundness to be explored under other Matters?
5. The Crown Estate makes a very similar point (ED23/1, para 1.1.2). However, why does the consequence for the Duty set out in the first sentence flow from the lack of a clearly defined and justified OAHN?

**Confirmed Participants:** Exmoor National Park Planning Authority; North Devon Council; House Builders' Federation; Wyndham Estate; West Somerset Council