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Dear Nick

Non Duly Made Objections on the Pre-Submission Amendments

You have asked me whether and to what extent the Core Strategy Examination is required to consider representations in response to the Pre-Submission Amendments to the Core Strategy (May 2011) which extend to parts of the Core Strategy which were not amended by those amendments. This seems to me to be an area of difficulty in the 2004 regulations as amended by the 2008 Amendment Regulations and I am not sure that the PINS Procedure Guide 2009 or the PAS Plan Making Manual is particularly helpful in this respect.

However, I do not disagree with your proposed response as set out in your email dated 9 September for the reasons that I set out below.

The statement on the Barnet LDF web site relating to the pre-submission changes to the Core Strategy clearly indicated that representations were being invited in relation to those changes and not to the Core Strategy as published in accordance with Regulation 27 of the Amended Regulations in September 2010. I am not sure how far the consultation process in relation to the Pre-Submission Amendments complied with the regulation 27 requirements but I suspect that it did not because it presumably involved merely sending the tabulated changes rather than a full copy of the Core Strategy with the amendments incorporated. If that is the case then it seems to me that the publication of those changes was not within regulation 27 and that some of the parties who have asserted to the contrary (such as Quod) are not correct and therefore their representations dated 22 June 2011 were not duly made for the purposes of regulation 28(2)(a). I do not think that the pre-submission amendments consultation should be regarded as having extended the earlier regulation 27 consultation period.

Therefore, I generally agree with the statements set out in paragraphs 6.2.6 & 6.2.7 of the Consultation Statement under regulation 30(1)(d) on this point, insofar as it relates to what the council has considered before submitting the document.

However, I presume that the inspector has been provided with the whole (as opposed to redacted versions) of the relevant representations in relation to the pre-submission amendments. As is made clear in various guidance notes, including the PINS Procedural Guidance at paragraph 2.4, if the inspector decides that important issues of soundness are raised in the “extraneous” points raised by parties to their representations in the pre-submission amendments consultation process, then he is perfectly at liberty (and indeed would be under a statutory duty) to pursue them in the Examination and should not decline to consider them in the Examination merely because they were not raised in duly made representations under regulation 28.

The inspector’s questions with regard to the WHF location suggest that he is already pursuing issues raised in this context by Contour.

I hope that this is helpful but if there is anything further you need from me please let me know.

Yours sincerely



Paul Winter

