

From: Paul Housiaux  
Subject: THE INDEPENDENT INSPECTION OF THE STAFFORDSHIRE  
MOORLANDS LOCAL  
Date: 18 Sep 2018 at 00:32:45  
To:

---

THE INDEPENDENT INSPECTION OF THE STAFFORDSHIRE MOORLANDS  
LOCAL

PLAN IN RELATION TO NONE COMPLIANCE WITH THE SHLAA AND A LACK  
OF A FIVE YEAR BUILDING LAND SUPPLY AS FOUND BY INDEPENDENT  
INSPECTOR MR. PATRICK WHITEHEAD FOLLOWING A PUBLIC HEARING  
BETWEEN 2013-2014.

PREAMBLE.

With others I played a full role in the Independent Inspection of the ( then) intentions of SMDC, as set out in the Inspection papers put before Independent Inspector Mr. Patrick Whitehead, and determined by him between 2013-2014 and adopted by the full Council of SMDC in March 2014. I heard him give directions to SMDC Planners , make findings and was with other residents of Whiston invited by him to re- write it's Policy SS7. This was submitted to Mr. Whitehead and he incorporated changes to that policy in his final report.

Within the present plan now before Mr. Mark Dakeyne I find evidence of none compliance with both the spirit and the letter of the adopted Core Strategy of 2014.

These are too extensive to recite here but are indicated under the headings set out below and about which I wish enlarge when I speak at the hearing before Inspector Mark Dakeyne.

I appear in my personal capacity.

I am aware that the Inspector will not wish to hear repetitious representations. However it is clear from the file submitted to him that the SMDC Local plan has the potential and, I submit, a high probability that the plan will impact adversely on different communities in significantly unsustainable ways. See also below.

I intend to focus my main detailed approach to the protection of the communities of Whiston, Moneystone, Oakamoor and Frogall.

However, as the plan submitted to the Inspector is a district wide plan and I am aware that others appearing at the hearing will be speaking about the effect upon their own communities, I reserve the right to expand my submissions to cover any issues that are raised by other participants which I feel will impact upon my own community and those close by.

#### 1.SUSTAINABILITY.

Sustainability of local plans is the overarching principle which governs the development and formation of specific policies within the extant Core Strategy.

I am concerned that more than two years after the deadline set by Mr. Patrick Whitehead for the Core Strategy SHLAA to be rectified, it is clear from Inspector Dakeyne's list of preliminary views dated 24 th. July 2018 and the (red) responses of SMDC that the Local Plan still contains the need for Main Modifications (MM) upon which, by logical extension, the public of Staffordshire Moorlands has yet to be consulted. The clear inference is that the Local Plan is still not ready for inspection.

#### 2.SOUNDNESS AND LEGAL COMPLIANCE.

I submit that the plan under consideration is not sound nor is it legally compliant. Evidence will be produced by myself - ( and I understand by other residents of the Moorlands)- that demonstrates that the plan was not Positively Prepared \* ( argument about no boundaries etc) , Justified \* ( in regard to policies of adopted CS, current implementation of those policies) Effective \* ( eg inconsistencies between requirements of the SCI , evidence base etc)- nor is it Consistent with National Policy\* ( eg, T1, T2 - increased traffic, air pollution, village boundaries amount to an attempt to stifle local communities developing their own neighbourhood plans by determining building within infill boundaries- named development sites despite PW insistence that they be removed, inconsistency at Oakamoor by describing the Free Church site as publicly accessible land, ignoring the conservation status of Oakamoor, drawing the infill boundary thereby splitting the Oakamoor conservation area, describing Whiston as having a public house

when planning permission was obtained several years ago to turn the Sneyd PH into a domestic dwelling and dog training business , proposing to cut off part of the Jubilee gardens by virtue of the position of the infill boundaries )

### 3.STATUS OF CS ADOPTED 2014 RELEVANT POLICIES

It is noted that the Inspector acknowledges the status of the 2014 Core Strategy.

It is submitted that in the light of the finding of Mr. Patrick Whitehead ( valid until 2031) and his insistence that SMDC had not satisfied him as to the SHLAA requirements, the current public inspection is only mandated to approve or find none compliant the proposals of SMDC to correct it's failings with regard to the SHLAA.

A mandate does not exist to rewrite or change or replace extant Core Strategy policies except to the limited extent strictly necessary to implement a revised SHLAA. To do otherwise would be to reject the wishes of residents as expressed in the 2014 version of the Core Strategy.

### 4.STATUTORY DOCUMENTS - PUBLISHED CS, SCI 2016, THE INDEPENDENT LOCAL PLAN FILE.

At the time of this submission access to the file papers, the evidence base upon which the SMDC claim the Local Plan to be sound and legally compliant is proving increasingly problematic. Although these are my own comments , in recent days I have become increasingly concerned that residents from across the Moorland district are meeting difficulties and impediments to their need to access the evidence base, file documents, maps etc needed to allow for full and informed representations to the Inspector. I am advised that a number of Freedom of Information requests for the release of information are outstanding.

5.At paragraph 5 and 6 of the Inspectors Preliminary Views on the Local Plan

he reveals that he is asked by SMDC to consider the soundness and legal compliance of the ' Local Plan Submission Version February 2018 ( ED 1.1) ( see paragraph 5)

At paragraph 6 the Inspector comments that ' the LP was subject to consultation between February and April 2018'.

At paragraph 16 the Inspector refers to Policy Topic Paper bearing the reference ( ED 13.5) and asks for information on the legal advice received on EEC Case reference C-323/17. At this point I make clear that the case was not known to me until August 2018.

I note the response given in red by SMDC to the question raised by the Inspector at paragraph 16 of his preliminary views dated 24/7/2018.

I am aware that from elsewhere in the Moorlands a FOIA request is outstanding with regard to the legal advice requested and received by SMDC. The Authority felt the case to be of sufficient importance to the LP hearing that they made reference to it in the plans submission for Independent Inspection.

I and a significant number of concerned local residents were in the Council chamber when the proposal to forward the LP to the Secretary of State and PINS was debated. The question as to the soundness and legal compliance was disputed by Councillors with specific regard to boundaries and related ecological and Green Belt concerns. Councillors asked for advice with specific regard to boundaries. The advice given was not in accordance with the plan now before the Inspector and is inconsistent with the response given in red to the Inspectors question at paragraph 16.

Further I note the following points arising from judgement in Case (C-323/17) that I submit are relevant to the Inspectors forthcoming hearing.

The ' Habitat Directives' as they are called became English law by way of directly applicable law in Directive 92/43/EEC on the 21/5/1992.

The case C-323/17) was submitted to the ECJ by the Irish Court seized of the case brought before it by the parties involved because the Court felt the need for guidance on the correct construction of the Directive 92/42/EEC and in particular Article 6(3).

The European Court delivered its judgement on the 21/5/2018.

Thereafter the case was passed back to the Irish Court for it to apply the Directive.

The European Court did not create new law in the cited case. It merely declared what had always been the law in Eire ( and by extension) the UK since 21/5/1992.

I respectfully submit that in determining the soundness and legal compliance of the Habitat Directives and therefore the fitness of the LP for submission for Independent Indpection Councillors should have be advised correctly on the significance of the extant law on issues of flora and fauna.

I submit that the relevant dates make it clear that Councillors were wrongly advised. The process was not thereby sound nor legally compliant.

Although the proposal to submit the plan for inspection was passed, 19 Councillors voted against the proposal.

The Inspector will understand that it is the responsibility of SMDC Councillors to determine if the LP meets the standards of ' soundness ' and 'legal compliance'.

To do so they must have positive information sufficient to make an informed decision on these two essential issues and in accordance with the tests set out by the Inspector at paragraph 5 of his Guidance Note for those Participating in the examination.

The Inspector will receive evidence from a number of Councillor witnesses with direct personal knowledge that SMDC positively misled Councillors in with regard to boundaries. It will be submitted that as a result the LP does not meet the test the Inspector has set out.

## 6.THE INSPECTORS PRELIMINARY VIEWS AND SMDC RESPONSES THERETO.

I raise issues with regard to those matters that the Inspector raised in his Preliminary View document of 24/7/2018 and the responses of SMDC. In particular these arise in numbered paragraphs

7,12,13,14,16,17,18,19,20,21,22,23,24,25,27,28,30,31,32,33,34,35,36,37,38,39, 42,42,43,44,45,46,47,48,49,50,52,52,53,54,57,58,59,60,61,63,64,66,67,68,6 9,73,74,75,76,

78,80,86,87,88,89,90,92,93,94,96,97,98,99,100,101,102,103,120,121,122,126,127,131,133,135,136,137,139,140,142,143.

I make it clear at this stage that my approach to the issues raised in the above numbered paragraphs is from the perspective of if and how these do or might impact upon the villages of Whiston, Moneystone, Oakamoor and Frogall.

I am also aware that other participants are likely to discuss issues identified in the numbered paragraphs and I would not seek to delay the Inspector by repetition. However I would reserve the right to draw attention to errors of fact and process.

#### 7.STATEMENT OF COMMUNITY INVOLVEMENT.( SCI)

This is a document which is produced as a statutory requirement. The current version was produced in 2016.

The preparation of the Local Plan now under consideration has not been prepared in compliance with the SCI.

In consequence the LP does not meet the legal requirements set out by the Inspector in paragraph 5 of his Guidances note. (See Appendix SCI set out below)

#### 8.ADOPTED CORE STRATEGY.

Extracted references that appear to have relevance to the LP issues for Small Villages in particular ( and more generally).

Page 36 - Tackling climate change

Page 42 The Rural Area and Smaller Villages.

Page 55 - Paragraphs 7.15, & 7.16- ' Limited development only principally for local housing needs whilst hamlets and small settlements will be subject to strict control over development with emphasis on meeting essential rural needs promoting environmental enhancement including landscapes, biodiversity.....'

Page 77/78. Smaller Villages- ' Development on a large scale would be unsustainable in these villages as it will generate a disproportionate number of additional journeys out of the village..'

Page 95 - Core Strategy Policy SS6(b)- ' These settlements *shall only*\* ( \*in law interpreted as mandatory) provide for appropriate development which enhances community vitality or meets local social or economic need of the settlement and its hinterland'

Page 103- SS8 Blythe Bridge

Page 107 paragraph 8.2.8 Policy SD3 - Carbon Saving measures

Policy SD4- Pollution and Flood risk

Page 129/130

DC2-

DC3 - SMDC will safeguard historic environment and area of historic landscape.

## 9, WHICH MAPS?- INACCURATE MAPS- PUBLIC ACCESS TO RELEVANT DOCUMENTATION.

I am aware of a number of Councillors and witnesses that have indicated an intention to challenge misleading information that they have been given by a Council Official as to the policy of village and community boundaries and the accuracy and delineation of them.

## 10.FAILURE OF CONSULATION IN ACCORDANCE WITH SCI.

It is understood that the Inspector will hear from a number of Councillors and witnesses attesting to a significant number and examples of failure of SMDC to consult in accordance with CSI.

In the Appendix below are references which appear to relate to such failures.

## APPENDIX- SCI.

Paragraphs,

3.12 -'Supplementary Planning Documents cannot make or change policy.'

3.12 ..[ the public should involved in ] ' the early stages of production to achieve greater ownership and legitimacy for the policies that will shape future development in the District'

3.15- Stage 2.... ( Paper) Documents will be made available for Inspection at

the Council's principle office and other appropriate locations.' [ NB1]

3.17- ' It is a statutory requirement that SMDC produces a Sustainability Appraisal ( SA) in order to assess the economic, environmental and social effects from the outset.' [ NB2]

3.20- A Habitat Regulation Assessment ( HRA) is required to be undertaken if the contents are considered to have a significant effect on European protected habits or species in the area or in it's vicinity [ NB3]

3.22- Sustainable Community Strategy- ' ...and combating climate change impacts.....with a vision of an excellent quality of life for all....'

3.23- ' Community Strategy's Key Themes and Principles includes that the Council will involve, listen to and respond to local communities by providing services tailored to local needs and priorities.....encourage local communities that want to take more responsibility for themselves and support community empowerment; these aspirations are considered to underpin all other areas of the Community Strategy [NB4]

3.24- ' The District Council is currently reviewing it's consultation policy as a whole and once produced this will be a useful reference point to individuals and organisations within the District' [ NB5]

3.44....( will) consult local groups....these groups are the key audience.'

Page 27. Reference to paper based copies of documents being made available at SMDC principle Office and ( various) Libraries [NB6]

Page 28- ..will 'use postal communications to avoid excluding people from consultation.'

Page- 34- ( making contact with ) 'Hard to reach groups'

Page 35- SMDC must ' meet minimum levels of public involvement'

Page 39- Paragraph 4.8. ' Comments made at earlier rounds of consultation on a document will not normally be carried forward,'

' Outstanding issues must be resubmitted in order to be considered [NB7]

Page 53- ' Sets out the standards which authorities will achieve with regard to involving local communities in the preparation of Local Plan documents, supplementary planning documents and development control decisions.'

[NB8]

[NB1] Inspection of paper based material at Cheadle and Biddulph Libraries has been both restricted ( locked away) chaotic and incomplete. Local witnesses to testify.

A current request to view paper based LP file at SMDC remains outstanding.

[NB2] Failures with regard Habitat Directive and relevant In fill maps, misleading comments by SMDC Officer as to boundary policies etc. Local witnesses to testify.

[NB3] eg. Moneystone SSSI, Blythe Bridge Wet Lands, flora and fauna protection.

[NB4] How can this statutory obligation to be met in the face of the revelations at paragraph 4.8?

[NB5] Where is the evidence base that this commitment has been carried through?

[ NB6] see earlier about none availability of paper based material at Libraries etc.

[NB7] The practice of receiving comments from residents who have responded to consultation on planning documents and ' not normally carrying them forward and requiring them to be resubmitted in order for them to be [ later] considered is in breach of and inimical to other principles of public consultation.

Its consequence is to increase an extant widespread feeling views that the public express are given little or any importance.

[NB8] The imperative ' will' is important and no evidence base can be found to demonstrate that SMDC are meeting such standards.

1. INCONSISTENCY BETWEEN THE PROPOSED LOCAL PLAN AS SET OUT IN THE INSPECTION DOCUMENTS AND APPLIED PLANNING POLICY. The Core Strategy sets out the overarching spatial strategy for development across the District. This includes a settlement hierarchy with specific policy requirements for each of the tiers in the hierarchy. The appropriateness of specific developments should be considered having regard to the Spatial Strategy and feedback from consultees with responsibility for infrastructure and services in the area. This

approach seeks to focus growth in the towns ( CS policies SS5, SS5a,SS5b and SSS5c with the bulk of development in the Rural Areas ( CS policy SS6c) taking place in the Larger Villages ( CS policy SS6a)to help retain and enhance their role as local service centres. The Core Strategy makes provision for a modest scale of housing development in Smaller Villages ( CS policy SSS6b). Appendix J to the Core Strategy provides an assessment of each village in terms of their population, services and facilities. This assessment helps to determine the classification of each village as either. " large"or "small". The evidence base for the adopted Core Strategy also informed the wider Spatial Strategy by assessing infrastructure and accessibility of settlements with a population of 1000 or more. The adopted Core Strategy and its policies was settled until 2031. The inspector Mr. Patrick Whitehead heard evidence and argument with regard to Oakamoor Village following a defeated attempt to reclassify Oakamoor as a large village by SMDC Planing Officer Mr. Gavin Clarke who was directed to remove that classification. Extensive evidence was given with particular reference to Traffic policies T1 and T2 and CO2 and NO2 emissions and the inappropriate proposed increase in tourist traffic. In consequence of the evidence he heard Mr. Whitehead invited residents of Whiston to rewrite the tourism policy SS7 which was submitted to him and he made specific amendments to the Core Strategy where significant increases in traffic generation was predicted. Development within Whiston, Moneystone, Oakamoor and Frogall is and will remain entirely reliant upon the private car which weighs heavily against development that would meet requirements of environmental protection and sustainability. There would be a fundamental conflict with Policy T1. In addition the NPPF seeks to reduce the need to travel generally. Residential development of the type implied by the infill boundaries would significantly change the character of Whiston, Monestone and Oakamoor and amount to an intensification of ribbon development which would be harmful to the character and appearance of the villages and creat potential residential amenity impacts. As such potential

development would be in conflict with the objectives of CS policy DC3 which seeks to resist development which would harm or be detrimental to the character of the local and wider landscape or the setting of the settlement. There would be some further conflict with Policies SS1,SS6c,SS7, H1 and DC1 of the SMDC Core Strategy. There are likely to be highway safety and ecological impacts and a risk of impacts to important habitat contrary to policy NE1 of the Core Strategy and relevant sections of the NPPF. The combined harm of infill as demonstrated in the LP maps would amount to combined harm sufficient to significantly and demonstrably outweigh any suggested benefits.

21/9/18