Leigh Day

SPECIAL DELIVERY

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Date: 11 October 2018

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Dear Madam

Bournemouth, Dorset & Poole Mineral Sites Plan Examination ("the MSP")

We act for Frome Residents Against Mineral Extraction (FRAME).

We write in respect of the recent decision by the Inspector to afford the Minerals Planning Authority ("**the MPA**") a further 7 days to provide further evidence and submissions on the question of cumulative heritage impacts in respect of Cluster 4. FRAME were informed of this decision by an email from the MPA. FRAME were not made aware of this decision by the Programme Officer on the Inspector's behalf or otherwise by PINS. Moreover, there is no notice to this effect on the MPA's website. As such, it would appear highly likely that other parties who are interested in Cluster 4 will be wholly uninformed. Clearly this requires urgent remediation.

The background to this matter is important, in particular:

1. FRAME have made repeated submissions in writing throughout the previous rounds of consultation on the Mineral Sites Plan ("**the MSP**") on the subject of heritage, including the cumulative heritage impact resulting from Cluster 4. These representations have taken place over many years. On any view, the MPA were on notice of FRAME's concerns well in advance of the examination hearings.

2. Further submissions were made orally at the hearing into Cluster 4 on the same topics.

3. As the oral submissions demonstrated, three matters were plainly apparent (see also FRAME's post-hearing note on the same matters):

   (a) the Sustainability Appraisal failed to comply with the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004;

   (b) there was no evidence that cumulative heritage impacts had been assessed either in form or substance, indeed there had been a total omission to include cumulative heritage impacts as an assessment criterion; and

   (c) on this basis, as at the date of the oral submissions, the MSP was unsound (at minimum in respect of Cluster 4).

4. It was striking that the MPA did not seriously seek to aver otherwise. Instead the MPA sought to rely on alleged undocumented assessments of cumulative impacts and asked for more time to bring forward evidence on this topic. For the reasons set out in FRAME's post-hearing note, these arguments were and are hopeless and do not remedy the clear unsoundness. It is only by further assessment that the unsoundness may be remedied, if at all.

5. Faced with the clear unsoundness, the Inspector agreed to give the MPA more time to remedy the SA, and thus the MSP.

In light of the above, FRAME have two significant concerns about the Inspector's decision.

First, the course of action is contrary to the Inspector's own guidance note which was issued prior to the hearings. At [6] this states:

"Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the examination hearings and through consideration of the original written representations. It should be emphasised that our role is not to improve the Plans or to make them "more" sound but to determine whether or not they meet the soundness tests as they stand. For example, if an alternative

version of a policy is put forward we cannot recommend it as an improvement if the Plan is already sound.

As set out above, the discussions and original written submissions established that the MSP was not sound. The course of conduct now adopted amounts to offering the MPA an extended period to remediate this issue.

Second, notwithstanding the above, the agreed timeline for further work by the MPA has been extended without reference to FRAME or, we assume, any other party. This was despite the fact that the Inspector had granted FRAME the opportunity to respond to material produced by the MPA. The effect of this extension is particularly serious for FRAME as it has rendered its heritage expert, Dr Collcutt, unable to participate further. Clearly this has caused substantial prejudice to FRAME's position: the heritage evidence of Dr Collcutt was a main element of its submissions.

FRAME are a party of limited resources who have participated in this process in good faith. However this most recent decision places them in a position where they can no longer participate in this process on an equal footing. This is fundamentally unfair and suggests that the examination process is not one of determining whether the MSP was sound, but rather a process of improving the MSP until it is sound.

For the reasons above, the MPA should not be afforded more time to produce further remedial material. Rather the MSP should be determined on the basis of the material submitted prior to the examination hearings. In which case, absent removal of Cluster 4, the MSP cannot be found sound.

Yours faithfully

Leigh Day