

# **GORING NEIGHBOURHOOD PLAN (2018 - 2033)**

## **Supplementary Directions 5**

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

6<sup>th</sup> November 2018.

### **Supplementary Directions 5**

1. I make the following further supplementary directions in respect of matters arising as a result of the Information Commissioner's Decision Notice of 13th September 2018.
2. These Supplementary Directions 5, shall promptly be made publicly available on the website. They shall also be sent to the participants at the hearing and other regulation 16 respondents.
3. I direct that, subject to the further redactions mentioned in the schedule to these directions, the documents disclosed pursuant to the ICO's decision be placed on the website.
4. In reaching that conclusion I have borne in mind the following:
  - (1) Ms Benbow carried out a substantial amount of work on behalf of the GPC in her capacity as a member of the Site Selection Working Group ("SSWG"). This was an important part of the work the SSWG was carrying out on the GPC's behalf. It is clear that she considered she had authority in her dealings with Bramhill Design who produced the Landscape Capacity Study report, not only to deal with procedural and financial matters, but also to give them information about substantive matters and that Bramhill considered that she had authority on substantial matters.
  - (2) I have borne in mind the totality of the correspondence, including the extent of the involvement with Bramhill Design. This included, but was not limited to specifying questions that it should address. [email 21<sup>st</sup> November 2016, 10.32]; and expressing views on particular sites, *e.g.* "*GNP 1 and 8 are absolute no.*" [email 22<sup>nd</sup> November 2016 and notes attached to email of 22<sup>nd</sup> November 2016].
  - (3) Ms Benbow often writes in the first person plural and this and the general nature of her communications makes it clear that she was not writing in a personal capacity.
  - (4) The Nolan Principles including openness.
  - (5) I have no reason to believe that those concerned would not have been aware, at least in general terms, or the importance of openness in planning.
  - (6) After the redactions already made and the redactions detailed in the Schedule below, there is nothing inherently confidential in the material disclosed.

- (7) Consent to publication of documents that came into existence for a public purpose and not for any private purposes is not required.
- (8) I have not been persuaded that the material disclosed is incapable of being relevant.
- (9) It would be contrary to the public interest in open government for documents relating the important and controversial issue of site selection to be kept secret and for the public to be prevented from submitting that these are relevant to the issues being considered in the examination

5. I reject without any doubt whatsoever the submission that SODC has no power to publish the material. It has broad powers under the Local Government Act 1972 s111 and the Localism Act 2011 s1. Those broad powers have not been addressed, no exception to them has been cited and I am not aware of any applicable exception.

6. I also reject without any doubt whatsoever the submission that I have no power to direct publication of the material. I have no doubt that in establishing the system for independent examination in neighbourhood planning, Parliament intended that the independent examiner, within the framework established by statutory provisions, should be able to do what is necessary to ensure openness, fairness and confidence in the system.

7. I note that there has been no order preventing Ms Dexter from disclosing the documents, that she could have done so at any time since they were released to her on or before 11<sup>th</sup> October 2018 and that this remains the case. In the circumstances I do not give substantial weight to the concern that publishing the material would prejudice the appeal against the Decision Notice.

8. In the light of the above directions, I direct that any further comments on the material disclosed as a result of the ICO decision shall be provided to me no later than 12.00 noon on Wednesday 21<sup>st</sup> November 2018.

9. These directions are not to be treated as an opportunity to repeat points made previously, to make points that do not arise from a document not previously disclosed or to

make points that, while they arise from a document not previously disclosed, relate to part of that document that is substantially the same as a document that has been previously disclosed

10. All communication with me including that provided for above shall continue to be through Mr Townley.

Timothy Jones, Barrister, FCI Arb,  
Independent Examiner

6<sup>th</sup> November 2018

**Schedule of further redactions**

Document	Further redaction
E-mail of 12.4.16, 16.29	The part of Ms Benbow's work address that appears below her name.
Email of 14.4.16	The part of Ms Benbow's work address that appears below her name.
Email of 24.5.16	The part of Ms Benbow's work address that appears below her name.
Email of 11.7.16 (in one place)	The two sums of money that appear in this email's 3 <sup>rd</sup> paragraph.
Email of 21.2.17 (in one place)	The two sums of money that appear in this email's main paragraph.