

Desford Neighbourhood Plan

Decision Statement – 11th September 2020

**Regulation 18(2) of The Neighbourhood Planning (General)
Regulations 2012 (as amended)**



**Hinckley & Bosworth
Borough Council**

Summary

Following an independent examination undertaken by written representations, the council have considered all of the information available and this Decision Statement outlines the Local Planning Authority's (LPA) decision in regards to the Desford Neighbourhood Plan.

This Decision Statement will be made available on the Borough Council's website.

Background

In February 2015, following a four week consultation, the council formally designated the Desford Neighbourhood Area on Wednesday 9 September 2015 for the purpose of producing a neighbourhood development plan. The designated area covers Desford Parish only.

The Desford Neighbourhood Plan submission version was submitted to Hinckley & Bosworth Borough Council, who undertook the statutory consultation in accordance with Regulation 16, between Wednesday 22 January 2020 and 5pm Wednesday 4 March 2020.

The Borough Council with the agreement of Desford Parish Council appointed an independent Examiner (via the NPIERS referral service). Mr Tim Jones, Barrister, FCI Arb (No5 Chambers) was appointed to examine whether the Desford Neighbourhood Plan met the basic conditions as set out in Schedule 4B to the Town and Country Planning Act 1990, and to recommend whether the Desford Neighbourhood Plan should proceed to a referendum.

The Examiner's Report recommends a range of modifications to policies, as well as some of the supporting content in the Plan, including corrections, to provide clarity in order to ensure that the Basic Conditions are met.

The Examiner's Report (August 2020) concludes by stating: 'I recommend that the modified NDP proceed to a referendum, the referendum area being the area of the Draft DNP.'

Decision

The Neighbourhood Planning (General) Regulations 2012, Regulation 18 requires the local planning authority to outline what action to take in response to the recommendations of an examiner made in a report under paragraph 10 of Schedule 4a to the Town and Country Planning Act 1990 (as applied by Section 38A of the Planning and Compulsory Purchase Act 2004).

The Examiner highlighted in his Report that he 'spent some time considering compliance with the Strategic Environmental Assessment Directive' and this was partly due to the shortness in time which the Neighbourhood Plan Group consulted upon the Strategic Environmental Assessment. In weighing up his decision the Examiner expressed that nobody had said that they were unable to respond in this period and no one suffered unfairly

as a result. In addition, the Examiner noted that he was 'satisfied that nothing in the draft NDP is likely to have significant environmental effects on the Botcheston Bog or elsewhere'. Having said this, the Examiner also made clear in his Report this conclusion should not be taken as 'an encouragement to others to have the same period. In different circumstances (particularly a more substantial plan or more extensive documentation), unfairness might well result from it'. The Borough Council have given this matter considerable thought and agree with the Examiner that the Desford Neighbourhood Plan did not follow the procedural guidance route, however, this should be considered against what is required by law. When looking at the matter against the relevant statutory provision Environmental Assessment of Plans and Programmes Regulations 2004, regulation 5(4) this requires the responsible authority to 'carry out, or secure the carrying out of, an environmental assessment, in accordance with Part 3 of these Regulations, during the preparation of that plan or programme and before its adoption or submission to the legislative procedure.' It is the regulations that implement EU law and hence are relevant to basic condition (f), rather than the guidance. As concluded by the Examiner, the Borough Council do not advocate that neighbourhood plans follow the same route as the Desford Neighbourhood Plan in relation to SEA consultation as each plan is unique to that area and may incur a negative impact which could lead to the failure of the basic condition.

Having considered the recommendations made in the examiner's report, and the reasons for them, Hinckley and Bosworth Borough Council has agreed to accept the modifications made to the draft plan under paragraph 12(6) of Schedule 4B to the Town and Country Planning Act 1990 in response to the Examiner's recommendations/ modifications.

To meet the requirements of the Localism Act 2011 a referendum which poses the question, 'Do you want Hinckley and Bosworth Borough Council to use the Neighbourhood Plan for Desford Parish to help it decide planning applications in the neighbourhood area?' will be held in the area formally designated as the Desford Neighbourhood Area.

In response to the coronavirus (COVID-19) pandemic, the Government have issued an update to Neighbourhood Planning National Planning Practice Guidance which has implications for the referendum process and decision-making. In relation to referendums, all neighbourhood planning referendums that have been recently cancelled, or are scheduled to take place, between 16 March 2020 and 5 May 2021 are postponed in line with the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 until 6 May 2021. Therefore the Desford Neighbourhood Plan will not be able to proceed to referendum until the 6th May 2021