

## **SOUTH OXFORDSHIRE DISTRICT COUNCIL**

### **EAST HAGBOURNE NEIGHBOUR DEVELOPMENT PLAN REVIEW: FINAL DECISION STATEMENT**

**DATE OF PUBLICATION – 23 MAY 2024**

#### **1. Decision**

- 1.1. Following an Independent Examination South Oxfordshire District Council decided at the Council meeting on 22 February 2024:
1. To make the East Hagbourne Neighbourhood Development Plan Review with the modifications specified in the Examiner's report.
  2. To delegate to the Head of Policy and Programmes, in consultation with the appropriate Cabinet Member and in agreement with the Qualifying Body, East Hagbourne Parish Council, the making of minor (non-material) modifications, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

#### **2. Background**

- 2.1 The East Hagbourne Neighbourhood Development Plan was adopted in 2019. Following the plan's adoption, the Parish Council started to work on the review in 2022 and this Review was made in February 2024. The East Hagbourne Neighbourhood Development Plan Review was submitted to the district council in August 2023.
- 2.2 Following the submission of the East Hagbourne Review Neighbourhood Plan ('the Plan') to the Council, the plan was publicised and comments were invited from the public and stakeholders.
- 2.3 South Oxfordshire District Council appointed an independent Examiner, Mr Andrew Ashcroft to review whether the plan met the basic conditions required by legislation.
- 2.4 The Examiner's Report concluded, subject to the modifications proposed in his report, that the plan meets the Basic Conditions and should be made by the council.

2.5 The council determined on 22 February 2024 that the Plan, as modified by the Examiner's recommendations, should be made.

### 3. Reason for decision

3.1 The Neighbourhood Planning Act 2017 identifies the circumstances that might arise as parish councils seek to review 'made' neighbourhood plans. It introduces a proportionate process for the modification of neighbourhood plans where a neighbourhood development plan has already been made in relation to that area.

3.2 There are three types of modification which can be made to a neighbourhood plan. The process will depend on the degree of change which the modification involves, as follows:

- **minor (non-material) modifications** to a neighbourhood plan which would not materially affect the policies in the plan;
- **material modifications which do not change the nature of the plan** and which would require examination but not a referendum; or
- **material modifications which do change the nature of the plan** would require examination and a referendum.

3.3 Whether modifications change the nature of the plan is a decision for the independent examiner. The examiner will consider the nature of the existing plan, alongside representations and the statements on the matter made by the qualifying body and the local planning authority.

3.4 East Hagbourne Parish Council has considered this issue. It took the view that the proposed changes to the 'made' Plan Review fall into the second category – material modifications which do not change the nature of the plan.

3.5 South Oxfordshire District Council undertook a separate assessment and concluded that the proposed modifications that the proposed changes to the 'made' Plan Review fall into the second category – material modifications which do not change the nature of the plan and therefore should undergo an independent examination, but it should not require a new referendum.

3.6 With the consent of East Hagbourne Parish Council, the council appointed Mr. Andrew Ashcroft to examine the Plan. The Independent Examiner considered this issue and concluded that the review of the Plan included material

modifications which did not change the nature of the Plan, and which required examination but not a referendum.

- 3.7 In these circumstances, proposals for the modification of made neighbourhood development plans are examined in line with the procedures set out in Schedule A2 of the Planning and Compulsory Purchase Act 2004 (As Amended).
- 3.8 Paragraph 13 of Schedule A2 of the 2004 Act sets out that after considering a draft plan, the examiner must make a report on the draft plan containing one of the following recommendations:
- that the council should make the draft plan; or
  - that the council should make the draft plan with the modifications specified in the report; or
  - that the council should not make the draft plan.
- 3.9 The Examiner's Report is available in Appendix 1. The Examiner's Report assesses the policies in the plan and identifies any modifications required to ensure that they meet the basic conditions. The Examiner concluded that the Plan meets the basic conditions subject to a limited number of recommended modifications. The recommended modifications refine the wording of the policies concerned. Nevertheless, the submitted review of the Plan remains fundamentally unchanged in its role and purpose. The Examiner's Report recommends that the council should make the Plan with the modifications specified in the Report. A listing of the Examiner's recommendations exactly as they are shown in his Report is available in Appendix 2.
- 3.10 Paragraph 14 of Schedule A2 of the 2004 Act sets out that if the Examiner's Report recommends that the council should make the draft plan with the modifications specified in the report, the council must make the draft plan with those modifications. The only circumstance where the council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 3.11 The making of the East Hagbourne Neighbourhood Development Plan Review (the Plan) would not breach, or otherwise be incompatible with, any EU or human rights obligations, including the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats

Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). In addition, no issues arise in respect of equality under general principles of EU law or any EU equality directive. In order to comply with the basic condition on the European Union legislation, the council produced a Strategic Environmental Assessment Screening Report in July 2023. The report concludes that the implementation of Plan Review would not result in likely significant effects on the environment.

- 3.12 The reviewed Plan would not give rise to significant environmental effects on European sites. The council screened the Plan's potential impact on EU Special Areas of Conservation (SACs) in July 2023. The Habitats Regulations Assessment Screening Report concluded that the Plan would not have any likely significant effects on the integrity of European sites in or around South Oxfordshire, either alone or in combination with other plans or programmes and that an Appropriate Assessment is therefore not required.
- 3.13 The council is satisfied that the Plan is in all respects fully compatible with Convention Rights contained in the Human Rights Act 1988. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.
- 3.14 The modifications set out in the Examiner's Report individually or combined are not considered to produce likely significant environmental affects and are unlikely to have any significant effects on the integrity of European Designated Sites.
- 3.15 As the Examiner's Report recommends that the council should make the Plan with the modifications specified in the Report and the council is satisfied that the making of the Plan would not breach, or otherwise be incompatible with, any EU or human rights obligations as incorporated into UK law, the council must make the East Hagbourne Neighbourhood Development Plan Review.

#### **4. Other Information**

- 4.1 In accordance with Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012, this Decision Statement and the made East

Hagbourne Neighbourhood Plan Review can be viewed on the Council's website:

<https://www.southoxon.gov.uk/south-oxfordshire-district-council/planning-and-development/local-plan-and-planning-policies/neighbourhood-plans/emerging-neighbourhood-plans/east-hagbourne-neighbourhood-plan/>

- 4.2 Copies of this Decision Statement and the East Hagbourne Neighbourhood Plan Review can be inspected at:

Reception <b>South Oxfordshire District Council</b> Abbey House, Abbey Close, Abingdon OX14 3JE	If you would like to view these documents at the Council offices, please contact us on 01235 422600 or email: <a href="mailto:planning.policy@southandvale.gov.uk">planning.policy@southandvale.gov.uk</a> to book an appointment.
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- 4.3 In accordance with Regulation 19(b) and Regulation 30 of the Neighbourhood Planning (General) Regulations 2012, a copy of this Decision Statement has been sent to:

- The qualifying body, namely East Hagbourne Parish Council
- The persons who asked to be notified of the decision



Signed:

Date: 23/05/2024

**Ricardo Rios**

Planning Policy Team Leader (Neighbourhood)

## Appendix 1 Examiners Report

<https://www.southoxon.gov.uk/wp-content/uploads/sites/2/2024/02/Examiners-report.pdf>

**Appendix 2 – Listing of the Examiner’s recommendations exactly as they are shown in his Report**

<b>Section</b>	<b>Agreed change</b>	<b>Justification/Reason</b>
Section 2.2 Page 5	<i>At the end of section 2.2, add: ‘The plan period is 2018-2033.’</i>	For clarity required by the NPPF.
Section 4.3.1 Page 20	<p><b>Replace ‘planning applications’ with ‘development proposals’</b></p> <p><b>In the fourth bullet point insert ‘from’ between ‘flooding’ and ‘increased’</b></p> <p><b>Delete the eighth bullet point (on broadband access).</b></p> <p><b>In the ninth bullet point delete ‘and to include the provision for recharging electric vehicles’</b></p>	For clarity required by the NPPF.
Section 4.3.2 Page 32	<p><b>Replace the opening element of the first part of the policy with ‘...and should follow the provisions of the East Hagbourne Design Guide 2023 as shown in Appendix 11, as well as the Joint South and Vale Design Guide 2022.’</b></p> <p><b>Replace the second part of the policy with:</b></p> <p><b>‘As appropriate to their scale, nature and location, development proposals should:</b></p>	For clarity required by the NPPF.

	<p>a) conserve and enhance the quality, integrity and legibility of the local Character Areas identified in the Character Assessment (Appendix 2);</p> <p>b) ensure that new development or alterations to existing buildings have regard to their local design context. Although it may be necessary to introduce modern building materials and styles, the materials, form, massing, orientation, set-back and other characteristics of development should reflect the local context and should make an appropriate contribution to the Character Area, following the provisions of the Design Guide;</p> <p>c) ensure that building design and quality of materials are appropriate to and in keeping with existing buildings in each character area of the village;</p> <p>d) wherever practicable, incorporate the eco-design provisions of the Design Guide; and</p> <p>e) ensure that infill development is at a density appropriate to the site and its surroundings and reflects its Character Area location (as identified in the Character Assessment - Appendix 2).'</p>	
<p>Section 4.3.2 Page 38</p>	<p>Insert a full stop at the end of the first paragraph of the policy</p>	<p>Grammatical modification</p>



<p>Section 4.3.4 Page 48</p>	<p><b>At the end of the first bullet point delete the unnecessary full stop</b></p>	<p>Grammatical modification</p>
<p>Section 4.3.4 Page 49</p>	<p><b>At the end of the opening element delete the unnecessary apostrophe</b></p> <p><b>In the final part of the policy delete the unnecessary ‘a’</b></p>	<p>Grammatical modification</p>
<p>Section 4.3.5 Page 54</p>	<p><b>In the first bullet point delete ‘parking’</b></p>	<p>For clarity required by the NPPF.</p>
<p>Section 4.3.6 Page 66</p>	<p><b>Replace the policy with:</b></p> <p><b>‘Development proposals should respect the natural environment and protect and enhance biodiversity. Development should ensure that existing wildlife habitats are safeguarded, and retain and enhance hedgerows, waterways, and scrubland. Where practicable, development proposals should seek to deliver a minimum biodiversity net gain of 20%. As appropriate to their scale, nature and location, development proposals should:</b></p> <ul style="list-style-type: none"> <li><b>• preserve, mitigate and where necessary, recreate wildlife habitats and net gains in natural flora;</b></li> <li><b>• provide corridors of land including public footpaths and bridleways of significant local recreational and amenity value; and</b></li> <li><b>• incorporate sustainable drainage systems.</b></li> </ul>	<p>For clarity required by the NPPF.</p>

<p>Section 4.3.6 Page 66</p>	<p><i>At the end of the supporting text add: ‘Policy E2 addresses these various matters. In addition to the provisions of the policy, development proposals should take account of findings and recommendations in the East Hagbourne Village Character Assessment and Landscape Study 2018 (Character Assessment), the East Hagbourne Design Guide 2023 and the Strategy for People and Nature in East Hagbourne (Appendix 12) that relate to species and habitats. These various studies have directly informed the policy.’</i></p>	<p>For clarity required by the NPPF.</p>
<p>Section 4.3.6 Page 68</p>	<p><b>Replace the second part of the policy with: ‘Where practicable, development proposals should establish habitats alongside watercourses that would mitigate nutrient impacts and enhance biodiversity value.</b></p>	<p>For clarity required by the NPPF.</p>
<p>Section 4.3.6 Page 69</p>	<p><b>Replace ‘Development proposals’ with ‘As appropriate to their scale, nature and location, development proposals’</b></p> <p><b>Reposition the final part of the paragraph so that it sits as the final bullet point rather than as a separate element of the policy.</b></p>	<p>For clarity required by the NPPF.</p>
<p>Section 4.3.6 Page 70</p>	<p><b>Replace the policy with: ‘Development proposals within the catchment area of Hacca’s Brook or its tributaries should demonstrate that they will not exacerbate the existing risk of flooding taking into account the flooding history</b></p>	<p>For clarity required by the NPPF.</p>

	<p><b>of the immediate locality and local conditions.</b></p> <p><b>Appropriate provision should be made for surface water drainage to ground, water courses or surface water sewer. Surface water should not drain to the foul sewer.</b></p> <p><b>The incorporation of sustainable drainage systems within new development will be supported. Wherever practicable, such systems should enhance water quality and biodiversity in accordance with the Water Framework Directive.</b></p> <p><b>Sustainable drainage schemes should be capable of regular maintenance so that their long-term effectiveness can be maintained.'</b></p>	
Across plan	<i>Modification of general text (where necessary) to achieve consistency with the modified policies and to accommodate any administrative and technical changes.</i>	For flexibility to make any necessary consequential changes to the general text.
Across plan	<i>Modification of general text to update the Plan (SODC comment 1), to refine the presentation of the Plan (SODC comment 9) and to refine the wording used (SODC comments 2, 14-25).</i>	Typographical and presentational modifications.

