

Husbands Bosworth Neighbourhood Plan Examination

11th December 2019

Request for Clarification from the Examiner to Husbands Bosworth Parish Council and to Harborough District Council

Further to reviewing the Husbands Bosworth Neighbourhood Plan and supporting information, I would be grateful for the assistance of both Husbands Bosworth Parish Council (re: all Questions except Question 1) and Harborough District Council (re: Question 1 (Harborough District Council may also comment on other Questions if it wishes to do so)) in respect of clarifying a number of matters in writing.

In responding to the questions where I seek clarification, set out in bold/italics below, please do not direct me to any evidence that is not already publicly available.

Please can all responses be provided within four weeks of the above date. If this poses difficulties, taking into account the Christmas and New Year period, and more time would be helpful, please let me know.

The questions set out are not, in any way, designed to criticise or to “catch-out”, but they are simply drafted with the aims of 1) aiding my understanding of the Neighbourhood Plan; and 2) supporting the examination process as a whole. Please note that the questions are underpinned by the fundamental requirement for the Neighbourhood Plan to meet the basic conditions.

Thank you in advance for any information you can provide.

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1) European Obligations
(matter for clarification by Harborough District Council)

National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

- *“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations”* (Planning Practice Guidance¹).

As you are aware, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta* (“People over Wind”), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.

In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an *Appropriate Assessment* to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.

These changes came into force on 28th December 2018. As the regulations are now in force, it is helpful to double-check that, wherever necessary, an *Appropriate Assessment* has been undertaken.

¹ Planning Practice Guidance Reference ID: 11-031-20150209.

Screening was undertaken by Harborough District Council in respect of Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) and it was concluded that neither SEA nor HRA were required. These conclusions were supported by the statutory consultees, Historic England, Natural England and the Environment Agency. Further, neither Harborough District Council nor any of the statutory consultees have expressed any substantive concerns in respect of the Neighbourhood Plan's compatibility with European obligations.

- ***Taking all of the above into account, please can Harborough District Council confirm that it has considered all relevant information and that it is satisfied (or is not satisfied) that the Neighbourhood Plan is compatible with European obligations ?***

2) Comments on Regulation 16 Representations ***Optional Response from Husbands Bosworth Parish Council***

Neighbourhood Planning Independent Referral Service (NPIERS) Guidance²
Paragraph 1.11.4 states that:

“The qualifying body will normally be given the opportunity to comment on the representations made by other parties...This may be particularly important where the matters concerned have not been raised at Regulation 14 stage. The opportunity for the qualifying body to comment on representations could be incorporated within an independent examiner’s clarification note...”

- ***Consequently, whilst not a requirement, I confirm that, in responding to this letter, there is an opportunity for Husbands Bosworth Parish Council to comment on any of the representations made during Regulation 16 consultation, should it wish to do so.***

² NPIERS “Guidance to Service Users and Examiners”

Questions for Husbands Bosworth Parish Council

3) Policy H3

- *Please could you point me to information in respect of the difference between “particularly supported” and “supported” and how this might work with regards the implementation of Policy H3 ?*
- *The term “significant minority” appears ambiguous. Please can you point me to information in respect of how a decision maker should interpret this in the context of Policy H3 ?*

4) Policy H5

- *Building Regulations are subject to different regulations, statute and processes than those relating to land use planning policies. Please can you point me to any national planning policy or guidance or similar that supports or justifies Policy H5’s requirement for certain Building Regulations to be met ?*

5) Policy H6

- *Please can you comment on the representation made on behalf of Leicester Diocesan Board of Finance, with respect to parts a) and b) of the Policy ?*

6) Policy ENV3

- *Please can you comment on Harborough District Council’s suggestion that the first line of the Policy could more clearly refer to “locally designated heritage assets.”*

7) **Policy ENV4**

- *Please can you comment on Harborough District Council's suggestion that part d) of the Policy appears vague; and could you point me to information that provides a decision maker with clarity in respect of how this part of the Policy should be implemented ?*

8) **Policy ENV7**

- *Please can you point me to national policy or national guidance, or similar, which supports the Policy's proposed control of each of the forms of lighting referred to via a land use planning policy ? How might the Policy be implementable ?*

9) **Policy ENV8**

- *Please can you point me to information in respect of the definition of "environmentally sound" and how a decision maker should interpret this ?*
- *Please can you point me to information in respect of how a decision maker should interpret "considered favourably, on their merits, providing that conditions regarding...are in place"?*
- *Please can you point me to the specific paragraphs of the evidence base which state that solar farms are not appropriate in the Laughton Hills Landscape Character Area, as Local Plan Policy CC2 refers only to preventing wind farms (more than three turbines/wind turbines exceeding 30 metres) ?*

10) **Policy CFA1**

- *Please can you comment on Harborough District Council's comments in respect of the facilities referred to.*

- *Please can you point me to information in respect of how/why, for example, the towpath, the village playing field, Totties' Teas, the Parish Council Office, the Methodist Church and the Gliding Centre might all be treated in the same way by the Policy; and how/why a decision maker might do this ?*

11) **Policy T2**

- *Please can you point me to evidence to demonstrate why the provision of 7kW cabling specifically comprises appropriate provision over the plan period ? Please can you also point me to information in respect of the deliverability of 7kW cabling, having regard to Paragraph 56 of the National Planning Policy Framework and evidence in respect of general conformity with the Local Plan ?*

12) **Policy T1 Traffic Management**

- *Please can you point me to evidence in respect of “the need” to minimise “any” increase in vehicular traffic ?*

13) **Policy EC1**

- *Please can you point me to a definition of “strong presumption” and how this might be interpreted by a decision maker ?*
- *Parts a) and b) appear vague and open to interpretation. Please can you point me to information in respect of how a decision maker should interpret them ?*
- *Please can you point me to a definition of “an activity that provides employment opportunities” ? Could this comprise a home office for example ?*

14) **Policy EC2**

- *Please can you point me to information in respect what “other forms of commercial/employment development appropriate to a countryside location or there are exceptional circumstances” includes, as the Policy appears vague in this regard ?*
- *Please can you point me to information in respect of how Part b) is meant to be interpreted by a decision maker ? What happens, for example, if an application for employment use is submitted on a non-brownfield site in the settlement boundary ?*
- *Please can you point me to information in respect of how “complement existing businesses” should be interpreted by a decision maker and why this is a relevant and appropriate requirement ?*
- *Please can you point me to information in respect of why part ii) of the Policy does not conflict with the rest of the Policy and the Neighbourhood Plan ?*

15) **Policy EC3**

- *Please can you point me to information in respect of whether the Policy would anticipate (and support) a decision maker supporting an application to say, change a five bedroom home into a light industrial unit with one bedroom ?*
- *Please can you point me to the definition of a “small scale building” that requires planning permission, as supported by the Policy in domestic gardens ?*
- *The Policy appears to support extensions requiring planning permission or new small-scale buildings requiring planning permission without reference to the development's impact (as opposed to the work activity's impact) on the residential amenity of occupiers or neighbours. Is this the intention of the Policy ?*

16) **Policy E4**

- *Please can you point me to evidence in support of the deliverability of the last sentence of the Policy, having regard to Paragraph 56 of the Framework ?*

Thank you for consideration of all of the above.
