

Dunton Bassett Neighbourhood Plan 2020 - 2031

Post Hearing Note

Prepared by

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1. On Tuesday 11th October 2022, I held a public hearing at the Village Hall into the Dunton Bassett Neighbourhood Plan. Most of the session was spent on the topic of the plan's site allocations and the site selection criteria plus the scoring methodology adopted by the Parish Council. We did briefly touch on the subject of the designation of The Beats as a Local Green Space and the discussions at the end then focussed on the way forward for the examination.
2. At the conclusion of the hearing, I asked Harborough District Council to seek clarification from Historic England, whether it maintained its consultation view that a Strategic Environmental Assessment (SEA) was still required.
3. Before considering the implications of its response, I have decided that it would be helpful for me to share with the Parish Council, the conclusions that I have reached, following the hearing, on the housing policies within the plan, as these will have implications on how I envisage the examination should proceed and in particular the need for an SEA. This is an unusual approach, although not unprecedented, but I am conscious of the hard work over a considerable period of time that has been put into the plan by volunteers.
4. The Parish Council is to be commended for seeking to tackle the difficult issue of site allocations. The ability of the community to decide where new housing is to be located is one of the most powerful aspects of neighbourhood planning. It can also be a challenging process especially for those who do not have a background in planning.
5. However, as we discussed at the hearing, I hold grave reservations regarding the Sustainable Site Assessment exercise which was carried out to select the allocation and reserve site, which was described in detail in Appendix 4. I have also had access to the individual site scoring sheets.
6. My questioning at the hearing sought to test the actual methodology used to identify the most suitable site(s), the use of RAG ratings and a scoring system that calculated the net green / red score (ignoring amber sites thereby ignoring their planning implications) and ranked the sites on the basis of those scores, the fact that the selection criteria attached the same weight to all the 25 criteria and indeed how the scoring was, in practice, applied to a sample of sites which we looked at.
7. I am afraid that the answers, failed to convince me that the process was objective and paid due regard to Secretary of State policy and guidance. I will expand in greater detail of how this does not meet the basic conditions tests in my final report, which I will issue at the end of the examination, but I consider that, for example treating all site selection criteria as being equally important, is not a realistic basis for making important planning decisions.

8. The methodology adopted would ascribe the same weight, in a positive sense, to a site being in single ownership, which then would counterbalance a red score, say if the site was in an area liable to flood. That is not a sensible approach to planning decision making. The scoring methodology also ignores the implications of amber scores, which for example, would give no value to the loss of best and most versatile agricultural land, by including Grade 3 A agricultural land as amber (which incidentally is in the same category as Grade 3B – contrary to Secretary of State policy set out in the NPPF)
9. In addition to my concerns over the basis of the methodology used and the scoring matrix, I have concerns as to how some of the sites were actually scored. To give just one example, Site 10, which was the subject of the site visit prior to the hearing, was scored down as a sloping site, when to all intents and purposes, the site is flat.
10. I have concluded that the deficiencies in the site selection methodology adopted by the plan makers, undermine the confidence I can have with how the allocation site was chosen when considered against alternative sites.
11. In addition, I am also conscious that there was no specific community involvement in the choice of sites, which in my experience, is good practice. I fully accept that the pandemic will have limited the opportunities to hold public sessions, but there are other mechanisms which could have allowed the public to be able to express their preference as to which site should be selected, and these should have been informed by objective information outlining what were the opportunities and constraints of each site. This could have been through on-line surveys or via leaflets distributed around the parish. These results would allow greater weight to the preferences as they will be the expression of the views of the community, rather than the small number who were involved with the scoring of the sites.
12. My report will therefore be recommending that all the housing allocation policies should be deleted from the neighbourhood plan and that this covers Policies H1 – the allocation site, H2 – the reserve site and H3 - the settlement boundary which includes the inclusion of the allocation site and will be used to identify where countryside polices apply.
13. The immediate implications of the removal of these 3 policies will mean that any planning application for new housing development will have to continue to be judged against existing policies within the adopted Harborough Local Plan. I heard that a proposed development on the north side of Coopers Lane was dismissed on appeal, which does demonstrate the robustness of the existing criteria-based policy.
14. I did briefly consider whether the removal of these important policies would cast doubt as to whether the plan as a whole should not proceed

to referendum, but I have concluded that there are other facets of the plan such as covering design, the protection of open space, community facilities and views, and the proposal for an area of separation which could be retained in the plan.

15. I am therefore minded to recommend that the plan, with the housing location policies deleted, should be allowed to go to referendum subject to modification which I will set out as recommendations in my final report.
16. These findings regarding the two housing allocation sites will have implications in terms of the need for an SEA.
17. At the hearing, we discussed the screening of the plan and whether the most recent correspondence from Historic England indicated a weakening of its view, that an SEA would be required. The District Council had issued its final Screening Decision on 22nd August 2022 which determined that an SEA would be required. That revised determination was issued following my comments that the earlier response, which had questioned whether the statement that further consideration of heritage issues should be the subject of a Strategic Heritage Assessment, did not meet the expectations of the Assessment of Plans and Programmes Regulations 2004, as it did not explicitly state whether an SEA would be or would not be required. The District Council's final decision on this matter was, I believe, strongly influenced by Historic England's response that, in its view, an SEA was required, in order to properly assess the impact on the adjacent scheduled ancient monument.
18. At the hearing, it was evident that there remained continued uncertainty on the position of Historic England was taking, which was compounded by the fact that the organisation as a key consultee, had not accepted my invitation to attend the hearing. Therefore, I asked the District Council to write to Historic England on my behalf, inviting it to clarify its position. I approved a letter that was sent on 17th October 2022 and an email response was received on 19th October 2022 which stated:

“Our advice remains that an SEA would help to address the deficit of evidence regarding the impact of housing development in this location. Without this level of evidence, the plan may be at risk due to uncertainty regarding these impacts and the consequent test of sustainability in historic environment terms.”

19. In my opinion, it was inclusion of the proposed housing allocation, and in particular its proximity to a scheduled ancient monument, that was the key driver for the need for an SEA. The production of an SEA at this late stage of the production of the plan, would have raised major issues in terms of “due process”.
20. The need for an SEA should ideally be screened prior to the Regulation 14 consultation, so that its findings can be used to inform the plan making.

If the SEA process is to be carried out at this late stage, once the plan has been submitted to examination, there is the possibility/probability that the outcome could have required the Parish Council to be changing the plan, in some respect, even if it was to introduce mitigation to address any adverse impacts the assessment revealed. That would require the plan to have to go back to its Regulation 14 stage as it would be a different neighbourhood plan to that which the Parish Council had submitted for examination. I can see no alternative, if the SEA process is allowed to be carried out and completed on an entirely objective basis.

21. In terms of the basic condition, where I need to be satisfied that the making of the plan is compatible with European Legislation and in particular the SEA requirements, the position we find ourselves in, is that there is a need for an SEA to be prepared, to inform the plan that has already be submitted for examination. The outcome of producing an SEA, which could have an impact on the plan, could require the plan to have to be withdrawn from examination, if the plan required revision. The SEA Regulations also require the draft Environment Report to be the subject of consultation. For that consultation to be meaningful, I envisage that it could pose difficulties for the Parish Council in seeking to communicating the process it is undertaking a this stage.
22. However, I believe that there is a solution that could resolve this dilemma. In view of my intention to recommend the deletion of the housing allocation policies from the neighbourhood plan, which were the policies which triggered the need for an SEA, that could radically simplify how the plan can move forward. At the current time, the formal situation is, following the District Council's Screening Determination, that the Parish Council is expected to commission an SEA, which before that can be commenced needs to be formally scoped, following consultation with the 3 statutory consultees.
23. The Parish Council can still decide to commission that work, despite being aware of my recommendations on the housing location policies. I consider that option would be costly in financial resources (although it may be grant fundable) but more importantly it will have major time implications, probably for no apparent benefit. Indeed, it could require changes to the submission version of the plan which could require its withdrawal.
24. However, if the Parish Council upon hearing my views set out in this note, indicates that it accepts the deletion of the allocation policies (Policies H1,2 and 3) from the plan, that would provide me with the reassurance that, upon rescreening, in all probability, an SEA would not be required. I could make a conditional recommendation, in my report, that Harborough District Council should carry out a new Screening Determination on the revised plan, based on my modifications, which remove the three policies.

That is similar to the usual position, that an LPA needs to be satisfied that a plan, when modified by an Examiner, does not need to be rescreened under the SEA or HRA Regulations.

25. I appreciate that the Plan Steering Group will be disappointed with my conclusions on the housing allocations, but I do believe that this approach does allow me to conclude my examination with the possibility that the plan can proceed to referendum, subject to modifications.
26. Moving forward in to the future, the Parish Council, once the plan has been to referendum and if successful, is made, can revisit the housing allocations and carry out a new site selection process, with a more robust and sophisticated methodology, and in due course, propose modifications to the neighbourhood plan, as a separate exercise.
27. I would ask that the Parish Council and the District Council to place this note on their respective neighbourhood plan websites but I stress that I am only inviting a response from the Dunton Bassett Parish Council, unless the District Council has any comments in terms of its responsibilities moving forward. I am not inviting comments from any other parties at this stage.
28. I appreciate that the Parish Council will need a couple of weeks to consider whether it wishes to undertake the SEA process or take up the option set out in this note which is to acknowledge the plan goes forward without the 3 housing location policies and a new screening process is undertaken, based on the plan not making allocations or setting out a settlement boundary.
29. Once I receive a Parish Council response, which I hope could be received by 30th November 2022, I will then continue with the preparation of my examination report, unless I hear that the Parish Council does decide to commission a Strategic Environmental Assessment. Under that scenario I will place the examination in abeyance until the outcome of that process is known.

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Examiner to the Dunton Bassett Neighbourhood Plan

25th October 2022