



Hinckley & Bosworth  
Borough Council

## **Hinckley and Bosworth Borough Council Consultation Response to the Desford Neighbourhood Plan Consultation, November 2019 as follows:**



### **“DES福德 PARISH NEIGHBOURHOOD PLAN The Environmental Assessment of Plans and Programmes Regulations 2004, Regulation 13: Consultation following a Strategic Environmental Assessment”**

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Neighbourhood plans are not required to meet the tests of soundness which local plans and other development plan documents must meet. Instead, in order for them to be able to be put to referendum, they must meet the ‘basic conditions’ set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. Those relevant to neighbourhood plans are as follows:

- (a). having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
- (d). the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
- (e). the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- (f). the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
- (g). prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

Points (f) and (g) above relate to certain obligations which plans must adhere to, primarily in relation to habitats and environmental impacts. Some plans require a Strategic Environmental Assessment and/or a Habitat Regulations Assessment.

These representations are on behalf of Hinckley & Bosworth Borough Council (HBBC) in direct response to the extra consultation being ran by Desford Parish Council, following the receipt of a Strategic Environmental Assessment (SEA) ‘Environmental Report’.

HBBC have previously submitted representations to Desford Neighbourhood Plan’s Regulation 14 consultation. These can be found at Appendix 1.

The Strategic Environmental Assessment Screening was undertaken in November 2018. In accordance with Regulation 9 of the SEA Regulations 2004, HBBC as the determining authority had to consider whether an environmental assessment of the emerging Desford Neighbourhood Development Plan was required. HBBC had regard to Desford’s SEA Screening Report, and completed a six week consultation with the three statutory consultation bodies; Environment Agency, Natural England and Historic England.

Following this consultation, and the responses received, HBBC as the determining body, had concluded that the Desford Neighbourhood Plan should complete a full SEA, the determination notice can be found at Appendix 2. Following this Desford Neighbourhood Plan group sought the help of Locality through the technical support funding package. AECOM were appointed to undertake the

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SEA, which included the production of a scoping report and full Environmental Report document. The full Environmental Report was received on 17 October 2019.

The SEA Environmental Report contains a set of recommendations “*to enhance the positive effects of the plan, and mitigate any negatives*”<sup>1</sup>. These recommendations can be found in table 1 of the Environmental Report.

Due to the ‘focused nature’ of the consultation, and due to the consultation period being three weeks only, HBBC are going to focus these representations on the recommendations listed in the SEA document (and the associated policies), and the suggested amendments to the plan following those recommendations. The specific content and policy comments on the entire plan, including comments from other Development Services colleagues, have been given at Regulation 14 stage, and will be updated and enhanced at the Regulation 16 Submission Consultation. More general comments on the usability of the plan can be found in table 2.

Appended to these representations is also correspondence with Desford Neighbourhood Plan group, and Desford Parish Council, prior to this focused consultation, see Appendix 3. This letter, dated 31st July 2019, outlines HBBC’s concerns around consultation procedures for the SEA and the plan, and whether Desford NP was meeting the requirements of Regulation 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 and Regulation 14 of The Neighbourhood Planning (General) Regulations 2004. This letter also had appended previous advice from the 22<sup>nd</sup> May 2019, and the 24<sup>th</sup> July 2019.

HBBC also sent a follow up advice note to Desford NDP group on 26<sup>th</sup> September 2019, see Appendix 4, which contained some ‘next steps’ guidance for the consultation. These comments should be considered by the Examiner, as they outline the progress of the neighbourhood plan and SEA throughout 2019. Therefore all official HBBC guidance/representations will be submitted at Submission stage, including:

- HBBC Regulation 14 Representations (Appendix 1)
- Advice/guidance provided in between the Regulation 14 consultation, and Submission
- These representations for the extra consultation following receipt of the SEA

Comments are intended to be guidance based on national and local policy and any legislation associated with neighbourhood plans. This advice aims to address whether the plan, in its final form, is contributing to sustainable development and has been prepared positively and in line with the regulations. Not only this, but it is key for HBBC to ensure that the policies in their final form are workable and can be implemented to their full effect in both planning applications and in the preparation of the Local Plan Review.

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<sup>1</sup> Strategic Environmental Assessment for Desford Neighbourhood Plan – Environmental Report, October 2019

### HBBC Comments on the proposed changes to the Desford Neighbourhood Plan following the receipt of the SEA Environmental Report

Desford Neighbourhood Plan group have produced a 'modifications table', which highlights the recommendations listed in paragraph 5.12. The group have suggested amendments to the plan following these recommendations, and these are the subject of HBBC's comments in Table 1 below.

**Table 1: HBBC's comments on Desford's suggested amendments to the plan, following the SEA recommendations.**

SEA mitigation	Proposed Recommendation to DPC	HBBC Comments November 2019
<p>Policy H1 currently seeks to exclude small scale leisure or tourism activities and other forms of commercial/employment appropriate to the countryside outside or adjacent to the settlement boundary which is inconsistent with the provisions as set in Policy E2.</p>	<p>Agree and amend Policy H1 accordingly</p>	<p>Without knowing fully what the amendments will entail, HBBC does support the re-evaluation of Policy H1.</p> <p>Any comments still outstanding from HBBC's Regulation 14 comments still apply.</p> <p>HBBC will support consistency between the two policies.</p> <p>Will the amendments to Policy H1 mean that small scale leisure or tourism activities will be supported outside the settlement boundary? Or will the amendments be made to E2 to remove reference to small scale leisure or tourism activities.</p> <p>HBBC will encourage Policy H1 to be consistent with the Site Allocations and Development Management Policies (2016), Policy DM4, in which it states: "Development in the Countryside will be considered sustainable where:</p> <ol style="list-style-type: none"> <li>a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries..."</li> </ol> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>

SEA mitigation	Proposed Recommendation to DPC	HBBC Comments November 2019
<p>Policy H2 could seek to encourage some mix of uses on site in response to identified local needs while still seek to provide the level and nature of residential growth outlined. As a site specific policy it is recommended that the policy makes it clear that proposals for the site are subject to other relevant policies of the plan in particular Policy H6 including matters relating to landscape character and biodiversity</p> <p>It is recommended for Policy H2 criteria (I) <i>Other financial contributions</i> ....Delete at full planning application stage as financial contributions requirements are not limited to full planning applications.</p>	<p>Noted: include in narrative, as some examiners have excluded such wording in the policies themselves.</p> <p>Agreed: the words will be deleted.</p>	<p>HBBC would like to see it made clear in the plan, that provision is partly determined by local need. Agreed, with regards to the housing allocation policy section, it needs to be clear that proposals for the site are subject to other relevant policies of the plan.</p> <p>HBBC would encourage the deletion of “at full planning application stage”, as agreed, financial contributions are not limited to Full Applications.</p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
<p>Consider the inclusion of policy which seeks to encourage renewable energy infrastructure</p>	<p>No sites came forward in the call-for-sites exercise and it is difficult to see such sites arising in Desford, but a statement of support for any suitable site will be included in the narrative.</p>	<p>From the lack of evidence on renewable energy provided with the plan, I'm not sure how accurate it is to state that <i>“it is difficult to see such sites arising in Desford”</i>.</p> <p>Did the call for sites ask for sites for renewable energy infrastructure? I believe Desford didn't undertake their own call for sites, and used the sites submitted through HBBC's three call for sites between 2014 and 2018. HBBC's call for sites form does not ask for these types of sites, and therefore you cannot expect submissions for renewable energy sites.</p> <p>HBBC would encourage the inclusion of a renewable energy policy as long as it is in line with any applicable local and national policy.</p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
<p>Policy H5/supporting text - It is recommended that it may be beneficial to identify the likely amount of anticipated windfall development</p>	<p>Agreed: we will make such a statement in the supporting narrative.</p>	<p>Agreed, this will show an indicative projection over the course of the plan period, and how many windfall dwellings you could expect to see come forward. Of course future delivery is subject to many external considerations,</p>

SEA mitigation	Proposed Recommendation to DPC	HBBC Comments November 2019
that is anticipated to come forward during the plan period.		<p>including the market.</p> <p>You have some text on application approvals and the subsequent dwelling numbers on page 17. You have also referenced Historical Land Registry data on page 16, where you state 5 dwellings per annum have been provided by windfall sites. Is this data local and accurate? From HBBC numbers you should be able to work out windfall from 2016 to now, and project forward.</p> <p>The NPPF para 70 gives guidance on windfall assessments:  <i>'Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area'</i></p> <p>Its also important that in assuming that windfalls will continue to come forward based on past trends, there are no policies in the plan which would impact/restrict those sites coming forward in the future. If there are the windfall rate should be reassessed accordingly.</p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
Policy ENV 5: Consider an amendment that replaces <i>building or structure</i> to heritage asset in recognition that such assets can include landscape.	Agreed: the change will be made	<p>Agree to the change of 'building or structure' to 'heritage asset'.</p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
For clarity the table of heritages assets provided at page 40 could identify those assets which are designated heritage assets and those which are non-designated heritage assets.	Every listed asset is a non-designated heritage asset	<p>From reviewing the list, it appears that the NDP states that it lists designated heritage assets, but it doesn't actually seem to do so.</p> <p>Therefore agree with SEA recommendation. For clarity, you could add the designated assets to the table as well, and add another column to identify if it is nationally/locally recognised and a designated asset, or whether it has been identified through the Neighbourhood Plan process as a non-designated asset.</p>

SEA mitigation	Proposed Recommendation to DPC	HBBC Comments November 2019
		<p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
<p>Policy ENV 6: Consider the inclusion of the following: development shall be designed to sustain significant views that contribute to the character and appearance of the area.</p>	<p>Agreed. The recommended change will be made.</p>	<p>Agree to the suggested changes. Our previous comments at Regulation 14 still apply however, as below:</p> <p><i>“Figure 12 on page 42 – the symbols could be misleading, for example the extent of the symbols reaching out only so far could mean the important view stops where the symbol stops. Are the views looking inwards to the village, or are they looking outwards towards the countryside? This map could be interpreted in a very different way than intended, explain the map and symbols. Or you could change the symbols or reflect the extent of the view in a clearer way, just be wary of the way a developer could interpret this map.”</i></p> <p>From Figure 12 which accompanies the policy, it is difficult to interpret what the significant views actually include, and what the ‘character and appearance of the area’ consists of.</p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
<p>Policy ENV 7: For Wind Turbine and Large-scale solar energy generation developments seek to clarify that such proposals are subject to considerations of the rest of ENV 7 and other relevant policies in the plan.</p>	<p>We will address this in the supporting narrative, because of previous experience of examinations and Examiners’ decisions</p>	<p>Agree, the second half of the policy relating to proposals for wind turbines and large scale solar should also have to comply with criteria a-d in the first half of the policy.</p> <p>Many of our comments from Regulation 14 still apply, as below:</p> <p><i>“Criteria a states “adverse impact on... wellbeing...” What do you mean by wellbeing? Very subjective and different for everyone.</i></p> <p><i>Second para beginning “Developers will be responsible for...” can’t be asked for in policy, and should be removed, or moved to the supporting text.</i></p> <p><i>Third para highlights that wind turbine development proposals will be generally acceptable if the turbine tip height is less than 50 metres, and the proposal is for no more than one turbine. Why? Why these criteria?</i></p>

SEA mitigation	Proposed Recommendation to DPC	HBBC Comments November 2019
		<p><i>The policy also lists “The land is also used for other purposes” – this is not always possible, remove or amend. “Low-level noise generated does not interfere with residential homes” – again this is repetition throughout the document of impacts on amenity Please review.</i></p> <p><i>The policy states “Large scale solar energy generation development proposals will...” How big is large scale? Subjective term.”</i></p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
<p>Policy ENV 3: Consider the inclusion of: Work constructively with other organisations to seek to consider the possibility of installing major solar facilities.</p>	<p>This is more of a Community Action than a policy, and we will address it in the supporting narrative.</p>	<p>I presume this recommendation in the SEA is referring to Policy ENV7, and Community Action ENV3? If so, agree to the inclusion of this as a Community Action, possibly included within Community Action ENV3. Ensure that all Community Actions are monitored as you would with actual Policies so that you can report on their progress and efficiency for Parish Council use, and for future reviews of the plan.</p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable.</p>
<p>Policy E2: Consider the inclusion of: or on areas of previously developed land in sustainable locations.</p>	<p>Agreed. The recommended change will be made.</p>	<p>Agree the inclusion of sustainable ‘brownfield land’ in this policy</p> <p>Once full wording has been provided in the final Submission Version of the plan HBBC will provide full comments if applicable..</p>

### Comments on the plan and general observations

Following on from the comments regarding the SEA's recommendations and Desford's response, it is pertinent to offer some overall comments regarding the plan, and some of the changes that have been made since the Regulation 14 stage. At this stage, the Council will refrain on commenting on every policy and it's supporting text, however below are some general comments on the practicalities of using the plan, and some key elements that will help the plan become more usable.

**Table 2: General comments relating to the plan at this stage.**

Page Number/Policy Number/Topic	Comments November 2019	
General comment	Ensure the whole plan and it's policies complies with the National Planning Policy Framework <b>2019</b> , of which the newest version is February 2019. There have also been various amendments to the National Planning Practice Guidance, of which you can cross-reference to your plan.	
Pages 7, 8, 9	Again comment still stands from Regulation 14, as follows:  <i>"Cut down the information on the census, and only leave in the essential information needed for context and for the policies in this plan. Potentially put into a tabular format for easy reading. Any extra information not vital to the plan can be placed in a topic paper or briefing note in the additional information/appendices."</i>	
Page 18 & 19 – Settlement Boundary	Again comment still stands from Regulation 14, as follows:  <i>"Expand on how you've extended the settlement boundary. As highlighted by a neighbourhood plan examiner in recent examinations, Neighbourhood Plans must clearly set out where settlement boundaries have changed and how. Perhaps highlighting what methodology was used to determine the new boundary. See HBBC's Settlement Boundary Revision Topic Paper as an example methodology"</i>	
Page 19 – Figure 2	Again, figure 2 Settlement Boundary map – would be useful having this as a full page landscape map to see intricacies of the settlement boundary. Alternatively you can include a A4 landscape map as part of the appendices potentially. Or a high resolution version available on the website.	
Page 19 – Housing allocations	Please ensure that the text reflects what sites have been included as part of the assessment, and which have been excluded. The table below shows this accurately, as agreed with a member of the group, and can be inserted into the plan itself, or incorporated into the current supporting text. The table is clear in that sites submitted to HBBC during 2019 (and not submitted directly to the group) won't be available until the Council's updated SHELAA review is made available later in 2019. Therefore these sites won't be included in this version of the Neighbourhood Plan, but will be looked at as part of any future review of the plan.  <table border="1" data-bbox="483 1337 1122 1367"> <tr> <td data-bbox="483 1337 1122 1367">Sites Included</td> </tr> </table>	Sites Included
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	<table border="1"> <tr> <td>HBBC SHELAA sites 2014</td> </tr> <tr> <td>HBBC SHELAA sites 2017/18</td> </tr> <tr> <td>Sites submitted directly to Desford Neighbourhood Plan Group during the Regulation 14 consultation Nov 2018 – Jan 2019.</td> </tr> <tr> <td>Sites excluded</td> </tr> <tr> <td>Sites submitted to HBBC January 2019 onwards, that were not submitted directly to the Neighbourhood Plan group. These will be looked at as part of any future review of the plan.</td> </tr> </table>	HBBC SHELAA sites 2014	HBBC SHELAA sites 2017/18	Sites submitted directly to Desford Neighbourhood Plan Group during the Regulation 14 consultation Nov 2018 – Jan 2019.	Sites excluded	Sites submitted to HBBC January 2019 onwards, that were not submitted directly to the Neighbourhood Plan group. These will be looked at as part of any future review of the plan.	
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Sites submitted to HBBC January 2019 onwards, that were not submitted directly to the Neighbourhood Plan group. These will be looked at as part of any future review of the plan.							
Page 19, SSA and methodology	<p>Last para of page 18 states that the completion of the SSA process meant you are allocating Barns Way for resi development. This process also allowed you to have a list of ‘reserve sites’ or other alternative sites for if the Barns Way site wasn’t to come forward for any reason.</p> <p>Reserve sites also allow you to have a say in what sites may be allocated in the future if a larger housing need is determined. Reserve sites give the Local Authority a good idea of what sites the NDP have assessed as good alternative sites, and this would come into consideration when/if allocating through the Local Plan process if a higher need is determined. What are your thoughts on identifying reserve sites to help cater for potential future growth, and help in the instance of a future review of the NDP.</p>	<p>Make clear what the SSA process actually is. Is it a Sustainability Appraisal, or is it a SHLAA, or is it neither?</p> <p>My colleague Helen Nightingale provided comments on the SSA methodology at Regulation 14.</p> <p>Of particular importance to the SSA, is the following comment:</p> <p><i>“In your methodology you need to show in an appendix or footnote on how you have scored against each category as you would have needed a consistent approach from all site assessors (a crib sheet), assuming you didn’t just use one assessor. By showing your workings and evidence also removes the probability of challenges from developers, particularly regarding those criterion relating to heritage assets, protected species, highway matters, landscape issues, drainage and contamination, by demonstrating it’s a local evaluation rather than a professional assessment.”</i></p>					
Page 21 – Figure 3	Zoomed in site location map would be useful here, as village map has been provided earlier in the form of the Settlement Boundary map.						
Page 31 – Local Green Spaces	Table with Local Green Space info and scoring could be turned landscape to fit on the page better. This way you could also include the photograph next to the info rather than below, or you could include the photographs separate to the table.						

<p>Page 33 – Figure 7</p>	<p>Comment still applies from Regulation 14 as follows:</p> <p><i>“BAP Species locations have been identified on Figure 7. Check with Leicestershire County Council Ecology Department that this map does not breach data confidentiality as some BAP species are protected and their locations should not be disclosed to the public. From recent advice I believe that rough locations of Badger setts and birds is reasonable to disclose, however it is always worth checking before the final plan is prepared.”</i></p> <p>Figure 7 is also quite a small zoomed out map, and it is difficult to interpret details from it. You could have this map as a full A4 landscape map in the plan, and/or have a high resolution version available on the website, and/or as an appendix.</p>
<p>Page 60 – Monitoring</p>	<p>Again, this section needs to be clear and concise, especially with the government’s increased pressure on the Housing Delivery Test the 5 year supply, and the continual review of plans. The monitoring and review of the plan is especially important as the Local Plan Review is advancing through the process.</p>
<p>General comments on the consultation process</p>	<p>Firstly, HBBC have concerns over Desford calling this consultation a ‘Regulation 13’ consultation. I believe they are calling this a Reg 13 consultation on a public notice, although this hasn’t been made available on the website. Previous advice on this to Desford (Appendix 4) was as follows:</p> <p><i>“The consultation you’ll be running at this stage is, for want of a better phrase, a Regulation 14 Part Two, as generally you’ll be consulting on the draft plan as you did back in January 2019, but this time with the added SEA report and extra site assessments. I would steer clear of calling it a Regulation 13 consultation, as ‘Reg 13’ refers to a different set of regulations i.e. the Environmental Assessment of Plans and Programmes 2004, separate to the Neighbourhood Planning (General) Regulations 2012.</i></p> <p><i>Running this consultation including consulting on the SEA Environmental Report shows how you plan to meet Regulation 13 of the Environmental Assessment of Plans and Programmes 2004 regulations.</i></p> <p><i>With this being said, we would recommend the Parish Council/Neighbourhood Plan Group runs this consultation the same as the Reg 14 consultation in January 2019, including consulting the same people.”</i></p> <p>Secondly, it is apparent throughout various pieces of guidance that the reason why the SEA Environmental Report is required to be consulted on at Regulation 14 (rather than Regulation 16 Submission), is that there is a need to demonstrate that the SEA has influenced the plan’s development, and the plan and it’s policies have been amended in line with the SEA’s recommendations. The version of the plan published alongside the SEA for this consultation has not been amended to reflect the changes recommended in the SEA report.</p> <p>However as a compromise, Desford have published a mitigation/modifications table at the request of HBBC, to ensure the public and stakeholders have a chance to see, to a certain extent, how the production of this SEA will affect the plan before submission. You can clearly see which policies will be changing as a result of the SEA outcomes, however with the lack of specifics in Desford’s responses, it’s difficult to determine whether this is sufficient to show how and to what extent they plan to meet these outcomes in</p>

the SEA. Until a fully amended plan is available at Submission, HBBC cannot submit appropriate detailed comments on the amended policies.

It is also worth noting, and as can be seen throughout our previous advice to Desford in the various appendices, there were a few other outstanding issues that needed to be addressed by holding another consultation in particular the extra/amended site assessments. Therefore the Borough Council believed it would be beneficial and appropriate to run the consultation as a second Regulation 14 consultation, asking for comments on the whole suite of documents (i.e. the amended draft plan, the SEA report, the updated site assessment information, and all associated appendices and supporting documents). If consulting on numerous documents it would be appropriate for the time period for comments to be six weeks, as is required at Regulation 14. The full extent of HBBC's advice to Desford prior to this consultation can be found at Appendices 1, 3 and 4.

As the SEA recommendations are limited, the SEA process has now concluded, and this part of the process is ran by the Qualifying Body, the Local Planning Authority the Local Planning Authority advised that it was for the group to determine how and what they were going to consult on at this stage. Going forward it is for the Qualifying Body to state in their Consultation Statement how they have followed consultation procedure, and the public and stakeholders have been given sufficient time to comment on the plans progression at each stage.