



DENHAM NEIGHBOURHOOD PLAN EXAMINER'S REPORT - DECISION STATEMENT

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Executive summary

Following the examination of the Denham Neighbourhood Plan, this Decision Statement sets out the modifications to the Plan which have been proposed by the Examiner in the Examiner's report, the decision to proceed to referendum and the area for the referendum.

1. Introduction

1.1. Under the Town and Country Planning Act 1990 (as amended) and the Neighbourhood Planning (General) Regulations 2012 (as amended) and all other relevant legislation, Buckinghamshire Council ("the Council") has a statutory duty to consider the Denham Neighbourhood Plan following its examination. Pursuant to the Buckinghamshire Council constitution and in particular 2.18a page 193, the Corporate Director or Directors with Responsibility for Planning are responsible for making decisions relating to neighbourhood planning.

2. Background

2.1. The Denham Neighbourhood Plan (the Neighbourhood Plan) relates to the Neighbourhood Area that was designated by the former South Bucks District Council on 12th September 2017. This area is coterminous with the Denham Parish boundary and is entirely within the Local Planning Authority Area. Denham Parish Council is the designated qualifying body for the Plan.

2.2. Denham Parish Council undertook pre-submission consultation on the draft Plan in accordance with Regulation 14 between 22nd June – 31st July 2020.

2.3. Following the submission of the Denham Neighbourhood Plan to the Council on 27th October 2020, along with supporting documents, Buckinghamshire Council publicised the Neighbourhood Plan for an eight-week period on 7th December 2020, and representations were invited in accordance with regulation 16. The consultation ended on the 31st January 2021.

3. Independent examination

- 3.1. The Council, with the agreement of the Denham Parish Council, appointed Mr Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI to undertake the examination of the Denham Neighbourhood Plan and to prepare a report of the independent examination.
- 3.2. The Examiner decided to deal with the Neighbourhood Plan via written representations and made a site visit of the Parish on 12th June 2021.
- 3.3. The Examiner's report was received on 23rd August 2021. The report concludes that, subject to making the modifications recommended by the Examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning Referendum. The Examiner also recommended that the referendum area should be based on the designated Denham Neighbourhood Area which is the same as the Denham Parish area.
- 3.4. During the examination process prior to formal publication of the examiner's report the council and the neighbourhood plan group (Denham Parish Council) are given an opportunity to see a draft of the report. This fact check version is supplied so that the Council and parish can check for inaccurate facts, spellings of place names, incorrect references etc. it is not an opportunity to challenge/disagree with the examiners recommendations. However, during this process the parish council raised a number of concerns with the examiners findings suggesting his interpretation of facts was incorrect and this had led him to make the wrong conclusions. Therefore, following the fact check process alongside the final report which was amended to correct a number of facts the Examiner issued a letter explaining his reasoning on the disputed recommendations and essentially concluding that none of the issues raised would alter his conclusions as set out in the examiner's report.

4. Initial Decision

- 4.1. The Council has reviewed the Examiner's report and concludes that the modifications proposed by the Examiner are valid in that they meet the Basic Conditions.
- 4.2. The Neighbourhood Planning (General) Regulations 2012 (as amended) requires under Regulation 18 for 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 1990 Act (as applied by Section 38A of the 2004 Act) in relation to a Neighbourhood Plan. The Regulations (13) provide that where the Council disagrees with the Examiner's decision made in his report the Council has to re-consult, however this provision is not engaged in this instance for the reasons set out in Annex 1.
- 4.3. Having considered each of the recommendations made by the Examiner in his report and the reasons for them, the Council, has decided to accept the Examiner's modifications to the Neighbourhood Plan. The neighbourhood plan group have accepted the examiners recommendations and that the neighbourhood plan referendum version should be the submitted Neighbourhood Plan as modified by the Examiner. This decision is expected to be confirmed by the parish Council at its next meeting.
- 4.4. The Examiner recommended that the Neighbourhood Plan should proceed to a referendum subject to the modifications being made, and that the referendum area should be the designated Denham Neighbourhood Area which is the same area as Denham Parish.
- 4.5. Annex 1 below outlines the Plan Modifications made to the Plan under paragraph 12(6) of Schedule 4B to the 1990 Act (as applied by Section 38A of the 2004 Act) in response to each of the Examiner's recommendations and the justification for this.
- 4.6. The Council is satisfied that subject to those modifications which it considers should be made to the Plan as set out in Annex 1 below, the Plan meets the Basic

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Conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, is compatible with the Convention Rights and complies with the provision made by or under 61E(2), 61J and 61L of the said Act.

4.7. As a result of the above, the Plan as modified should proceed to Referendum.

4.8. The date for the referendum will be set in due course.

5. Other information

5.1. The Independent Examiner's Report, fact check response letter and the Denham Neighbourhood Plan and supporting documents can be viewed on the Council's website: <https://www.southbucks.gov.uk/planning/denham>

5.2. Paper copies will be made available as soon as practicable at the Council's office at

The Gateway Gatehouse Road Aylesbury Buckinghamshire HP19 8FF

Financial and Legal Implications

Financial – there are no significant costs, other than officer time, involved in the consideration of the Examiners recommendations. However, significant costs will arise from the decision to allow the plan to proceed to referendum. The costs of organising and holding the referendum are borne by the Council. The Government provides grant funding should a neighbourhood plan be produced and the Council determines that the plan should proceed to a referendum. The grant is intended to cover the costs of the referendum and contribute to the additional costs to the council of providing neighbourhood plan support. The grant is available per neighbourhood plan. However, it should be borne in mind that the Government could amend the neighbourhood grants scheme or end the grants at any time.

Legal – as explained above the Council is legally required to consider the recommendations within a neighbourhood plan examiner's report and come to a decision on each recommendation.

Delegated authority

The Council's Scheme of Delegations to Officers contained at Part I paragraphs 2.10 and 2.18a of the Council's Constitution authorises the Director of Planning and Environment to determine all decisions relating to neighbourhood planning. This is further delegated under the scheme of delegation to the Head of Policy and Compliance, Planning Policy Manager and Policy Team Leaders.

Exercise of Delegated Authority

I, Chris Schmidt-Reid, Planning Policy Team Leader agree the above recommendation.

Signed: 

Dated: 28/09/21

Background Papers

Denham Neighbourhood Plan Examiners Report

Examiners response to Fact check issues

Denham Neighbourhood Plan – submission version

Annex 1: Schedule of proposed Plan Modifications made by the Examiner and Buckinghamshire Council decision

Proposed modification number (PM)	Page no./ other reference	Modification	Buckinghamshire Council decision / justification
PM1	Pages 25 to 26	<p>At the start of Policy DEN1, insert “In order to maintain essential character,”. In the same sentence, delete all text after “design features”.</p> <p>In place of “relevant Townscape Character Study guidelines”, insert the name of the study (and a hyperlink) and identify the guidelines to which full regard must be demonstrated.</p> <p>Delete “and will inevitably lead to a loss of local amenity”.</p>	<p>The examiner has a number of concerns about the design policies, firstly they all refer to having regard to the relevant townscape character study but this is not named. For clarity the examiner suggests the policies should contain a link to the named study and list the guidelines with the relevant study that should be followed. These recommendations seem sensible and would aid the users of the neighbourhood plan policies, and can be supported by this council.</p> <p>Additionally, the examiner is concerned that the wording of some of the policies states that back land development will inevitably lead to a loss local amenity. While this could be true in some cases this council will need to assess each scheme on its own merits and the Examiner is considered to be correct that harm is not</p>

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Proposed modification number (PM)	Page no./ other reference	Modification	Buckinghamshire Council decision / justification
			<p>inevitable in every case.</p> <p>Accept Examiner’s recommendation and justification.</p>
PM2	Pages 27 to 29	<p>At the start of Policy DEN2, insert “In order to maintain essential character,”. In the same sentence, delete all text after “design features”.</p> <p>In place of “the Chiltern & South Bucks Townscape Character Study (Jan 2019) and Denham Conservation Area Appraisal guidelines”, insert the precise names of the studies (with hyperlinks) and identify the guidelines to which full regard must be demonstrated.</p> <p>Delete all instances of the wording “and will inevitably lead to a loss of local amenity”.</p>	<p>The examiner has a number of concerns about the design policies, firstly they all refer to having regard to the relevant townscape character study but this is not named. For clarity the examiner suggests in Policy DEN2 the two studies listed in the text should be replaced with the precise study names including a link to each of the named studies and the guidelines within the relevant study to be followed should be listed in the policy.</p> <p>These recommendations seem sensible and would aid the users of the neighbourhood plan policies. And can be supported by this council.</p> <p>As with policy DEN1 above the Examiner is recommending the removal of the phrase in the policy which implies all back land development will be harmful for the reasons given in DEN1 this change can be supported by this Council</p>

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Proposed modification number (PM)	Page no./ other reference	Modification	Buckinghamshire Council decision / justification
			Accept Examiner's recommendation and justification.
PM3	Pages 30 to 31	<p>At the start of Policy DEN3, insert "In order to maintain essential character,". In the same sentence, delete all text after "design features".</p> <p>In place of "relevant Townscape Character Study guidelines", insert the name of the study (and a hyperlink) and identify the guidelines to which full regard must be demonstrated.</p> <p>Delete "and will inevitably lead to a loss of local amenity".</p>	<p>The Council's reasons for supporting the Examiner's recommendations are set out for policy DEN1 above.</p> <p>Accept Examiner's recommendation and justification.</p>
PM4	Pages 32 to 33	<p>At the start of Policy DEN4, insert "In order to maintain essential character,". In the same sentence, delete all text after "design features".</p> <p>In place of "relevant Townscape Character Study guidelines", insert the name of the study (and a hyperlink) and identify the guidelines to which full regard must be demonstrated.</p>	<p>The Council's reasons for supporting the Examiner's recommendations are set out for policy DEN1 above.</p> <p>Accept Examiner's recommendation and justification.</p>
PM5	Pages 34 to 35	<p>At the start of Policy DEN5, insert "In order to maintain essential character,". In the same sentence, delete all text after "design features".</p>	<p>The Council's reasons for supporting the Examiner's recommendations are set out for policy DEN1 above.</p>

Proposed modification number (PM)	Page no./ other reference	Modification	Buckinghamshire Council decision / justification
		<p>In place of “relevant Townscape Character Study guidelines”, insert the name of the study (and a hyperlink) and identify the guidelines to which full regard must be demonstrated.</p> <p>Delete “and will inevitably lead to a loss of local amenity”.</p>	Accept Examiner’s recommendation and justification.
PM6	Page 36	<p>In Policy DEN6, delete “development plan”.</p> <p>In Paragraph 5.32, delete “either” (line two). Replace “for the purposes of applying emerging Local Plan policy DM DP4 on Local Heritage Assets” with “as “non-designated heritage assets” as set out in NPPF Paragraph 197”. After the reference to the Good Practice Guide 2012, insert a footnote: “Now replaced by Historic England Advice Note 7: Local Heritage Listing”.</p>	<p>The examiner is concerned that the wording of the policy and supporting justification has become outdated. Indeed, the examiner picks up on points raised in this council’s response regarding the superfluous word ‘either’ the reference to the withdrawn Local Plan policy and the need to refer to heritage assets as non-designated heritage assets. As such the proposed amendments will add clarity to the user of the plan and can be supported.</p> <p>The Councils reasons for supporting the Examiners recommendations are set out for policy DEN1 above.</p> <p>Accept Examiner’s</p>

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Proposed modification number (PM)	Page no./ other reference	Modification	Buckinghamshire Council decision / justification
			recommendation and justification.
PM7	Page 36	In the first and second bullet points of Policy DEN7, substitute “or enhance” for “and enhance”.	<p>Whilst supportive of the aims of the plan supporting the wider aims of the Colne Valley park the examiner is concerned that there is no evidence to show that if the feature is maintained or protected by the development it has to also be enhanced. On this basis he suggests a minor change which would allow developers to enhance the feature but not make it a requirement of the policy.</p> <p>It is agreed there is no evidence to support a policy demand for enhancement of features within the Colne Valley Park.</p> <p>Accept Examiner’s recommendation and justification.</p>
PM8	Pages 38 to 39	Delete Policy DEN8 and the related references in the text, Policy Map and Insets.	The Examiner considered that the sites chosen as local Green Spaces (LGS) have not been justified by any objective assessment of suitable LGS’s and it is not clear from the neighbourhood plan if the criterion for identification in the NPPF have been followed. Additionally, as

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			<p>set out in the national planning guidance where Neighbourhood Plans propose the allocation of land as LGS the landowners must be informed directly so they have a chance to comment on the proposal as part of the neighbourhood plan consultation process. Whilst the parish have attempted to justify this by saying all the proposed designations are on local landowners' land or in public ownership and they dispute the land subject of objections to the plan is actually designated the guidance is clear and the objecting landowner obviously disagrees.</p> <p>Given the national guidance has not been followed and despite being supportive of the principle of LGS designation, this Council accepts the Examiners recommendation is logical.</p> <p>Accept Examiner's recommendation and justification.</p>

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Proposed modification number (PM)	Page no./ other reference	Modification	Buckinghamshire Council decision / justification
PM9	Pages 39, 40 and 46 to 51	With regard to the Policies Map and Insets, show Local Community Uses and Pubs (Policy DEN9) at a scale large enough for the extent of the facilities to be discerned.	<p>For plan policies to be useable where facilities are identified for protection it has to be clear both to the developer and the decision maker what area is being protected. The examiner points out that other than being listed there is no detail of the facilities to be protected and no certainty over their curtilage which could lead to dispute between developers and the decision maker on what areas are in fact protected.</p> <p>Given this it is considered that the examiners recommendations would add clarity to the neighbourhood</p> <p>Accept Examiner’s recommendation and justification.</p>

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Proposed modification number (PM)	Page no./ other reference	Modification	Buckinghamshire Council decision / justification
PM10	Pages 40, 41 and 46 to 51	<p>With regard to the Policies Map and Insets, show Commercial, Business and Service Uses (Policy DEN10) at a scale large enough for the extent of the facilities to be discerned.</p>	<p>For the same reasons as DEN9 above the lack of identification in map form of the uses the policy seeks to protect makes the policy un-useable. Given this the Council supports the Examiners recommendations which will add clarity to users of the plan.</p> <p>Accept Examiner's recommendation and justification.</p>
PM11,	Pages 42 and 46 to 51	<p>With regard to Policy DEN11, show the whole of the gas works site at Amersham Road on an expanded Inset and show in the colour relevant to the policy.</p> <p>Show the site at Willets Lane, Tatling End on the Policies Map/Inset.</p>	<p>Unlike the categories above the brownfield sites are mostly shown on the policies map. However, the Examiner has identified that only part of the gas works site is shown on an inset and not identified properly and another site although listed is not shown at all. The Examiners recommendations seek to rectify these errors and are supported.</p> <p>Accept Examiner's recommendation and justification.</p>