



Record of individual Cabinet member decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Decision made by	Cllr. David Rouane
Key decision?	No
Date of decision (same as date form signed)	12 February 2024
Name and job title of officer requesting the decision	Cheryl Soppet Planning Policy Officer (Neighbourhood)
Officer contact details	Tel: 07917088314 Email: cheryl.soppet@southandvale.gov.uk
Decision	<p>To recommend to Council:</p> <ol style="list-style-type: none"> 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.
Reasons for decision	<ol style="list-style-type: none"> 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. 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: <ul style="list-style-type: none"> • 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. 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.
4. East Hagbourne Parish Council has considered this issue. It took the view that the proposed changes to the 'made' Plan fall into the second category 2 where they consider that the changes proposed constitute material modifications which do not change the nature of the Plan and would require examination but no referendum.
5. South Oxfordshire District Council undertook a separate assessment and concluded that the proposed modifications do not change the nature of the Plan and therefore should undergo an independent examination, but it should not require a new referendum.
6. With the consent of East Hagbourne Parish Council, the council appointed 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.
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).
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.
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 Plan Review remains fundamentally unchanged in its role and purpose. The Examiner's Report recommends that the council should make the Plan Review with the modifications specified in the Report. A list of the Examiner's recommendations, exactly as they are shown in his Report, is available in **Appendix 2**.
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

	<p>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).</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>14. The modifications set out in the Examiner’s Report individually or combined are not considered to produce likely significant environmental effects and are unlikely to have any significant effects on the integrity of European Designated Sites.</p> <p>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.</p>
<p>Alternative options rejected</p>	<p>The council’s options are limited by statute. Paragraph 14 of Schedule A2 of the Planning and Compulsory Purchase Act 2004 sets out that if the Examiner’s Report recommends that the council should make the draft</p>

	<p>plan with the modifications specified in the report, the council must make the draft plan with those modifications.</p> <p>The only circumstance where the district 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).</p> <p>In this case, the Examiner’s Report has recommended that the council should make the Plan with the modifications specified in the Report. For the reasons set out in paragraphs 11 to 14, the council is satisfied that the East Hagbourne Neighbourhood Development Plan Review would not breach or be incompatible with EU obligations or human rights legislation.</p>
<p>Legal implications</p>	<p>The legal implications are set out elsewhere in the report on the basis of which it is considered that the council should now proceed to make the East Hagbourne Neighbourhood Plan Review. The process undertaken and proposed accords with planning legislation.</p>
<p>Financial implications</p>	<p>The Government makes funding available to local authorities to help them meet the cost of their responsibilities around neighbourhood planning. In the case of neighbourhood plan reviews which require an examination but no new referendum, a total of £10,000 can be claimed for each neighbourhood planning area. The council becomes eligible to apply for this additional grant after the revised plan comes into force following examination. Once such a claim is made, claims for further updates to that specific neighbourhood plan will be restricted to one every 5 years.</p> <p>Any costs incurred in the formal stages in excess of Government grants are borne by the council. Staffing costs associated with supporting community groups and progressing neighbourhood plans through the formal stages are funded by the council. It is expected that costs associated with progressing this neighbourhood plan can be met from within the existing neighbourhood planning budget.</p>
<p>Climate implications</p>	<p>The Plan contributes to the achievement of sustainable development. Sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.</p> <p>There are clear overlaps between national policy and the contribution that the Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. The policies in the plan provide the necessary degree of protection of valuable assets and, where appropriate, mitigation. There are policies in the plan addressing Sustainable Development, Local Green Spaces and the environment.</p> <p>Overall, the Plan has set out to achieve sustainable development in the neighbourhood area in a balanced and mutually supportive way.</p>
<p>Equalities implications</p>	<p>No implications.</p>

<p>Other implications</p>	<p>The council is required to comply with the statutory requirements (to consider whether the East Hagbourne Neighbourhood Development Plan Review should be made following the issuing of the Examiner’s Report, which this recommendation seeks to achieve. In view of the considerations referred to elsewhere in this report, a decision not to make the plan would place the council at risk of a legal challenge.</p>			
<p>Background papers considered</p>	<ol style="list-style-type: none"> 1. East Hagbourne Neighbourhood Plan Review and supporting documents 2. National Planning Policy Framework (2023) 3. National Planning Policy Guidance (2014 and subsequent updates) 4. South Oxfordshire Local Plan 2035 5. South Oxfordshire Strategic Environmental Assessment Screening Statement July 2023 6. Representations submitted in response to the East Hagbourne Neighbourhood Plan Review 7. Relevant Ministerial Statements 			
<p>Declarations/ conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?</p>	<p>None</p>			
<p>List consultees</p>		<p>Name</p>	<p>Outcome</p>	<p>Date</p>
<p>Ward councillors</p>	<p>Ben Manning</p>	<p>Agree.</p>	<p>09/02/2024</p>	
	<p>Anne-Marie Simpson</p>	<p>Agree.</p>	<p>07/02/2024</p>	
<p>Legal</p>		<p>No comment.</p>		
<p>legal@southandvale.gov.uk</p>				
<p>Finance</p>	<p>Nicole Tyreman</p>	<p>Agree.</p>	<p>06/02/2024</p>	
<p>Finance@southandvale.gov.uk</p>				
<p>Climate and biodiversity</p>	<p>Jessie Fieth</p>	<p>Agree.</p>	<p>04/02/2024</p>	
<p>climateaction@southandvale.gov.uk</p>				
<p>Diversity and equality</p>	<p>Abi Witting</p>	<p>Agree.</p>	<p>31/01/2024</p>	
<p>equalities@southandvale.gov.uk</p>				
<p>Property</p>	<p>Christopher Mobbs</p>	<p>No comment.</p>	<p>31/01/2024</p>	
<p>property@southandvale.gov.uk</p>				
<p>Communications</p>	<p>Andrea Busiko</p>	<p>Agree.</p>	<p>08/02/2024</p>	
<p>communications@southandvale.gov.uk</p>				

Confidential decision? If so, under which exempt category?	No
Call-in waived by Scrutiny Committee chairman?	N/A
Has this been discussed by Cabinet members?	
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature ____ Councillor David Rouane_____ Date _____ 12 February 2024_____

ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.

For Democratic Services office use only		
Form received	Date: 13 February 2024	Time: 16:03
Date published to all councillors	Date: 14 February 2024	
Call-in deadline	Not applicable as this is not a key decision.	

Appendix 1 – Examiner’s 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

Rec.	Text	Reason
1	<i>At the end of section 2.2 add: ‘The Plan period is 2018-2033.’</i>	To achieve the clarity required by the National Planning Policy Framework (NPPF).
2	Replace ‘planning applications’ with ‘development proposals’ In the fourth bullet point insert ‘from’ between ‘flooding’ and ‘increased’ Delete the eighth bullet point (on	To achieve the clarity required by the NPPF.

	<p>broadband access).</p> <p>In the ninth bullet point delete ‘and to include the provision for recharging electric vehicles’</p>	
<p>3</p>	<p>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.’</p> <p>Replace the second part of the policy with:</p> <p>‘As appropriate to their scale, nature and location, development proposals should:</p> <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>To achieve the clarity required by the NPPF and to ensure the policy can be applied in a proportionate, clear and transparent way.</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).'	
4	Insert a full stop at the end of the first paragraph of the policy	Typographical correction.
5	At the end of the first bullet point delete the unnecessary full stop	Typographical correction.
6	At the end of the opening element delete the unnecessary apostrophe In the final part of the policy delete the unnecessary 'a'	Typographical correction.
7	In the first bullet point delete 'parking'	To achieve the clarity required by the NPPF.
8	Replace the policy with: '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: <ul style="list-style-type: none"> • preserve, mitigate and where necessary, recreate wildlife habitats and net gains in natural flora; • provide corridors of land including public footpaths and 	To achieve the clarity required by the NPPF and to ensure the policy can be applied proportionately and consistently.

	<p>bridleways of significant local recreational and amenity value; and</p> <ul style="list-style-type: none"> incorporate sustainable drainage systems. 	
9	<p><i>At the end of the supporting text add:</i></p> <p><i>‘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>	For clarity.
10	<p>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.’</p>	To achieve the clarity required by the NPPF and to ensure the policy can be applied consistently.
11	<p>Replace ‘Development proposals’ with ‘As appropriate to their scale, nature and location, development proposals’</p> <p>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.</p>	To achieve the clarity required by the NPPF and to ensure the policy can be applied proportionately and consistently.
12	<p>Replace the policy with:</p> <p>‘Development proposals within the catchment area of Hacca's Brook or its tributaries should demonstrate</p>	To achieve the clarity required by the NPPF and to ensure the policy can be applied proportionately and consistently.

	<p>that they will not exacerbate the existing risk of flooding taking into account the flooding history of the immediate locality and local conditions.</p> <p>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.</p> <p>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.</p> <p>Sustainable drainage schemes should be capable of regular maintenance so that their long-term effectiveness can be maintained.'</p>	
<p>13</p>	<p><u>Other Matters – General</u></p> <p><i>Modification of general text (where necessary) to achieve consistency with the modified policies and to accommodate any administrative and technical changes.</i></p>	<p>To achieve the clarity required by the NPPF and to correct typographic and factual errors.</p>
<p>14</p>	<p><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></p> <p><u>SODC Comment 1</u></p> <p>As the NPPF has recently been updated (to the 2023 version) we recommend the following amendments to provide the most up to date information:</p> <p>In this 2023 Update, references have</p>	<p>To achieve the clarity required by the NPPF, to correct typographic and factual errors, and in relation to SODC's comment 23, to ensure accessibility for all.</p>

been updated to reflect the current (2021~~2023~~) version of the NPPF and the current South Oxfordshire Development Plan.

...it was a valued landscape for the purposes of the NPPF (see Para 174 in the NPPF 2021~~2023~~).

SODC Comment 2

We recommend the following amendment to this policy, for clarity:

Decrease or, at the very least, do not increase the risk of flooding **from** increased runoff or from building within flood risk areas and take account of the predicted impact of climate change during the lifetime of the development.

SODC Comment 9

Some or all of the paragraph spacing on these pages has disappeared. We recommend that this is reinstated for clarity and to ensure it is user-friendly for those with visual difficulties.

SODC Comment 14

This page includes newly added paragraphs since the Regulation 14 consultation. We recommend the following minor amendments, for clarity:

Local Plan Policy DES7 calls on development **to** make provision for the effective use and protection of natural resources, including making efficient use of water, for example, through rainwater harvesting and grey water recycling, and causing no deterioration in, and where possible, achieving improvements in, water quality.

(...)

We encourage the efficient use of water, for example through rainwater and grey water recycling.

SODC Comment 15

We recommend inserting the missing full stop at the end of the page, for consistency with the rest of the bullet points.

SODC Comment 16

We recommend amending the weblinks at the foot of this page to blue text, for consistency with the rest of the plan.

SODC Comment 17

We recommend moving the 'Figure 15' title, so it sits directly above the figure itself, for clarity, as the title and map currently sit on separate pages.

SODC Comment 18

We recommend amending the double space between 'of cutting' to a single space.

SODC Comment 19

We recommend the following minor typographical amendment:

The space immediately adjacent to the village hall was and is reserved as an emergency access, and as a turning space and for buses when they need to pick-up or set down.

SODC Comment 20

We recommend amending the list of appendices so that the punctuation at the end of each title is consistent, as

currently some appendices listed end in a comma, some in a colon and some with no punctuation. This is a minor presentational recommendation.

SODC Comment 21

As explained in our Regulation 14 comments, we continue to recommend that a legend is inserted for Figure 3: 'Wildlife assets in East Hagbourne based on local knowledge', so readers understand what the colours/hatching/letters are referring to. The further description that has been added is supported, however a simple colour coded legend would provide further clarity.

SODC Comment 22

We recommend the following typographical amendment, to remove the additional l – it should say 'pavilion'.

The Recreation Ground, within which the East Hagbourne Pavilion lies, has a dominant character establishing a feeling of openness in the area.

SODC Comment 23

Our Equalities Officer commented on the picture of the stone paved footpath along Church Close, explaining that whilst it may seem rural, it is not really accessible, as people with walking aids would find it hard to use them on this path.

Therefore, we recommend the following amendment to the Figure 13 caption, for clarity and to ensure accessibility for all:

Figure 13: The stone-paved footpath along Church Close introduces a level of informality, enhancing the rural feel of the area, **although we would expect all footpaths to be built to an**

accessible standard, for people with different needs.

SODC Comment 24

Our Urban Design Officer has recommended that both Manual for Streets 1 (MFS 2007) and 2 (MFS 2010) should be referenced on this page, to ensure consistency. They highlighted that they are two complementary guidance documents for local authorities on designing residential and busier urban streets respectively. As it stands, only MFS 1 is referenced.

SODC Comment 25

Our Urban Design Officer recommends that reference is added in these pages to the Joint Design Guide natural environment sections, for clarity.

We recommend adding the following wording, in brackets, as follows:

At the end of the ‘Design Guidelines for trees’:

(Also see the [Joint Design Guide](#) Natural Environment sections ‘The Value of Trees’ and ‘Natural Features and Resources’).

At the end of the ‘Design Guidelines for open spaces’:

(Also see the [Joint Design Guide](#) Open Space design section within the Space and Layout chapter).

At the end of the ‘Design Guidelines for biodiversity’:

(Also see the [Joint Design Guide](#) Natural Environment sections ‘The Value of Biodiversity’ and ‘Natural Features and Resources’).

Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off, including the chief executive. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must hand-sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence.
Tel. 01235 422520.
Email: democratic.services@southandvale.gov.uk
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days) if it is a 'key' decision (see the definition of a 'key' decision below). A key decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing a key decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If a key decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
 - refer the decision back to the Cabinet portfolio holder for reconsideration or
 - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
 - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.

Key decisions: assessing whether a decision should be classified as 'key'

The South Oxfordshire and Vale of White Horse District Councils' Constitutions now have the same definition of a key decision:

A key decision is a decision of the Cabinet, an individual Cabinet member, or an officer acting under delegated powers, which is likely:

- (a) to incur expenditure, make savings or to receive income (except government grant) of more than £75,000;**

- (b) to award a revenue or capital grant of over £25,000; or**
- (c) to agree an action that, in the view of the chief executive or relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.**

Key decisions are subject to the scrutiny call-in procedure; non-key decisions are not and can be implemented immediately.

In assessing whether a decision should be classified as 'key', you should consider:

- (a) Will the expenditure, savings or income total more than £75,000 across all financial years?
- (b) Will the grant award to one person or organisation be more than £25,000 across all financial years?
- (c) Does the decision impact on more than one district council ward? And if so, is the impact significant? If residents or property affected by the decision is in one ward but is close to the border of an adjacent ward, it may have a significant impact on that second ward, e.g. through additional traffic, noise, light pollution, odour. Examples of significant impacts on two or more wards are:
 - Decisions to spend Didcot Garden Town funds (significant impact on more than one ward)
 - Changes to the household waste collection policy (affects all households in the district)
 - Reviewing a housing strategy (could have a significant impact on residents in many wards)
 - Adopting a supplementary planning document for a redevelopment site (could significantly affect more than one ward) or a new design guide (affects all wards)
 - Decisions to build new or improve existing leisure facilities (used by residents of more than one ward)

The overriding principle is that before 'key' decisions are made, they must be published in the Cabinet Work Programme for 28 calendar days. Classifying a decision as non-key when it should be a key decision could expose the decision to challenge and delay its implementation.