

Deputy Chief Executive's Unit
Robert Weaver
Deputy Chief Executive



The Town and Country Planning Act 1990 (as amended); Planning and Compulsory Purchase Act 2004; the Localism Act 2011; The Neighbourhood Planning (General) Regulations 2012 (as amended); The Housing and Planning Act 2016 and other relevant legislation

Decision Statement

Bringing the Down Hatherley, Norton and Twigworth (Group) Neighbourhood Development Plan into Legal Force

1. INTRODUCTION

1.1. This Decision Statement has been prepared to satisfy the requirements of Section 38A(9) of the Planning and Compulsory Purchase Act 2004 (as amended) and Regulation 19(a) of the Neighbourhood Planning (General) Regulations 2012 (as amended). The Decision Statement sets out Tewkesbury Borough Council's considerations and formal decision in bringing the Down Hatherley, Norton and Twigworth (Group) Neighbourhood Development Plan into legal force following the successful local referendum held on Thursday 2 May 2019.

2. SUMMARY

2.1 Following an independent Examination and Referendum, Tewkesbury Borough Council resolved to bring the Down Hatherley, Norton and Twigworth (Group) Neighbourhood Development Plan into legal force under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended) at a meeting

of Full Council on Tuesday 28 May 2019.

2.2 The Down Hatherley, Norton and Twigworth (Group) Neighbourhood Development Plan now forms part of the statutory Development Plan for Tewkesbury Borough Council.

2.3 In accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended), this Decision Statement can be viewed on the Council's website: <https://www.tewkesbury.gov.uk/neighbourhood-development-plans/neighbourhood-planning-in-tewkesbury>

2.4 In accordance with Regulation 20 of the Neighbourhood Planning (General) Regulations 2012 (as amended), the Down Hatherley, Norton and Twigworth (Group) Neighbourhood Development Plan can be viewed on the Council's website: <https://www.tewkesbury.gov.uk/neighbourhood-development-plans/neighbourhood-planning-in-tewkesbury>

2.5 Hard copies of this Decision Statement and the Down Hatherley, Norton and Twigworth (Group) Neighbourhood Development Plan can be inspected at: Reception, Tewkesbury Borough Council, Public Service Centre, Gloucester Road, Tewkesbury GL20 5TT Monday - Thursday: 8.30am - 5pm Friday: 8.30am - 4pm.

3. BACKGROUND

3.1 The Down Hatherley, Norton & Twigworth (Group) Neighbourhood Area was designated by resolution of the council's Executive Committee on 4 September 2013.

3.2 A submission version of the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan was accepted by the council on 2 February 2018, under regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

3.3 Following submission of the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan to the local authority, Tewkesbury Borough Council publicised the Plan and supporting documents and invited representations during the consultation period 9 March 2018 until 23 April 2018.

3.4 In consultation with the qualifying body, the council appointed R J Bryan B.A.

Hons, Dip TP, MRTPI as independent examiner of the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan. The examination concluded in September 2018 with the submission of the Examiner's Report recommending that the Plan, once modified, should proceed to a referendum. The examiner also recommended that the area for the referendum should not extend beyond the Neighbourhood Area to which the plan relates.

3.5 In January 2019 the council published a Decision Statement under Regulation 18(2) outlining all the Examiner's modifications and confirming the council's consideration and decision on them. The Decision Statement also outlined the council's decision that 'the plan', as modified, meets the basic conditions, is compatible with the Convention Rights, complies with the definition of a neighbourhood development plan and the provisions that can be made by a neighbourhood development plan; and should proceed to a referendum. The council confirmed that it did not consider it necessary to extend the referendum area.

3.6 On Thursday 2 May 2019, the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan successfully passed referendum with 90.60% voting in favour of the Plan being used to help to decide planning applications in the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Area.

3.7 On Tuesday 28 May 2019, Tewkesbury Borough Council resolved that the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan (incorporating modifications set out in the Regulation 18(2) Decision Statement), be brought into legal force and become part of the statutory Development Plan for Tewkesbury Borough Council. It will sit alongside the other adopted Local Plans that together form the Development Plan.

4 DECISION AND REASONS

4.1 Section 38A(4)(a) of the 2004 Act requires the council to 'make' a neighbourhood development plan if more than half of those voting in the referendum have voted in favour of the plan being used to help decide planning applications in the neighbourhood area. The Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan was endorsed by more than the required threshold in the referendum on 2 May 2019 where 90.60% of those voting having voted in favour of the Plan being used.

4.2 Section 38A (6) of the 2004 Act states that the Local Planning Authority is not subject to the duty if it considers that the making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention Rights.

4.3 The Basic Conditions and Consultation Statement submitted in support of the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan outlined the Qualifying Body's consideration of the European Convention on Human Rights (ECHR), in particular their regard to the fundamental rights and freedoms guaranteed under the ECHR and the Human Rights Act. The Examiner concluded that the Plan and its preparation had regard to the fundamental rights and freedoms guaranteed under the European ECHR and that it complies with the Human Rights Act. The council agreed with the Examiner's conclusions that there had been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis it is considered that the Plan does not breach, nor is in any way incompatible with the ECHR.

4.4 The Qualifying Body issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination on 25 August 2017, which confirmed that a SEA and a full HRA were not required on the ANDP. The Examiner concluded in their September 2018 report that the Plan is compatible with the Convention Rights; does not breach, and is otherwise compatible with, EU obligations; and is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects. The council's Regulation 18(2) Decision Statement confirmed that the modifications accepted by the council, both separately and combined, produce no likely significant environmental effects and are unlikely to have any significant effects on European Designated Sites. Therefore the council does not consider that the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan (incorporating modifications set out in the Regulation 18(2) Decision Statement) is in breach of the relevant legislation.

4.5 The council considers that the Plan meets the basic conditions (set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 as amended), its preparation process was compliant with legal and procedural requirements, it does not breach the legislation (set out in Section 38A(6) of the 2004 Act) and confirms that more than half of those who voted in the referendum on 2 May 2019, voted in favour of making the Plan.

4.6 As a result of Tewkesbury Borough Council's resolution of 28 May 2019, the council has brought the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan into legal force in accordance with Section 38A (4) of the 2004 Act. The Plan forms part of the statutory Development Plan for Tewkesbury Borough Council and can be used in decision making on planning applications in the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Area.

5 OTHER INFORMATION

5.1 In accordance with Regulation 19(b) and Regulation 30 of the Regulations, a copy of this Decision Statement has been sent to:

- The qualifying body, namely Norton Parish Council; and
- The persons who asked to be notified of the decision.

5.2 This Decision Statement and the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan, modified in accordance with the accompanying Modification Document, can be viewed as set out in Section 2 of this Decision Statement.

5.3 Section 61N of Schedule 9 of the Town and Country Planning Act 1990 (as amended) states that any person who is aggrieved by the making of the Down Hatherley, Norton & Twigworth (Group) Neighbourhood Development Plan under Section 61E (4) or (8) may make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 (as amended) on the grounds that:

- the document is not within the appropriate power;
- a procedural requirement has not been complied with.

5.4 Any such application must be made promptly and in any event no later than 6 weeks after the date of this Decision Statement.

31 May 2019