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| Title of Report | DISEWORTH VILLAGE DESIGN STATEMENT | |
| Presented by | Councillor Robert Ashman 01530 273762 robert.ashman@nwleicestershire.gov.uk | |
| Background Papers | Diseworth Village Design Statement | Public Report: Yes |
| | The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 The Town and Country Planning (Local Planning) (England) Regulations 2012 Planning and Compulsory Purchase Act 2004 Statement of Community Involvement | Key Decision: Non-key |
| Financial Implications | The costs of consultation will be in terms of officer time as the consultation will be online. There are no financial implications otherwise. | |
| | Signed off by the Section 151 Officer: Yes | |
| Legal Implications | Legal considerations considered in the drafting of the report | |
| | Signed off by the Monitoring Officer: Yes | |
| Staffing and Corporate Implications | None identified | |
| | Signed off by the Head of Paid Service: Yes | |
| Purpose of Report | To consider a request from Diseworth and Long Whatton Parish Council to adopt a revised Village Design Statement for Diseworth as a Supplementary Planning Document. | |
| Reason for Decision | The Preparation of Supplementary Planning Document is a Cabinet function | |
| Recommendations | THAT CABINET REQUEST THE LOCAL PLAN COMMITTEE TO AGREE TO UNDERTAKE CONSULTATION IN RESPECT OF THE REVISED DISEWORTH VILLAGE DESIGN STATEMENT SUBJECT TO BEING ABLE TO COMPLY WITH THE COUNCIL’S STATEMENT OF COMMUNITY INVOLVEMENT | |

1. BACKGROUND

- 1.1 The Diseworth Village Design Statement was adopted by the District Council as Supplementary Planning Guidance on 3 April 2000.
- 1.2 Following the adoption of the Local Plan in November 2017 a report to Cabinet in January 2018 considered the issue of which existing Supplementary Planning Documents /Guidance should be retained. This involved assessing the various SPD/SPG against a number of criteria to help determine whether it was still relevant.
- 1.3 The Diseworth Village Design Statement was one of two Village Design Statements (the other being Appleby Magna) which it was considered needed to be reviewed if they were to continue to be retained.

2. WHAT IS A VILLAGE DESIGN STATEMENT?

- 2.1 Village Design Statement (VDS) were introduced in the 1990's as a tool to be used by local communities as an expression of their aspirations for how future development should take in to account design matters.
- 2.2 Through the VDS process, local people can set out the pattern and shape of their settlement, landmarks and special features, distinctive features in design and local materials. VDS do not detail the type of development that a community wants in their area, nor do they focus on specific community projects. These goals are more appropriately pursued through neighbourhood plans or parish plans, respectively. The VDS is only concerned with the visual character of a village and how it might be protected or enhanced.
- 2.3 If a community can demonstrate that their VDS is compatible with the adopted Local Plan and has been produced with the involvement of the community and the appropriate statutory consultees, then the VDS can be adopted by the Council as a Supplementary Planning Document (SPD), which means it can be used when determining planning applications within the area to which the VDS applies.

3. REVIEW OF VDS

- 3.1 Following the decision of Cabinet in January 2018, the Diseworth and Long Whatton Parish Council were contacted to advise them of the need to consider reviewing the VDS if it was to be retained.
- 3.2 An initial meeting took place with representatives of the Parish Council in March 2018 to discuss how a review could be conducted and what it needed to consider.
- 3.3 The Parish Council undertook a review of the VDS, updating and amending it as considered necessary (for example to take account of the adopted Local Plan and the National Planning Policy Framework).
- 3.4 It was agreed with the Parish Council that the revised VDS needed to be the subject of consultation before it could be submitted to the District Council. This consultation was undertaken between 28 May and 11 July 2019, facilitated via both the Parish Council website and the District Council's website. In addition, the District Council's database of contacts was used to consult with a range of stakeholders, including representatives of the development industry.
- 3.5 One response was received to the consultation. A number of changes were made to the draft VDS in light of these comments in order to ensure that the VDS was compatible with local and national policies.
- 3.6 The revised VDS was submitted to the Council with a request that it be approved as SPD. The draft VDS is attached at Appendix A of this report.

3.7 The VDS is considered to be compatible with the adopted Local Plan (for example, Policy D1 – Design of new development) and also the Council’s Design SPD, helping to provide a local dimension that these documents cannot do. In discussing the review, officers have also highlighted to the Parish Council where the previous VDS needed updating to reflect changes in national policies, particularly as the National Planning Policy Framework did not exist at the time that the previous version was prepared. These changes have been addressed by the Parish Council.

4.0 PROCESS FOR ADOPTING AS A SUPPLEMENTARY PLANNING DOCUMENT

4.1 Best practice for adopting VDS as SPD has historically required that any VDS be subject to consultation with the local community and stakeholders before being submitted to the Council for approval. Whilst this has happened in respect of the review of the Diseworth VDS, there have been changes in respect of both legislation and regulations which mean that it is not possible to move to adoption of the SPD at this stage.

4.2 Having taken legal advice, the legislative and regulatory requirements are:

- The adoption of an SPD is a Council function as per Schedule 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (“2000 Regulations”). Under the Council’s Constitution Local Plan Committee now has authority to adopt SPD’s.
- The formulation or preparation of a SPD, however, is an Executive function (Cabinet function) as it falls within Regulation 4(1)(c) of the 2000 Regulations.
- An SPD is a ‘local development document’ which neither the 2012 Regulations nor the Planning and Compulsory Purchase Act 2004 allows for a third party (in this case the Parish Council) to prepare and undertake consultation on behalf of the local authority. Reference within the legislation is only made to the local planning authority.

4.3 Put simply legislation does not allow the Council (which in accordance with the Council’s constitution means the Local Plan Committee) to adopt an SPD that it has not prepared or consulted on itself.

4.4 The legal advice has suggested that are two options open to the Council at this stage:

- Prepare the SPD itself and go out to consultation in accordance with the 2012 Regulations and the 2004 Act.
- Take the draft SPD prepared by the Parish Council to Cabinet recommending that the Local Plan Committee approve that the draft SPD go out to public consultation..

4.5 As noted above this situation has arisen due to changes in legislation and requirements since the previous VDS was approved by the Council as SPD. This is not unique to the Council, so a review of practice elsewhere has been undertaken. This review suggests that some authorities have simply adopted the VDS as SPD provided they have been subjected to some form of consultation by the group preparing the VDS as part of its preparation. However, a number of other authorities have, upon receipt of the VDS, undertaken their own consultation (irrespective of whether the group preparing it has previously undertaken consultation) before approving it.

4.6 The latter approach is similar to the first bullet point above at paragraph 4.4, other than the fact it is not the Local Planning Authority that has prepared the VDS, but rather the local community. This fact does represent a small risk, but the fact that the council would have carried out its own consultation would help to minimise this risk.

4.7 For the reasons outlined above it is recommended that the VDS be subject to consultation before consideration is given to adopting it as SPD. The process for this is considered in the next section of the report.

5.0 NEXT STEPS

5.1 In terms of governance, as noted at paragraph 4.2 above, formulation of an SPD, is an Executive function but adoption is a Council function which has been delegated to the Local Plan Committee.

5.2 Therefore, Cabinet are asked to request the Local Plan Committee to approve that the draft SPD go out to public consultation.

5.3 Following the public consultation a further report amending the draft SPD will then need to be brought back to Cabinet (amendments having been made pursuant to the consultation response) recommending that Local Plan Committee approve the revised draft SPD.

5.4 The next Local Plan Committee is scheduled to meet on 29 July 2020. Subject to the agreement of Cabinet, a report will be taken to that meeting seeking the approval of the Local Plan Committee to commence consultation as outlined above.

5.5 The Council's Statement of Community Involvement (SCI), sets out how the Council will consult on planning issues (including SPDs). This states "*Copies of the SPD will be made available for not less than 4 weeks at the Council offices and other defined places and on the Council's website.*"

5.6 Members will be aware that because of the current Covid-19 pandemic the Council Offices are not currently open to visiting members of the public. Therefore, it would not be possible to comply with the SCI. Undertaking a consultation without making a hard copy available at the Council Offices represents a potential risk that could result in a Judicial Review if the VDS was subsequently adopted as SPD. However, if the SCI is not changed then this could result in a significant delay to the adoption of the VDS

5.7 Therefore, before any consultation can be undertaken it will be necessary for the SCI to be amended in light of Covid-19. It is intended that a report making the necessary changes to the SCI will be considered at the 14 July 2020 meeting of Cabinet (i.e. before the meeting of Local Plan Committee). It will then be possible to commence consultation after the Local Plan Committee meeting on 29 July 2020.

| Policies and other considerations, as appropriate | |
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| Council Priorities: | Our communities are safe, healthy and connected |
| Policy Considerations: | The draft VDS has been assessed against both the adopted Local Plan and the Council's Design SPD and is considered to comply with their provisions. |
| Safeguarding: | None identified |
| Equalities/Diversity: | An Equalities Impact Assessment will need to be undertaken before the VDS can be adopted as SPD |
| Customer Impact: | The principal impact would be upon those submitting planning applications in Diseworth as they would need to take in to account the VDS. |
| Economic and Social Impact: | The VDS has been prepared by the Parish Council with input from the local community. As such it represents the aspirations of the local community as to how future developments should look. |
| Environment and Climate Change: | The VDS seeks to ensure that the local environment is taken in to account when designing new |

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| | developments |
| Consultation/Community Engagement: | The draft VDS has been subject to consultation and if agreed by Cabinet and the Local Plan Committee will be ten subject of further consultation. |
| Risks: | As outlined in the confidential Appendix B to this report |
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