



146 New London Road, Chelmsford, Essex CM2 0AW
T. 07776 204651
E. ann@annskippers.co.uk
W. annskippers.co.uk

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Dear Mr. Neal,

Wilmcote and Pathlow Neighbourhood Plan Examination

I am writing in relation to the above examination which I am undertaking via NPIERS.

Section 38A(2) to the Planning and Compulsory Purchase Act 2004 (PCPA 2004) states that a “neighbourhood development plan is a plan which sets out policies in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan”. Section 38A(12) indicates that the meaning of neighbourhood area is given by sections 61G and 61I(1) of the Town and Country Planning Act 1990. In turn section 61G states that “a neighbourhood area means an area within the area of a local planning authority in England which has been designated by the authority as a neighbourhood area...”.

In the case, an area was designated by the local planning authority on 24 February 2014. However, the area which the Plan indicates is the Plan area (page 8 of the Plan) differs from the area designated in 2014 and is larger. In raising this query with you, I understand that in April 2015, there was a Parish boundary change which enlarged Wilmcote and Pathlow Parish to include the land which is shown in the Plan as being the Plan area. The enlarged Parish Council area was not subject to a new neighbourhood plan area designation.

This means that the Plan has been prepared for an area which has not been designated as a neighbourhood plan area. As a result the Plan does not comply with section 38A(2) of the PCPA 2004. It may be worth checking whether the revision to the Parish boundaries had any saving or transitional provision that provided where there was a neighbourhood plan area designation contiguous with the previous Parish boundary that designation should now be interpreted as being contiguous with the new Parish boundary, but short of this I cannot see how the Plan can proceed as it does not comply with the legal requirements.

I understand that initial community engagement and surveys were based on the ‘old’ Parish boundaries. Regulation 14 consultation was carried out on the ‘new’ Parish area. There was no legal basis for the Plan to have been prepared or to cover an area which was not formally designated.

I have considered whether it would be possible for me to amend the area covered by the Plan to the (smaller) designated area. I have reached the conclusion that as the Plan was prepared on the basis of an undesignated area (which may have resulted in a different Plan) and Regulation 14 consultation and other engagement work was potentially misleading (to those who thought the

Plan covered a larger area) and this erroneous assumption means there is a lack of clarity about who's land and rights are affected in relation to the Convention rights, it would not be appropriate for me to do so.

Given that the Plan as submitted for examination is not legally compliant, if I continue with the examination I would have no option but to recommend to you that the Plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

Given the nature of the situation in that there is a legal remedy to this issue, I am therefore writing to you to ascertain your further instructions as to whether you would wish to withdraw the Plan from examination to allow the situation to be remedied, most likely through a new area designation, or whether you wish me to continue the examination.

I recognise there has been no deliberate action on anyone's behalf to prepare the Plan on the basis of an undesignated area and that this is an unfortunate and unusual situation to have arisen.

Once the Council has had an opportunity to consider the course of action it wishes to take, please let me know how you wish to proceed. I would be most grateful if you could respond to me by close of business on Friday 28 October.

The comments made in this letter are without prejudice to my conclusions on any other issue.

Yours sincerely

Ann Skippers

Ann Skippers
Director

via email to Matthew Neal, Neighbourhood Planning Officer, Chief Executive's Unit, Stratford on Avon District Council