

# **Lakes Estate Neighbourhood Development Plan**

## **‘Health Check’ Review Report for Bletchley and Fenny Stratford Town Council**

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**10 March 2014**

### **Context**

Under the Supporting Communities in Neighbourhood Planning Programme 2013-2015 RTPI/Planning Aid is using NPIERS to source suitably qualified and experienced reviewers to undertake ‘health checks’ on emerging Neighbourhood Development Plans or Orders that are eligible for the government funding under this programme. The ‘health check’ is an independent desk based review designed to help both the qualifying body and the local planning authority to identify issues that may cause delay or rejection of Plans or Orders at the submission or independent examination stages.

The ‘health check’ considers whether there are any obvious problems in meeting the basic conditions and other legal requirements. A ‘health check’ imitates a formal examination but is less comprehensive and only deals with the Plan or Order, and where requested, the Basic Conditions and Consultation Statements, but not including background documentation or processes. A ‘health check’ does not involve re-writing the Plan or Order but provides general advice on what changes need to be made. The ‘health check’ is advisory only and has no legal status.

Work is underway to achieve a Neighbourhood Development Plan for the Lakes Estate in Bletchley Milton Keynes. Progress has been made to the point where a Proposed Submission Draft Plan has been prepared on behalf of Bletchley and Fenny Stratford Town Council (the Town Council) in February 2014. The Town Council has requested a 'health check' review at this stage before proceeding to submission of the Neighbourhood Development Plan to Milton Keynes Council.

## **Findings**

From my review of the documentation it is evident that a great deal of effort has been put into working on the Lakes Estate Neighbourhood Development Plan and that much good practice has been established. Bletchley and Fenny Stratford Town Council appointed the Lakes Estate Regeneration Steering Group to prepare a Neighbourhood Development Plan for the area. The Lakes Estate Neighbourhood Plan Task and Finish Group, is a working group that has delegated responsibility for preparation of the Plan. The working group is made up of a number of volunteers, residents, Milton Keynes Council Planning and Regeneration Officers, and Councillors who have helped to facilitate consultation events, engage with residents and drafted the Plan. The Plan has been developed through wide consultation with residents, landowners and businesses in the estate. This inclusive approach to engaging key stakeholders has clearly been most successful.

This 'health check' review has found the Lakes Estate NDP to be competently prepared to a high standard and that the Plan is almost ready for submission for Independent Examination. The findings of this review have led to the making of a number of recommendations on matters to be addressed and these are set out below. Paragraph references relate to the Proposed Submission Draft NDP document unless otherwise indicated.

## **Summary of Recommendations**

### **Recommendation 1:**

**Paragraph 1.8 should be reworded to clarify the Town Council is the qualifying body, and the Town Council resolution to submit the plan proposal to Milton Keynes Council should include:**

- the proposed NDP (that includes a map or statement identifying the plan area);**
- the consultation statement;**
- the basic conditions statement;**

**- and, although not required by the Regulations, any other statement submitted, for example, the Delivery Strategy and High Level Viability Assessment.**

**Recommendation 2: The SEA process should be re-checked.**

**Recommendation 3: Policy GP1: The Presumption in Favour of Sustainable Development should be reworded as solutions will not seek to approve proposals; and it is unclear which Council is referred to.**

**Recommendation 4: Policy GP3: The Physical Integration of New Development should be reworded. “Where additional land comes forward...” is ambiguous and the policy is not self contained. An alternative approach would be “Proposals for land outside the Development Opportunity Sites must clearly demonstrate...”**

**Recommendation 5: Policy GP5: Local Commercial Opportunities should be reworded as it is unclear in referring to “criteria in the development plan”; and “meet the differing needs of the local community” does not offer a clear basis for development management decision making.**

**Recommendation 6: Policy GP6: Protecting the Quality of Landscape and Open Space should be reworded.**

- **The basis of designation as Local Green Space should be set out in respect of each of the two listed facilities.**
- **Future designation as envisaged does not comply with the requirements for identification.**
- **The mechanism for replacement of policies described in paragraph 5.14 should be clarified.**

**Recommendation 7: Policy GP7: Improving Community and Recreation Facilities should be reworded to specify enhancements; and should be reviewed to check the intention that a combination will always apply.**

**Recommendation 8: Policy GP8: Communication and Continued Community Engagement should be reworded as not all development proposals will require these statements.**

**Recommendation 9: A consistent approach should be adopted in describing the nature of the site specific policies.**

**Recommendation 10: The wording of the site specific policies could be reworded to adequately deal with proposed land use.**

**Recommendation 11: Paragraph 6.2 should be reworded to clarify the issue of priority.**

**Recommendation 12: A consistent description of non-NDP components positioned in Appendix 2 should be adopted.**

**Recommendation 13: Justification for identification of development opportunities in relation to open space land should be clarified.**

**Recommendation 14: The explanation of the ways the NDP contributes to the achievement of sustainable development could be extended.**

**Recommendation 15: A statement could be included in the Basic Conditions Statement to confirm that the European Convention on Human Rights has been considered and state the conclusions of that consideration.**

**Recommendation 16: Typographical errors and inconsistencies should be corrected and a check should be made that language is user friendly.**

## **Detailed Comments**

### **Part 1 – Process**

	Criteria	Comment
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	Yes - The NDP relates to a properly designated area. Bletchley and Fenny Stratford Town Council applied to Milton Keynes Council on 23 October 2012 to designate a revised Lakes Estate Neighbourhood Plan area. Following a six week consultation between Monday 29 October and Monday 10 December 2012 Milton Keynes Council designated the Lakes Estate Neighbourhood Development Plan area on 22 January 2013. The Proposed Submission Draft Plan includes a map of the area at Figure 1.1.

		No other NDP has been made for the neighbourhood area and the NDP does not relate to more than one neighbourhood area and therefore complies with those restrictions.
1.2	Have the requirements been met in terms of the designation of a neighbourhood forum?	<p>N/A – Milton Keynes is parished. Bletchley and Fenny Stratford Town Council is a qualifying body for the purposes of preparation of a NDP. Plan preparation has been progressed by the Lakes Estate Task and Finish Group established by the Lakes Estate Steering Group. Paragraph 1.8 should be reworded to clarify the Town Council is the qualifying body. It is anticipated the NDP will be discussed at the Town Council Full Council meeting on 25 March 2014 with a decision on agreement of the NDP for submission to Milton Keynes Council. The necessary supporting associated documents should similarly be approved for submission by the Full Town Council as the qualifying body.</p> <p><b>Recommendation 1:</b>  <b>Paragraph 1.8 should be reworded to clarify the Town Council is the qualifying body, and the Town Council resolution to submit the plan proposal to Milton Keynes Council should include:</b>  <b>-the proposed NDP (that includes a map or statement identifying the plan area);</b>  <b>-the consultation statement;</b>  <b>-the basic conditions statement;</b>  <b>- and, although not required by the Regulations, any other statement submitted, for example, the Delivery Strategy and High Level Viability Assessment</b></p>
1.3	Has the NDP been the subject of appropriate pre-submission consultation and publicity?	Yes – Statutory Consultation in respect of Section 14 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations) has been undertaken between Monday 25 November 2013 and Monday 6 January 2014. This followed an 18 month period during which focussed consultation has occurred utilising a broad range of techniques including events, workshops, exhibitions, questionnaires and drop-in sessions. The Consultation Statement sets out the main issues and concerns made in submissions and includes a response, including NDP changes resulting.

1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the NDP and has a consultation statement been prepared?	Yes - A Consultation Statement dated February 2014 has been prepared. This demonstrates that community engagement and publicity has been extensive and proportionate to the scale and complexity of the NDP. The Consultation Statement provides detailed information relating to the intensive community engagement that has occurred over a period of several years.
1.5	Are arrangements in place for an independent examiner to be appointed?	Yes – Milton Keynes Council is empowered to appoint an examiner, but only with the agreement of Bletchley and Fenny Stratford Town Council. The LPA is in contact with NPIERS who will be able to put forward independent persons who do not have interests in the land affected and who are suitably qualified and experienced.
1.6	Is there a clear project plan for bringing the NDP into force and does it take account of local authority committee cycles?	Yes - The Town Council website sets out a public explanation of the next steps and currently indicates that the date of a referendum is likely to be September 2014. The Town Council hope to run events over the summer supporting people to join in the referendum.
1.7	Has an SEA screening been carried out by the LPA?	Yes – Page 11 of the Basic Conditions Statement states that “the Lakes Estate NDP has been subject to a Strategic Environmental Assessment Screening Report”. Page 27 of the Basic Conditions Statement confirms that a formal request for a screening opinion was made to Milton Keynes Council in respect of the NDP on 19 September 2013 supported by a Screening Report. Milton Keynes Council formally confirmed, following consultation with the three statutory bodies, namely Environment Agency, English Heritage and Natural England, the NDP does not require a full SEA to be undertaken. The Council’s formal SEA Screening Opinion presented at Appendix 2 to the Basic Conditions Statement includes document dates that do not appear to follow a

		proper sequence.  <b>Recommendation 2: The SEA process should be re-checked.</b>
1.8	Has an assessment been made regarding likely significant effect on a European site	Yes – Page 27 of the Basic Conditions Statement confirms that a Habitats Regulations Assessment (HRA) undertaken in connection with preparation of the Milton Keynes Core Strategy confirms there are no European sites that would be affected by the proposals as identified within the NDP and therefore the plan is considered to not require a HRA. Page 11 of the Basic Conditions Statement states that “the screening exercise for the Lakes Estate NDP concluded that there are no European sites that would be affected by the proposals and as such it was considered that a Habitat Directive Assessment was not required.”

## Part 2 – Content

	Criteria	Comment
2.1	Are the policies clear, unambiguous and appropriately justified?	<p>Appropriately justified – Yes. Clear and unambiguous – modification required.</p> <p>The construction and presentation of the Proposed Submission Draft NDP is of a high quality. Section 2 Location and Character, Section 3 Identification of Issues, and Section 4 Vision and Objectives together provide a very clear picture of how current circumstances have evolved and combine to explain the intended nature and direction of change. It is evident that the publicity and consultation undertaken both during plan preparation and previously (as detailed in the Consultation Statement) has been extensive, thorough, and most importantly effective in ensuring that the NDP is shaped by local opinion.</p> <p>The Vision Statement and 12 Core Objectives are appropriate for an NDP and sit</p>

		<p>comfortably with, and have regard to, the National Planning Policy Framework (the Framework). The background presented in Sections 2, 3 and 4 contributes to the justification of the general and site specific policies that follow. The linking of policies to core objectives represents good practice.</p> <p>The requirement to specify the plan period is met.</p> <p><u>General Policies</u></p> <p>These 8 policies meet the requirement to relate to the development and use of land and are appropriate in seeking to direct development and influence its form and scale. For policies to fulfil their function of being used in the determination of planning applications and appeals they must be clear and unambiguous.</p> <p><b>Recommendation 3: Policy GP1: The Presumption in Favour of Sustainable Development should be reworded as solutions will not seek to approve proposals; and it is unclear which Council is referred to.</b></p> <p><b>Recommendation 4: Policy GP3: The Physical Integration of New Development should be reworded. “Where additional land comes forward...” is ambiguous and the policy is not self contained. An alternative approach would be “Proposals for land outside the Development Opportunity Sites must clearly demonstrate...”</b></p> <p><b>Recommendation 5: Policy GP5: Local Commercial Opportunities should be reworded as it is unclear in referring to “criteria in the development plan”; and “meet the differing needs of the local community” does not offer a clear basis for development management decision making.</b></p> <p><b>Recommendation 6: Policy GP6: Protecting the Quality of Landscape and Open Space should be reworded.</b></p> <ul style="list-style-type: none"> <li>• The basis of designation as Local Green Space should be set out in respect of each of the two listed facilities.</li> </ul>
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		<ul style="list-style-type: none"> <li>• <b>Future designation as envisaged does not comply with the requirements for identification.</b></li> <li>• <b>The mechanism for replacement of policies described in paragraph 5.14 should be clarified.</b></li> </ul> <p><b>Recommendation 7: Policy GP7: Improving Community and Recreation Facilities should be reworded to specify enhancements; and should be reviewed to check the intention that a combination will always apply.</b></p> <p><b>Recommendation 8: Policy GP8: Communication and Continued Community Engagement should be reworded as not all development proposals will require these statements.</b></p> <p><u>Site Specific Policies</u></p> <p>It would appear that the 8 site specific policies identify development opportunities and set out guidance as to how those sites could be developed. Proposals emerging would be assessed against those policies. Paragraph 7.3 states “The Vision Plan (Figure 4.1) illustrates the location of the proposed areas of change, enhancement and preservation unless there is special justification” although the meaning of this is unclear. The Basic Conditions Statement however refers to allocations. An example is paragraph 3.8 which states that” Policy SSP7 allocates a mix of land uses...” The Consultation Statement shows that the term “allocations” has been used in plan preparation. Ultimately it is not clear whether the site specific policies are identifying development opportunities or are allocating sites. There is a need to clarify this point for development management purposes. The clarification could also have a bearing on SEA decision processes as in some local authority areas the view has been taken that a SEA is required where NDP’s allocate sites for development.</p> <p><b>Recommendation 9: A consistent approach should be adopted in describing the nature of the site specific policies.</b></p>
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		<p>Policy GP2 establishes a reference for the site specific policies but does not differentiate between housing, commercial and community uses in terms of development to occur on each of the sites. On this basis there is a reliance on each site specific policy to specify the type of development envisaged however the site specific policies are largely silent in this respect. Whilst the relevant rationale paragraphs state land uses the policies generally do not.</p> <p>If to any extent a policy set out in a NDP conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. As the policies have this special status (referred to in 38b (3) The Planning and Compulsory Purchase Act 2004) I consider it advisable to refer to intended land uses in the site specific policies.</p> <p>Policy SS1 DS 1 - Land South of Water Hall School could be reworded. Whilst the rationale states the intention of the policy is to promote residential development the policy does not state that, apart from a reference to dwelling density.</p> <p>Policy SS2 DS 2 - Triangle Land South of Phelps Road adjacent to the Canal and Policy SS4 IN2 – Land at Northern Access Windermere Drive and Policy SS5 IN3 - Land at Southern Access Windermere Drive and Policy SS6 IN4 - Land at Skene Open Space could be reworded to include reference to preferred land use.</p> <p>Policy SS3 IN1 – North Western Verge, Drayton Road could be reworded. Whilst reference is made to the inclusion of bungalows in the dwelling mix the overall land use is unclear.</p> <p>Policy SS7 SC1 – Serpentine Court could be reworded. The policy wording and illustrative plan are not consistent, for example the illustrative plan at Figure 6.15 includes opportunity for live work units however these are not specifically referred to in the wording of the policy.</p> <p>Policy SS8 CG1 – Canal Gateway could be reworded as the final bullet point does not</p>
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		<p>adequately deal with proposed land use.</p> <p><b>Recommendation 10: The wording of the site specific policies could be reworded to adequately deal with proposed land use.</b></p> <p>The statement at paragraph 6.2 (by not precluding as yet unidentified sustainable development) is important in aligning the NDP with the Framework. It is however unclear who will be giving priority and in what way the priority will be given.</p> <p><b>Recommendation 11: Paragraph 6.2 should be reworded to clarify the issue of priority.</b></p>
2.2	Is it clear which parts of the draft plan form the 'neighbourhood development plan proposal' subject to the independent examination, and which parts do not form part of the NDO proposal, and would not be tested by the independent examination?	<p>The Proposed Submission Draft exhibits good practice by maintaining a clear separation of NDP and non-NDP components with the latter positioned in Appendix 2. There is however a lack of consistency in the way that this non-NDP material is described including Neighbourhood Action Plan Evidence in the contents page, The Lakes Estate Community Action Plan in the title page to Appendix 2, Neighbourhood Development Action Plan at 7.18, Neighbourhood Action Plan at 7.19 and reference to non-spatial elements included in the Community Action Plan at 2.7. Most likely to cause confusion is the reference to the "Neighbourhood Plan that is agreed annually" at the second paragraph of Appendix 2.</p> <p><b>Recommendation 12: A consistent description of non-NDP components positioned in Appendix 2 should be adopted.</b></p>
2.3	Are there any obvious conflicts with the NPPF and guidance?	<p>YES – The NDP identifies development opportunities in relation to open space land. It is important that the criteria to be met before open space is built on, as set out in Paragraph 74 of the Framework (surplus to requirement or equivalent replacement or alternative provision), are demonstrably met.</p>

		<p>Otherwise the Basic Conditions Statement demonstrates alignment of the NDP to the Framework. The table demonstrating alignment to the 12 core planning principles is an example of good practice.</p> <p><b>Recommendation 13: Justification for identification of development opportunities in relation to open space land should be clarified.</b></p>
2.4	Is there a clear explanation of the ways the NDP contributes to the achievement of sustainable development?	<p>Yes – Given the considerable volume of total documentation the explanation amounting to less than one page of text in the Basic Conditions Statement could be developed further.</p> <p><b>Recommendation 14: The explanation of the ways the NDP contributes to the achievement of sustainable development could be extended.</b></p>
2.5	Are there any issues around compatibility with human rights?	<p>No –The Independent Examiner will consider whether the NDP is compatible with the Convention rights. ‘The Convention rights’ has the same meaning as the Human Rights Act 1998. I have seen nothing in the current suite of proposed submission documents that indicates any breach of the Convention. It would however be helpful to the Independent Examiner for there to be some evidence of consideration of Human Rights issues through inclusion of a statement in the Basic Conditions Statement in particular relating to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property) of the European Convention on Human Rights.</p> <p><b>Recommendation 15: A statement could be included in the Basic Conditions Statement to confirm that the European Convention on Human Rights has been considered and state the conclusions of that consideration.</b></p>
2.6	Does the NDP avoid dealing with excluded development	<p>Yes - The NDP does not deal with any excluded development.</p>

	including nationally significant infrastructure, waste and minerals?	
2.7	Is there consensus between the local planning authority and the qualifying body over whether the NDP meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	<p>Yes - Milton Keynes Council has lodged formal representations in a letter to the Town Council dated 3 January 2014. The representations were approved by way of delegated decision on 17 December 2013. The representations made are extensively supportive of the NDP. The Town Council will no doubt consider the points made in detail and make any modifications to the NDP that are felt appropriate.</p> <p>The question of development height restriction is one that requires particular consideration.</p> <p>The Basic Conditions Statement confirms at paragraph 3.14 that Milton Keynes Council is not reliant on delivery of new homes in the Lakes Estate area to meet wider area housing targets.</p>
2.9	Are there any obvious errors or other matters that require further consideration in the NDP?	<p>There are a number of typographical errors and inconsistencies that should be corrected. These include:</p> <ul style="list-style-type: none"> <li>• The second bullet point of paragraph 1.6 requires adjustment as currently written it relates more to NDO's rather than NDP's.</li> <li>• Correct the spelling of footpath in policy GP6.</li> <li>• Check the intention to show all frontages as active on a central block in Fig 6.3</li> <li>• It is unclear what the GP period referred to in paragraph 6.5 actually is</li> <li>• 5.7 second bullet point after "designed" add " to"</li> <li>• CO4 delete repeat "that"</li> <li>• Paragraph numbering requires adjustment in Section 7.</li> <li>• The 10 line sentence in the first paragraph 7.6 would benefit from splitting.</li> <li>• Paragraph 2.2 (g) of the Basic Conditions Statement refers to "the order".</li> </ul>

		<ul style="list-style-type: none"> <li>Page 23 of the Basic Conditions Statement should refer to Policy GP5.</li> </ul> <p>Public consultation material used throughout the stages of plan preparation has been of a very high quality and well designed to be fully user friendly. However, although difficult to avoid, in places the language used in the Proposed Submission Draft NDP may be unfamiliar to non-technical readers, for example “Serve to animate the built form and generate activity in the public realm” (page 60)</p> <p><b>Recommendation 16: Typographical errors and inconsistencies should be corrected and a check should be made that language is user friendly.</b></p>
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## Document List

The following NDP documents have been accessed in undertaking this review:

- Lakes Estate Neighbourhood Plan Proposed Submission Draft February 2014
- Lakes Estate Neighbourhood Plan Consultation Statement February 2014
- Lakes Estate Neighbourhood Plan Basic Conditions Statement February 2014

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Report Ends.