

OAKLEY AND DEANE NEIGHBOURHOOD PLAN

Oakley and Deane Neighbourhood Plan Examination,
A Report to Basingstoke and Deane Borough Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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1. Introduction

The Neighbourhood Plan

This Report provides the findings of the examination into the Oakley and Deane Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”
(Paragraph 183, National Planning Policy Framework)

Oakley and Deane Parish Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Basingstoke and Deane Borough Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Oakley and Deane Neighbourhood Area.

Role of the Independent Examiner

I was appointed by Basingstoke and Deane Borough Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Oakley and Deane Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that all of the above points have been met.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan is clear in this regard. The title page of the Neighbourhood Plan includes a reference to the plan period, 2011-2029.

In addition to the above, paragraph 1.5 on page 7 of the Neighbourhood Plan states that the Neighbourhood Plan will “be in force” until 2029; and page 1 of the Basic Conditions Statement also refers to the plan period.

Taking the above into account, I confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I confirmed to Basingstoke and Deane Borough Council that I was satisfied that the Oakley and Deane Neighbourhood Plan could be examined without the need for a Public Hearing.

2. Basic Conditions and Development Plan Status

Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011. In order to meet the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the Neighbourhood Plan against all of the basic conditions above.

The Neighbourhood Plan refers to the basic conditions in the introductory section on page 6. However, it states that the Neighbourhood Plan must “*have appropriate regard*” to national planning policy. This is not quite the case. Furthermore, paragraph 1.4.1 on page 6 goes on to state that the Neighbourhood Plan should “*contribute to the (sic) sustainable development*” and again, this is not quite the case. Furthermore, the basic conditions statement incorrectly asserts that the Neighbourhood Plan “*must comply with*” national policy and guidance.

Whilst these may seem like minor points – and it is not uncommon for neighbourhood plans to seek to paraphrase the basic conditions - the wording of the basic conditions is the result of careful consideration. Paraphrasing them almost inevitably, as in this case, results in their misapplication. In this regard, I note that it is *my* role, as independent examiner, to consider the Neighbourhood Plan against the basic conditions. In this case, no harm has arisen from the small errors noted above.

I recommend:

- **Page 6 Paragraph 1.4.1, change to “*have regard to national policies and advice...contribute to the achievement of sustainable development...*”**

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal². However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects. This process is referred to as a “screening” assessment. If the screening assessment identifies likely significant effects, then an environmental report must be prepared.

The Basic Conditions Statement confirms that Basingstoke and Deane Borough Council undertook a screening assessment and found that,

“when considered in relation to the environmental constraints and the amount of development proposed in the Neighbourhood Area, namely 150 new homes...significant effects on the environment are likely.”

Consequently, it was determined that a Strategic Environmental Assessment was required. The Basic Conditions Statement confirms that the Neighbourhood Plan “was informed and influenced” by a Sustainability Appraisal, incorporating the requirements of the European Strategic Environmental Assessment Directive. This was submitted alongside the Neighbourhood Plan. Evidence has been submitted to demonstrate that the Sustainability Appraisal was integral to the plan-making process and was consulted upon.

As part of the consultation process, responses from the statutory bodies, the Environment Agency, English Heritage (now, with regards to planning matters, Historic England) and Natural England were considered and taken into account. None of the statutory consultees has raised any concerns with the Sustainability Appraisal or its conclusions.

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites. The Basic Conditions Statement confirms that there are no European

² Paragraph 026, Planning Practice Guidance 2014.

sites within a 10km radius of the Neighbourhood Area and Basingstoke and Deane Borough Council is satisfied that an HRA is not required.

In addition to the above, I am mindful that national guidance establishes that the ultimate responsibility of determining whether or not a draft neighbourhood plan meets European obligations lies with the local authority,

“the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance 11-031)

With regards this latter point, Basingstoke and Deane Borough Council has stated that whilst *“it would have preferred if SA (Sustainability Appraisal) work was undertaken to appraise other reasonable alternatives”* with regards the assessment of alternative development sites, it has not stated, anywhere, that in its opinion, the Neighbourhood Plan is not compatible with European obligations.

I note that Basingstoke and Deane Borough Council has stated that it

“is satisfied that the Neighbourhood Plan and process followed complies with the statutory requirements as set out in paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).”

Basingstoke and Deane Borough Council has also *“welcomed”* the *“careful consideration”* of its comments concerning the Sustainability Appraisal by plan-makers and has recognised that *“a useful addition”* has been incorporated into it, *“including a new section (9.4) titled “Assessment of options for reserve sites.”* This section includes appraisal of reasonable alternatives for the reallocation of dwellings should one of the allocated sites not come forward and also assesses the merits of different scales of development at each site.

Thus, whilst representations have been submitted in objection to the Neighbourhood Plan on the basis that the Sustainability Appraisal should have been carried out differently, having regard to the above and paragraph 11-031 in particular, I reach the conclusion below.

I also note that there is no legislative requirement for the Sustainability Appraisal to *“be revisited to test whether (the) plan is capable of delivering a pro-growth scenario in the event that the emerging Local Plan requirement is not sufficient to meet the (Borough’s) housing needs,”* as suggested by one objector.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

3. Background Documents and Oakley and Deane Neighbourhood Area

Background Documents

In undertaking this examination, I have considered various information in addition to the Oakley and Deane Neighbourhood Plan. This has included:

- National Planning Policy Framework (The Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- Basingstoke and Deane Borough Adopted Local Plan (2006) (Saved 2009)
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal

Also:

- Representations received during the publicity period

In addition, I spent an unaccompanied day visiting the Oakley and Deane Neighbourhood Area.

Post-Consultation Submission

The Parish Council has submitted a document entitled “*Amendment to Regulation 16 version of the Plan prior to Examination.*” This was submitted after the close of the Regulation 16 consultation. The comments were submitted on the basis of “*improving clarity*” and with the support of Basingstoke and Deane Borough Council, as “*a helpful approach for the examiner.*”

However, it is not a legislative requirement for additional comments to be submitted for examination after the close of Regulation 16 consultation – unless perhaps called for by the Examiner, possibly as as part of a public hearing process. For clarity, I did not request the above document.

Public consultation is precisely that. It provides opportunities for people to consider matters in an open and transparent manner. The above document has not been consulted upon in any way, shape or form.

The Submission Version of a neighbourhood plan is the final version submitted for examination. Legislation does not allow for it to comprise “*a sort of final version*” the content of which can change, subject to the qualifying body wishing to respond to Regulation 16 consultation.

Whilst I acknowledge that, inevitably, plan-makers are concerned to ensure that the “best” version of their plan is examined, legislation exists for good reason. It provides appropriate opportunities for consultation and sets a requirement for defined and publicised “cut-off” dates. If legislation is not followed, then legislative requirements are unlikely to be met. This may mean that a neighbourhood plan will not progress to Referendum, or even if it does, that it will be open to subsequent legal challenge.

Having regard to the above, I have not taken “*Amendment to Regulation 16 version of the Plan prior to Examination*” into account as part of this examination.

However, in the above

Oakley and Deane Neighbourhood Area

A plan showing the boundary of the Oakley and Deane Neighbourhood Area is provided on page 7 of the Neighbourhood Plan.

Further to an application made by Oakley and Deane Parish Council, Basingstoke and Deane Borough Council approved the designation of Oakley and Deane as a Neighbourhood Area on 24 July 2013.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a successful 'Yes' vote at Referendum.

Oakley and Deane Neighbourhood Plan Consultation

In line with legislative requirements, a Consultation Statement was submitted to Basingstoke and Deane Borough Council. Further to consideration, I can confirm that this sets out who was consulted and how, together with the outcome of the consultation. In this regard, the Consultation Statement meets the requirements of the neighbourhood planning *regulations*³.

At the start of the process, a Neighbourhood Planning Group was formed, with the aim of representing different age ranges and different areas of the Parish. Following background work, the first public consultation took place during January 2014. A leaflet drop to all households in the Neighbourhood Area was followed by four meetings held in three separate locations. During this stage, 21 possible development sites were identified, along with a number of other issues. Over 300 representations were received and considered.

A second consultation period took place during April 2014. Key issues, including potential development sites, were considered and consulted upon. Two public meetings, which included presentations, were well attended and 655 representations were received.

A third consultation, during September 2014, involved a vote on site options, the results of this informed the residential allocations in the plan. Nearly 2,000 people took part in the vote.

The draft plan was then produced and underwent a six week consultation period during March and April 2015. Hard and electronic copies of the plan were made available and people were invited to comment.

³Neighbourhood Planning (General) Regulations 2012.

Consultation was widely communicated and well-publicised in a variety of ways, including via the Parish Council website, where relevant documents and information could be accessed; via email and social media; via the delivery of leaflets; through notices and posters; and through frequent, regular coverage in Link: The Oakley, Deane, Newfound, Malshanger and Wootton St Lawrence Community Magazine.

Taking all of the above into account, the Consultation Statement presents an audit trail to demonstrate that consultation was wide-ranging, comprehensive and transparent. Comments were pro-actively sought and comments received were duly considered. Evidence has been provided to demonstrate that the Neighbourhood Plan reflects the views of local people.

Consultation was carried out in an open manner, and people and organisations were not just provided with a fair chance to have their say, but were actively encouraged to engage in shaping the Neighbourhood Plan.

I am satisfied that the consultation process was comprehensive and robust.

5. The Neighbourhood Plan – Introductory Section

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in italics.

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. I have also considered the Introductory Section of the Neighbourhood Plan and make recommendations below which are aimed at making it a clear and user-friendly document.

The Neighbourhood Plan is well presented. The use of plans and diagrams is supplemented with interesting and informative photographs. Text is clearly set out and Policies are distinctive from supporting information.

The Contents spread across three pages. This seems excessive and to my mind, affords the start of the document an off-putting and unduly technical appearance. It would make the Neighbourhood Plan appear more succinct and readable if the following recommendation was taken into account:

- **Contents – reduce to one page by just showing section headings (rather than the detail of what’s on every page)**

The Foreword provides a good introduction. There are a couple of unnecessary references to the emerging Basingstoke and Deane Local Plan 2011-2029 (referred to in this Report as the emerging Local Plan). It is not the role of the Neighbourhood Plan to “*help deliver the...aspirations*” of the emerging Local Plan and I find that the references to it in the Foreword add confusion, not clarity. I recommend:

- **F1, delete “...for the Basingstoke...2029.” Delete F2 “” ...identified by...2029.”**

Part of Paragraph 1.1 is confusing and inaccurate. I recommend:

- **1.1 line 5, delete “...to establish strategic general...neighbourhood.”**

Paragraph 1.3 shows an incorrect date re: the designation of the Neighbourhood Area. I recommend:

- **1.3 line 6, change “2014” to “2013”**

I recommend changes to Paragraph 1.4.1 earlier in this Report. In addition to these, the opening part of this Paragraph is inaccurate and confusing. A neighbourhood plan is not “*strategic in nature.*” I recommend:

- **1.4.1, delete “is strategic in nature and”**

Paragraph 1.4.2 is also inaccurate and introduces confusion. I recommend:

- **1.4.2 line 6, delete “therefore needs to” and change “take” to “takes”**

Paragraph 1.4.2 refers to the strategic allocation at Manydown. Taken as a whole, the Neighbourhood Plan is unclear about Manydown. Whilst it is referred to and indicated on a plan, little indication of the relationship between the strategic allocation and the Neighbourhood Plan is provided. The strategic allocation will potentially have a significant influence on the Neighbourhood Area and in the light of this, and for clarity, I recommend:

- **1.4.2, delete “(see Map1)” and replace with “*It is anticipated that Manydown, as a strategic allocation, will come forward through the emerging Local Plan. The Neighbourhood Plan does not, itself, allocate land at Manydown for development, but it has been prepared in the expectation of development at Manydown coming forward during the plan period. Map 1 shows the expected extent of the Manydown strategic site and related masterplanning area. The residential allocations in the Neighbourhood Plan do not include new dwellings that may come forward at Manydown.*”**

The final sentence of Paragraph 1.5 reads as though the Parish Council has some kind of statutory role to monitor plan progress and take “*appropriate actions as required.*” It does not. Whilst it is anticipated that the Parish Council will monitor the impacts of the Neighbourhood Plan, any changes will need to be the result of an appropriate due process. I recommend:

- **1.5, delete last sentence**
- **2.1.10 line 1 “and” for “an”**

Paragraph b in Section 3, on page 12, refers to “*at the time of writing.*” As such, the paragraph includes information that is, or will become, out of date. Furthermore, part of the Paragraph reads as though it were a Policy, which it is not. I recommend:

- **Section 3, page 12, delete paragraph b**

Part of Paragraph 3.1.2 also reads as though it were a Policy, which it is not. I recommend:

- **3.1.2 line 13, re-word “*The Parish Council will seek to prioritise the combined Project list, with the aim of funding Projects through the Community Infrastructure Levy and Section 106 Agreement funds. The list...*”**

Whilst the final sentence of Paragraph 4.7.2 refers to land being retained for school expansion, no substantive evidence is provided in this regard. I recommend:

- **4.7.2, delete final sentence**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing Policies

Policy 1 – New Housing Development Volume

Paragraph 5.3 adds little in the way of clarity. The first bullet point introduces the confusing idea of “conforming” to something that is still emerging (and need not be conformed with) and the second bullet point appears as a rather vague statement. I recommend:

- **Delete Paragraph 5.3, retaining title only**

Given the likely scale of the anticipated Manydown development, it would be helpful if the Neighbourhood Plan provided clarity within Policy 1, with regards the relationship between the allocations and Manydown.

In addition, it is inappropriate to allocate sites but not include the plans showing the allocations within the Neighbourhood Plan itself. I recommend:

- **Re-word Policy 1, “...2029. *The allocated sites are shown in Policy 6 below and identified on the accompanying plans. The allocation of approximately 150 dwellings does not include new dwellings that may come forward as part of the Manydown strategic allocation. For clarity, the housing policies of the Neighbourhood Plan do not apply to the Manydown strategic allocation and dwellings that come forward as part of the Manydown strategic allocation will be additional to those allocated in this Neighbourhood Plan.*”**
- **Move Revised Settlement Boundary and Site Plans from Appendices to page 30, to follow Policy 6**

Paragraph 5.3.1.1 provides little in the way of an explanation to Policy 1 and furthermore, it could be read as being in conflict with the Manydown strategic allocation – whereas the Neighbourhood Plan does not seek to prevent Manydown from coming forward.

Paragraph 5.3.1.2 is confusing. It reads as though it is a requirement for neighbourhood planning policies to be in general conformity with those of an emerging plan, which is not the case and could be read as implying that any residential development of less than ten dwellings, within a settlement boundary altered by the Neighbourhood Plan, does not count towards housing numbers. I recommend:

- **Delete Paragraphs 5.3.1.1 and 5.3.1.2**

Neither unusually nor uniquely, a number of representations have been made suggesting that the Neighbourhood Plan should allocate more sites for more housing than it does. However, there is no substantive evidence to demonstrate that Policy 1 does not meet the basic conditions in providing land for approximately 150 dwellings. The figure of approximately 150 dwellings has been derived from the assessment of relevant information and notably, Basingstoke and Deane Borough Council has not raised any concerns in this regard.

The Neighbourhood Plan is being brought forward before an up-to-date Local Plan is in place. In such circumstances, Planning Practice Guidance is explicit in stating that neighbourhood plans *“can be developed before or at the same time as the local planning authority is producing its Local Plan”* (41- 009). Indeed, neighbourhood plans provide an important opportunity to give communities *“direct power”* to provide up to date planning policy that may otherwise not exist due to the absence of an up to date Local Plan.

Whilst I recognise that there is an emerging Local Plan and that housing land matters have not been resolved at the Borough-wide level, I find that the Neighbourhood Plan has been positively prepared with the aim of providing for sustainable growth. In this regard, the Neighbourhood Plan does not actively seek to prevent sustainable development from coming forward, rather, it not only provides for approximately 150 dwellings, but also includes references to a major strategic allocation that will, if it comes forward during the plan period, deliver significantly in excess of 150 new homes.

Policy 1 has emerged through robust public consultation, with evidence provided to demonstrate that the community support the allocations, and further to consideration of available, relevant information, much of it associated with the emerging Local Plan.

The Policy supports sustainable growth, having regard to national policy and it contributes to the achievement of sustainable development. It does not set out a maximum housing number and does not necessarily prevent or preclude sustainable development from coming forward. The Policy meets the basic conditions.

Policy 2 – Allocation of Affordable Housing

Paragraph 5.3.2.1 reads as though it were a Policy, which it is not. Furthermore, it sets out the detailed content of a non-adopted policy in an emerging document. This is inappropriate.

The subsequent Paragraphs provide justification for Policy 2. The Policy aims to ensure that people with a defined local connection are offered affordable housing before other people.

Chapter 6 of the Framework supports planning policy that is responsive to local circumstances and reflects local needs. It supports the delivery of housing that reflects local demand and provides a wide choice of high quality homes. However, whilst I recognise that there is evidence of demand for housing to meet the needs of those with a local connection, Policy 2 is unclear and comprises a Policy that would be difficult to control.

The Policy implies that being offered occupancy is the same thing as actual occupancy. This is not the case. Furthermore, it requires potential occupants to have both parents and children living in the Neighbourhood Area. This is an exceptionally onerous requirement. However, in contrast to such an onerous approach, it then states that someone with *“an offer of employment within the Parish”* would be considered to have a strong local connection. However, this does not appear to relate to another requirement, which is that *“through their work provides important services to the Parish.”* No definition is provided of what such important services would be and would not be.

Taken as a whole, Policy 2 appears contradictory, is confusingly worded and does not provide decision makers with a clear indication of how to respond to a development proposal. It fails to have regard to national policy and does not meet the basic conditions.

I recommend:

- **Delete Policy 2**
- **Delete paragraphs 5.3.2.1 to 5.4.2 inclusive**

In recommending the above, I note that the Neighbourhood Plan does not seek to set out a different level of affordable housing within the Neighbourhood Area to that within the Borough as a whole.

Policy 3 – Mix of Dwellings

It is not clear how Policy 3 will give “*development preference*” to schemes that improve the overall balance of housing in the area. I address this in my recommendation below. Further, as worded, the Policy refers to “*the target*” but does not make it clear that this is a policy requirement. A target is something to aim at, but no indication is provided as to what might happen if this is not hit, met or achieved. I note that, in referring to 90%, the Policy appears to be aimed at developments of ten dwellings or more.

The Framework, as set out in Chapter 6, requires policies to plan for the delivery of a wide choice of homes, reflecting trends, needs and local demand. Policy 3 aims to provide a higher proportion of smaller homes and provides evidence to demonstrate that such an approach is supported by local opinion.

Furthermore, by allowing for viability to be taken into account, it seeks to ensure that such an approach can still reflect trends, needs and demand, as appropriate. Consequently, subject to the recommendations below, Policy 3 has regard to the Framework and contributes to the achievement of sustainable development.

I recommend:

- **Policy 3, re-word “*Proposals for ten dwellings or more should demonstrate how they meet the requirement to increase the proportion of smaller homes in the Neighbourhood Area. Unless viability or other material considerations show a robust justification for a different mix, at least 90% of dwellings in new developments should have less than four bedrooms. Of this 90%, 40% to 50% should have two bedrooms or less.*”**
- **Paragraph 5.7, add at the beginning “*With the exception of the Manydown strategic allocation, large scale development is not supported by...*”**

Policy 4 – Site Allocations

The introductory Paragraphs to Policy 4 summarise how the Neighbourhood Plan determined the residential allocations and the Policy allocates specific sites for *“approximately 150 dwellings.”*

Whilst Policy 4 supports the allocation of 30 dwellings at Oakley Hall, the Neighbourhood Plan recognises that there is a *“full vision”* for land at Oakley Hall to provide a retirement village, comprising around 120-150 dwellings. However, it states that the proposal for the retirement village *“does not address the housing needs of people in the Neighbourhood Area”* with regards it providing *“a complete solution to the housing needs of the community.”*

Evidently, some consideration has therefore been given to the land at Oakley Hall providing most, if not all, of the *“approximately 150 dwellings”* referred to in Policy 1. However, plan-makers have determined that it would be preferable for *“approximately 150 dwellings”* to be allocated to *“multi-sites”* around the Neighbourhood Area, rather than to a single site, at Oakley Hall.

There is evidence to demonstrate that the local community favours a multi-site approach and there is no substantive evidence to demonstrate that such an approach conflicts with the basic conditions. In this regard, the inclusion of land at Oakley Hall, as part of the multi-site approach, adds to the scope for the Neighbourhood Plan to provide for a wide choice of housing, having regard to Chapter 6 of the Framework.

No explanation is provided as to why only the Oakley Hall allocation has the word *“contributing”* included before the allocation and I address this below.

The second part of Policy 4 states that development should be contiguous to existing built development. This is an odd requirement, given that the allocations are the allocations – and are defined in the relevant plans. There is no substantive evidence to demonstrate that this requirement will contribute to the achievement of sustainable development.

I recommend above that the Revised Settlement Boundary plan be moved into the Neighbourhood Plan from the Appendices. However, the plan itself is unclear, incorrect and confusing. It states that it comprises the Revised Settlement Boundary (which I note that the Neighbourhood Plan refers to in different terms in different locations within the document), yet it shows the previous settlement boundary together with dotted lines around various locations. Some of these locations are referred to in Policy 4 as being within the Revised Settlement Boundary, whereas land at Andover Road, for example, is not.

Taking all of the above into account, I recommend:

- Re-word the start of Policy 4 *“Residential land is allocated on the following basis:”* (bullet points to follow)
- Delete *“contributing”* in the fifth bullet point
- Delete *“...contiguous to and...”* in P4.2
- Change P4.3 to *“The Revised Settlement Boundary is shown on a plan, together with plans of each of the allocations, following this Policy.”*
- Correct the Revised Settlement Boundary plan to show the actual revised settlement boundary.

Policy 5 – Constraints Management

Paragraph 6.1.9, in introducing Policy 5, refers to “*any development in the Neighbourhood Area.*” The content of Policy 5 is not relevant to many different types of development.

Policy 5 prevents development if proposals cannot demonstrate requirements that are the responsibility of other bodies to control. Furthermore, the requirements set out are unclear. For example, no information is provided to set out what the volume of traffic is in “*existing residential areas,*” which are themselves undefined. It is therefore unclear what an application would measure increases in the volume of traffic against.

In addition, there is no substantive evidence to demonstrate that say a 90% increase in the volume of traffic would not result in significant harm, or that, say a 100% increase in traffic would result in significant harm. It is therefore unclear how the approach set out in Policy 5 will contribute to the achievement of sustainable development.

In addition to the above, no evidence is provided to set out why local roads and/or bridges need to be improved to minimise the impact of development on the local highway network. There is no evidence to demonstrate that such an approach has regard to national policy or is in general conformity with the strategic policies of the Local Plan.

Taking all of the above into account, I recommend:

- **Delete Policy 5 and Paragraph 6.1.9**

Policy 6 – Site Specific Requirements

Policy 6 seeks to provide detailed requirements for each residential allocation. The first requirement of P6.1 is an odd one. The allocated site is provided on Map 7. There is no need to then state, as a Policy requirement, that development will be permitted if it “...is in the area known as...” Such an approach simply adds unnecessary confusion.

Policy 6 introduces the phrase “will be permitted.” Such an approach effectively pre-approves development proposals without considering all irrelevant matters of detail. Further, the Neighbourhood Plan, were it made, would simply comprise part of the development plan. As such, it would be used as a basis against which to consider planning applications, rather than as a tool to formally “permit” them. I address this below.

The second part of P6.1 is not a land use planning policy. It is, rather, a statement relating to an intention.

Taking the above into account, I recommend:

- **P6.1, change to “Development proposals will be supported if:”**
- **Under P6.1 Andover Road, add “No site specific requirements” and delete a) and b)**

The wording of P6.2 is unclear – there are already public pavements throughout the Highland Drive estate. Rather than provide an access “through” the estate, it would be clearer for the Policy to refer to an access “to” the estate. Similarly, it would be clearer if P6.2 referred to direct access to the adjacent footpath, rather than “public footpath 9” – as there is no evidence to demonstrate that most people know what numbers relate to what public footpaths.

Part d) of P6.2 is convoluted and grammatically incorrect. Taking this and the above into account, I recommend:

- **P6.2, change to “Development proposals will be supported if:”**
- **P6.2 a), change “through” to “to”**
- **Delete P6.2 b)**
- **Delete P6.2 c) and d) and replace with “B) the development provides direct access to and where possible, upgrades the adjacent footpath to the schools; and provides allotments as part of the development.”**

It is not clear how the proposed new footpath referred to in P6.3 will be delivered and maintained or how it will connect with other footpaths. There is insufficient

evidence to demonstrate the deliverability of this proposal. However, I note that national policy encourages the enhancement of public rights of way (Framework, Paragraph 75). I recommend:

- **P6.3, delete and replace with “Support will be given to improvements to the local footpath network delivered in association with the development of this site.”**

Part c) of P6.4, is unclear and poorly worded. Further, it relies on information not set out in any detail in the Neighbourhood Plan and effectively comprises a statement rather than a requirement. I recommend:

- **P6.4, change to “Development proposals will be supported if:”**
- **P6.4, delete parts a) and c). Re-word Policy as “Development proposals will be supported if at least 40%...bungalows.”**

Part 6.5 largely comprises a general, if rather confusing, statement rather than a land use planning policy. I note that SSSI’s are already protected by planning policy and that the approach set out in 6.5 a) provides significantly less protection than that which already exists. Furthermore, 6.5 b) provides no information or detail as to what might comprise “*appropriate landscape assessment*” and so provides little, if anything, in the way of clarity. I also note that national and local policy afford protection to heritage assets.

I recommend:

- **Under P6.5 Oakley Hall, add “No site specific requirements” and delete all other text**

Paragraph 6.4 reads as though it were a Policy, which it is not. I recommend:

- **Delete the first sentence of Paragraph 6.4**

Community Policies

Policy 7 – Protection of Existing Allotments

The Neighbourhood Plan establishes the importance of allotments within the Neighbourhood Area. National policy recognises the role that the provision of shared space and community facilities has to play in enhancing the sustainability of communities (Framework, Chapter 8, “*Promoting healthy communities*”).

In protecting allotments, Policy 7 has regard to national policy and contributes to the achievement of sustainable development. It meets the basic conditions and no changes are recommended.

Policy 8 - New Allotments

Policy 8 encourages the provision of allotments in new developments. This is a positive policy that has regard to the Framework, as considered above.

Policy 8 meets the basic conditions and no changes are recommended.

I note that part of Paragraph 7.2 is worded as though it is a Policy, which it is not. The Neighbourhood Plan is not responsible for other policies in other documents and I recommend:

- **Replace last sentence of Paragraph 7.2 with “*It is noted that the Borough Council applies open space standards to development proposals, as appropriate.*”**

Protection and Enhancement of the Environment

Policy 9 – Conservation Areas

National policy recognises heritage assets as being irreplaceable. Chapter 12 of the Framework, “*Conserving and enhancing the historic environment*” sets out a carefully worded and positive strategy for the conservation and enjoyment of the historic environment.

In setting out just part of national policy, Policy 9 presents an entirely different approach to heritage assets to that established in the Framework. The Policy does not allow for any possible harm or loss to the significance of a heritage asset to be balanced against possible benefits that might result from a development proposal. Consequently, it does not contribute to the achievement of sustainable development and fails to have regard to national policy.

Policy 9 goes on to effectively require Conservation Area Appraisals to be taken into account. However, where adopted Conservation Area Appraisals exist, they must be taken into account in any case.

As Policy 9 does not meet the basic conditions, I recommend:

- **Delete Policy 9. The supporting Paragraphs to be retained as useful background information.**

Policy 10 – Protection and Enhancement of the Environment

The first two parts of Policy 10 seek to introduce a number of requirements relating to ancient woodland, trees, hedgerows and Local Green Space. The last part, P10.3, is confusing. It seeks to retain something that doesn't exist, as well as retain non-designated existing woodland as something called "*natural green (space)*." Natural green space is not defined anywhere in the Neighbourhood Plan and there is no indication of what such a designation would mean for development proposals.

The protection afforded by Policy 10 to ancient woodland, veteran trees and hedgerows does not allow for circumstances whereby the need for and benefits of development clearly outweigh any loss arising. Consequently, this part of Policy 10 fails to have regard to national policy, as set out in Paragraph 118 of the Framework.

In making the recommendation below, I note that planning policy affords significant protection to ancient woodland and veteran trees, and aims to conserve and enhance biodiversity.

Policy 10 seeks to designate Local Green Space. It states that "*Green areas that are demonstrably special...are designated Local Green Space (see Appendix A)*." Paragraph A.1.2 of Appendix A states "*These are the designated Local Green Spaces...and the demonstrably special reasons for designating them (see also Map 5)*." Three separate tables under three different headings then follow, containing eleven different sites, along with a "*Reason for designation*" alongside each site.

Appendix A then includes a further table, under the title "*Green Gap*." This is split into four separate sites, with a further "*Reason for designation*" alongside each. Map 5, entitled "*Local Green Spaces, Green Gap and Views and Vistas in Oakley*" shows 15 separate designations, under a Legend, whereby seven allocations are named as "*Local Green Spaces*," four designations as "*Accessible natural green space*" and four designations as "*Green Gap*."

In addition to the above, Map 5 also includes land labelled as "*Green pathway*" which relates to a proposal in Policy 12.

I set out all of the above, as it demonstrates that, in practice, if not intentionally, Policy 10 only actually seeks to designate seven areas of Local Green Space. However, I note that the tables in Appendix A provide a "*Reason for designation*" for fifteen separate sites.

As set out, the approach to Local Green Space is unclear and inappropriate. It is further obfuscated by the absence of clear plans showing precise boundaries for each proposed Local Green Space.

Local Green Space is a restrictive and significant policy designation. The Framework states that

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances” (Paragraph 76)

and goes on to state, explicitly, that

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Paragraph 77)

Consequently, when designating Local Green Space, plan-makers must clearly demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

Whilst Policy 10 is poorly conceived and drafted, I recognise that there is community support for the designation of Local Green Space. Consequently, with the exception of the areas identified in the Appendices as D1 to D4, Green Gap – an entirely separate designation to Local Green Space and the subject of a separate Policy in the Neighbourhood Plan (and which, I note, mainly comprise extensive tracts of land, designated for the purpose of providing *“visual and physical separation”*) – I have considered whether each of A1-A2, B1-B5 and C1-C4 meet the Local Green Space tests set out in the Framework.

Of these, A1-A2, B1-B4 and C1-C4 all meet the tests set out in the Framework, including being demonstrably special for reasons of beauty, recreational value, tranquillity and richness of wildlife.

However, I note that B5 is some considerable distance from, rather than within reasonably close proximity to, the community it serves. Furthermore, it comprises an extensive tract of land. On further assessment of B5, I note that large areas of farmland are included in the proposed designation, as well as a cricket ground. For these reasons and in the absence of detailed and substantive evidence to the contrary, I am not satisfied that the proposed designation of B5 has regard to the Framework. The designation of B5 as Local Green Space does not meet the basic conditions.

The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Further, the Framework is explicit in stating that the development of Local Green Space will only be permitted in very special circumstances.

However, Policy 10 seeks to introduce its own version of Local Green Space policy, not least by introducing some kind of requirement for “*replacement Local Green Space.*” In so doing, as worded, Policy 10 fails to have regard to national policy.

Taking all of the above into account, I recommend:

- **Replace Policy 10 with a completely revised Policy 10 “*Local Green Space is designated at the sites shown on the plans below, for the reasons set out in the supporting text. Development of Local Green Space will only be permitted in very special circumstances.*”**
- **Create new plans, identifying the precise boundaries of each Local Green Space and show these plans after Policy 10. For clarity, the Local Green Space designation is afforded to A1, A2, B1, B2, B3, B4, C1, C2, C3 and C4. B5 is not designated as a Local Green Space.**
- **Provide the first three tables set out in Appendix A (excluding B5) in the supporting text to Policy 10.**

Subject to the above, Policy 10 contributes to the achievement of sustainable development and meets the basic conditions.

There has been an objection to the designation of C3 as a Local Green Space. However, C3 meets the tests set out in the Framework and I note, specifically, that as a narrow band of land close to Oakley, it is neither extensive nor a considerable distance from the community it serves. The fact that the site is subject to a non-adopted policy of an emerging plan does not prevent it from being designated as a Local Green Space.

I note, in the above regard, that a Local Green Space designation provides protection comparable to that for Green Belt land and that, as such, the designation does not prevent all forms of development.

Policy 11 – Protection of the Green Gap

This Policy seeks to designate a Green Gap, to provide physical and visual separation for Newfound and Oakley from Basingstoke. Paragraph 8.4.4 states that the Green Gap “*is the western fringe of the Basingstoke-Oakley Strategic Gap.*”

Whilst the Basic Conditions Statement submitted alongside the Neighbourhood Plan suggests, on page 14, that Policy 11 is in general conformity with Saved Policy EM5 of the Local Plan, no such Saved Policy exists. I note that Policy EM2 of the emerging Local Plan is a “*Strategic Gaps*” Policy.

By its very nature, a “*Strategic Gaps*” Policy is strategic. Whilst there is no adopted Borough-wide Strategic Gaps Policy, I note above that one is currently emerging through the planning process.

In seeking to designate a Strategic Gap before there is a Borough-wide “*Strategic Gaps*” Policy, the Neighbourhood Plan appears to be “jumping the gun” and taking on strategic Borough-wide matters itself. Furthermore, it seeks to do so in a manner whereby it will introduce a different designation to a Strategic Gap, namely a “*Green Gap.*”

Notwithstanding this approach and the confusion therein, I am concerned that the Green Gap proposed, whilst apparently based on the emerging “*Strategic Gaps*” is different to that proposed in the emerging Local Plan. The justification for such a departure is based on a very general overview provided in a table in Appendix A. This comprises general references to views, rural setting and visual quality. There is no substantive evidence to demonstrate that the “*Green Gap*” is the result of robust, detailed analysis.

Taking all of the above into account, it is not clear to me that Policy 11 will contribute to the achievement of sustainable development. Furthermore, I find that it is not in general conformity with the strategic policies of the Local Plan and there is no substantive evidence before me to the contrary. I recommend:

- **Delete Policy 11 and Paragraph 8.4.4**
- **Delete Appendices page 49**

Policy 12 – Protection of Views and Vistas

The Neighbourhood Plan establishes that the view towards St Leonard’s church from specific nearby footpaths is “A favourite view.” There is evidence to demonstrate that it forms an important part of local character. Policy 12 seeks to protect the area between the church and the footpaths from changing.

Whilst I note that national and strategic local policy protect local character, I am concerned that, as worded, Policy 12 protects a significant area of land “from development or obtrusive interference.” As such, it seeks to prevent development simply for the sake of preventing development, whether or not it harms local character. No substantive evidence has been provided to justify such an approach.

The reference to public footpath numbers is confusing. It would be preferable to show the precise area in question on a map, rather than refer to features that, by their very nature, extend well beyond the area directly impacted by Policy 12.

The Policy refers to the view from St Leonard’s church. No indication is provided as to where this view ends and no justification is provided to protect the view from St Leonard’s church, within the arc referred, to as far as the horizon.

The Policy goes on to list some “improvements” that are “not excluded.” This is a confusing approach. The list is by no means comprehensive and its inclusion is unnecessary. I also note that it conflicts with the earlier wording of the Policy considered above.

Taking the above into account, I recommend:

- **Policy 12, re-word as “The character of the area seen in views of St Leonard’s Church from the public footpaths in the area shown on the plan below will be protected from development proposals that would harm it.”**
- **Include a new plan beneath the Policy. This should identify the specific area protected. It is proposed that this should be in the form of a shaded area over an OS Base.**
- **Delete the second half of Paragraph 8.4.5, from “The present vista...Appendix A).”**

Policy 13 – Woodlands and Trees and Rights of Way in New Developments

Policy 13 largely has regard to Chapter 11 of the Framework, “*Conserving and enhancing the natural environment*” by seeking to encourage biodiversity, and to Chapter 7, “*Requiring good design*,” by encouraging the provision of trees and green space.

However, there is no substantive evidence to demonstrate that every public right of way that passes through or bounds the edges of new development can be enhanced to create green corridors. Consequently, there is a lack of evidence to demonstrate that this part of Policy 13 is deliverable.

I recommend:

- **Delete last sentence of Policy 13**
- **Delete the final sentence of Paragraph 8.4.6 which reads as though it were a Policy, which it is not**

Policy 14 - Biodiversity

The Framework states that the planning system should minimise impacts on biodiversity and provide net gains in biodiversity where possible (Paragraph 109).

Policy 14 has regard to national policy and contributes to the achievement of sustainable development.

I note that the final sentence of the Policy refers to the plan period. This is unnecessary, the Neighbourhood Plan is effective during the plan period. Map 4 on page 40 refers to features that are not the subject of Policies in the Neighbourhood Plan. This is confusing.

I recommend:

- **Delete the final four words of Policy 14**
- **Delete Map 4**

Employment and Skills

Policy 15 – Protection of Employment

Policy 15 seeks to protect employment sites. However, no employment sites are identified in the Neighbourhood Plan and the phrase “*employment sites*” is not defined. It is therefore unclear what Policy 15 is seeking to protect. In this regard, I note that Paragraph 9.1.2 refers to “*two small retail centres.*” Whilst not clear, this would suggest that the Neighbourhood Plan may include shops within its undefined term “*employment sites.*”

Paragraph 9.1.1 refers to home working. There is no indication as to whether the offices of home-workers are intended to be included by the undefined term “*employment sites.*” Taking this and the above into account, the first part of the Policy does not provide decision makers with a clear indication of how to react to a development proposal.

Whilst I note that Appendix B contains a list of “*Buildings Used for Business, Education and Trade,*” this is simply a wide-ranging list of all kinds of uses and Policy 15 does not provide any direct link to it.

The second part of the Policy is positive and supports the provision of new or improved employment “*opportunities.*” Whilst, in land use planning terms, the word “*opportunities*” is perhaps inappropriate, the intent of this part of the Policy is clear and has regard to national policy’s support for economic growth, as established in Paragraph 18 of the Framework.

I recommend:

- **Delete P15.1**
- **Change remainder of Policy 15 to “*This plan supports the provision of new or improved employment space, subject to it not harming local character or residential amenity.*”**
- **Paragraph 9.1.1 and 9.1.2, change “Appendix C” to “Appendix B”**

Policy 16 – Protection of local facilities

Policy 16 is a positive Policy that supports local retail. The word “*upgrade*” appears inappropriate in land use planning terms and use of the reference “*suitable*” leads the Policy to appear somewhat vague. However, the Policy has regard to national policy’s requirement for positive planning for community facilities (Paragraph 70). I recommend:

- **Change Policy 16 to read “*Proposals for new or additional local retail facilities will be supported subject to such development not harming existing facilities, local character or residential amenity.*”**

Design Policies

Policy 17

Good design is recognised by national policy as comprising a key aspect of sustainable development. It is indivisible from good planning and national policy requires good design to contribute positively to making places better for people (Paragraph 56, the Framework).

The Oakley Village Design Statement is an adopted planning document that is distinctive to the Neighbourhood Area. The first part of Policy 17 refers to this and in so doing, has regard to recent changes in national planning policy and advice.

The second part of Policy 17 seeks to promote “*zero carbon buildings policy*” by requiring Building Regulations standards to be exceeded. This fails to have regard to the Ministerial Statement of March 2015, which established that “*neighbourhood plans, or supplementary planning documents*” should not set “*any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.*”

Taking the above into account, I recommend:

- **Policy 17, delete from “Each new development...” to the end of the Policy**

Traffic and Transport

Policy 18 – Traffic and Safety

The Framework establishes that

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe” (Paragraph 32).

The opening sentence of Policy 18 is vague to the point of supporting any development whatsoever – say, a nuclear power station – as long as it results in improvements to the free flow of traffic in Oakley. Clearly such an approach could have unintended consequences and is therefore inappropriate.

Policy 18 then seeks to impose a range of requirements on development, whether or not residual cumulative impacts are severe. Such an approach is in clear conflict with the Framework and does not meet the basic conditions.

Taking the above into account, I recommend:

- **Delete Policy 18**

In making the above recommendation, I note that the supporting text in the Traffic and Transport section provides interesting and useful background information and there is no reason why this should not remain in the Neighbourhood Plan.

7. Summary

I have recommended a number of modifications further to consideration of the Oakley and Deane Neighbourhood Plan against the basic conditions.

Subject to these modifications, the Oakley and Deane Neighbourhood Plan

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

Taking the above into account, I find that the Oakley and Deane Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

8. Referendum

I recommend to Basingstoke and Deane Borough Council that, subject to the modifications proposed, the **Oakley and Deane Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

Neighbourhood Plan Area - I am required to consider whether the Referendum Area should be extended beyond the Oakley and Deane Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Oakley and Deane Neighbourhood Area as approved by Basingstoke and Deane Borough Council on 24 July 2013.

Nigel McGurk, December 2015
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