

BUCKINGHAM NEIGHBOURHOOD PLAN

Buckingham Neighbourhood Plan Examination,
A Report to Aylesbury Vale District Council

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1. Introduction

The Neighbourhood Plan

This Report provides the findings of the examination into the Buckingham 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)

Buckingham Town Council is the *qualifying body*¹ 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 Aylesbury Vale District Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Buckingham Neighbourhood Area.

Role of the Independent Examiner

I was appointed by Aylesbury Vale District Council, with the consent of Buckingham Town Council, 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;

¹The qualifying body is responsible for the production of the Plan.

- 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 Buckingham 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 title page of the Neighbourhood Plan states that it covers the period 2011-2031. The Foreword and Para 1.2 of the Neighbourhood Plan Period also refer to the plan period up until 2031. In addition, Para 1.4 of the Basic Conditions Statement specifies the period during which the Neighbourhood Plan is to have effect.

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 Aylesbury Vale District Council that I was satisfied that the Buckingham 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*² 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 Basic Conditions Statement, prepared by Buckingham Town Council, addresses the basic conditions. I note that the basic conditions are set out in their correct form, as per the legislation, in the Basic Conditions Statement. I make this comment further to some recent examinations, where plan-makers have mistakenly paraphrased the basic conditions and as a result, inadvertently changed their meaning. I confirm that this is not the case here.

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

The Basic Conditions Statement confirms that there are no European sites within the Neighbourhood Area, or in close proximity to it, that would need to be considered under the Habitats Directive. Consequently, no European sites would be affected by the Policies of the Neighbourhood Plan and there was no requirement for a Habitats Regulations Assessment in accordance with EU Habitats Regulations.

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

A Sustainability Appraisal (SA) was submitted alongside the Buckingham Neighbourhood Plan. There is no legal requirement for a neighbourhood plan to have a sustainability appraisal³. However, the Neighbourhood Plan seeks to allocate land for development. The allocation of development land is recognised as one of the limited circumstances where a neighbourhood plan *could* have significant effects. According to Planning Practice Guidance (11-027) the Neighbourhood Plan “*may* fall within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 and so require a strategic environmental assessment.”

As part of the initial preparation for the Plan, a Scoping Report was prepared, consulted upon and then published in August 2012. Subsequent elements of the SA were published and underwent consultation, at the same time as the Pre-Submission version of the Neighbourhood Plan. Consultees included Aylesbury Vale District Council, Natural England, the Environment Agency and English Heritage. Comments received were considered by the Town Council prior to the production of the final version of the SA, submitted together with the Neighbourhood Plan.

Whilst a neighbourhood plan must be compatible with EU obligations, the content of an SEA supporting it need only be proportionate to the plan itself. Under guidance issued by the Secretary of State, a Strategic Environmental Assessment is required to

“focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan.” (Planning Practice Guidance 11-030)

The SA tests the objectives of the Neighbourhood Plan against the SA framework; tests options for development against the SA framework, and includes consideration of the scope for improvement and mitigation of the various options; it considers the preferred option for development; and it provides for ongoing monitoring of the SA. A comprehensive site assessment report was carried out and the whole process was undertaken in an open and transparent manner.

I note that evidence has been submitted to demonstrate that the SA was integral to the plan-making process. Taking all of the above and the information before me into account, I am satisfied that the SA process was robust and was carried out in an appropriate manner.

National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local authority and Aylesbury Vale District Council has not raised any concerns in this regard.

³ Paragraph 026, Planning Practice Guidance 2014.

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

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

3. Background Documents and Buckingham Neighbourhood Area

Background Documents

In undertaking this examination, I have considered various information in addition to the Buckingham 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)
- Aylesbury Vale Local Plan (2004)
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal
- Site Assessment
- Various Appendices

Also:

- Representations received during the publicity period

In addition, I spent an unaccompanied day visiting the Buckingham Neighbourhood Area.

Buckingham Neighbourhood Area

A plan showing the boundary of the Buckingham Neighbourhood Area is set out in Figure 1.1 on page 6 of the Neighbourhood Plan.

Further to an application made by the Town Council, Aylesbury Vale District Council approved the designation of Buckingham as a Neighbourhood Area on 24 November 2014.

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.

Buckingham Neighbourhood Plan Consultation

Buckingham Town Council submitted a Consultation Statement to Aylesbury Vale District Council. 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*⁴.

The Consultation Statement presents an audit trail to demonstrate that consultation was comprehensive and was sustained over a significant period of time. Further to consultation on the Sustainability Appraisal scoping report and a survey of sports clubs and organisations during May 2012, a series of events followed over the course of the same year. These included a Stakeholders Meeting, a Public Open Day, a Young People's Event and a Young Carers Meeting, during the Autumn, followed by a number of events and surveys over the Christmas period and into the New Year. The latter of these included the meeting of a Town Centre Stakeholder Group, a Survey delivered to 5300 homes and businesses, and a University event.

All of the above provided significant information to feed into the preparation of draft policies and was recorded, in the form of Consultation Feedback, produced in May 2013.

Amongst other meetings and events, a Development Vision Roadshow was held in September, with invitees including known developers with an interest in Buckingham, local landowners, agents and neighbouring Parish Councils. Developer presentations were displayed and over 150 visitors attended.

Pre-Submission Consultation was held between November 2013 and January 2014. This was supported by a wide range of events, to encourage clarification and feedback. Comments were taken into account and a second Pre-Submission Consultation was held during July and August 2014. Again, this was supported by a

⁴Neighbourhood Planning (General) Regulations 2012.

series of events, including three days of “Drop-Ins.” Comments were duly considered and any resultant changes incorporated.

A third Pre-Submission Consultation was subsequently held. This too, was supported by three Drop-In days. Notably, over 200 comments were received further to an online survey relating to the consultation period. The comments received were considered and a number of changes were made and incorporated into the Neighbourhood Plan.

The Consultation periods were widely publicised in various ways, including via the Town Council’s website, public notices in the Buckingham Advertiser, posters on local noticeboards, the distribution of information to all addresses in the town – including a mini booklet containing the Proposals Map and a summary of policies, emails and town centre banners.

Taking into account the evidence provided, I am satisfied that consultation was carried out in an open and comprehensive manner. The views of the wider community were actively sought and were taken into account, meaning that the results of consultation helped to shape the Neighbourhood Plan. The production of the Neighbourhood Plan was supported by robust public consultation.

The extent of the consultation undertaken demonstrates that Buckingham Town Council undertook public consultation above and beyond that required by legislation. I am satisfied that the public consultation process was 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. These are aimed at making it a clear and user-friendly document.

One of the first things noticeable about the Neighbourhood Plan is the use of photographs and figures, as well as the use of boxes and different colours to separate text. All of this makes for a distinctive and well-presented document.

The Contents page is clear and the Foreword is brief and informative. I note that the final paragraph of the Foreword would not be relevant to a made plan. I recommend:

- **Delete final paragraph of Foreword and “...so far...” from preceding paragraph.**

Introduction and Background

The Introduction provides useful background, although parts of it will become out of date relatively early in the plan period. I recommend:

- **Delete Para 1.3**

Paragraph 1.6 is repetitive and therefore unnecessary. I recommend:

- **Delete Para 1.6**

It is confusing to refer to student accommodation as part of the provision of housing for Buckingham. I recommend:

- **Para 1.7 Change first and second sentence to “*The BNDP provides for 617 dwellings and in addition, for 400 student units, in light of...Buckingham.*”**

This section goes on to clearly and simply set out the reasons behind the housing allocation in the Neighbourhood Plan. I recommend that the start of Para 1.12 is also made clearer and simpler by shortening it to:

- **“*A Sustainability Appraisal has been...*”**

Paras 1.17 to 1.22 refer to matters that are out of date. I recommend:

- **Delete Paras 1.17 to 1.22**

The whole of Chapter 2 comprises interesting and relevant information relating to the Neighbourhood Area. I don't recommend any changes.

Vision, Objectives, Vision of Buckingham in 2031

These Chapters provide a clear link between the topics considered and the responses received further to consultation, and the policies of the Neighbourhood Plan. Together, they provide an important link between the introductory sections of the Neighbourhood Plan and the policies that follow.

6. The Neighbourhood Plan – Neighbourhood Plan Policies

NB, Where necessary, the recommended changes in this Policy will require associated revisions to the introductory page/summary at the beginning of each Policy section.

I note that an objector to the Neighbourhood Plan considers that “A Neighbourhood Plan cannot be consistent with the requirements of the Framework or the Neighbourhood Plan Basic Conditions if it is progressed on a development plan that is out of date.”

However, in this situation, national policy is crystal clear:

“Neighbourhood plans...can be developed before or at the same time as the local planning authority is producing its Local Plan...” (Planning Practice Guidance 41/009).

Neighbourhood plans can afford communities with 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. I also note that Planning Practice Guidance goes on to state that:

“Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and local planning authority should discuss and aim to agree the relationship between policies...” (41/009).

There is evidence in this case to demonstrate a working relationship between Aylesbury Vale District Council and the qualifying body, Buckingham Town Council, with regards the Neighbourhood Plan. Aylesbury Vale District Council itself refers to:

“...the ongoing dialogue between AVDC and Buckingham Town Council since the plan started to be developed.” (Letter from Aylesbury Vale District Council to Buckingham Town Council 23 April 2015).

Housing and Phasing

This section opens by setting out the objective of providing a diverse housing stock to meet the needs of people today and in the future. The Para before Policy HP1 is confusing as fails to properly distinguish between student accommodation and dwellings. It also provides unnecessary background commentary. I recommend:

- **Delete the second paragraph at the top of page 31**

Policy HP1 – Allocate land for 617 new dwellings

Policy HP1 is a positive policy that supports the development of housing at sites in Buckingham. However, as worded, the detail of the Policy itself is unclear. Whilst there is reference to the “Total Reserve” in Table 1 and further information in the supporting text, there is no information regarding the Reserve Site in Policy HP1. I recommend:

- **Add at the end of Policy HP1 “The reserved allocated site, Site M, will only be required if one or more of the allocated sites, with a total of 80 outstanding units, is not brought forward before 2025.”**
- **Delete Paras 6.1 and 6.2**

The title of Policy HP1 specifically refers to 617 new dwellings, yet the Policy itself states that the numbers of dwellings at each allocation “are indicative.” This is confusing. I recommend:

- **Change title of Policy HP1 to “Allocate land for around 617 dwellings”**

It is confusing to refer to a document that does not yet exist, for example “any applicable Local Plan.” I recommend:

- **Delete “...and any applicable Local Plan.”**

Policy HP1 does not place a maximum figure on the number of houses that can be built in the Neighbourhood Area over the plan period, but by allocating residential land – including reserve land – it provides for certainty and for growth. In this way, it contributes to the achievement of sustainable development and has regard to national policy’s support for sustainable growth.

I consider that Paras 6.3 and 6.4, and the two tables that follow, provide detail that is potentially confusing and that detracts from the simplicity and clarity of Policy HP1. The text and tables appear to have been included to provide some kind of justification for Policy HP1, but instead introduce a whole range of different information. The production of the Neighbourhood Plan was supported by public consultation and a comprehensive evidence base. I consider it unnecessarily

confusing to include what can only be described as “various excerpts” of information. I recommend:

- **Delete Paras 6.3, 6.4 and Tables 2 and 3**

An objection states that “the use of settlement boundaries may preclude the ability for suitable and sustainable development opportunities on the edge of Buckingham from coming forward.” However, notwithstanding the fact that what may or may not happen in the future is something of an unknown quantity, I find that Policy HP1 provides for a degree of certainty. It provides housing allocations for around 617 dwellings, and does not, in itself, prevent the delivery of suitable, sustainable development elsewhere.

Subject to the changes recommended, I consider that Policy HP1 meets the basic conditions.

An objection has been received with regards providing for an ageing population. In this regard, I note that the Neighbourhood Plan does not prevent the delivery of housing for older people.

Policy HP2 – Allocate land for 400 new rooms for University expansion

This is a positive policy that provides for the growth of accommodation relating to the University of Buckingham. As such, Policy HP2 contributes to the achievement of sustainable development and meets the basic conditions.

The Policy seeks to draw a link with a subsequent Policy (Policy E8) with regards the “development of academic space.” However, no detail is provided with regards quantum or timing and as such, this part of Policy E8 does not provide decision makers with a clear indication of how to react to a development proposal, in conflict with the Framework (Para 154). Also, as noted above, it is unnecessary and confusing to refer to something that does not yet exist. I recommend:

- **Delete the second sentence of Policy HP2**
- **Delete “...and any applicable Local Plan”**

Subject to the above, Policy HP2 meets the basic conditions.

Policy HP3 – Allocate land for self-build

In order to deliver a wide choice of high quality homes, national policy promotes planning for

“...people wishing to build their own homes...” (Framework, Para 50)

Policy HP3 has regard to this. I recommend:

- **First line of Policy HP3, change “support” to “supported”**
- **Delete “...and any applicable Local Plan.”**

Part of the Policy simply doesn’t make sense. It also refers to/partially repeats the content of another Policy. I recommend:

- **Delete, from line 13, “...at development...” to the end of Policy HP3**

Subject to the changes above, Policy HP3 contributes to the achievement of sustainable development and meets the basic conditions.

Policy HP4 – Provide a diverse housing mix

Policy HP4 seeks to provide for a range of housing types. This approach has regard to national policy, which promotes the delivery of a wide choice of homes. Whilst the Policy is clear in its intention, the opening sentence appears unduly restrictive without providing sufficient detail to provide applicants with an indication of what the “local needs” are, that must be met. Furthermore, I note that such an approach would appear to fail to provide for housing growth that may be related to anyone moving into the area.

There is no need to refer to the student accommodation in Policy HP2 and the final two lines effectively comprise unnecessary repetition. I recommend:

- **Change opening sentence to “*The sustainable development of a wide range of housing types, sizes and tenures; including the provision of housing that meets local needs, will be supported.*”**
- **Delete text in parenthesis**
- **Line 7, delete from “...and from smaller...” to the end of the Policy.**

Subject to the above, Policy HP4 meets the basic conditions.

Policy HP5 – Provide affordable housing

Policy HP5 sets out the affordable housing requirement for sites of 1 hectare or more, or for 25 dwellings or more. Aylesbury Vale District Local Plan Policy GP.2 states that the District Council will negotiate for a minimum of 20% and up to 30% affordable housing on sites of this size. Further to this, Aylesbury Vale District Local Plan Policy GP.3 requires an *additional* (my emphasis) 10% provision of low cost market housing on such sites.

Taking the above into account, I find that the Neighbourhood Plan's requirement for the provision of 35% affordable housing is in general conformity with the strategic policies of the development plan. I note here, with reference to housing and housing land providers, who have objected to Policy HP5, as they would like to see a lower requirement for affordable housing, that the phrase "in general conformity with" has a different meaning to the phrase "the same as."

With regards the above, I recognise that, importantly, the 35% figure in Policy HP5 is subject to viability. Consequently, it provides for flexibility, having regard to Para 50 of the Framework.

Lines 5 to 11 of Policy HP5 require all affordable housing to be "fully integrated and phased concurrently with" and be "indistinguishable" from, market housing. No evidence has been provided to demonstrate that such an onerous requirement is realistic, viable or appropriate. It may be, for example, that for management reasons, a registered social landlord would prefer to see affordable houses in one location, rather than "fully integrated" throughout a development. Similarly, from a development management perspective, there may be any number of legitimate reasons not to build affordable units concurrently with market housing.

The reference to smaller sites in Policy HP5 makes little sense, in terms of its vague and confusing reference to "any previous development of adjacent sites" and national policy does not require the provision of affordable housing on sites of 10 dwellings or less (Planning Practice Guidance "Planning Obligations").

The latter part of Policy HP5 provides developers with clarity and is to be welcomed, albeit, taking account of the comments above. I note that Paras 6.8 and 6.9, and notes 32 and 33, add little more than unnecessary and confusing information.

Paragraph 6.11 reads as though it is a Policy, but it is not.

Taking the above into account, I recommend:

- **Delete lines 5 – 16 of Policy HP5, from "...; the affordable..." to ...or adjacent sites..."**
- **Line 22, change to "...mix and location of affordable housing and how it will be phased." Delete remainder of Policy HP5**

- Delete Paras 6.8 and 6.9 and notes 32 and 33
- Change Para 6.11 to “...be created, *Buckingham Town Council would like at least 10% of the affordable housing to be delivered...*”

Subject to the above, the Policy meets the basic conditions.

Policy HP6 - Phasing

Policy HP6, as worded, would prevent any housing development until 2016, including for example, barn conversions. To provide clarity and certainty, I recommend:

- **Change first sentence of Policy HP6 to “*The allocated residential development sites will not commence before 1st January 2016.*”**

The remainder of the Policy is long-winded, contains grammatical errors and includes information better suited to supporting text. I recommend:

- **Change second sentence to “*Development of the allocated residential sites can come forward before 2016 where it can be demonstrated that there is sufficient infrastructure capacity.*”**
- **Move all of the rest of the Policy to a new paragraph of supporting text above Para 6.13, with first sentence changed to “*Part of the reason for this Policy is to allow employment...policies. In addition, sewerage capacity needs...Developers will need to provide evidence...*”**
- **Delete Para 6.12**

Policy HP7 – Guidelines for Windfall Sites

This is a positive Policy, which supports small scale windfall development. However, by referring to the built-up area, instead of the settlement boundary, it fails to provide sufficient clarity and opens up the scope for some confusion.

- **Policy HP7, change to “*...within the settlement boundary, including...*”**

Subject to the above, Policy HP7 has regard to the Framework, which promotes sustainable growth. I note that, as a positive Policy, Policy HP7 does not seek to preclude larger-scale, sustainable windfall development from coming forward, as appropriate.

Policy DHE1 – Site Specific Requirements and Buckingham Design Guide

Policy DHE1 refers to the Buckingham Design Guide, which is yet to be produced. Consequently, it seeks to control development with reference to something that doesn't exist. It is not an appropriate land use planning policy.

- **Delete Policy DHE1**

However, I recognise that the approach set out in the Policy seeks to protect local character and that this has regard to national policy. Furthermore, I acknowledge the welcome aspiration to produce a Buckingham Design Guide. Taking these things into account, I consider it important to retain reference in the Neighbourhood Plan. Consequently, I recommend:

- **Create a new “Community Action – Buckingham Design Guide” and place the text of the deleted Policy in a new supporting Para underneath, subject to the following changes, “The Town Council...Society. *The Design Guide will conform to the objectives of design guidance set out by the Local Planning Authority. One of the guiding...market town.*”**

For clarity, I recommend deletion of Policy DHE1 and the recommended Community Action will not comprise a Policy.

Policy DHE2 – Protect existing trees and provision of trees in developments

As per the title, this Policy safeguards and provides for trees. As such, the policy has regard to the Framework and is in general conformity with the Aylesbury Vale District Local Plan, which together among other things, protect local character.

I note that Para 7.1 is written as though it is a Policy. It is not.

To add clarity and to provide for certainty, I recommend:

- **Add, to line 2, “...be maintained *in accordance with British Standard BS5837 or as superseded, in development...*”**
- **Delete Para 7.1**

Policy DHE3 – Provision of Green Infrastructure in relation to habitats

Policy DHE3 simply refers to another authority's Strategy. This is not under the control of the Neighbourhood Plan. It goes on to outline that when something is "appropriate," it will be "expected." No detail is provided regarding what is appropriate and no indication is given as to what would happen if the expected provision does not occur.

Policy DHE3 fails to provide a clear indication to decision makers on how they should react to a development proposal. It does not have regard to the Framework and does not meet the basic conditions.

- **Delete Policy DHE3**

I recognise that green infrastructure is important to the community and do not propose deletion of all of the supporting text. I recommend:

- **Delete Paras 7.3 and 7.4 up to, but excluding the final sentence of Para 7.4**

Policy DHE4 – Standard of ecological information required to minimise the impact on natural habitats

The overall aim of this policy is to ensure the provision of a high standard of ecological information in support of relevant applications. It has regard to national policy, which requires planning policies to seek to minimise impacts on biodiversity (Para 117).

The final sentence of the Policy goes into excessive detail and refers to an Appendix not included in the Neighbourhood Plan. The Policy refers to a requirement to utilise a Calculator that is, itself, only at a preliminary stage and as such, is not a widely recognised, robustly tested or generally accepted tool. I recommend:

- **First line of Policy DHE4, change "will" to "should"**
- **Delete ",and utilise the...Calculator."**
- **Delete final sentence of Policy DHE4**

Policy DHE5 – Protection of designated sites and local and national priority habitats and species

The first part of Policy DHE5 would grant planning permission for any development, so long as it would protect nature conservation value in accordance with status. Such an approach would hypothetically grant planning permission for 10,000 houses and a nuclear power station, so long as the nature conservation value of a designated site the proposal affected would be protected. Clearly, as worded, the first part of Policy DHE5 fails to take into account any number of other relevant factors and does not meet the basic conditions.

However, I recognise that the overall intention of the Policy has regard to the Framework, which seeks net gains in biodiversity - where possible - and which requires the planning system to contribute to the Government's commitment to halt the overall decline in biodiversity (Para 109). I recommend:

- **Policy DHE5, delete first sentence**
- **Change third sentence to “...and *species should protect the sites and wherever possible, deliver a net gain in biodiversity. In granting...*”**

Policy DHE6 – Protection of movement corridors

This Policy seeks to provide protection for bats, to prevent harm arising from lighting and to preserve undeveloped buffer zones for watercourses. It has regard to the Framework's aim of conserving and enhancing the natural environment.

- **Change to “...Where there *are* potentially adverse...”**

Policy DHE7 – Biodiversity in Development Landscaping

This Policy supports biodiversity and has regard to national policy. It meets the basic conditions. The last sentence of the Policy is unnecessarily prescriptive and there is no clarity as to how a “deficiency in the fulfilment of their stated objective” can be monitored and addressed.

- **Change “...are expected...” to “must” and delete final sentence.**

Policy DHE8 – Provision of good quality private outdoor space

The first part of this Policy is in general conformity with the Aylesbury Vale District Local Plan and has regard to the Framework, which together amongst other things, protect residential amenity and promote high quality design.

The Policy becomes confused in seeking to grant permission for any development with good quality private amenity space. Such an approach would ignore other relevant factors. It also provides detail better suited to supporting text. I recommend:

- **End Policy at “...have been incorporated into schemes.”**
- **Move all subsequent text to a new Para of supporting text above Para 7.14, starting “*This Policy seeks to secure development where private external space...In respect...dwellings, the Town Council would...*”**

Policy DHE9 – Design of developments in relation to Daylight and Sunlight

This Policy is highly prescriptive but is not supported by sufficient detail to take account of the myriad circumstances that will exist with regards the distances between various kinds of development and the factors relating to daylight and sunlight. The opening sentence suggests that developments with windows will be supported, but again provides little in the way of detail.

The Policy fails to provide a clear indication of how decision makers should react to a development proposal and provides little in the way of clarity for applicants. It does not have regard to national policy and does not meet the basic conditions.

- **Delete Policy DHE9 and Para 7.17**

Policy CLH1 – Community Building Provision

This Policy sets out an aspiration of the Town Council and refers to something that doesn't yet exist. It is not a land use planning policy.

I recognise that the intention of Policy CLH1 has regard to the Framework, which promotes healthy communities (Chapter 8) and recommend:

- **Delete Policy CLH1**
- **Create a new “Community Action” and set out the text of the deleted Policy under this heading, before Para 8.1**

For clarity, I recommend deletion of Policy CLH1 and the recommended Community Action is not a Policy.

Policy CLH2 – Allocate land for a cemetery

This Policy allocates land for a cemetery and provides clarity with regards a delivery mechanism. It has regard to the Framework's promotion of healthy communities.

Policy CLH3 – Provision of play provision for new developments

Policy CLH3 is in general conformity with Aylesbury Vale District Local Plan policy GP.86. The second part of the Policy refers to matters not under the control of the Neighbourhood Plan, but which are the responsibility of another authority. I recommend:

- **Delete the second part of Policy CLH3, from “...Play space will...”**

Policy CLH4 – Allocate land for allotments

This policy has regard to the Framework, which supports healthy communities. It meets the basic conditions.

Policy CLH5 – Protection of existing and provision of new health facilities

This policy has regard to the Framework, which supports healthy communities. It meets the basic conditions. The title of the Policy does not accurately reflect its content. I recommend:

- **Change title of Policy CLH5 to “*New or extended health care facilities*”**

Policy CLH6 – Protection of existing green open space

Policy CLH6 designates eight Local Green Spaces. Having regard to the Framework, the development of these, other than in very special circumstances, is ruled out.

The Local Green Space designation is an important one. It affords protection consistent with policy for Green Belts. There is no reference at all to Local Green Spaces in the supporting text. The Policy includes reference to an Appendix not included in the Neighbourhood Plan and to the Evidence Base, which does not form part of the Neighbourhood Plan. I consider that this approach fails to have regard to national policy and advice. It provides insufficient background information in relation to the important content of Policy CLH6. In addition, the title of the Policy should refer, specifically, to the designation of Local Green Space.

Figure 8.5 is wholly unsuitable. The precise, detailed boundaries of each Local Green Space need to be shown on clear, labelled plans.

I have considered the Local Green Space document that supported the Neighbourhood Plan and this provides some justification for the proposed Local Green Space designations. The landowner of Ford Meadows objects to the inclusion of this land as a Local Green Space and has set out a robust case in support of this. Ford Meadows comprises a private sports pitch and is not a public recreational asset. I note that the site is located in a flood zone where development may be prevented in any case.

I recommend:

- **Include a new paragraph of supporting text. This should set out that Local Green Spaces have been designated in the Neighbourhood Plan to afford special protection to green areas of particular importance to the local community. It should also state, in a brief bullet point relating to each area of Local Green Space designated, why each green area is demonstrably special to the local community and what the particular local significance of each space comprises.**
- **The boundaries of each Local Green Space should be provided, in this section, on clearly defined maps showing the precise boundaries and the**

names of the Local Green Spaces. This should be in addition to any other Map showing all of the Local Green Spaces together.

- Change “Proposed Designated Green” on Figure 4.2 to “Local Green Space.”
- The title of the Policy should change to “*Local Green Spaces*”
- Delete Ford Meadows

Policy CLH7 – Development of Canal Area

This is a positive Policy that promotes leisure, tourism and heritage. It contributes to the achievement of sustainable development and meets the basic conditions.

Policy CLH8 – Preservation of St Rumbold’s Well

This is a positive Policy that provides for the delivery of a new park. It has regard to the Framework, which promotes healthy communities and is intended to conserve and enhance the historic environment. However, in order to have regard to that part of the Framework that protects heritage assets, the Policy needs to recognise the importance of the scheduled ancient monument and ensure the protection of the asset. I recommend:

- **Add to Policy CLH8”.../railway walk *subject to there being no substantial harm to the scheduled ancient monument, unless substantial public benefits are demonstrated to outweigh that harm.* This is...**

Policy CLH9 – Creation of new parks and green spaces

Policy CLH9 aspires to create open space, but provides nothing in the way of detail – how much, where, when, how, and so on. As worded, it applies to any development, including, for example, new double glazing in a Conservation Area. The policy does not meet the basic conditions. I recommend:

- **Delete Policy CLH9**

Policy CLH10 – Continuation and expansion of Riverside Walk

This Policy has regard to the Framework, which promotes healthy communities and the creation of safe and accessible environments (Para 69). It meets the basic conditions.

Policy EE1 – Allocate land for employment development

The Neighbourhood Plan states that a total of 27.32 hectares of new employment land is required (Para 9.6). Policy EE1 proposes two new employment allocations, Sites E and Q, and reserves a further site for employment (should sites E and Q “not come to fruition” by 2025, or should further development land be required).

Aylesbury Vale District Council objects to Policy EE1. It considers the level of employment land allocated in the Neighbourhood Plan to be significantly in excess of that needed. It points out that the *“total area of sites E (19.96ha), Q (15.3ha) and reserve site C, (12.29ha) is around 47.55 hectares (as measured by AVDC).”*

The Neighbourhood Plan states that the employment allocations are required *“due to existing employment land being set aside for other uses and the estimated requirements from the new housing.”*

Whilst the Framework promotes proactive planning to meet the development needs of business (Para 20), it goes on to state that planning policies should avoid the long term protection of employment allocations where there is no reasonable prospect of a site being used for that purpose (Para 22). It also states that the identification of strategic employment sites should match the strategy and anticipated needs over the period (Para 21).

The Aylesbury Vale District Local Plan recognises Buckingham as a major employment area and the allocation of employment land in its Policy BU.3 reflects its strategy of providing for employment development in line with residential allocations.

Taken together, the Framework and Aylesbury Vale Local Plan clearly establish that the provision of employment land should match the wider strategy for and the anticipated needs of, the area being planned for. The Neighbourhood Plan fails to have regard to the Framework, or be in general conformity with strategic local policy in this respect. The sheer scale of the employment allocations in the Neighbourhood Plan would, if they were developed, result in a total number of new jobs well in excess of – and not matched with – those required for new residents in the new homes the Neighbourhood Plan provides for.

Taking all of the above into account, I find that Policy EE1 fails to meet the basic conditions. In addition, I am mindful that there is an absence of clear, substantive evidence supporting the need for the provision of the scale of employment land proposed in the Neighbourhood Plan. In contrast, the 2012 Employment Land Review which, according to Aylesbury Vale District Council, provides *“the latest position in terms of how much employment land is needed”* points to a requirement for substantially less employment land in Buckingham.

Aylesbury Vale District Council suggests changes to Policy EE1. I note that these would still provide for more employment land for Buckingham than that indicated as the local requirement in the 2012 Employment Land Review – but consider that this allows for some flexibility, whilst still being in general conformity with the Aylesbury Vale Local Plan and having regard to national policy.

I recommend:

- **Change Policy EE1 to read: “*Land at Site Q is allocated for 10 hectares of new employment development. Employment development will be located on that part of the site closest to Buckingham Industrial Estate. The southern edge of the allocation will comprise a landscape buffer to protect views between the site and the Padbury Valley. The remainder of Site Q is allocated as a reserve employment allocation. This will only be developed should it be demonstrated that further employment development is necessary.* The development of employment land must accord with the following requirements:”**
- **Retain the six bullet points in Policy EE1.**
- **Amend Figure 9.1 in the light of the above. Delete Figure 9.2 and delete paragraph 9.6**

For clarity, I recommend that Sites C and E are deleted. Whilst, further to consideration, I acknowledge that both of these sites have some merits, I find that, for the reasons given above, their allocation would lead the Neighbourhood Plan to fail to meet the basic conditions. I note that Site Q is well positioned in relation to Buckingham Industrial Park. I note that Site C is located in a sensitive landscape area, adjacent to a Listed Building and on a site with biodiversity value. Site Q is of such a size that the provision of further reserved land at Site E is unnecessary.

Policy EE2 – Allocation of land for retail, office and mixed development

This is a positive Policy, which supports mixed use development, should identified sites become available as previously developed land. This has regard to national policy, which supports the redevelopment of brownfield land. Rather than prioritising upper floor development for offices, which is not something promoted by national or local strategic policy in this case, the wording can still reflect local views by supporting its provision. Para 9.7 is unnecessary. I recommend:

- **Add “ ...developments *at the locations shown in figures 9.3...*”**
- **Change line 3 to “...9.5. Office usage on...or A5 *will be supported. This...*”**
- **Delete Para 9.7**

Policy EE3 – Development of the town centre

Policy EE3 supports the development of town centre uses. This is a positive Policy that has regard to the Framework, which recognises the importance of ensuring the vitality of town centres, as the heart of communities (Chapter 2). It meets the basic conditions.

Policy EE4 – Primary and Secondary Retail

This Policy seeks to protect primary retail uses and provides a positive approach to the appropriate re-use of secondary retail uses. It has regard to the Framework, which calls for a clear definition primary and secondary frontages in designated centres (Para 23) and clarity about which uses will be permitted in these locations. It meets the basic conditions.

Policy EE5 – Allocation of land for town centre parking

The Framework promotes the improvement of the quality of car parking in town centres (Para 40). Whilst Policy EE5 has regard to this, there is no indication of how the sites identified “are to provide further parking provision.” No detail is provided as to where the money will come from to achieve the delivery of car parking on the two identified sites.

There is no indication of what “excellent” access comprises and the last sentence of the Policy refers to matters controlled by another authority.

I recommend:

- **Change Policy EE5 to “*Two sites have been identified on Figure 9.8 where the provision of town centre car parking will be supported. Car parks at these locations should provide disabled car parking spaces, electric car charging bays and access to footpaths.*”**
- **Paras 9.19 and 9.20, change “must” to “should”**

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

Policy EE6 – Telecommunication provision

Policy EE6 generally repeats guidance set out in Chapter 5 of the Framework (Supporting high quality communications infrastructure). Subject to the recommendation below, it meets the basic conditions:

- **Second Para, delete “..., character or appearance...”**

Policy EE7 – Preservation of existing primary and senior school sites

Policy EE7 seeks to protect good facilities for school provision. It contributes to the achievement of sustainable development and meets the basic conditions.

Policy EE8 – Land allocated to the University of Buckingham expansion

This is a positive Policy that supports the growth and improvement of academic buildings for University use on identified land under the University’s control. However, it seeks to introduce a direct link with the provision of new student accommodation “at the same time.” The supporting text goes on to refer to “a proportionate amount of university accommodation” but provides no indication of what this would comprise.

In the above regard, I am mindful that Policy HP2 already supports the provision of 400 units of student accommodation and that the identified sites include previously developed land. There is nothing before me to demonstrate that this provision is insufficient and I note the University’s comment that it would not be in its interest to expand teaching space without expanding accommodation.

I recommend:

- **Delete the second sentence of Policy EE8**
- **Delete Paras 9.23 and 9.24**

Subject to the above, Policy EE8 contributes to the achievement of sustainable development and meets the basic conditions.

Infrastructure

Policy I1: Creation of infrastructure networks into new development

This Policy states that all development must have good connections, via pedestrian and cycle links. It is an onerous Policy and no reason is provided as to why, say, the provision of a new conservatory would need to comply with its requirements. The Policy refers to a “continuous network” but provides no indication as to what this would be or whether it can be achieved. The Policy goes on to refer to matters outside the control of the Neighbourhood Plan and does not meet the basic conditions.

I recommend:

- **Delete Policy I1**

I recognise that the Neighbourhood Plan would like to improve connectivity. In the light of this, I recommend:

- **Change Para 10.1 to “*The Town Council strongly supports the provision of good connections, via pedestrian and cycle links, with the existing town, footpaths, bridleways, and other potential destinations. Section 4 sets out details in this regard.*”**
- **Change “must” to “*should*” in Paras 10.2 - 10.4 inclusive.**

Policy I2: Disabled access requirement for new pedestrian areas

Policy I2 seeks to provide for disabled access and has regard to Para 32 of the Framework, which promotes safe and suitable access for all people. However, the wording is unclear, I recommend:

- **Add “*New*” to the beginning of Policy I2 and change “must” to “*should*” in Paras 10.5 and 10.6.**

Policy I3: Public transport connectivity

This sets out an onerous Policy, requiring *all* development to provide pedestrian/cycle routes to public transport, or “direct provision” to public transport. The Policy does not meet the basic conditions. I recommend:

- **Delete Policy I3 and Paras 10.7 to 10.8**

Policy I4 – Sustainable Building Design

Policy I4 seeks to promote sustainable building. Whilst the aspiration behind this has regard to sustainable development, which underpins national planning policy, the Policy itself refers to meeting unspecified standards together with standards that don't yet exist. I also note that national advice establishes that:

“Neighbourhood Plans should not be used to apply the new national technical standards.” (Ministerial Statement, March 2015)

The Policy does not meet the basic conditions. I recommend:

- **Delete Policy I4**

Policy I5 – Renewable energy generation

This is a positive Policy that supports renewable energy. It has regard to the Framework, which, in Chapter 10, seeks to meet the challenge of climate change and supports the appropriate development of renewable energy.

The wording of the Policy is repetitive. I recommend:

- **Change Policy I5 to *“Planning permission will be granted for small scale micro-generation...energy. Any such development affecting heritage assets, or their setting, will only be permitted where it is demonstrated to preserve or enhance these assets.”***

Policy I6 – Rainwater collection

This Policy contributes to the achievement of sustainable development and meets the basic conditions. However, the phrase “redeveloped buildings” is vague and unhelpful. I recommend:

- **Policy I6, first line, delete *“...or redeveloped...”***

Policy I7 – Sustainable Urban Drainage System

This Policy seeks to impose sustainable urban drainage systems (SUDs) on all development. Whilst SUDs can form part of good design, it is not likely to be necessary, or even implementable, for many types of development. The Policy goes on to refer to the responsibilities of other authorities. Policy I7 does not meet the basic conditions.

- **Delete Policy I7 and delete Para 10.9**

Policy I8 – Development upon the flood plain

This Policy has regard to the Framework, which seeks to prevent inappropriate development in areas at risk of flooding (Para 100). It meets the basic conditions.

Policy I9 – Sewage Management

Policy I9 seeks to deal with a recognised sewage drainage problem and contributes to the achievement of sustainable development. However, Planning Practice Guidance requires mitigations to be:

“practical and proportionate to any impact” (Planning Practice Guidance 34/019)

Consequently, as worded, Policy I9 does not have regard to national policy. I recommend:

- **Change wording to “...this situation, development requiring sewage drainage must demonstrate an appropriate solution.”**
- **Delete Para 10.11**

Developer Contributions

Policy DC1 – Contributions for cycle and pedestrian connections

Planning Practice Guidance requires planning obligations to be necessary to make development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind (Para 23b/001). These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010.

Policy DC1 lacks clarity, justification and evidence. It refers to unspecified schemes and an “agreement” with other authorities, of which no detail is provided.

- **Delete Policy DC1**

I recognise that the Town Council would like to improve cycle and pedestrian links. I recommend:

- **Retain Paras 11.1 to 11.3 inclusive.**
- **Include new heading above Para 11.1 “Community Action” and change wording of Para 11.1 to “*The provision of new pedestrian and cycle links is strongly supported and the Town Council will seek contributions towards this aspiration.*”**
- **Change wording of Para 11.2 to begin “*It is proposed that schemes will provide:...villages*”**

Policy DC2 – Contributions for the implementation of the Buckingham Transport Strategy

No indication is provided as to what the Buckingham Transport Strategy is. It is not in the Evidence Base. The Policy fails to have regard to national policy and advice and does not meet the basic conditions. I recommend:

- **Delete Policy DC2 and Paras 11.4 to 11.6**

Policy DC3 – Contributions for Local Infrastructure

This Policy refers to a draft document produced by another authority, as well as to future documents that don’t yet exist. It refers to unspecified agreements with other bodies. It fails to meet the statutory tests identified above and does not meet the basic conditions. I recommend:

- **Delete Policy DC3**

Site Specific Requirements

Unlike other parts of the Neighbourhood Plan, the Policies in this Section are not titled, which is confusing.

The Site Design Brief Policy should make it clear that it applies to the allocated housing sites. It may not be possible to fully agree all elements of a design brief in a timely manner and consequently, a requirement in this regard could prevent sustainable development from going ahead without delay.

I recommend:

- **Title Policies: “Policy SR1 Site Design Brief; Policy SR2 Site G; Policy SR3 Site H” and so on.**
- **Change first sentence of the Site Design Brief policy to “A Design Brief for each of the allocated housing sites must...” Delete “...and agreed...” from the second sentence and replace with “and demonstrate how it accords with the Neighbourhood Plan...”**

The **Site G Policy** refers to “respecting” the significance of St Rumbold’s Well. Such an approach fails to have regard to national policy, which requires heritage assets to be conserved and enhanced in a specific manner. Rather than seek to impose a different planning regime with regard Scheduled Ancient Monuments, it is better, in this case, to rely on national policy. There is a similar point in respect of the **Site J Policy** approach to heritage assets. I recommend:

- **Delete second bullet point in the Site G Policy.**
- **Change the sixth bullet point, which refers to the Scheduled Ancient Monument, to simply “Provide a new park.” (National heritage policies safeguard Scheduled Ancient Monuments).**
- **Delete second bullet point in the Site J Policy.**

The allocation policies are highly prescriptive in effectively setting maximum numbers of houses for each site, along with minimum areas of green, open and play space. This fails to allow for flexibility and may prevent the delivery of sustainable development. The amount of green and play space provided will be determined in the light of evidence determining need at the time, as well as through the masterplanning and Design Brief process. The approach set out is especially inappropriate as the precise number of dwellings to be delivered on each site is unknown.

As recommended, to meet the basic conditions, Policy HP1 allocates land for around 617 dwellings. This figure may be more or less than 617. Each of the allocated sites has a clear boundary. However, without a master plan, it is difficult to understand

how the Neighbourhood Plan can prescribe a maximum number of dwellings for each site. All kinds of factors will determine the precise number of dwellings to be provided on each site and I am mindful that the Framework requires housing policies to be *“sufficiently flexible to take account of changing market conditions over time”* (Para 50).

Taking the above into account, I recommend:

- **In all of the allocation Policies, change “up to” to “around”**
- **Delete all of the bullet points referring to accessible green space, equipped playing space, informal playing space and additional green space**

For clarity, the second of these recommendations will not mean that green and play space will not be provided. Existing national and local policy provides for this. It will however, provide flexibility to allow for good masterplanning, taking into account all relevant policies, from the neighbourhood to the national level.

7. Summary

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

Subject to these modifications, the Buckingham 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 Buckingham Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

8. Referendum

I recommend to Aylesbury Vale District Council that, subject to the modifications proposed, the **Buckingham 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 Buckingham 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 Buckingham Neighbourhood Area as approved by Aylesbury Vale District Council on 24 November 2014.

Nigel McGurk, June 2015
Erimax – Land, Planning and Communities

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