



Buckingham
Neighbourhood
Development Plan

Condition Report
Basic Conditions Statement

1.1 Introduction

This statement has been prepared by Buckingham Town Council to accompany the submission of the Buckingham Neighbourhood Development Plan under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 to the local planning authority, Aylesbury Vale District Council.

1.2 Under s.61F(1) &(4)of the Town & Country Planning Act 1990 as Buckingham is a parish area, the Town Council is the only body authorised to act in relation to a neighbourhood plan.¹ It is the qualifying body under S.38A(12) of the Planning and Compensation Act 2004.

1.3 The policies described in the Neighbourhood Plan relate to the development and use of land in the designated Neighbourhood Area and do not relate to any other designated Neighbourhood Area. The Neighbourhood Area was designated by Aylesbury Vale District Council under powers in s.61G(6) of the Town and Country Planning Act 1990,² on 24th November, 2014.³

1.4 The Neighbourhood Plan will have effective for the period from 1st April, 2011 until 31st December, 2031.⁴

1.5 The Neighbourhood Plan does not contain policies relating to excluded development⁵ Excluded development means matters relating to mineral extraction;⁶

¹ S.38A(2) of the Planning and Compensation Act 2004 defines a neighbourhood development plan as “a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.” The steering group was formed of

² This was also done in compliance with Part 2 of the Neighbourhood Planning (General) Regulations 2012 No.637Part 2.

³ In case of any future confusion over the history and development of this Neighbourhood Plan, the following is set out. The original Neighbourhood Area had been designated by AVDC under s.61G of the Town and Country Planning Act 1990. After further consultation, it became apparent that the Plan would benefit if certain adjacent areas were included in the Neighbourhood Plan Area. Gawcott Parish Council and Radclive-cum-Chackmore Parish Council, as the relevant councils, were consulted and their approval obtained. AVDC undertook the required additional consultation. A few days before the end of the Pre-Submission Consultation period which took place over November, December 2013 and January 2014, a query was raised by a resident of Radclive over the area covered by BNDP. This led to the Radclive-cum-Chackmore Parish Council withdrawing its previously given consent to the inclusion of part of their Parish in the BNDP Area designated on 8th August, 2013. This required that a new designation order was sought for an NDP Area excluding this land, but retaining the remaining areas. As this was a major change to the Plan, a further period of Pre-Submission Consultation was held. Following this, a comment was received to the effect that the documentation displayed by AVDC on their website as regards their designation of the revised BNDP Area was inconsistent. It was deemed necessary for the designation process to be re-done, and as this would constitute a major change to the Plan, a further period of pre-submission consultation would need to be undertaken.

⁴ Period stated as required by S.38B(1)(a) of the Planning and Compensation Act 2004.

matters relating to Schedule 1 1(j) of the Town & Country Planning Act 1990; development under Annex 1 to Council Directive 85/337/EEC;⁷ & development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008).

1.6 The Statement addresses each of the four 'basic conditions' required of the Regulations and explains how the submitted Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Town & Country Planning Act:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan,
- the making of the neighbourhood development plan contributes to the achievement of sustainable development,
- the making of the neighbourhood development plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- the making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations.

1.7 The qualifying group⁸/steering group was made up of the members of the Buckingham Town Council Planning Committee. This is made up of 8 councillors of the elected Town Council and one co-opted member from the Buckingham Society, the local Civic Group. The Councillors took this decision on the basis that bar the co-opted member, they had all been democratically elected by the people of

⁵ As required S.38B(1)(b) of the Planning and Compensation Act 2004 - excluded development is defined for this purpose by S.61K of the Town and Country Planning Act 1990

⁶ Schedule 1 1(1)(a)-(h) of the Town & Country Planning Act 1990.

⁷ This covers crude oil refineries; thermal power stations; installations in relation to the final disposal of radioactive waste; works for the initial melting of cast-iron and steel; asbestos extraction; integrated chemical extraction; constructions of express roads [as under European Agreement on main international traffic arteries of 15th November 1975 – which does not cover any routes mentioned in the BNDP]; trading ports or inland waterways concerning vessels over 1,350 tonnes [deemed unlikely on the newly restored Canal]; & waste disposal of toxic or dangerous waste.

¹⁸ qualifying body means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of section 61F of the principal Act, as applied by section 38C of this Act.

Buckingham, and were thus accountable to those people, and this was the best means of ensuring that all people of Buckingham were represented.

Stakeholders

1.8 From early consultation exercises a group of stakeholders was identified including and as well as, groups that would be deemed statutory consultees under the Neighbourhood Development Plans (General) Regulations 2012 No.637 Schedule 1 (1) (l)-(q). These stakeholder groups were kept up to date on the process by a periodic e-mail newsletter and invitations to consultation events. A list of these groups and further information is contained within the Consultation Statement document. In this way, even wider input could be obtained from the community whilst retaining the democratic accountability desired by the Town Council.

Content of the Neighbourhood Development Plan

1.9 S.38B(1) of the Planning and Compensation Act 2004 states certain requirements and exclusions as to the contents of the Neighbourhood Development Plan. It must state that the period of time for which it is to have effect;⁹ it may not contain provisions as to “excluded development”;¹⁰ and may not relate to more than one neighbourhood area.

Requirements as regards other planning frameworks

Compliance at National Level

1.10 At the independent examination stage, the examiner will consider whether having regard to national policy, it is appropriate to make the plan.¹¹ National policy is to be found in the National Planning Policy Framework published in 2012.¹² This is the framework to which the Buckingham Neighbourhood Development Plan must conform. In some ways this places the Plan in an unusual position as the Local Plan with which it must also be in general conformity is the Aylesbury Vale District Local Plan which was produced in 2004 and was thus in conformity with previous national

⁹ 1st April 2011 until 31st December 2031

¹⁰ S.38B(1)(b)- excluded development is defined for this purpose by S.61K of the Town and Country Planning Act 1990

¹¹ See s.38B and S.38C and paragraph 8(2) of Schedule B of the Planning and Compulsory Purchase Act 2004.

¹² This document replaces the various Planning Policy Statements and Planning Policy Guidance – the full list is given in Annex 3 of the NPPF.

guidelines.¹³ The National Planning Policy Framework [NPPF] has as its stated aim the achievement of sustainable development, which in turn has three dimensions: economic; social; & environmental.¹⁴ The NPPF states:

“These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.”¹⁵

1.11 The Buckingham Neighbourhood Development Plan reflects these ideals in that it is accepted that planned and managed growth is required to ensure the continuing vitality of our historic market town.

1.12 In relation to neighbourhood plans, the NPPF states that “it will mean that neighbourhoods should develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan; & identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with their neighbourhood plan to proceed.”¹⁶ As yet Buckingham Town Council has not identified any immediate need to seek Neighbourhood Development Orders.

1.13 As to how individual policies within the BNDP comply with the NPPF, this is set out in Table 1 below.

Table 1		
Buckingham Neighbourhood Development Plan Policy	National Planning Policy Framework Reference	Comment
HP1 – Allocate land for	Paragraph 50	

¹³ The new local plan would have been the draft Vale of Aylesbury Plan, which was withdrawn in January, 2014. The previous national guidelines were in the form of various Planning Policy Statements (see Annex 3 of the NPPF). The replacement local plan, the Aylesbury Vale Local Plan is at the preparation stage.

¹⁴ NPPF paragraphs 6 & 7. In turn this reflects Resolution 42/187 of the United Nations General Assembly which defines sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

¹⁵ NPPF paragraph 8.

¹⁶ NPPF paragraph 16.

617 new dwellings**		
HP2 – Allocate land for 400 new rooms for University expansion	Paragraph 50	
HP3 – Allocate land for self build	Paragraph 50 To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should: plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and where they have identified that affordable housing is needed,...	
HP4 – Provide for a diverse housing mix	Paragraph 50	
HP5 – Provide for Affordable Housing	Paragraph 50	
HP6 – Provide a Phasing Strategy	Paragraph 47	
HP7 – Guidelines for Windfall Sites	Paragraph 50 and paragraph 16	
DHE1 – Buckingham Design Guide	Paragraph 126 Paragraphs 56-61	
DHE2 – Protect existing trees and provision of trees in new developments	Paragraph 109	
DHE3 – Provision of Green Infrastructure in	Paragraph 109	

relation to habitats		
DHE4 – Standard of Ecological information required to minimise the impact of natural habitats	Paragraph 109	
DHE5 – Protection of designated sites and local and national priority habitats and species	Paragraph 117	
DHE6 – Protection of Movement Corridors	Paragraph 109	
DHE7 – Biodiversity in Development Landscaping	Paragraph 117	
DHE8 – Provision of Good Quality Private Outdoor Space	Paragraph 9 generally – “improving the conditions in which people live, work, travel and take leisure”	
DHE9 – Design of developments in relation to daylight and sunlight	Paragraph 58 –“establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;	
CLH1 – Community Building Provision	Paragraph 70	
CLH2 – Allocate land for a cemetery	Paragraph 73, although there is nothing specific to land for cemeteries	There is nothing specific as to land for cemeteries
CLH3 – Provision of play provision for new developments	Paragraph 70 “to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space”	
CLH4 – Allocate land for Allotments	Paragraph 74	

CLH5 – Protection of existing and provision for new, health facilities.	Paragraph 37 & Paragraph 70 –“guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community’s ability to meet its day-to-day needs; ensure that established facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community”.	
CLH6 – Protection of existing green open space	Paragraphs 74 & 76-78	
CLH7 – Development of the Canal Area	Paragraph 131	
CLH8 – Preservation of St Rumbold’s Well	Paragraph 126	
CLH9 – Creation of new parks and green spaces	Paragraph 73	
CLH10 – Continuation and expansion of the Riverside Walk	Paragraph 73	
EE1 – Allocate land for employment	Paragraphs 20, 21 & 22	
EE2 – Allocation of land for retail, office and mixed development	Paragraphs 37	
EE3 – Locate new retail development within the town centre	Paragraphs 23 & 24	
EE4 – Retain and enhance the primary and secondary retail frontages	Paragraph 23	
EE5 – Allocation of land for town centre parking	Paragraph 35 [charging plug-in provision] & Paragraph 40	
EE6 – Telecommunication Provision	Part 5, Paragraphs 42-46	

EE7 – Preservation of existing primary and secondary school sites	Paragraph 72	
EE8 – Land allocated to expansion of the University of Buckingham	Paragraph 21	
I1 – Creation of infrastructure networks into new development	Paragraphs 29 & 30	
I2 – Disabled access requirement for all new pedestrian routes	Paragraph 35	
I3 – Public Transport Connectivity	Paragraph 29	
I4 – Sustainable Building Design	Paragraphs 93-95	
I5 – Renewable Energy Generation	Paragraph 93 & 97	
I6 – Rainwater Collection	Paragraph 94	
I7 – Sustainable Urban Drainage Systems	Paragraph 99	
I8 – Development upon the flood plain.	Paragraphs 100-104 & NPPG	
I9 – Sewage Management	Paragraph 94 & paragraph 110	
DC1 – Contributions for cycle and pedestrian connections	Paragraphs 29 & 30	
DC2 – Contributions for the implementation of the Buckingham Transport Strategy	Paragraphs 29 & 30	
DC3 – Contributions for Local Infrastructure	Paragraph 16 & Paragraph 23	

Achievement of Sustainable Development

1.14 The Neighbourhood Plan achieves positive planning for sustainable development. Sustainable development as defined under the NPPF requires “an economic role”, “a social role” and “an environmental role”

1.15 The Plan plays an economic role, the NPPF requires “ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;”

1.16 Under policies HP1, HP2, EE1, EE2 and CLH7 the plan allocates land for economic development (be it housing growth or jobs provision)

1.17 The Sustainability Appraisal highlights that the land for housing development is allocated in the right places.

1.18 By ensuring that the development does not take place until after suitable sewerage infrastructure (HP6 & I9) it allows development to be flexible take place at the right time to support growth, whilst ensuring key infrastructure is provided.

1.19 The DC, along with green infrastructure provision policies ensure that requirements from development in the provision of infrastructure is catered for within the Plan.

1.20 The Plan plays a social role, the NPPF requires “providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health social and cultural well-being”

1.21 Under policies HP1 & HP2 the Plan sets out the housing allocations required to meet the present and future needs (as evidenced in the Evidence Base).

1.22 Through policy DHE1 and I4 the Plan set out policies which will aid in creating a high quality built environment.

1.23 The Plan supports the provision of accessible local services relating to the towns health, social and cultural well-being through policies CLH 1-5

1.24 The Plan plays an environmental role, the NPPF requires “enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

1.25 Through Policies in DHE, CLH6, CLH8, CLH9 and CLH10 the Plan enhances the natural, built and historic environment including improving biodiversity.

1.26 Policies 14, 15 and 16 advocate the prudent use of resources and aim to cut down on pollution and waste, which will help adapt to climate change.

1.27 In addition the Plan highlights the desire for improved footpath and cycleways which will reduce the dependency on cars and promote low carbon travel.

1.28 EE5 which states about town centre parking states that there must be provision for electric car charging which will also help to reduce the carbon impact of the town.

Compliance at Local Level

1.29 Throughout much of the initial drafting process, it was assumed that the new Local Plan, the Vale of Aylesbury Plan, would have been adopted before the submission of the BNDP. It was felt that there was nothing within the statutory framework which required an updated Local Plan to be adopted before work on a Neighbourhood Development Plan could start. It was noted that Thame's NDP had been developed in tandem with the South Oxfordshire Plan, albeit that the South Oxfordshire Plan had been adopted prior to the submission of the Thame plan. It was expected that the situation would be same in Buckingham.

1.30 In the latter stages of the first pre-submission consultation it became increasingly apparent that this was unlikely to happen. Again the decision was taken that there was nothing within the statutory framework which would prevent this. Indeed the Examiner's Report from the Tattenhall NDP Examination supported this view.

"However, the fact that there is an emerging development plan in a local authority area is not unusual and there is nothing in the legislation to support the contention that such a situation should stop, or slow down, the progress of a neighbourhood plan."¹⁷

1.31 Several days before the closing dates for submission for comment from the Pre-Submission consultation, the proposed Vale of Aylesbury Plan was withdrawn by AVDC on the advice of the Planning Inspector.

1.32 As a result, the BNDP will need to be in general conformity with the Aylesbury Vale District Local Plan [AVDLP] from 2004 which remains the development or Local Plan to date. This does not now exist in its entirety but the Neighbourhood Plan's conformity with relevant saved policies is set out in Table 2 for ease. The full list of saved policies is found in Appendix 5 to the Plan. The primary guidance will be

¹⁷ Tattenhall Neighbourhood Development Plan Examiner's Report p.6. This was confirmed following judicial review in the case of BDW Trading Ltd. V Cheshire West & Chester Borough Council, [2014] All ER (D) 112; [2014] All ER (D) 112 ;[2014] EWHC 1470 (Admin).

drawn from NPPF, again conformity is set out in Table 1. This is especially necessary now that the current Local Plan was adopted prior to the NPPF guidance.

1.33 Naturally, there is some concern that if the BNDP will eventually work alongside the future Vale of Aylesbury Development Plan whether this is likely to be problematic. Obviously as such a document is not yet available there can only be tentative views as to what the final document may contain.

1.34 In addition, the views of the Examiner in the Tattenhall NDP Examination are again pertinent:

“Importantly, a *made* neighbourhood plan can, in such cases, provide for certainty in areas where there may otherwise be an absence of up-to-date policy.”[p.6]

“I am mindful that the adopted Chester District Local Plan predates the National Planning Policy Framework (the Framework). As such, in the case of any of the saved strategic policies of the adopted Chester District Local Plan conflicting with the Framework, the Framework takes precedence. This is simply standard practice.” [p.7]

“This particular point led a number of objectors to state, in support of their cases, that the Neighbourhood Plan should not progress until a new housing provision policy has been adopted across the whole of the local authority area. However, there is nothing in the legislation that states, or suggests, that the absence of a strategic housing provision policy in a development plan means that a neighbourhood plan should not include a housing policy, or policies. On the contrary, and as pointed out above, a neighbourhood plan provides a good opportunity to provide for a degree of certainty in such situations. More fundamental, and the focus of this examination, is whether the policies of the Neighbourhood Plan meet the Basic Conditions.”[p.7]

“However, it makes good sense for neighbourhood planners to understand and have a mind to how the neighbourhood plan fits with the emerging strategic policies of the development plan and be able to clearly explain the rationale for any significant differences, should there be any.”[p.8]

1.35 The Neighbourhood Plan has been prepared with all of these points in mind. Table 2 below sets out conformity of Neighbourhood Plan Policies with AVDLP.

Table 2	BNDP Compliance with Local Plan	
BNDP Policy	AVDLP Policy*	Comment
HP1 – Allocate land for 617 new dwellings**	GP 17 in light of Tingewick Road Industry	GP 17 (b) & (c) GP 92 GP 99 applied
HP2 – Allocate land for 400 new rooms for University expansion	No relevant saved Local Plan Policy	
HP3 – Allocate land for self build	No relevant saved Local Plan Policy	
HP4 – Provide a diverse housing mix	GP 3	BNDP does not specify percentages.
HP5 – Provide affordable housing	(1)GP 2 (2) AVDC Affordable Housing Supplementary Planning Document, 2007	(1)Percentage sought between 20%-30% (2) Percentage sought 40%
HP6 – Provide a Phasing Strategy	No relevant saved Local Plan Policy	There is a significant infrastructure problem in terms of sewerage capacity in the BNDP Area, which will need to be properly addressed.
HP7 – Provide guidelines for windfall sites	No relevant saved Local Plan Policy	
DHE1 – Buckingham Design Guide	GP 35; GP 53; GP 57 [advertisements] GP 8;GP 9; GP 24; GP 38; GP 39; GP 40; GP 45	
DHE2 – Protect existing trees and provision of trees in developments	GP 35; GP 38; GP 39; GP 40	
DHE3 – Provision of Green Infrastructure in relation to habitats	GP. 38; GP 39; GP 40	

DHE4 – Standard of ecological information required to minimise the impact on natural habitats	GP. 39	
DHE5 – Protection of designated sites and local and national priority habitats and species	GP. 40	
DHE6 – Protection of Movement Corridors	GP. 66	
DHE7 – Biodiversity in Development Landscaping	No relevant saved Local Plan Policy	
DHE8 – Provision of good quality private outdoor space	No relevant saved Local Plan Policy	
DHE9 – Design of development in relation to Daylight and Sunlight	GP 38; GP40	
CLH1 – Community Building Provision	GP 94	
CLH2 – Allocate land for a Cemetery	No relevant saved Local Plan Policy	
CLH3 – Provision of play provision for new developments	GP 86 [ordinarily 2.43 hectares per 1000 population; GP 87 minimum of 0.9 hectares for sports fields; GP 88 [provisions for money in lieu]	BNDP requires slightly less land due to DHE 9 requirement of private open space.
CLH4 – Allocate land for allotments	No relevant saved Local Plan Policy	Although GP. 92 deal with safeguarding existing allotment land
CLH5 – Protection of existing and provision for new health facilities	GP 93 & 94	
CLH6 – Protection of	GP 92	

existing open green space		
CLH7 – Development of Canal Area	GP 66; GP 69 [no hotel as not previously developed land]; GP 72; GP73; GP 81	
CLH8 – Preservation of St. Rumbold’s Well	No relevant saved Local Plan Policy	
CLH9 – Creation of new parks and green spaces.	GP 91	
CLH10 – Continuation & Expansion of Riverside Walk	BU.11	
EE1 – Allocate land for employment development	GP 17; BU 3	
EE2 – Allocation of land for retail, office and mixed development	No relevant saved Local Plan Policy	
EE3 – Locate new retail development within the town centre	No relevant saved Local Plan Policy	
EE4 – Retain and enhance the primary and secondary retail frontages	BU 6 & BU 7	
EE5 – Allocation of land for town centre parking	GP 24	
EE6 – Telecommunication provision	GP 100	
EE7 – Preservation of existing primary and secondary school sites	No relevant saved Local Plan Policy	
EE8 – Land allocated to University of Buckingham expansion	No relevant saved Local Plan Policy	
I1 – Creation of infrastructure networks	No relevant saved Local Plan Policy	

into new development		
I2 – Disabled access requirement for new pedestrian routes	No relevant saved Local Plan Policy	
I3 – Public transport connectivity	No relevant saved Local Plan Policy	
I4 – Sustainable Building Design	No relevant saved Local Plan Policy	
I5 – Renewable energy generation	No relevant saved Local Plan Policy	
I6 – Rainwater Collection	No relevant saved Local Plan Policy	
I7 – Sustainable Urban Drainage System	No relevant saved Local Plan Policy	
I8 – Development upon the flood plain	No relevant saved Local Plan Policy	
I9 – Sewage Management	No relevant saved Local Plan Policy	
DC1 – Contributions for cycle and pedestrian connections	No relevant saved Local Plan Policy	
DC2 – Contributions for the implementation of the Buckingham Transport Strategy	No relevant saved Local Plan Policy	
DC3 – Contributions for Local Infrastructure	No relevant saved Local Plan Policy	

AVDLP* - Where saved policies are relevant they have been listed. Many other policies were not saved in light of coverage in National Planning Guidance, current at that time. In light of the Planning Guidance replacement by National Planning Policy Framework, the compliance of the BNDP is noted at that level. Any emerging Local Plan will of course have to be compliant with the NPPF.

HP1 ** The provision of housing numbers cannot be taken from the Local Plan as VAP was withdrawn, and the AVL P is at very early stages. For further details on the calculations used for the BNDP, please see Evidence Base under Housing Numbers and Mix.

Compliance with EU Obligations

1.36 The BNDP is required to meet EU obligations.¹⁸ As the BNDP seeks to allocate sites for future development it is necessary to be in compliance with Directive 2001/42/EC or Strategic Environment Assessment Directive, and the Environmental Assessment of Plans and Programmes Regulations 2004.

1.37 The initial preparation for the Plan was to prepare a Scoping Report as Stage A of the SEA process. This was widely consulted [detailed in Consultation Statement]. The post consultation version was published in August, 2012.

1.38 The consultation responses were extremely useful in helping to shape the policies of the BNDP as well as the Scoping Report itself.

1.39 Stages B & C of the SA were published at the same time as the Pre-Submission version of the BNDP and underwent consultation at the same time.¹⁹ These assessments formed the basis for the site allocation within the BNDP and at the workshop held by the Steering Committee to make final decisions on these allocations.

1.40 All potential sites for all forms of development within the BNDP Area were included in the SA. They were subject to an initial Stage A assessment, where some sites were eliminated as unsuitable; the remaining sites were taken forward to Stage B assessment. This Stage B assessment was used as an essential part of the evidence spread when site allocation was undertaken. Those sites successful at Stage B were then taken forward to Stage C where availability, achievability and acceptability were checked. If successful here the sites were taken through to the Sustainability Appraisal.

1.41 There are no sites [Special Areas of Conservation] within the BNDP Area nor are any within close proximity, which fall under the Habitats Directive.²⁰

¹⁸ Paragraph 8(2)(f) of Schedule 4B of the Town and Country Planning Act 1990 as inserted by Schedule 10 of the Localism Act 2011.

¹⁹ See Consultation Summary Document for details of this period of consultation.

²⁰ Council Directive 92/43/EEC of 21st May, 1992.

Compliance with Human Rights Act 1998 and the European Convention on Human Rights

1.42 The Town Council is a public body for the purposes of the 1998 Act, which as such places a duty on the Council to act in accordance with Convention Rights.

1.43 One area of note has been the designation of Local Green Space. The BNDP designates two areas known to be in private ownership, and one area where ownership is undetermined. The NPPF is silent on the question of correct procedure in such cases, but obviously the designation will restrict development of the land in future. It was decided that the ordinary methods of publicity, although extensive locally, might not be sufficient, and therefore registered letters of notice were sent to the landowners concerned, outlining the proposed action, the effect and the methods of communication available to contact the Town Council, with comments and objections. The land owned by two known private individuals was designated as such for three pre-submission consultations, when the above procedure was followed each time. The land in undetermined ownership was designated and consulted upon at the third pre-submission stage. In this case, it has been necessary to rely on local publicity.

1.44 Adequate notice was given to the individuals to object before the Council made a final decision to exercise this power within the NPPF.

Appendix 1 – Details of Excluded Development

61K Meaning of “excluded development” The following development is excluded development for the purposes of section 61J—

(a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,

1(1)In this Schedule “county matter” means in relation to any application, order or notice—(a)the winning and working of minerals in, on or under land (whether by surface or underground working) or the erection of any building, plant or machinery—(i)which it is proposed to use in connection with the winning and working of minerals or with their treatment or disposal in or on land adjoining the site of the working; or(ii)which a person engaged in mining operations proposes to use in connection with the grading, washing, grinding or crushing of minerals;(b)the use of land, or the erection of any building, plant or machinery on land, for the carrying out of any process for the preparation or adaptation for sale of any mineral or the manufacture of any article from a mineral where—(i)the land forms part of or adjoins a site used or proposed to be used for the winning and working of minerals; or(ii)the mineral is, or is proposed to be, brought to the land from a site used, or proposed to be used, for the winning and working of minerals by means of a pipeline, conveyor belt, aerial ropeway, or similar plant or machinery, or by private road, private waterway or private railway;(c)the carrying out of searches and tests of mineral deposits or the erection of any building, plant or machinery which it is proposed to use in connection with them;(d)the [F1 depositing] of mineral waste;(e)the use of land for any purpose required in connection with the transport by rail or water of aggregates (that is to say, any of the following, namely—(i)sand and gravel;(ii)crushed rock;(iii)artificial materials of appearance similar to sand, gravel or crushed rock and manufactured or otherwise derived from iron or steel slags, pulverised fuel ash, clay or mineral waste),or the erection of any building, plant or machinery which it is proposed to use in connection with them;

(f)the erection of any building, plant or machinery which it is proposed to use for the coating of roadstone or the production of concrete or of concrete products or artificial aggregates, where the building, plant or machinery is to be erected in or on land which forms part of or adjoins a site used or proposed to be used—(i)for the winning and working of minerals; or(ii)for any of the purposes mentioned in paragraph (e) above;(g)the erection of any building, plant or machinery which it is proposed to use for the manufacture of cement;(h)the carrying out of operations in, on, over or under land, or a use of land, where the land is or forms part of a site used or formerly used for the winning and working of minerals and where the operations or use would conflict with or prejudice compliance with a restoration condition or an aftercare condition;

(b)development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description,

Schedule 1 1(j)the carrying out of any operation which is, as respects the area in question, a prescribed operation or an operation of a prescribed class or any use which is, as respects that area, a prescribed use or use of a prescribed class.

(c)development that falls within Annex 1 to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended from time to time),

ANNEX I

PROJECTS SUBJECT TO ARTICLE 4 (1)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. Installations solely designed for the permanent storage or final disposal of radioactive waste.
4. Integrated works for the initial melting of cast-iron and steel.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20 000 tonnes of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of asbestos, utilization of more than 200 tonnes per year.
6. Integrated chemical installations.
7. Construction of motorways, express roads (1) and lines for long-distance railway traffic and of airports (2) with a basic runway length of 2 100 m or more.
8. Trading ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes.
9. Waste-disposal installations for the incineration, chemical treatment or land fill of toxic and dangerous wastes.

(1) For the purposes of the Directive, 'express road' means a road which complies with the definition in the European Agreement on main international traffic arteries of 15 November 1975. [No]

(2) For the purposes of this Directive, 'airport' means airports which comply with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14).

(d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008),

14. Nationally significant infrastructure projects: general

(1) In this Act “nationally significant infrastructure project” means a project which consists of any of the following—

(a) the construction or extension of a generating station;

(b) the installation of an electric line above ground;

(c) development relating to underground gas storage facilities;

(d) the construction or alteration of an LNG facility;

(e) the construction or alteration of a gas reception facility;

(f) the construction of a pipe-line by a gas transporter;

(g) the construction of a pipe-line other than by a gas transporter;

(h) highway-related development;

(i) airport-related development;

(j) the construction or alteration of harbour facilities;

(k) the construction or alteration of a railway;

(l) the construction or alteration of a rail freight interchange;

(m) the construction or alteration of a dam or reservoir;

(n) development relating to the transfer of water resources;

(o) the construction or alteration of a waste water treatment plant;

(p) the construction or alteration of a hazardous waste facility.

(e) prescribed development or development of a prescribed description, and

(f) development in a prescribed area or an area of a prescribed description.