

**DELEGATED DECISIONS**  
**14 APRIL 2015**  
**ROOM 4, CIVIC OFFICES**  
**AT 5.30 PM**  
**SCHEDULE**

ITEM	SUBJECT	DECISION MAKER	PAGES
1.	Milton Keynes Service Partnership (MKSP) Review	Councillor Marland (Leader of the Council)	<b>2 to 3</b>
2.	Revisions to Capital Programme and Spend Approvals Report	Councillor Middleton (Cabinet member for Resources, Efficiency and Growth)	<b>4 to 10</b>
3.	"TEEP" Assessment and Recommendations	Councillor Legg (Cabinet member for Public Realm Public Realm)	<b>11 to 15</b>
4.	Lakes Estate Neighbourhood Plan Modifications Arising from the Examiner's Report	Councillor Legg (Cabinet member for Public Realm Public Realm)	<b>16 to 51</b>



**Wards Affected:**

NONE

**ITEM 1**

**DELEGATED DECISION**

**14 APRIL 2015**

**MILTON KEYNES SERVICE PARTNERSHIP (MKSP) REVIEW**

Responsible Cabinet Member: Councillor Marland (Leader of the Council)

Report Sponsor: Carole Mills (Chief Executive)

Author and contact: Stephen Gerrard (Interim Service Director – Legal and Democratic Services) Tel: 01908 252385

**Executive Summary:**

To seek authority for the Chief Executive to undertake the necessary work (engaging with Scrutiny) to allow Cabinet to take an informed decision upon proposals from the Milton Keynes Service Partnership (MKSP) Board.

**1. Recommendation(s)**

- 1.1 That the recommendations from the Milton Keynes Service Partnership Board to the Council be noted.
- 1.2 That it be noted that the details supporting the recommendations remain commercially sensitive until final arrangements have been concluded.
- 1.3 That the Chief Executive brings a report to Cabinet setting out the implications for the Council of the Milton Keynes Service Partnership Board recommendations.
- 1.4 That, to inform a final decision of the Cabinet upon the Milton Keynes Service Partnership Board recommendations, the views of an Overview and Scrutiny task group be sought on the above proposals and referred to Cabinet alongside them by 31 July 2015.
- 1.5 That the Chief Executive be requested to advise the Milton Keynes Service Partnership Board that the Cabinet expects to take a decision upon its recommendations (subject to conclusion of Scrutiny activity) no later than 31 July 2015.

**2. Issues**

- 2.1 On 27 February 2015 the Milton Keynes Service Partnership (MKSP) Board considered a detailed portfolio of information setting out analysis and options for the future arrangements for MKSP and its functions.
- 2.2 The Board noted the commercially confidential nature of the information presented, which the Council is asked to respect.
- 2.3 The Board unanimously agreed to recommend to MKC's Cabinet; the following option comprising:
  - Transfer of non-traded MKC-related services to MKC.

- All MKSP/MKC commercial/traded activity to be routed through a company limited by guarantee.
  - The appointment of a Commercial Director to lead on the commercial activity.
- 2.4 The Board also agreed there was a need for a Chief Information Officer at Director level.
- 2.5 The reports to the MKSP Board and the decision of the Board clearly have significant implications for the Council as the major partner in MKSP. In order to make a fully informed decision it is suggested that:
- (a) An appraisal of the implications of these proposals for the Council is prepared for consideration by the Cabinet,
  - (b) An assessment by an Overview and Scrutiny task and finish group be undertaken and referred to Cabinet
3. **Options**
- 3.1 Given the views expressed by the board of MKSP there is no viable alternative to an informed consideration of the proposals by the Council.
4. **Implications**
- 4.1 The implications for the Council will be referenced in any report to Cabinet on the final recommendations on the MKSP proposals.

Background Papers: The background papers are those which informed the MKSP Board decision which are not currently publicly available on the grounds of commercial confidentiality.

**Wards Affected:**

ALL WARDS

**ITEM 2****DELEGATED DECISION****14 APRIL 2015****REVISIONS TO CAPITAL PROGRAMME AND SPEND APPROVALS REPORT**

Responsible Cabinet Member: Councillor Middleton, Cabinet member for Resources, Efficiency and Growth

Report Sponsors: Tim Hannam, Corporate Director – Resources  
Tel: 01908 252756  
Nicole Jones, Service Director, Finance and Resources  
Tel: 01908 252079

**Executive Summary:**

Before spending on any scheme can begin within the Capital Programme, project documentation has to be updated and appraised through a formal review process to ensure projects will deliver required outcomes, are fully funded and provide value for money. This review point is the spend approval stage, where following officer scrutiny, Cabinet approval is requested to allow spending against allocated resources for individual projects.

The report requests spend approval for schemes in the 2015/16 Capital Programme and makes amendments to existing schemes within the Capital Programme. The proposed changes are summarised in Tables 1 and 2 of Annex A.

Once spend approval has been agreed any changes to either the funding or spending of resources need to be reported to Cabinet for approval.

The changes outlined in this report result in a revised Capital Programme for 2015/16 of £141.34m. Against this programme, £102.65m of spend approval has been given to enable individual projects to commence or continue.

The Council is responsible for the management of the Milton Keynes Tariff, which is a unique forward funding mechanism to deliver infrastructure in the expansion areas. This report leaves the Tariff Programme for 2015/16 at £23.51m with the total spend approval for these contributions at £11.92m.

**1. Recommendation(s)**

- 1.1 That the amended resource allocation and spend approvals for the 2015/16 Capital Programme be approved.
- 1.2 That the funding position for the 2015/16 Capital Programme be noted.
- 1.3 That the amended resource allocation and spend approvals for the 2015/16 Tariff Programme be approved.
- 1.4 That the current position of the 2015/16 Tariff Programme be noted.

## 2. **Amendments to the 2015/16 Capital Programme**

2.1 Approval is sought to amend the resource allocation and spend approval for existing projects which have previously been allocated resources within the 2015/16 Capital Programme and to approve spending on these projects. The significant requests for changes to resource allocation and spend approval for existing projects in the 2015/16 Capital Programme are:

- Spend approval in 2015/16 of £1,000k is requested for Re-implementation of SAP to commence the procurement process of a new ERP (Enterprise Resource Planning) system. This is funded from New Homes Bonus.
- An increase in resource allocation and spend approval in 2015/16 of £350k is requested for Whitehouse Primary School for the purchase of land and provision of additional utilities required going into the school site due to the increase in pupil places. This is funded from a Single Capital Pot Grant and Tariff contribution.
- An increase in resource allocation and spend approval in 2015/16 of £350k is requested for Shenley Brook End 2 Form of Entry Extension to provide an additional 50 school places within this expansion scheme . This is funded from a Single Capital Pot Grant and School Contribution.
- An increase in resource allocation 2015/16 of £717k is requested for CMK Community Sports Facility to include the site clearance costs associated with making the site ready for construction. This is funded from a Sport England Grant, Third Party Contribution & S106.

2.2 A summary of proposed revisions to the Capital Programme for 2015/16 is shown in **Annex A, Table 1**. These revisions are set out in detail in **Annex B**.

2.3 Project managers have a monthly opportunity to satisfy the Capital Programme Review Panel (Corporate Director Resources, colleagues from Capital Development, Finance, Procurement, Legal and the Portfolio Office) that the project is well controlled and managed, and that funding is confirmed as available. While some projects have been through this process and have been allocated spend approval, there are a number of schemes where spend approval has not been requested or where the Capital Programme Review Panel has requested further work / assurance before the scheme can be brought to Councillors.

2.4 The revised 2015/16 Capital Programme resource allocation and spend approval, including schemes still to be given spend approval is available on the Council website at <http://www.milton-keynes.gov.uk/finance>.

2.5 **Table 2** in **Annex A** shows the financing position for the 2015/16 Capital Programme.

## 3. **Spend Approvals across Multiple Years**

3.1 Some major capital schemes require spend approval for more than the current financial year. In approving spend approval for the project resources are effectively being committed for the future. This is usually for major schemes

which could not be completed in a single financial year, or where the most effective timing of a project crosses financial years e.g. opening a school in September.

- 3.2 There are currently twelve projects with spend approval phased across multiple years. These projects are fully funded with all of their funding having been confirmed as available within 2015/16. These projects along with the phasing of the spend approvals are detailed in **Annex A, Table 3**.

#### 4. **Approval of the Tariff Allocations**

- 4.1 The February report to Full Council outlined the resource allocation for the 2015/16 Tariff schemes, amendments to the Tariff programme are requested in this report. These revisions are set out in detail in **Annex B**.

The significant requests for changes to resource allocation and spend approval for existing projects in the 2015/16 Tariff Programme are:

- Spend approval in 2015/16 of £1,133k is requested for A421 Kingston Roundabout to complete the capacity improvements required as a result of the developments nearby.
- Spend approval in 2015/16 of £1,033k is requested for A421 Eagle to Fen Farm to complete the duelling works required as a result of the developments nearby.
- Spend approval in 2015/16 of £8,939k is requested for Eastern Expansion Area Secondary Phase 1 for the provision of a new Secondary School.

#### 5. **Annexes to this Report**

<b>ANNEX A</b>	Summary of changes to the Capital Programme and Financing
<b>ANNEX B</b>	Detailed list of changes to the 2015/16 Capital Programme

#### 6. **Implications**

##### 6.1 Policy

The recommendations of this report are consistent with the Council's Medium Term Financial Plan.

##### 6.2 Resources and Risk

Capital implications are fully considered throughout the report. Revenue implications may arise from capital schemes in respect of:

- a) Borrowing to fund capital expenditure (principal and interest),
- b) Running costs associated with capital schemes, and
- c) Efficiency savings (e.g. reduced maintenance costs).

These are built into the Council's debt financing and other revenue budgets as appropriate through the Medium Term Planning process.

Y	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	N	Asset Management

### 6.3 Carbon and Energy Management

All capital schemes consider Carbon and Energy Management implications at the capital appraisal stage before they are added to the capital programme. There are no further implications as a result of this report.

### 6.4 Legal

Legal implications may arise in relation to specific capital schemes. In particular a capital scheme may be needed to meet a specific legal requirement. These implications are addressed in the individual project appraisals. There are no significant legal implications arising as a result of this report.

### 6.5 Other Implications

There are no other implications arising as a result of this report.

N	Equalities / Diversity	Y	Sustainability	N	Human Rights
N	E-Government	N	Stakeholders	N	Crime and Disorder
N	Carbon and Energy Policy				

Background Papers: Officer Working Papers

Annexes: As listed at 5 above



## SUMMARY OF CHANGES TO THE CAPITAL PROGRAMME AND FINANCING

**Table 1: Summary of Proposed Revisions to Capital Programme for 2015/16**

Directorate	Resource Allocation £m	Spend Approval £m	Spend Approval not yet Requested £m
<b>2015/16 Capital Programme as agreed at the 9<sup>th</sup> March Cabinet Meeting</b>	<b>139.433</b>	<b>(99.989)</b>	<b>39.444</b>
<b>New Projects</b>	0.000	0.000	0.000
<b>Spend Approval Requests</b>	1.910	(2.665)	(0.755)
<b>Revised Capital Programme after Adjustments</b>	<b>141.343</b>	<b>(102.654)</b>	<b>38.689</b>

The detailed list of the proposed revisions to Capital Programme for 2015/16 summarised in **Table 1** above are identified in **Annex C**.

**Table 2: Financing of the 2015/16 Capital Programme**

Funding Type	2015/16 Capital Programme £m
Capital Reserve	0.871
Capital Receipts	0.603
Supported Borrowing - Single Capital Pot	0.270
Single Capital Pot - Grants	53.199
Prudential Borrowing	8.252
Government Grants	19.382
S.106 - Planning Gain / Tariff	30.028
Other Third Party Contributions	0.929
Parking Income	0.832
Other Revenue Contributions	15.954
New Homes Bonus	11.023
<b>Total</b>	<b>141.343</b>

**Table 3: Spend Approvals – Across Multiple Years**

Scheme	Total Resource Allocation	Spend Approval				
		Prior Year £m	2015/16 £m	2016/17 £m	2017/18 Onwards £m	Total £m
Radcliffe School Block 1 Heating	0.732	0.037	0.445	0.250	0.000	0.732
Jubilee Wood Primary School Extension	7.375	0.261	5.264	1.850	0.000	7.375
Bushfield Junior Expansion	2.800	0.048	2.712	0.040	0.000	2.800
South West MK Additional Primary Provision	7.463	0.035	5.391	2.037	0.000	7.463
Whitehouse Primary School	8.627	0.157	5.660	2.810	0.000	8.627
Oakgrove Primary	8.304	0.293	5.284	2.727	0.000	8.304
Newton Leys Primary	8.706	0.138	5.318	3.251	0.000	8.707
Fairfield Primary	8.362	0.035	5.517	2.810	0.000	8.362
CMK Secondary	17.075	0.000	0.340	10.880	5.780	17.000
Walton High at Brooklands Ph1	26.334	1.593	16.004	8.737	0.000	26.334
Infrastructure Investment - Transport	37.023	12.269	5.264	0.250	0.000	17.783
Bradwell Abbey Improvements Programme	3.058	0.285	0.390	0.050	0.033	0.758
<b>Total Multiple Years Spend Approval</b>	<b>135.859</b>	<b>15.151</b>	<b>57.589</b>	<b>35.692</b>	<b>5.813</b>	<b>114.245</b>

### Detailed list of changes to the 2015/16 Capital Programme

Scheme	Resource Allocation 2015/16 £	Spend Approval 2015/16 £	Spend Approval not Requested 2015/16 £
<b>2015/16 Capital Programme as agreed at the 25th February Full Council</b>	<b>139,433,183</b>	<b>99,989,176</b>	<b>39,444,007</b>
<b>Amendments to Resource Allocation and Spend Approval for Existing Projects</b>			
<b>Children &amp; Families - Education, Effectiveness &amp; Participation</b>			
Whitehouse Primary School	350,000	350,000	0
Knowles Amalgamation 1FOE	175,000	175,000	0
Fairfield Primary	200,000	200,000	0
Shenley Brook End 2FOE Extension	350,000	350,000	0
CMK Community Sports Facility	716,970	0	716,970
Self Service Kiosks in Libraries	0	200,000	(200,000)
<b>Public Realm</b>			
Bradwell Abbey Improvements Programme	75,000	390,000	(315,000)
Studley Knapp, Walnut Tree	33,750	0	33,750
Parsley Close, Walnut Tree	33,750	0	33,750
Walton Play Area	(25,000)	0	(25,000)
<b>Resources - Public Access</b>			
Re-implementation of SAP	0	1,000,000	(1,000,000)
<b>Total Amendments to Resource Allocation and Spend Approval for Existing Projects</b>	<b>1,909,470</b>	<b>2,665,000</b>	<b>(755,530)</b>
<b>Revised Capital Programme after Adjustments</b>	<b>141,342,653</b>	<b>102,654,176</b>	<b>38,688,477</b>

### Detailed list of changes to the 2015/16 Tariff Programme

Scheme	Resource Allocation 2015/16 £	Spend Approval 2015/16 £	Spend Approval not Requested 2015/16 £
<b>2015/16 Tariff Programme as agreed at the 25th February Full Council</b>	<b>23,314,000</b>	<b>0</b>	<b>23,314,000</b>
<b>Amendments to Resource Allocation and Spend Approval for Existing Projects</b>			
A421 Kingston Roundabout	0	1,133,000	(1,133,000)
A421 Eagle to Fen Farm	0	1,033,000	(1,033,000)
Whitehouse Primary	200,000	330,000	(130,000)
Eastern Expansion Area Primary 2	0	372,000	(372,000)
Eastern Expansion Area Secondary Phase 1	0	8,939,000	(8,939,000)
Fairfield Primary	0	110,000	(110,000)
<b>Total Resource Allocation &amp; Spend Approval requests for Existing Projects</b>	<b>200,000</b>	<b>11,917,000</b>	<b>(11,717,000)</b>
<b>Revised Tariff Programme after Adjustments</b>	<b>23,514,000</b>	<b>11,917,000</b>	<b>11,597,000</b>



**“TEEP” ASSESSMENT AND RECOMMENDATIONS**

Responsible Cabinet Member: Councillor Legg, Cabinet member for Public Realm  
Public Realm

Report Sponsor: Mike Hainge, Service Director Public Realm  
Author and contact: Gill King, Programme Manager (Waste Strategy)  
Tel: 07944572064

**Executive Summary:**

Due to legislative changes originating in the European Union (EU) Waste Framework Directive, an assessment has been carried out of a) the necessity for, and b) the Technical, Economic and Environmental Practicability (“TEEP”) of, collecting paper, glass metal and plastics separately in Milton Keynes. The assessment also evaluated the compliance of waste collections with the waste hierarchy.

The assessment is in a background paper. The findings are as follows:

- As the Council already collects glass for recycling separately from all other waste materials, this complies with the new legislation.
- Paper, metals and plastic are collected comingled in kerbside, recycling banks, street cleaning, hospital and commercial collections. Therefore a “TEEP” assessment of these comingled collections is required.
- The quality of the paper, metal and all plastic except the plastic film from the pink sacks that are used for kerbside collection is good.
- It is technically possible to collect the kerbside paper, cans and plastics separately
- Depending on the method chosen, and if assumptions are correct, there might be a net annual saving of between 604 and 1,091 tonnes of CO2 equivalent per year. However, the set-up of a new system would result in extra one-off emissions of 4,599-8,593 tonnes CO2 equivalent, depending on the system chosen. There would be a net additional annual cost of between £593,000 and £1,590,000. The change to a different system would result in one-off set up costs of between £3.42m and £8.77m that the Council would be required to reimburse Serco, the Council’s collection contractor. The Council may also be required to terminate the contract as the change in value, to the extent set out above could render the Council in breach of the Public Contracts Regulations 2015
- It is concluded that a change to a separate collection system is not necessary, is technically practicable, is questionable as to whether it is environmentally practicable, and is not economically practicable.
- There is still scope to move some of the Council’s waste streams up the waste hierarchy.

## 1. **Recommendation(s)**

- 1.1 That the current recycling collection arrangements of paper, cans and plastics be retained as it is not considered necessary or economically practicable to change.
- 1.2 That the investigation and implementation of moving the waste streams up the waste hierarchy be carried out wherever practicable at this time, in line with the Council's Waste Strategy.

## 2. **Issues**

- 2.1 The EU's revised Waste Framework Directive requires that Member States have in place separate collections of paper, glass, metal & plastic by 1<sup>st</sup> January 2015.
- 2.2 The UK Government transposed the revised Waste Framework Directive into UK Law through the Waste Regulations (England and Wales) 2011, which came into force on 1st October 2012.
- 2.3 The UK's interpretation was that comingled recycling collections comply with the requirement for separate collections as long as separate collections are not technically, environmentally & economically practicable (TEEP), and that good quality recyclate is achieved.
- 2.4 This interpretation was challenged by The Campaign for Real Recycling, an organisation representing UK Recyclate end users, resulting in a Judicial Review, which found in favour of the UK Government's interpretation.
- 2.5 The Department of Environment, Food and Rural Affairs (DEFRA) decided that further guidance on carrying out a TEEP assessment was not required; subsequently a Waste Regulations Route Map was produced by the Local Authority Waste Network to assist councils in completing their assessments. This was launched in April 2014.
- 2.6 In December 2014, the Environment Agency, which is responsible for monitoring compliance with TEEP announced that they would not commence checks until the end of March 2015, to give councils longer to complete their assessments.
- 2.7 The Council's TEEP Assessment has now been completed following the suggested process in the Waste Regulations Route Map and is presented for approval.

## 3. **Options**

### 3.1 Continue with the existing system

The Council currently collects paper, cardboard, cans, plastics, foil, aerosols and cartons in a pink sack, glass in a blue box, food and garden waste in a green wheeled bin and batteries in a clear/yellow bag. Residuals are collected in black sacks. The pink sacks, black sacks and blue boxes are collected by a fleet of 17 one-pass vehicles weekly. No changes are proposed to the food and garden waste or battery collections, which are all collected by a separate refuse vehicle with binlift, in any of the following three alternative methods of separate collection. These are

### 3.2 Kerbside Sorting

Full kerbside sorting requires an increased number of vehicle movements. The Council would return to an earlier system of collection, that is:

- Paper and cardboard would be collected in new red boxes of 55 litres capacity with lids
- Glass, cans, plastics and cartons would be collected in the existing blue boxes which have 44 litres capacity.
- The crew would sort all the materials from the boxes into a dedicated kerbside sort vehicle (rather than the current one-pass vehicle) at the side of the street, weekly. The time taken to sort at the kerbside means that fewer households can be collected per round.
- The number of kerbside sorting vehicles needed would be greater than the present one-pass system because they travel more slowly. Therefore, instead of the current 17 collection vehicles, we estimate 21 will be needed.
- Black refuse sacks would need to be collected weekly and separately using widely-available refuse vehicles without binlift. As these are only picking up refuse they can move quickly, and we estimate the number needed will be less than the one-pass vehicles at 15.
- This method would result in increased net annual costs of £1.59m and set-up costs of £5.98m. If the hoped-for benefits are realised, annually 604 tonnes net of CO2 equivalent would be saved, but the set up of the new system would emit 4,599 tonnes of CO2 equivalent.

### 3.3 Separate vehicles

This option involves a further increase in vehicle movements, but the vehicles are simpler, widely available refuse collection vehicles, with or without bin lift.

- The sorting is largely performed by the resident, who must be supplied with extra containers. As well as the existing black sacks for refuse and blue boxes for glass, residents would be supplied with a 44 litre box for cans, and two 140 litre wheeled bins, one for paper and cardboard and one for plastic containers. This means that the resident would have 6 containers in total (plus a small bag for batteries).
- Due to the operational difficulties of collecting 6 containers on a weekly basis, half the recyclables would be collected each week – in effect a fortnightly collection of the dry recyclables. This might mean some loss of recyclables, but that has not been factored in, as it is too difficult to quantify. The Council cannot collect refuse or food and garden waste on a fortnightly basis due to commitments it has given when accepting funding under the weekly collection support scheme and the Council's weekly collection policy.
- This option requires 4 vehicle passes each week by each household which is on the limit of operational viability, requiring careful scheduling by the contractor to ensure that roads are not congested with collection vehicles.
- However, because the collection requires no kerbside sorting, and the crews are only picking up one material at a time (though they do have to return containers), the collection can be quicker than the kerbside sort method above, so more properties can be covered in a round.
- This method would result in increased net annual costs of £2.35m and set up costs of £8.77m. If the hoped for benefits are realised, there may

be a saving of 931 tonnes of CO2 equivalent annually but the set-up could result in emissions of 8,773 tonnes of CO2 equivalent.

### 3.4 Partial Sorting

This method is a pragmatic compromise between full separation and the current comingled paper, cans and plastics. It is not recommended in the route map but is proposed as a possible local solution if absolutely necessary. As cans, plastics, and drinks cartons can be effectively and efficiently separated to quality standards at the MRF, and have been for many years, the most likely potential benefit (if any) would be from separating the paper and cardboard from the other recyclables earlier in the process.

- Residents would therefore be given a separate container – a wheeled bin – in which to place paper and cardboard for separate collection.
- To keep costs down, this would be collected fortnightly using an RCV with binlift. Again this may mean a small and difficult-to-quantify loss of material, which has not been factored into the calculations.
- All the other materials would continue to be collected in pink sacks on the onepass vehicle as they are now.
- This method would result in increased net annual costs of £0.59m and set up costs of £3.42m. If the hoped for benefits are realised, there may be a saving of 1,091 tonnes of CO2 equivalent annually but the set-up could result in emissions of 4,956 tonnes of CO2 equivalent.

## 4. Implications

### 4.1 Policy

Changing to one of the alternative systems is not in the current Council Waste Strategy, and would not address the Council's priorities set out in the corporate plan. It would be hoped that there would be an increased recycling rate by making such radical changes, but this may not be realised. The extra expense may have a detrimental effect on other services.

### 4.2 Resources and Risk

If the council were to adopt one of the separate collection systems above, there are large financial implications detailed above and so it is not recommended that the Council does this.

As the council would continue to be collect paper, cans and plastics comingled, there might be a risk of a legal challenge, see below

Assuming the recommendation is adopted the impacts are:

N	Capital	N	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

### 4.3 Carbon and Energy Management

As detailed above, it would be hoped that, having spent a large amount of money to change a service, some carbon benefits could be realised, however, it is possible that no benefit would be obtained, as extra quality recyclable materials may not be achieved.



#### 4.4 Legal

- (a) Regulation 13 (1) of Waste (England and Wales) Regulations 2011 states that from 1st January 2015, all Waste Collection Authorities will be required to collect paper, metals, plastics and glass separately, where doing so is:
- (i) technically, environmentally and economically practicable; and
  - (ii) appropriate to meet the necessary quality standards for the relevant recycling sectors.
- (b) Regulation 13 (2) clarifies co-mingled collection would amount to separate collection where the collection together with each other but separately from other waste of waste streams intended for recycling with a view to subsequent separation by type and nature is a form of separate collection.
- (c) There is a slight risk of legal challenge if the Council's (or its Provider's) separation and recycling process is not sufficiently robust to achieve required separation. However, this will need to be balanced with the TEEP test, provided under the Regulations and the European Commission's guidance that economically practicable refers to a separate collection which does not cause excessive costs in comparison with the treatment of a non-separated waste stream, considering the added value of recovery and recycling and the principle of proportionality.
- (d) If the Council decides not to change to separate waste collection for different types of waste material due to prohibitive costs, it should undertake a further review in the following circumstances:
- (i) At the end of the collection contract;
  - (ii) At end of waste disposal/treatment/recycling contract;
  - (iii) At the end of the useful life of the current fleet (if applicable).

#### 4.5 Other Implications

To change to an alternative separate collection system would require a large communications exercise. The cost of this has been factored in. All separate collection options would require residents to find extra space for more containers and to change their behaviour.

N	Equalities/Diversity	Y	Sustainability	N	Human Rights
N	E-Government	Y	Stakeholders	N	Crime and Disorder

Background Papers: TEEP and Waste Hierarchy Compliance Assessment Document



**LAKES ESTATE NEIGHBOURHOOD PLAN- MODIFICATIONS ARISING FROM EXAMINER'S REPORT**

Responsible Cabinet Member: Councillor Legg – Cabinet member for Public Realm

Report Sponsor: Anna Rose, Service Director Planning & Transport  
Author and contact: Michael Moore, Senior Planning Officer, Tel: 01908 252352

**Executive Summary**

Following the examination of the Lakes Estate Neighbourhood Plan and publication of the Examiner's report, this report seeks delegated authority from the portfolio holder to agree that the plan should be modified in line with the Examiner's recommendations and to authorise the necessary arrangements for the holding of a referendum, including the area for the referendum.

**1. Recommendations**

- 1.1 That Examiner's conclusions outlined in paragraph 2.7 and Annex A be noted.
- 1.2 That the Milton Keynes Council's response to the modifications set out in the Annex to this report, together with any consequential decisions required as a result of the report, be agreed.
- 1.3 The area for the referendum as recommended by the Examiner be agreed and that the referendum be authorised to take place.

**2. Issues**

- 2.1 The Lakes Estate Neighbourhood Plan was submitted to Milton Keynes Council (MKC) in April 2014. Following a delegated decision on the 13 May 2014 the submitted Plan was the subject of public consultation for an eight week period until Tuesday 15 July 2014.
- 2.2 Mr John Slater was appointed in November 2014 as the independent Examiner to examine the plan by the Council, in consultation with Bletchley and Fenny Town Council (BFSTC). The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only, but the Examiner can hold a public hearing in order to hear oral evidence on matters which he or she wishes to explore further.
- 2.3 In this case, Mr Slater was satisfied that he was in a position to examine the plan without the need for a hearing. Additionally, as he mentions in his report no parties requested a hearing. During the course of his examination, he invited further written representations in respect of Policy GP7 and relevant exchanges of correspondence were placed on both the Milton Keynes Council (MKC) and Town Council's websites. Mr Slater carried out an unaccompanied

visit to the Lakes Estate on Friday 2 January to familiarise himself with the area and to visit all the sites referred to in the plan.

- 2.4 The draft examiner's report was received on 10 February 2015 and after a fact check, a final version of the report was received by MKC and BFSTC on 20 February 2015. The report is available to view on both Councils' websites and at their offices. Now the report has been received by both Councils, the Act and the Neighbourhood Planning (General) Regulations, 2012, require Milton Keynes Council, as Local Planning Authority to decide what action to take in response to each of the Examiner's recommendations. The Examiner states:
- 2.5 *'I applaud the focus that the Plan has on trying (to) ensure that new development meets the area's specific needs and is not overambitious in terms of attempting to try to introduce a policy for everything. The submission plan only has 8 general policies and 8 site allocations. Some Neighbourhood Plans seem to aspire to become duplicate local plans but this is an excellent example of a focused neighbourhood plan that has been drawn up by a community, for an individual housing estate covering the next decade.'*
- 2.6 In his summary the Examiner says: *'The community of the Lakes Estate, led by Bletchley and Fenny Stratford Town Council and in particular the Task and Finish Group who have led the Plan's production and with the professional planning support of David Lock Associates should be congratulated on the quality of the Neighbourhood Plan'*.
- 2.7 His overall conclusion is that the Plan, if amended in line with his recommendations, meets all the statutory requirements, including the basic conditions test. His recommendations address:
- Modifications to the plan and its content in order to ensure that it complies with the basic conditions that all neighbourhood plans must meet; and
  - The area over which the referendum will take place.
  - He also has some made some suggestions to clarify points within the plan and amendments to graphics to make the plan easier to understand.
- 2.8 The Examiner's report proposes fourteen changes to the Plan, set out in the Annex to this report. Not all of these changes are recommendations as noted above some are points of clarification and amendments to graphics in order to make the plan easier to understand. The most significant proposed change is the deletion of Policy GP8 (Communication and Continued Community Engagement) as the Examiner is concerned that this policy as written is not actually a policy for the use and development of land. However much of the substance of this policy can be reflected in the Plan text. Officers suggested response to the Examiner's report is to accept all his recommendations and suggestions.
- 2.9 Subject to the Examiner's modifications and the agreement of the Council's response (as set out in the **Annex**), the Neighbourhood Plan can proceed to the Referendum stage. However, because of the General and Local elections and the CMK Business Plan referendums taking place on Thursday May 7 and the need to publish a notice and publicise the Lakes Estate referendum, the earliest any referendum on this plan can take place is in June or July.

### 3. Options

#### 3.1 Receive and not act on the recommendations within the Examiner's report.

This option would only be necessary if the Examiner recommends that the Plan should not proceed to referendum or if the Council consider the modifications are not in accordance with the legal requirements. As the Examiner recommends the Plan as modified should proceed to Referendum and his modifications ensure the plan meets the legal requirements, this option cannot be justified.

#### 3.2 Receive and act upon the recommendations within the Examiner's report (the preferred option).

This option would enable the Referendum to proceed. This is recommended given the content of the Examiner's report.

### 4. Implications

#### 4.1 Policy

4.2 Neighbourhood planning is a process introduced by the Localism Act 2011, which provides local communities with an opportunity to allocate land for particular purposes and create planning policies, which will shape the places where they live and work. The National Planning Policy Framework (NPPF) sets out that Neighbourhood Plans must be in general conformity with the strategic policies of the Development Plan. Neighbourhood Plans should reflect these policies, and neighbourhoods should plan positively to support them. Neighbourhood Plans and Development Orders should not promote less development than is set out in the Local Plan, or undermine its strategic policies. In Milton Keynes, the strategic policies are set out in the adopted Milton Keynes Local Plan and the adopted Core Strategy.

4.3 Once a Neighbourhood Plan has successfully passed all of the stages of preparation, including an examination and referendum, it is 'made' by the Local Planning Authority and forms part of the authority's Development Plan, meaning it will be a material consideration in the determination of planning applications within the Lakes Estate area. In terms of the planning policy hierarchy, a Neighbourhood Plan, once adopted, carries more weight than a Supplementary Planning Document.

4.4 The Lakes Estate Neighbourhood Plan contributes to the achievement of aspects of the Council's vision as set out in the Core Strategy, notably:

- Regeneration and investment to redress problems of deprivation in one of the oldest housing estates within the City.
- Additionally, by identifying sites for new housing development the plan also assists in maintaining a five year housing land supply within the Borough.

#### 4.5 Resources and Risk

Finance: The Localism Act and the 2012 Regulations place new duties on Local Planning Authorities in relation to Neighbourhood Planning. These new duties have considerable implications for staff resources and include taking

decisions at key stages in the process; being proactive in providing advice to communities about neighbourhood planning and providing advice and/or assistance to Parish/Town Councils that are undertaking neighbourhood plans.

In recognition of the additional burdens that these new duties place on local planning authorities, the Department for Communities and Local Government (DCLG) has made available grants to local planning authorities up to £30,000 for each neighbourhood plan. The payment of the Extra Burdens Grant is phased so that £5,000 is available when the neighbourhood area is designated; a further £5,000 when the plan is submitted and publicised; and the final £20,000 following successful examination. Over £70,000 has been invested in evidence, engagement and preparation of the document.

As a Neighbourhood Plan therefore, the Lakes Estate Neighbourhood Plan is in line to generate £30,000 in extra burdens funding for the Council. This funding is expected, by Government, to cover the costs of the examination and the referendum. However, the extra burdens funding for this particular plan does not cover all the costs or the resource of council officer time.

N	Capital	Y	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

#### 4.6 Carbon and Energy Management

Provided that development comes forward in accordance with this Plan, then it will help to alleviate fuel poverty in this part of the Borough. It will help to remove the less energy efficient buildings and homes and provide more energy efficient buildings.

#### 4.7 Legal

- a) Neighbourhood planning is part of the Government's initiative to empower local communities to take forward planning proposals at a local level, as outlined in the Localism Act, 2011. The Act and the subsequent 2012 Regulations confer specific functions on local planning authorities in relation to neighbourhood planning.
- b) The Neighbourhood Plan has been consulted on in accordance with the Neighbourhood Planning (General) Regulations 2012 – firstly the draft plan was the subject of consultation by Bletchley and Fenny Stratford Town Council. This formal regulation 14 pre-submission consultation took place between 25 November 2013 and 6 January 2014. Subsequently, following submission of the plan to Milton Keynes Council, the plan was the subject of public consultation for an eight week period until Tuesday 15 July 2014; in line with the requirements of Regulation 16.
- c) As with any planning decision, there is a risk of legal challenge to the plan and/or judicial review of the council's decision to proceed with the referendum. Risk is being managed by ensuring that the regulations are followed and that the Council's decision making process is clear and transparent.

#### 4.8 Other Implications

Among the Basic Conditions that the Neighbourhood Plan must meet are the requirements for the plan to:

- Contribute to the achievement of sustainable development
- Not breach and otherwise be compatible with EU obligations (including Human Rights, the Strategic Environmental Assessment Directive and the Habitats Directive)

The Examiner's report has confirmed that the Plan meets those Basic Conditions and officers are satisfied that there are no conflicts with these aspects.

N	Equalities/Diversity	Y	Sustainability	N	Human Rights
N	E-Government	Y	Stakeholders	N	Crime and Disorder

#### Annexes

- A) Lakes Estate Neighbourhood Plan – modifications arising from Examiner's report
- B) A report to Milton Keynes Council on the Examination of the Lakes Estate Neighbourhood Development Plan, 20 February 2015

#### Background Papers

- 1) Lakes Estate Neighbourhood Plan, Submission draft, April 2014.





## TO LAKES ESTATE NEIGHBOURHOOD PLAN- MODIFICATIONS ARISING FROM EXAMINER'S REPORT.

TOPIC AND EXAMINER'S COMMENTS/RECOMMENDATIONS	EXPLANATION AND JUSTIFICATION	SUGGESTED MKC REPOSENSE
<p>1) Period of Plan: 'The plan covers the period 2015-2026 subject to the plan being made this year.' Page 5 of Examiner's Report</p>	<p>Examiner suggests for clarity the Plan covers the period 2015-2026 as the plan currently does not specify a start date.</p>	<p>Agree to the Examiner's suggestion.</p>
<p>2) Title of Plan: Examiner recommends 'The title of the Plan should be The Lakes Estate Neighbourhood Plan 2015-2026.' Page 6 of Examiner's Report</p>	<p>Consequential change arising from the Examiner's decision on the date of the plan.</p>	<p>Agree to the Examiner's recommendation.</p>
<p>3) Change Vision statement for the Neighbourhood Plan. Page 9 of Examiner's Report</p> <p>Delete: The Vision Statement for the Neighbourhood Plan is:- "The Lakes Estate – A vibrant community, where the residents have a commitment to quality design and construction, care about their neighbourhood, treasure the environment and are proud of where they live , work and play"</p>	<p>The Examiner considers his new paragraph better sums the ambition of the Plan. It is more comprehensive and goes further than the previous vision statement in recognising the importance of developing and enhancing the built environment and encouraging appropriate housing growth and improved facilities and services for all residents of the Lakes Estate</p>	<p>Agree to the Examiner's suggested change as it better reflects what the plan is aiming to achieve.</p>
<p>Examiner consider the following paragraph (4.3) better sums up the ambition of the Plan:  Insert "<u>Over the plan period up to 2026, the community and stakeholders of the Lakes Estate will seek to develop and enhance its built and natural environment respecting and enhancing, where appropriate, its existing character and identity. It will encourage</u></p>		

<p><u>appropriate housing growth, primarily for local needs and create improved facilities and services for all residents. Achievement of these objectives will enable the Lakes Estate to thrive as a sustainable and unified community.</u></p>		
<p>4) Policy GP1 (The Presumption in Favour of Sustainable Development) Page 10 of Examiner's Report</p> <p>Amend text of the criteria set out in Paragraph 5.7 on what should be classed as sustainable development by the wording</p> <p><u>"In the context of the Lakes Estate Neighbourhood Plan sustainable development includes development Providing a range....."</u></p>	<p>The Examiner notes this policy is drawn closely from policy in the National Planning Policy Framework (NPPF) and Core Strategy Policy CSA and importantly the policy wording meets the basic condition test. However, he is concerned that paragraph 5.7 of the explanatory text of the Neighbourhood Plan, seeks to define what the Plan means as "sustainable". This is at odds with the text of the policy which refers to sustainable development as being defined in the NPPF. <u>The potential issue is that development may come forward that does not meet the definitions as set down in Paragraph 5.7 but does meet the definition of sustainable development as set down in the NPPF.</u> The Examiner's proposed change to wording of paragraph 5.7 is to avoid confusion and make the wording of the explanatory text and the policy all compatible with the NPPF.</p>	<p>Agree to the Examiner's suggested change</p>
<p><b>EXAMINER'S COMMENTS/RECOMMENDATIONS</b></p> <p>5) Policy GP2 (Development Opportunity Sites) Page 11 of Examiner's Report</p> <p>Examiner suggests additional reference to development proposals complying with other</p>	<p><b>EXPLANATION AND JUSTIFICATION</b></p> <p>Policy GP2 meets the basic condition tests without the need for any modification.</p> <p>However, the Examiner suggests for the sake of clarity and to assist the consideration of future planning</p>	<p><b>SUGGESTED MKC RESPONSE</b></p> <p>Agree to the Examiner's suggested clarification. This helps to explain and emphasise the point that development proposals will be expected to conform to other relevant Core Strategy policies.</p>

<p>relevant Core Strategy policies such as affordable housing in policy or explanatory text.</p> <p>Examiner acknowledges this policy goes to the heart of what the Plan is seeking to achieve. Essentially the community through the neighbourhood plan consultation process has indicated its willingness to accept new development on public open space, subject to arrangements being put in place which will allow for the improvement of existing community and recreational facilities as well as enhancing the value of the open space being retained through better playgrounds and equipment.</p>	<p>applications, it would be helpful for the policy or the supporting text to refer additionally to the fact that “development proposals will be expected to comply with other relevant policies in the Core Strategy e.g. covering affordable housing.”</p> <p>He suggests that the above clarification is one the Town Council and MKC may wish to consider.</p>	<p>MKC to discuss with BFSTC and their consultants where this reference should appear in either the text or in the policy.</p>
<p>6) Policy GP3 (The Physical Integration of New Development) Pages 11-12: of Examiner’s Report. Examiner suggests deleting the wording ‘<i>The Physical Integration of New Development</i>’ in the title of the policy and replacing it by <u>Development on Non-allocated Sites</u></p>	<p>Examiner considers the current policy title is somewhat at odds with the subject matter that the policy is covering.</p> <p>Policy GP3 acknowledges that development proposals may occur on non-allocated sites and it sets out criteria for their consideration such as needing to conform to the established character of the estate, whilst being a contemporary design solution and should improve pedestrian and landscape connectivity.</p> <p>Although the proposed change of title wording is not a formal recommendation of the Examiner it is a matter the Examiner suggests the plan authors consider.</p>	<p>Officers have no objection to the suggested change of title, which raises no policy issue. Accept Examiner’s suggestion.</p>
<p>7) Policy GP3 (The Physical Integration of New Development) Pages 11-12: of Examiner’s Report.</p>	<p>The Examiner from his visit to the estate did not identify many opportunities for development on non-identified sites but</p>	<p>Agree to the Examiner’s recommendation.</p>

<p>Recommendation Insert into the wording of Policy GP3 “where appropriate including” before “as identified in Figure 5.1</p>	<p>having regard to the lifespan of the plan, he regards it as sensible for the plan to allow for such developments to come forward. However, these sites may come forward in areas that do not lie adjacent to the areas, which figure 5.1 has identified for improvements to pedestrian or landscape connectivity. Nevertheless such proposals will rightly need to respond to the requirement for improvement to their immediate landscape and routes. He believes that this can be covered by the insertion of the words “where appropriate including” before “as identified in Figure 5.1” With that minor modification the policy meets the Basic Conditions Test.</p>	
<p><b>EXAMINER'S COMMENTS/RECOMMENDATIONS</b></p>	<p><b>EXPLANATION AND JUSTIFICATION</b></p>	<p><b>SUGGESTED MKC RESPONSE</b></p>
<p>8) Policy GP5 (Local Commercial Opportunities) Examiner's report pages 12-13.  Recommendation Delete “conditionally”</p>	<p>This policy seeks to allow employment opportunities on the estate. The wording does refer to planning permission will be “conditionally permitted”. Whilst most consents will have conditions attached to them, the imposition of conditions has to meet the tests set out in Paragraph 206 of the NPPF. The Examiner therefore proposes that the word “conditionally” should be omitted. The four bullet points are all considered relevant criteria. Subject to the deletion of the word “conditionally” the policy meets the basic conditions test.</p>	<p>Agree to the Examiner's recommendation.</p>

<p><b>EXAMINER'S COMMENTS/RECOMMENDATIONS</b></p> <p>9) Policy GP6 (Local Green Spaces) Examiner's report pages 13.</p> <p>Recommendation Remove the trees from the Figure 5.3 Include within the explanatory text clarification that open space not designated as Local Green Space remains protected by saved policy L2 of the Local Plan</p> <p>Note: Local Plan policy L2 protects areas of public open space and community facilities from development</p>	<p><b>EXPLANATION AND JUSTIFICATION</b></p>	<p>The Examiner writes 'This policy protects the areas shown on Figure 5.3. However the plan shows existing trees as shaded light green. <u>This could give the impression that those parts of the open space shaded as mid green are not covered by the protection provided as Designated Local Green Space for the areas shaded dark green.</u> This may seem a minor technical point but may be particularly relevant for some areas where there is a high density of tree cover such as the area to the north of Skene Close. It would aid the clarity of the policy if the mid green shading of the trees could be removed from the plan to enable the full extent of the areas designated as Local Green Space to be shown on the plan....</p> <p>I am sure that it is not the intention of the Plan that the smaller areas of amenity open space within the housing areas but which are not shaded dark green, are not being considered suitable for development just because they are not explicitly protected by this policy. I note that in Paragraph 5.14 it suggests the designated areas for development will no longer be protected by Policy L2 of the adopted Local Plan 2005. By implication I conclude that the other areas of open space i.e. those not allocated for development or are shown as dark green on Figure 5.3 will continue to be protected by Policy L2 of the saved Local Plan but it would be clearer for decision makers if that could be clarified in the explanatory text.'</p> <p><b>SUGGESTED MKC RESPONSE:</b> Agree to the Examiner's recommendation and make it clear in explanatory text that the other areas of open space not allocated for</p>

<p>development or are shown as dark green on Figure 5.3 will continue to be protected by Policy L2 of the saved Local Plan.</p>	<p style="text-align: center;"><b>EXPLANATION AND JUSTIFICATION</b></p> <p>This policy generated more discussion than any other policy in the Examiner's report. It was the subject of correspondence between the Examiner and both Council's during the course of the examination. The policy aims to provide a mechanism whereby new development will fund environmental enhancements and improvements for community and recreational facilities. Although the examiner considers this is an objective that the Neighbourhood plan should be capable of delivering.</p> <p>He recognises this is not a straight forward matter and he has to have regard to the advice given by the Secretary of State and legal constraints imposed by secondary legislation. A further complication is that between the time of submission of the Neighbourhood Plan there have been changes to the Secretary of State's advice in Planning Policy Guidance that limits the payment of tariff based contributions to residential schemes of over 10 units. Previously the original wording of this policy would have sought contributions from all housing units.</p> <p>MKC and BFSTC submitted a revised wording of policy GP7 and explanatory text during the course of the Examination, which the Examiner has amended.</p> <p><b>SUGGESTED MKC RESPONSE:</b> Agree to the Examiner's recommendation and proposed new wording of Policy GP7 and note explanatory text to policy will need to be changed.</p>
<p style="text-align: center;"><b>EXAMINER'S COMMENTS/RECOMMENDATIONS</b></p> <p>10) Policy GP7 (Environmental Enhancements including Improving Community and Recreation Facilities) Examiner's report pages 13-16.</p> <p>Insert new revised wording for Policy GP7</p> <p><u>All planning applications which result in the creation of new commercial premises or residential schemes that exceed 10 new housing units will be expected to demonstrate how that development will contribute towards the delivery of enhancements within the Plan area, including improving community and recreational facilities. These enhancements will be sought through direct provision of on or off site improvements or subject to meeting the tests set out in paragraph 204 of the NPPF through financial contributions secured via a planning obligation and/or payment of any Community Infrastructure Levy (if adopted) which would be made available to MKC and BFSTC and which will be capable of being spent on specific schemes to secure improvements to the physical environment and community and recreational facilities on the Lakes Estate as set out in this Plan.</u></p> <p>The explanatory text will need to be changed to reflect this rewording of the policy.</p>	

<b>EXAMINER'S COMMENTS/RECOMMENDATIONS</b>	<b>EXPLANATION AND JUSTIFICATION</b>
<p>11) Policy GP8 (Communication and Continued Community Engagement). Examiner's report page 16.</p> <p>Recommendation That Policy GP8 be deleted as a policy but the wording can appear prominently in the text dealing with Delivery but that the word "must" be replaced by "should"</p>	<p>The Examiner is concerned that this policy as written is not actually a policy for the use and development of land but is a policy related to the provision of documents that need to accompany planning applications. . .</p> <p>'It is for the Local Planning Authority to set down what documents it requires to be submitted with a planning application to allow its validation through what is known as the Local List. Whilst it is perfectly proper for a community to express an expectation that it should be consulted, along with the Town Council and indeed through representative community groups, this should not be contained within a development plan policy but as an aspiration set out in the plan which is in line with Secretary of State advice.</p> <p>I also suggest that the replacement of the word "must" by "should" as it implies that if a perfectly acceptable proposal that meets all community objectives could fail if the statements in themselves did not demonstrate how they comply with the core objectives. I am conscious that the pre submission health check only recommended the rewording of the policy rather than its exclusion. However having given this matter much consideration my conclusion is that it is matter that goes beyond what should be a development plan policy as it is not a policy for the use or development of land. For the above reason I do not consider that Policy GP8 meets the basic condition and I am recommending its deletion as a policy but it should remain within the document in a prominent position as a community aspiration and good practice as confirmed by the advice set out in paragraph 189 of the NPPF.'</p> <p><b>SUGGESTED MKC REPOSE</b></p> <p>Accept Examiner's recommendation Delete policy GP8 from the plan but note wording about consultation can be contained as an aspiration and replace the word 'must' by should'</p>
<b>EXAMINER'S COMMENTS/RECOMMENDATIONS</b>	<b>EXPLANATION AND JUSTIFICATION</b>
	<b>SUGGESTED MKC REPOSE</b>

<p>12) Site Specific Policies Examiner's report page 17.</p> <p>Policy SSP 2 Triangle Land south of Phelps Road adjacent to the canal</p>	<p>Examiner writes 'This is an alternative proposal to that set out in SSP 8 but one that does not need the realignment of Stoke Road. It would be preferable if the illustrative plan should show what is envisaged for the southern section of the site which is shown without notation. This merely a suggestion and does not mean that the policy does not meet the basic conditions test.'</p>	<p>MKC to discuss with BFSTC and their consultants the Examiner's suggestion the illustrative plan should show what is envisaged for the southern section of this site.</p>
<p>13) Site Specific Policies</p> <p>Policy SSP3 North Western verge, Drayton Road. Examiner's report page 17.</p> <p>Recommendation</p> <p>A revised illustrative layout be produced showing active frontages facing Drayton Road</p> <p>Add to Design Principle reference to the need for a new access to come off Drayton Road.</p>	<p>This policy seeks to create frontage development onto Drayton Road. However the indicative plans show the active frontage facing into the site facing the internal access road and the rear of the existing properties which back on to this wide highway verge. The deviation is between the words in the policy and the indicative layout. It is the policy wording that will form part of the development plan and which is subject of this examination. The allocation is promulgated on the creation of new access points onto Drayton Road but this is not referred to in the design principles. The illustrative plan could usefully be amended so that the houses are shown with their active frontage facing on to Drayton Road.</p>	<p>Accept Examiner's recommendation</p> <p>Revise illustrative layout showing active frontages facing Drayton Road</p> <p>Add to Design Principle reference to the need for a new access to come off Drayton Road.</p>
<p><b>EXAMINER'S COMMENTS/RECOMMENDATIONS</b></p>	<p><b>EXPLANATION AND JUSTIFICATION</b></p>	<p><b>SUGGESTED MKC RESPONSE</b></p>
<p>14) The Referendum Area</p> <p>Examiner confirms 'that the area of the Neighbourhood Plan as designated by Milton</p>	<p>Before the Plan can proceed to its referendum stage the Examiner is required to confirm whether the referendum should cover a larger area that the area covered</p>	<p>Accept Examiner's recommendation</p>



Keynes Council on 22nd January 2013 is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.'

by the Neighbourhood Plan. In this case he has recommended the area for the referendum should not be extended.

POLICIES	EXAMINER'S COMMENTS/RECOMMENDATIONS
<p>Policy SSP1 Land South of Water Hall School  Policy SSP4 Land at Northern Windermere Drive  Policy SSP5 Land at Southern Windermere Drive  Policy SSP 6 Land at Skene Open Space  Policy SSP7 Serpentine Court  Policy SSP8 Canal Gateway</p>	<p>There were no recommendations or changes sought by the Examiner for these site specific policies, which met the basic conditions test.</p> <p>The examiner acknowledged policy SSP5 Land at Southern Windermere Drive had attracted representations from residents in Kinloch Place on the grounds of loss of a view but he commented 'It is an accepted principle that loss of a view is not a valid planning objection but in any event the disposition of buildings on the site will be finalised at the planning application stage and the scheme in the Plan is only illustrative.'</p> <p>On Policy SSP7 Serpentine Court he commented 'This is the most ambitious element of the Neighbourhood Plan. The public consultation exercise identified Serpentine Court as one of the greatest problem areas on the Estate as well as the greatest opportunity to deliver a major improvement to the area. The plan's masterplan is a bold statement, proposing a new heart for the neighbourhood and is clear as to what minimum levels of development are required to achieve it and what design principles should guide it. The policy as set out in Policy SSP7 provides the context for how the redevelopment of Serpentine Court is to take place. However whilst the planning framework is established, the redevelopment will only take place when there is a viable business case with an agreed scheme and a programme and strategy to secure its delivery.</p> <p>However it must be appreciated that the Council will have to take separate decisions as to whether it can secure the resources and the site assembly pre requisites to deliver the redevelopment or whether it looks at the refurbishment option. This policy merely facilitates the redevelopment option in accordance with the community's wishes and sets out the framework for considering any planning application.</p> <p>The policy and design principles do not set out a preferred access arrangement as there are conflicting tensions between the need to provide an economically viable scheme which will be attractive to the market and the need to maintain the exclusively pedestrianised spine of the estate. This topic can be investigated more fully at design brief stage, which should hopefully be the subject of public consultation. This is a pragmatic response.'</p>
<p>Pages 17-20 of Examiner's Report</p>	

M Moore 17.3.2015 Draft

# Lakes Estate Neighbourhood Plan

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## Submission Version

A Report to Milton Keynes Council on the Examination of the Lakes Estate Neighbourhood Development Plan

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John Slater Planning

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20th February 2015

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## John Slater Planning

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## Introduction

Neighbourhood planning is a process introduced by the Localism Act 2011 which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a plan is made, it forms part of the statutory development plan alongside, which in the case of Milton Keynes will be the adopted Core Strategy and the saved policies of the Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by The Lakes Estate Neighbourhood Plan Task and Finish Group which is a working group of The Lakes Estate Regeneration Steering Group who were appointed to undertake the plan preparation on behalf of Bletchley and Fenny Stratford Town Council which is a “qualifying body” under the Neighbourhood Planning legislation, which entitles them to lead the plan making process.

This report is the outcome of my examination of the Submission Version of The Lakes Estate Neighbourhood Development Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum then the Plan will be “made” by Milton Keynes Council, which is the Local Planning Authority.

## The Examiners Role

I was appointed by Milton Keynes Council in November 2014, with the agreement of the Town Council, to conduct this examination. My role is known as Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS)

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 36 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Milton Keynes Council and Bletchley and Fenny Stratford Town Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

## John Slater Planning

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Lakes Estate Neighbourhood Plan.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect. It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land covering the area designated by Milton Keynes Council for The Lakes Estate Neighbourhood Development Plan on 22<sup>nd</sup> January 2013.

I can also confirm that it does specify the period over which the plan has effect namely the period up until 2026 to coincide with the Core Strategy. The Plan does not specify a start date and for the case of clarity I intend to make it clear that the Plan covers the period 2015 – 2026, subject to the plan being made this year.

I can confirm that the plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Bletchley and Fenny Stratford Town Council as a parish council is a qualifying body under the terms of the legislation.

### *Recommendation*

The title of the Plan should be The Lakes Estate Neighbourhood Plan 2015-2026

## **The Examination Process**

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. No parties have requested a hearing. I did during the course of the examination invite further written representations in respect of Policy GP7 which I refer to in the relevant section of my report. The relevant exchange of correspondence was placed on both the Council and on the Town Councils' respective websites.

I carried out an unaccompanied visit to the area on Friday 2<sup>nd</sup> January 2015 to familiarise myself with the estate and I visited all the sites referred to in the Plan.

## **The Consultation Process**

The submission has been accompanied by a Consultation Strategy which set out the various stages of consultation, what issues were raised at each stage and how these issues and concerns have been incorporated in to the final plan.

Residents were being consulted on issues associated with living and working on the Lakes Estate as early as 2007, through a Placecheck Exercise. Obviously this was before the neighbourhood plan but it was a good starting point.

Prior to the Plan's designation, during the summer of 2012, various events and workshops were arranged by the Town Council, with questionnaires being sent to all households on the estate, achieving an excellent response rate of 23.9%. This was supplemented by a Planning For Real event, all carried out under the banner "Your Future Your Choice", which clearly established the "agenda" for the plan, including the acceptance of new development and in particular site identification and engagement about issues around street layout and parking, open space and recreation, community facilities and footpaths.



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These ideas were then developed in a further round of workshops and drop in sessions entitled “Big Ideas” over the winter and spring 2013, which explored the key themes that had emerged during earlier consultations and which have made it through to the Submission Plan.

The next stage of Plan Preparation was an exhibition of preferred options which took place in October 2013 where residents had the opportunity to attend 5 consultation events to look at the proposed development allocations sites as well as the general approach to new development on the estate. Most of the responses were supportive and it is clear that the final plan has addressed detailed comments that were raised during these sessions.

The formal Regulation 14 Pre Submission consultation took place on the draft plan between 25<sup>th</sup> November 2013 and 6<sup>th</sup> January 2014. This consultation involved further public engagement as well as seeking the views of various statutory bodies, such as the Canal and Rivers Trust and various teams within Milton Keynes Council.

I am entirely satisfied that the neighbourhood planning process has been an open and engaging process giving residents and businesses on the estate ample opportunities to become involved and influence the plan making process. Similarly it is clear that the final plan reflects the issues raised and the sites that have been allocated for development enjoy a strong degree of public support.

### **Regulation 16 Consultation**

I have had regard, in carrying out this examination, to the comments made during the period of consultation when the Council had received the Plan prior to the examination. This is known as the Regulation 16 Consultation. This includes the comments made by officers of Milton Keynes Council which were included in the report to the Cabinet Member but also to the comments made by specific officers which had been received after the Cabinet Member’s meeting. These came from the Waste Strategy Programme Manager, the Regeneration Programme Director as well as planning officers covering urban design issues.

I have also had regard to the comments of the residents of Kinloch Place who have objected to the effect of the development at the Southern arm of Windermere Drive on the views for the rear of their houses. A resident of Serpentine Court has expressed her concerns on the adequacy of consultation with the residents of Serpentine Court which she argues breaches EU obligations.

In terms of other statutory consultees, namely the Coal Authority, the Highways Agency, English Heritage, Natural England, OFGEM, Central Bedfordshire Council

and the Environment Agency, all offered either no objections or were supportive of the policies in the Plan.

### **The Basic Conditions Test**

The neighbourhood planning examination process is different to a Local Plan examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination will focus.

The 5 questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan:-

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State
- Will contribute to the achievement of sustainable development
- Will be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects.

### **Compliance with the Development Plan**

To meet the basic conditions test the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan which in this case is the adopted Core Strategy 2013 and the saved policies of the Milton Keynes Local Plan 2005. Of particular relevance is Policy CS8 of the Core Strategy dealing with Other Areas of Change which identifies the Lake Estate as a pilot study area under the Neighbourhood Regeneration Strategy initiative which says inter alia that Neighbourhood Plans will be used for specific changes required for the area addressing the need for Physical Change, Economic Improvement, Improved Human Capital and Social Capital.

### **Compliance with European and Human Rights Legislation**

The Town Council initially requested MKC to screen whether the Lake Estate Neighbourhood Plan should be the subject of a Strategic Environmental Assessment

(SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”. Milton Keynes Council consulted the Environment Agency, Natural England and English Heritage who all agreed that an SEA was not required. The Council concluded that the Neighbourhood Plan did not need to be subject to a Strategic Environmental Assessment.

A second screening request was submitted on 4<sup>th</sup> April 2014 and again Milton Keynes Council confirmed on 17<sup>th</sup> April 2014 that a SEA was not required. I concur with that conclusion. Furthermore no European sites are affected by the Plan’s proposals and hence a Habitat Regulation Assessment is not required.

I have also considered whether the Plan complies with the European Convention on Human Rights, particularly in terms of Article 8 (privacy): Article 14 (discrimination) and Article 1 of the First Protocol (property) under the meaning of the Human Rights Acts 1998 and I am satisfied that the Plan is compatible with all these provisions.

I have noted the comment of one of the residents of Serpentine Court that there had been a lack of consultation with the residents of that development which was a breach of EU Obligations. My conclusion is that there have been numerous opportunities for the residents of the estate to be aware of the plan and its proposals and indeed I noted that the resident availed herself of the opportunity to comment at the Regulation 16 stage.

### **The Neighbourhood Plan: An Overview**

The Vision Statement for the Neighbourhood Plan is:-

“The Lakes Estate – A vibrant community, where the residents have a commitment to quality design and construction, care about their neighbourhood, treasure the environment and are proud of where they live , work and play”

I consider the following paragraph (4.3) better sums up the ambition of the Plan:

“Over the plan period up to 2026, the community and stakeholders of the Lakes Estate will seek to develop and enhance its built and natural environment respecting and enhancing, where appropriate, its existing character and identity. It will encourage appropriate housing growth, primarily for local needs and create improved facilities and services for all residents. Achievement of these objectives will enable the Lakes Estate to thrive as a sustainable and unified community”

My overall assessment is that this is a very well-considered and realistic plan which is based on a sound assessment of the challenges of improving this estate which clearly is facing some real issues in improving the physical and social fabric of the area. The underlying theme which residents have “bought into” is summed up by

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the motif “No Development = No Improvements”. The plan has been prepared in a positive way, identifying what improvements residents of the estate wish to see delivered over the plan period. It has allocated sites for new development, mostly but not exclusively, on areas of green space and has set down clear guidelines as to how the Community expects new homes and facilities to be integrated into the area. This is a good basis for securing improvements to the public realm and facilities to serve the residents. The challenge is to secure a mechanism that will ensure that the development does deliver the improvements having regard to the restrictions imposed by planning legislation. I will return to this point under the specific policy GP7.

I applaud the focus that the Plan has on trying ensure that new development meets the area’s specific needs and is not overambitious in terms of attempting to try to introduce a policy for everything. The submission plan only has 8 general policies and 8 site allocations. Some Neighbourhood Plans seem to aspire to become duplicate local plans but this is an excellent example of a focused neighbourhood plan that has been drawn up by a community, for an individual housing estate covering the next decade.

### **The Neighbourhood Plan Policies**

#### **Policy GP1 The Presumption in Favour of Sustainable Development**

This policy is drawn closely from the policy set out in the NPPF and Policy CSA of the adopted Core Strategy. However I do have a concern that in paragraph 5.7 of the explanatory text, it seeks to define what the Plan means as “sustainable”. This is at odds with the text of the policy which refers to sustainable development as being defined in the NPPF. The potential issue is that development may come forward that does not meet the definitions as set down in Paragraph 5.7 but does meet the definition of sustainable development as set down in the NPPF. In order to avoid confusion I suggest that the text of the criteria set out in Paragraph 5.7 on what should be classed as sustainable development should be amended by the wording “In the context of the Lakes Estate Neighbourhood Plan sustainable development includes development

- Providing a range....”.

However the policy wording meets the basic condition test.

## **Policy GP2 Development Opportunity Sites**

This policy goes to the heart of what the Plan is seeking to achieve. Essentially the community through the neighbourhood plan consultation process has indicated its willingness to accept new development on public open space, subject to arrangements being put in place which will allow for the improvement of existing community and recreational facilities as well as enhancing the value of the open space being retained through better playgrounds and equipment.

Whilst this may on the face of this be inconsistent with saved Local Plan Policy L2 , which seeks to protect public open space, nevertheless there are criteria in the Local Plan which allows the loss, in particular circumstances. I consider that the value of the neighbourhood plan process is that communities are able to exercise this choice and these clear expressions of community views are something that the examination should not seek to frustrate. In particular I do not consider any potential conflict with policies that seek to prevent the loss of open space would contravene “strategic” policies in the development plan. Similarly I do not believe that the policy contravenes the NPPF policy relating to open space, specifically because paragraph 73 requires the robust assessment of the need for open space, sports and recreational facilities. I believe that the neighbourhood planning process has carried out that robust assessment and includes conclusions on the issues of qualitative as well as quantitative provision. The plan accepts reduction in the quantity of open space and facilities if it delivers qualitative improvements.

The policy sets out 4 criteria for proposals that come forward on identified Development Opportunity sites and I consider that all are based on sound planning principles and are consistent with both local and national planning principles.

Policy GP2 meets the basic condition tests without the need for any modification. However for the sake of clarity and to assist the consideration of future planning applications I do feel it would be helpful for the policy or the supporting text to refer additionally to the fact that “development proposals will be expected to comply with other relevant policies in the Core Strategy eg covering affordable housing.” This should be something that the Town Council and MKC may wish to consider.

## **Policy GP3 The Physical Integration of New Development**

I find that the title of this policy “The Physical Integration of New Development” somewhat at odds with the subject matter that the policy is covering. Whilst Policy GP2 deals with the identified Development Opportunity Sites, Policy GP3 acknowledges that development proposals may emerge on non-allocated sites and it sets out criteria for their consideration such as needing to conform to the established

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character of the estate whilst being a contemporary design solution and should improve pedestrian and landscape connectivity. I suggest that the title of this policy be changed to “Development on Non- Allocated Sites” but this is not a formal recommendation but a matter for the authors of the plan to consider.

From my visit to the estate I did not identify many opportunities for development on non-identified sites but having regard to the lifespan of the plan it is sensible for the plan to allow for such developments to come forward. However these sites may come forward in areas that do not lie adjacent to the areas which Figure 5.1 has identified for improvements to pedestrian or landscape connectivity. Nevertheless such proposals will rightly need to respond to the requirement for improvement to their immediate landscape and routes. I believe that this can be covered by the insertion of the words “where appropriate including” before “as identified in Figure 5.1”

With that minor modification the policy meets the Basic Conditions Test.

### *Recommendation*

Insert into the wording of Policy GP3 “ where appropriate including” before “ as identified in Figure 5.1

## **Policy GP4 Access and Car Parking**

This policy is an example of the plan responding to the issues raised by the experience of the residents of the area. It not only requires development to meet minimum parking standards but also to improve and enhance footpath connections and existing car parking areas in terms of, but not exclusively street lighting, resurfacing and surveillance. It also introduces the need to include cycle parking provision with the detailed design of the public areas and requires developers to provide cycle parking within developments including flats.

Policy GP4 meets the basic conditions test

## **Policy GP5 Local Commercial Opportunities**

This policy seeks to allow employment opportunities on the estate. The wording does refer to planning permission will be “conditionally permitted”. Whilst most consents will have conditions attached to them, the imposition of conditions has to meet the tests set out in Paragraph 206 of the NPPF. I therefore propose that the word “conditionally” should be omitted. The four bullet points are all considered relevant criteria.

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Subject to the deletion of the word “conditionally” the policy meets the basic conditions test.

### *Recommendation*

Delete “conditionally”

## **Policy GP6 Local Green Spaces**

This policy protects the areas shown on Figure 5.3. However the plan shows existing trees as shaded light green. This could give the impression that those parts of the open space shaded as mid green are not covered by the protection provided as Designated Local Green Space for the areas shaded dark green. This may seem a minor technical point but may be particularly relevant for some areas where there is a high density of tree cover such as the area to the north of Skene Close. It would aid the clarity of the policy if the mid green shading of the trees could be removed from the plan to enable the full extent of the areas designated as Local Green Space to be shown on the plan.

I consider that the designations do meet the criteria set out in paragraph 77 of the NPPF. I am sure that it is not the intention of the Plan that the smaller areas of amenity open space within the housing areas but which are not shaded dark green, are not being considered suitable for development just because they are not explicitly protected by this policy. I note that in Paragraph 5.14 it suggests the designated areas for development will no longer be protected by Policy L2 of the adopted Local Plan 2005. By implication I conclude that the other areas of open space ie those not allocated for development or are shown as dark green on Figure 5.3 will continue to be protected by Policy L2 of the saved Local Plan but it would be clearer for decision makers if that could be clarified in the explanatory text.

### *Recommendation*

Remove the trees from the Figure 5.3

Include within the explanatory text clarification that open space not designated as Local Green Space remains protected by saved policy L2 of the Local Plan

## **Policy GP7 Environmental Enhancements including Improving Community and Recreation Facilities**

This policy is central to the underlying objective of the neighbourhood plan in that it seeks to provide the mechanism whereby new development will fund environmental

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enhancements and improvements for community and recreational facilities. I consider that this is an objective that the neighbourhood plan should be capable of delivering. However it is not a straightforward matter and I understand that the authors of the Plan recognise the complexities and this is reflected in the wording of the policy. I am required to have particular regard to advice given by the Secretary of State and also to legal constraints imposed by secondary legislation and this could undermine whether this central policy meets the Basic Conditions test.

It is recognised that development within the area can deliver wider planning benefits for the host community which is accepting the new development on what was designated as public open space. This can be through improvements to infrastructure actually provided by the development itself or through the payment of financial contributions the subject of section 106 agreements or unilateral undertakings. However these are restricted by regulations set out in the Community Infrastructure Levy Regulations which I will outline shortly. Similarly if Milton Keynes Council were to decide to adopt Community Infrastructure Levy, during the lifetime of the Neighbourhood Plan there would be a source of funding to the Town Council, which as a qualifying body would be entitled to 25 % of CIL receipts which it could then decide to allocate to enhancements on the estate. However the decision to adopt CIL is not within the gift of the neighbourhood plan.

Where Milton Keynes Council is landowner and the plan allows the residential development of public open space there will be an uplift in the value of the land but a development plan policy cannot bind the landowner to particular uses of the capital receipts from the disposal of that land although clearly some may suggest there may be a moral argument that the community should benefit from creating the framework that allows the disposal of public open space. That is a matter for the democratic accountability of the local authority. The neighbourhood plan policy can properly create the framework to secure enhancements of community facilities through Section 106 subject to the obligations meeting specific tests for planning obligations. These are set out in the Community Infrastructure Levy Regulations 2010 (Regulation 122) which requires all planning obligations, if they are to be used as a reason to grant planning permission, to show that they are:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development

The matter is further complicated if Section 106 agreements are used to receive financial contributions based on a tariff approach to fund in part the list of facilities set out in paragraph 5.15. From April 2015 only 5 contributions per scheme will be able to be collected under the terms set out in the CIL Regs. The Council in consultation with the Town Council and the community groups will have to consider which developments are going to be expected to contribute to particular projects if this 5 scheme limit is not to be breached. It is not possible for the examination to go



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beyond signposting the issues relating to compliance with the CIL Regulations related to the limitations on the use of planning obligations.

A further complicating factor that has emerged since the submission of the Neighbourhood Plan has been the changes to the Secretary of State advice in Planning Policy Guidance that limits the payment of tariff based contributions to residential schemes of over 10 units. The original wording of the policy would have sought contributions on all housing units.

Accordingly, in the light of the changes in the Secretary of State advice, as part of my examination, I invited further written representations from MKC and the Town Council on the wording of Policy GP7. I am grateful that the two parties have recognised the issue and together came up with a revised wording for my consideration for both the policy and the explanatory texts. These in part deal with the issue on the fact that schemes of 10 or less will not need to contribute through a tariff based contribution. Their wording is as follows:-

*All planning applications which result in the creation of new commercial premises or residential schemes that exceed 10 new housing units must demonstrate how they can contribute towards the delivery of enhancements, including improving community and recreation facilities within the Plan area, in consultation with the community. Such enhancements/ improvements will be delivered through a combination of Section 106 Agreement or Unilateral Undertaking; and payment of any future CIL that is available to MKC for direct investment in the community and recreational facilities of the Lakes Estate.*

The original version in the Submission version of the plan referred to the use of New Homes Bonus but I had raised concerns that, as this was a non-ring fenced source of income, a development plan policy cannot constrain budgetary decisions. I have similar concerns regarding the spending of CIL money. A local authority must make decisions on infrastructure priorities from the overall amount of levy it collects across its whole area and I do not believe that a development plan policy can dictate how the CIL money will be spent. Equally it could not require the Town Council to spend money it receives through CIL payments on the Estate however that will be a choice it must make and clearly it will be influenced by the content of the Plan which it has promoted. My conclusion is that it is quite appropriate for the Plan to encourage spending generated from development within the estate and the consideration of the financial consideration resulting from the development can be a material consideration on a planning application the policy cannot require MKC or indeed the Town Council to spend its CIL receipts in any particular area.

Nevertheless, notwithstanding the constraints on the mechanisms of what the policy is seeking to achieve, I believe that it remains the primary route for the community to realise the benefits that new development will facilitate. I therefore propose to retain the policy but to amend the wording in the following manner:

### *Recommendation*

#### Revised wording for Policy GP7

All planning applications which result in the creation of new commercial premises or residential schemes that exceed 10 new housing units will be expected to demonstrate how that development will contribute towards the delivery of enhancements within the Plan area, including improving community and recreational facilities. These enhancements will be sought through direct provision of on or off site improvements or subject to meeting the tests set out in paragraph 204 of the NPPF through financial contributions secured via a planning obligation and/or payment of any Community Infrastructure Levy (if adopted) which would be made available to MKC and BFSTC and which will be capable of being spent on specific schemes to secure improvements to the physical environment and community and recreational facilities on the Lakes Estate as set out in this Plan.

The explanatory text will need to be changed to reflect this rewording of the policy

### **Policy GP8 Communication and Continued Community Engagement**

I have concerns that this policy as written is not actually a policy for the use and development of land but is a policy related to the provision of documents that need to accompany planning applications. Milton Keynes Council, in March 2014 updated its Statement of Community Involvement and the document states that the Council intends to prepare guidance for applicants and developers undertaking pre application consultation. Similarly it is for the Local Planning Authority to set down what documents it requires to be submitted with a planning application to allow its validation through what is known as the Local List.

Whilst it is perfectly proper for a community to express an expectation that it should be consulted, along with the Town Council and indeed through representative community groups, this should not be contained within a development plan policy but as an aspiration set out in the plan which is in line with Secretary of State advice. I also suggest that the replacement of the word “must” by “should” as it implies that if a perfectly acceptable proposal that meets all community objectives could fail if the statements in themselves did not demonstrate how they comply with the core objectives.

I am conscious that the pre submission health check only recommended the rewording of the policy rather than its exclusion. However having given this matter much consideration my conclusion is that it is matter that goes beyond what should be a development plan policy as it is not a policy for the use or development of land.

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For the above reason I do not consider that Policy GP8 meets the basic condition and I am recommending its deletion as a policy but it should remain within the document in a prominent position as a community aspiration and good practice as confirmed by the advice set out in paragraph 189 of the NPPF.

### *Recommendation*

That Policy GP8 be deleted as a policy but the wording can appear prominently in the text dealing with Delivery but that the word “must “ be replaced by “should”

## **SITE SPECIFIC POLICIES**

### **Policy SSP1 Land South of Water Hall School**

This is the largest development site proposed for inclusion in the neighbourhood plan which has the benefit of planning permission. The principles of development are all sound urban design principles and the policy meets the basic conditions test.

### **Policy SSP 2 Triangle Land south of Phelps Road adjacent to the canal**

This is an alternative proposal to that set out in SSP 8 but one that does not need the realignment of Stoke Road. It would be preferable if the illustrative plan should show what is envisaged for the southern section of the site which is shown without notation. This merely a suggestion and does not mean that the policy does not meet the basic conditions test.

### **Policy SSP3 North Western verge, Drayton Road**

This policy seeks to create frontage development onto Drayton Road. However the indicative plans show the active frontage facing into the site facing the internal access road and the rear of the existing properties which back on to this wide highway verge. The deviation is between the words in the policy and the indicative layout. It is the policy wording that will form part of the development plan and which is subject of this examination. The allocation is promulgated on the creation of new access points onto Drayton Road but this is not referred to in the design principles. The illustrative plan could usefully be amended so that the houses are shown with their active frontage facing on to Drayton Road.

### *Recommendation*

A revised illustrative layout be produced showing active frontages facing Drayton Road

Add to Design Principle reference to the need for a new access to come off Drayton Road.

### **Policy SSP4 Land at Northern Windermere Drive**

This allocation provides for a residential development on the wide grassed verge to the rear of the properties on the east and south side of Gairloch Avenue. Detailed proposals will need to deal with issues relating to the existing houses and the new development as well as dealing with the difference in levels on the site.

### **Policy SSP5 Land at Southern Windermere Drive**

This is wide highway verge which is proposed for a small scale residential infill to the east of Kinloch Place which will front on to Stoke Road. This allocation has attracted objections from residents in Kinloch Place on the grounds of the loss of their view. It is an accepted principle that loss of a view is not a valid planning objection but in any event the disposition of buildings on the site will be finalised at the planning application stage and the scheme in the Plan is only illustrative.

### **Policy SSP 6 Land at Skene Open Space**

This scheme comprises open space located between Burnmoor Close and Skene Close. It provides for 2 parcels of development either side of Skene Close. This policy meets the basic conditions test.

### **Policy SSP7 Serpentine Court**

This is the most ambitious element of the Neighbourhood Plan. The public consultation exercise identified Serpentine Court as one of the greatest problem areas on the Estate as well as the greatest opportunity to deliver a major improvement to the area. The plan's masterplan is a bold statement, proposing a

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new heart for the neighbourhood and is clear as to what minimum levels of development are required to achieve it and what design principles should guide it.

One representation has questioned the basis of the decision to demolish the building has been taken. Whilst the plan is accompanied by a Delivery Strategy and High Level Viability Assessment and some of the assumptions underlying that have been questioned nevertheless the Neighbourhood Plan is a clear expression of the community's desire to see the regeneration of the main shopping and service centre on the Estate and evidence has been given as to how it could be delivered and potential sources of funding.

The policy as set out in Policy SSP7 provides the context for how the redevelopment of Serpentine Court is to take place. However whilst the planning framework is established, the redevelopment will only take place when there is a viable business case with an agreed scheme and a programme and strategy to secure its delivery. The reference to minimum levels of development shows that there is a realistic view is being taken on the quantum of new development that may be necessary to achieve a viable scheme. However it must be appreciated that the Council will have to take separate decisions as to whether it can secure the resources and the site assembly pre requisites to deliver the redevelopment or whether it looks at the refurbishment option. This policy merely facilitates the redevelopment option in accordance with the community's wishes and sets out the framework for considering any planning application.

The policy and design principles do not set out a preferred access arrangement as there are conflicting tensions between the need to provide an economically viable scheme which will be attractive to the market and the need to maintain the exclusively pedestrianised spine of the estate. This topic can be investigated more fully at design brief stage, which should hopefully be the subject of public consultation. This is a pragmatic response.

I confirm that the policy meets the basic condition test.

### Policy SSP8 Canal Gateway

This is an alternative development opportunity to that contained in Policy SSP2 where the realignment of Stoke Road will create a larger development site between the new road and the canal. If the revised road alignment is implemented it would not be possible for the 2 development sites off Windermere Drive as set out in Policies SSP4 and 5 to be developed as there would be insufficient land to create an acceptable scheme and maintain an appropriate level of open space/ landscaping which is an attractive feature of this side of the Estate. The policy provides for

inclusion of a public house within the scheme but recognises that if such a use is not viable then alternative residential uses would be accepted.

### The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance I can confirm that the area of the Neighbourhood Plan as designated by Milton Keynes Council on 22<sup>nd</sup> January 2013 is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.

### Summary

The community of the Lakes Estate, led by Bletchley and Fenny Stratford Town Council and in particular the Task and Finish Group who have led the Plan's production and with the professional planning support of David Lock Associates should be congratulated on the quality of the Neighbourhood Plan.

The plan recognises that over the decades since the GLC built the estate the quality of the public realm in particular has declined. The Radburn layout was very contemporary at the time I was undertaking my planning education and my visit to the estate showed me many of the problems which the layout throws up some of which stem from lack of care and maintenance of the public realm but equally the consultation showed that key elements of the layout are particularly valued by the residents.

The community has recognised that "No Development = No Improvements". They have grasped the opportunity that neighbourhood planning offers to facilitate development by being prepared to give up for development what is, in the most part, areas of public open space. It is incumbent on Milton Keynes Council, both as landowner and as Local Planning Authority to respond positively to the community's clearly expressed wishes to see enhancements of their area funded by development on its public open space, and, notwithstanding the restrictions covering planning obligations and other sources of development related funding, it needs to respond and reinvest in the areas that the residents have identified as requiring improvement especially in terms of the public realm and community facilities.

I am confident that if the Council, the Town Council and the local community can work together to deliver the new development on the estate and can use the value

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created by the neighbourhood plan allocations to secure the improvements that the estate needs. That way the Neighbourhood Plan will deliver the area's ambitions to secure the regeneration of the Lakes Estate.

Finally my conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test.

**I am therefore delighted to recommend to Milton Keynes Council that The Lakes Estate Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum**

John Slater BA(Hons) DMS MRTPI

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