

INDEPENDENT EXAMINATION OF THE MARKFIELD NEIGHBOURHOOD DEVELOPMENT PLAN

INDEPENDENT EXAMINER:

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To Hinckley and Bosworth Borough Council and Markfield Parish Council

By email to Rachel Dexter, Senior Planning Officer (Policy), Hinckley and Bosworth Borough Council and Margaret Bowler, Vice Chair and Councillor, Markfield Parish Council

Copy to Lorraine Davies Clerk MPC and Francis Belcher H&BBC

Dated 3 May 2021

Dear Margaret and Rachel

Markfield Neighbourhood Development Plan Independent Examination – Examiner Letter Seeking Clarification of Matters

Further to my initial letter of 1 April 2021 I am writing to seek clarification of the following matters:

Strategic Environmental Assessment

1. The representation on behalf of Taylor Wimpey (UK) Limited states that given the Neighbourhood Plan is seeking to establish housing requirements and delivery, a Strategic Environmental Assessment is required. The representations on behalf of Owl Partnerships, and on behalf of Member of the Public 71, state the Screening Report has been prepared without regard for emerging strategies as required by the Planning Policy Guidance. Those representations also state that once the Neighbourhood Plan is brought into force the local planning authority must take its policies and proposals into account when preparing the emerging Local Plan but the Screening Report states the Neighbourhood Plan is unlikely to influence other plans and programmes. The representations state, if made, the Neighbourhood Plan would restrict the delivery of growth at Markfield in the period prior to the adoption of the emerging Local Plan, and restrict the options for allocations being considered in the emerging Local Plan. The representations on behalf of Owl Partnerships and on behalf of Member of the Public 71, also state the Town and Country Planning Environmental Impact Assessment Regulations 2017 Schedule 2 threshold of 150 dwellings is exceeded and that the Screening Report completely fails to have regard to the strategic or spatial effects of the

planned growth. It is stated housing requirements and delivery are strategic matters and as the Neighbourhood Plan is providing for such matters a Strategic Environmental Assessment is required. As a matter for clarification, I invite your comment on the matters raised in these representations and ask you to confirm whether or not you consider the Screening Report requires revision.

Habitats Regulations Assessment

2. Arising from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, the Neighbourhood Planning Regulations 2012 are amended such that a new Basic Condition came into force as follows *“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”* Please confirm the Neighbourhood Plan meets the replacement Basic Condition, and that Natural England agree with that opinion.

Policy M1

3. In commenting on the Borough Council representation, the Parish Council has drawn attention to paragraph 6.18 of the Neighbourhood Plan which explains the newly defined settlement boundary is drawn to include the areas of proposed housebuilding in planning application reference 20/01283/FUL and not to include areas of green infrastructure and open land forming part of the application site. How will this approach achieve flexibility in response to any alternative development layouts proposed by the current development proposers or from different developers?

The Qualifying Body has been in frequent contact with the representatives of the proposed development- Jelson. Correspondence is attached which demonstrates that Jelson is committed to delivering the layout to be approved as part of 20/01283/FUL.

It should be noted that Jelson is of the view that it be logical for the settlement boundary to cover the full extent of the application site boundary. This is not supported by the Qualifying Body. The application site boundary includes a large area of planned open space referred to in Jelson's Design and Access Statement (attached) as 'The Meadows'- a new countryside park and a fundamental part of the overall design of the development. The Meadows has therefore been excluded from the settlement boundary, though the boundary has not been drawn tightly to the edge of The Meadows to provide for some variation in the development layout. The inclusion of The Meadows within the settlement boundary would encourage its development in accordance with Neighbourhood Plan Policy M17 contrary to design principals and Policy M1

which aims to protect areas like this for the sake of its intrinsic character, beauty, heritage and wildlife.

Please also note Planning Practice Guidance paragraph: 012 Reference ID: 37-012-20140306, which allows the protection of green areas planned as part of new development.

4. Please direct me to the reasoned justification for the alignment of the settlement boundary outside of the planning application site referred to.

Please see attached 'Methodology for defining the settlement boundaries and its application for Markfield'.

Policy M2

5. In commenting on the Borough Council representation, the Parish Council state *"the introduction of small parcels of land to keep ponies or horses in, can potentially erode landscape character, without some form of control."* Please direct me to the existing evidence that justifies the intention to control the conversion of farmland to pony paddocks.

A good example of this is a series of small fields, adjacent to the Altar Stones site on Altar Stones Lane (grid ref:448192 310857). For decades they were managed for hay and or just lightly grazed. They were also bounded by large mature hawthorn hedges. They were once assessed as a possible local wildlife site. Then 5/6 years ago, they were let for pony/horse grazing. Since then, the ecological quality of the grassland has deteriorated, some hedges have been removed and in other instances horses have heavily browsed them.

6. Please confirm the defined viewpoints referred to in part 5 of the policy, and identified on the Map of Views within the Evidence Base, are freely accessible to the general public.

The viewpoints are all publicly accessible.

Policy M3

7. Please direct me to the justification for the selection of the components forming the local Green Infrastructure network identified on Map 3.

Reference was made to Government and Natural England publications, which contain definitions of Green Infrastructure. The areas identified on Map 3 are composed of the following:

- Areas of established woodland, which pre-date the establishment of the National Forest.

- Areas of woodland created with the assistance of the National Forest over the past 25 years.
- Established hedgerows - mainly those adjacent to rights of way or public highways.
- Local Green Spaces – mainly owned by Markfield Parish Council.
- District Council owned green spaces like Hill Hole and Billa Barra
- Local Wildlife sites like Altar stones
- Established roadside planting alongside the M1, A50 and A511
- Established planting on active mineral working Cliff Hill Quarry and Bardon Hill quarry extension.

Policy M4

8. Please explain why all of the sites referred to in the policy do not appear to be identified on Map 4.

All the sites are shown on Map 4, but unfortunately some overlap (see attached map series with each designation shown separately).

Policy M7

9. Please direct me to the existing evidence to justify the part of the policy that states the Neighbourhood Area is not a suitable location for wind turbine installations.

Please see map of views in evidence base.

Please also see Planning Practice Guidance paragraph: 033 Reference ID: 5-033-150618. Wind energy development should only be granted if the proposal has the backing of the affected local community. Policy M7 makes it clear that wind energy development in Markfield does not have the backing of the local community.

Policy M9

10. Are any of the locally valued heritage assets identified in the policy already included in a local list of Non-Designated Heritage Assets compiled and curated by the Borough Council?

Policy M15

11. Is it intended the figure of 334 dwellings should be the minimum housing provision for the period 2020-2039? If this figure is not intended as a minimum

housing provision, please direct me to the existing evidence that confirms sustainable development proposals above that figure should not be supported.

Against a housing requirement for Markfield of 334 dwellings for the period 2020 to 2039, the Neighbourhood Plan makes provision for 347 dwellings. Therefore, the requirement of 334 dwellings could be regarded as a minimum. However, while the expression of the overall housing requirement as a minimum may provide for flexibility, it is not a signal that the figure should be comprehensively exceeded by, for example, extending the settlement boundary to include the whole of the planning application site associated with 20/01283/FUL.

12. The representation on behalf of Owl Partnerships states at the very least their client should have had an opportunity to consider the site assessment and provide any comment and evidence they consider pertinent to the site selection process prior to the plan being submitted to the Borough Council. The representation on behalf of Taylor Wimpey (UK) Limited states the site assessment process is understood to have been carried out without any dialogue or engagement with landowners and developers as required by the Planning Policy Guidance. The representation on behalf of Member of the Public 71 states that consultation on the site assessment has been inadequate contrary to the Planning Policy Guidance. Please advise me whether the site assessment was made available for comment by interested parties prior to submission of the Neighbourhood Plan to the Borough Council.

As set out in our Consultation Statement, early consultation included a Stakeholder Consultation Event to which landowners and developers were invited (including via H&BBC for SHELAA sites). Several attended, including the owners of the land that is the subject of the Taylor Wimpey (UK) Limited proposal.

Hinckley and Bosworth Borough Council has prepared a Strategic Housing Land Availability, (SHELAA), released in December 2018, which forms a key part of the Local Plan evidence base. The SHELAA identifies the potential future supply of land which may be suitable, available and sustainable for new residential development within HBBC boundaries. The sites have been put forward by landowners, developers or their agents as potential sites to meet housing requirements and needs for the Local Plan period.

For Markfield, 24 potential housing sites were put forward by landowners and developers. They included three sites adjoining Markfield village but outside the Neighbourhood Area, including part of the Taylor Wimpey site¹.

¹ Of the 24 sites, 23 were assessed as site AS407 benefits from planning permission for ten bungalows as an extension to Markfield Court Retirement Village (19/01013/FUL). This site is included within the Markfield Court Retirement Village and Woodrowe House policy area (M19). See also Draft Neighbourhood Plan paragraph 6.30.

Basic information was gathered for each site and we appraised each option for its suitability, availability and achievability using clearly defined sustainability criteria. Factors such as access to services and facilities, heritage, nature conservation and landscape have been considered. There was also discussion with infrastructure providers such as the Clinical Commissioning Group, Education Authority and Highways England. The site selection process was explained in the Pre-Submission version of the Neighbourhood Plan (paragraphs 6.12-6.13). In response to requests for further information, full details of the site assessment process, including the SHELAA Site Profiles, Site Selection Framework and Site Selection Results were made available on the Neighbourhood Plan website prior to submission.

Our objective site assessment concluded that the preferred site is south of London Road. There has been considerable discussion with the developer, Jelsons, regarding the scheme both prior and during as recognised by the Statement of Community Involvement submitted with application 20/01283/FUL (attached).

There have been representations which promote alternative sites and which criticise the site selection, but one of the primary benefits of neighbourhood planning, is that it allows the community to take decisions as to where they consider new development should take place.

It is clear that landowners and the development industry have been involved in preparing the draft Neighbourhood Plan from the outset. The site selection process involved an appraisal of options and an assessment of individual sites was undertaken against identified criteria.

Notwithstanding the above process, on 30 March 2021, Hinckley and Bosworth Borough Council's Planning Committee resolved to grant full planning permission subject to conditions and the completion of a S106 Agreement for the development of 283 dwellings (20/01283/FUL). This makes discussion about the site selection process something of a moot point.

13. The representation on behalf of Owl Partnerships promotes the residential development of land at Ratby Lane for 48 affordable homes. This site is stated to have been the subject of planning application reference 20/00848/FUL. A representation on behalf of Glenalmond Developments Limited promotes the residential development of land off Hill Lane for 75 dwellings. This site is stated to have been the subject of a planning application, although the representation does not include the relevant reference number. Please advise me of the latest position regarding these planning applications.

Please note that in regard to the proposed development of land at Ratby Lane, Markfield (Owl Partnerships Ltd.), the Qualifying Body understands that the land in question (LT 158036) is owned by Ronald Edward Geary and Gillian Glover, having been acquired from The Secretary of State for Social Services

under a conveyance dated 16 November 1984 by Mr Geary and Trevor Alan Glover.

Longstanding local residents were aware that the land was subject to a restrictive covenant put in place at the time of the conveyance and accordingly the position has been investigated by a combination of the Parish Council and local residents, through reference to Dr Luke Evans MP and subsequently by obtaining relevant legal documents and discussing the position with NHS Property Services Limited (successor government department to Secretary of State for Social Services referred to above).

The covenant with the Vendor and its successors provides that 'the Purchasers and their successors in title will not at any time hereafter use or occupy the land here conveyed or any part thereof or cause or permit the same to be used or occupied for any purposes other than those of agriculture horticulture or forestry'.

The purpose of the covenant was/is to protect the residents of the retirement village, which was built on land also acquired from The Secretary of State for Social Services in 1984, from the possible urbanisation of the surrounding area. The beneficiaries of the covenant are the current owners of the adjacent land, one being the owner of the freehold on which the retirement village is constructed. Representatives of the residents of the retirement village have recently received a verbal assurance from the said owner that he has no plans to release the owners of LT 158036 from their obligations.

A Land Registry (attached) extract confirms the ownership and the presence of covenants that affect the right of disposal.

While land ownership matters are not material to the planning application decision, housing site allocations should take into account the availability, suitability and economic viability of sites. To be considered available for development, on the best information available, there should be confidence that there are no legal or ownership impediments to development. The Qualifying Body concludes that there is significant evidence to suggest that the proposed development of land at Ratby Lane is not developable.

Policy M16

14. In respect of the housing allocation site identified in this policy I understand the Borough Council has, on 30 March 2021, resolved to grant planning permission for 283 dwellings in respect of application reference 20/01283/FUL submitted by Jelson Limited subject to conditions and the completion of a S106 Agreement. Please confirm this is the latest position regarding the determination of planning application reference 20/01283/FUL and in doing so please confirm the position regarding a Minerals Assessment.
15. I understand it is intended the Regulation 18 consultation on the emerging Local Plan will take place in the Summer 2021. Please confirm the latest anticipated timetable for stages to adoption.

Policy M17

16. The policy seeks to limit housing development outside the settlement boundary to stated types. How does this approach have regard for rural exception housing sites and entry-level exception housing sites supported by national planning policy?

A healthy supply of affordable housing in the village is expected through the development of the allocated site south of London Road (around 112 affordable homes) rendering a rural exception housing site unnecessary. However, if there was to be a proven local need for additional affordable homes in the future, Core Strategy Development Plan Document Policy 17 and the NPPF make provision to allow planning permission to be granted for affordable housing on 'Rural Exception Sites'.

The NPPF expects local planning authorities to support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. This is a matter for Hinckley and Bosworth Borough Council to address through its new Local Plan and the Qualifying Body cannot be expected to assess the need for such homes at the Borough level.

17. How does the policy relate to national policy regarding housing development that represents the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets?

The Qualifying Body would support an additional criterion to Policy M17 regarding this matter if the Examiner were to recommend such a modification.

18. How does part 2 of the policy have regard for the requirement of national policy that development of exceptional design quality must significantly enhance its immediate setting, and be sensitive to the defining characteristics of the area?

The Qualifying Body would support a revision to criterion 2 of Policy M17 regarding this matter if the Examiner were to recommend such a modification.

Policy M18

19. It is unclear to me how the two sentences of the policy will work together. All new housing development is required to be informed by the evidence of housing need, but with the exception of development at the two named locations only proposals of 10 or more dwellings are required to reflect the need for smaller family homes. Is it intended that with the exception of

proposals at the named locations, to be supported all development proposals for more than one dwelling should demonstrate that they reflect the assessment of local housing need in the 2019 Housing Needs Study or more recent evidence?

The intention of Policy M18 is to require development proposals for 10 or more dwellings to reflect housing need, other than in the two named locations. Special mention is made of the need for smaller family homes because, as set out in paragraph 6.24, Markfield already has a high proportion of bungalows. The Qualifying Body would support a lower threshold than 10, if the Examiner was to recommend such a modification.

I request any response to these requests for clarification is agreed as a joint response of the Parish and District Councils wherever possible. This request for clarification and any response should be published on the District Council website.

In order to maintain the momentum of the Independent Examination I would be grateful if any reply could be sent to me by 12.00 Noon on Monday 17 May 2021.

As the Independent Examination progresses, I may seek clarification with respect to other matters. For the avoidance of doubt recommendations of modification of the Neighbourhood Plan that may be contained in my report of Independent Examination will not be limited to those matters in respect of which I have requested clarification.

I should be grateful if the District Council and the Parish Council could acknowledge receipt of this email.

Best regards

Chris Collison
Independent Examiner
Planning and Management Ltd