

**A REPORT TO MILTON KEYNES CITY COUNCIL  
OF THE EXAMINATION OF  
THE EMBERTON NEIGHBOURHOOD PLAN 2019-2031  
UNDERTAKEN BY  
Dr LOUISE BROOKE-SMITH, OBE, FRICS, MRTPI  
INDEPENDENT EXAMINER  
SEPTEMBER 2023**

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## **Summary and Overall Recommendation**

*As the Independent Examiner into the Emberton Neighbourhood Plan, I have been requested by Milton Keynes City Council, in its capacity as the Local Planning Authority, to present my professional assessment of the Plan, in terms of its compliance with the 'Basic Conditions' as set out in extant legislation, regulations and guidance.*

*I confirm that I am independent of the Qualifying Body, namely Emberton Parish Council and the Local Planning Authority. Furthermore, I do not have any interest in any land or property that may be affected by the Plan.*

*I hold relevant professional qualifications and have experience of the planning regime, gained over the past 35 years in both the public and private sectors, to enable an independent judgement of the documents before me. I am also a member of the National Panel of Independent Examiners Referral Service, endorsed at the time of convening by HMGov Department of Housing, Communities and Local Government.*

*I have undertaken a thorough examination of the Emberton Neighbourhood Plan. This has comprised a review of all documents presented to me by the Local Planning Authority, a review of documents available for public review on the Parish website and documents relating to the Development Plan held on the Council's website plus national guidance, regulations and statute.*

*It is my considered opinion that, with modification, the said Plan meets the Basic Conditions and human rights requirement, as set out in the respective legislation and guidance. **I have highlighted where I consider modifications are required and indicated the nature of those changes. These have been set out in bold italics throughout my Report and are presented to complement the style of the overall document.***

*Hence, with modifications, I consider that the Emberton Neighbourhood Plan will: have regard to national policies and advice contained in current legislations and guidance; contribute to the achievement of sustainable development; be in general conformity with the strategic policies of the development plan for the area; not breach, but be compatible with European Union obligations and the European Convention of Human Rights; and not likely have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.*

*I consider that, only if modified, the Neighbourhood Plan complies with the legal requirements set out in Paragraph 8(1) and 8(2) of Schedule 4B to the Town and Country Planning Act 1990, as amended, and can proceed to a Referendum.*

*I have no concerns over the defined Plan area or the manner of its confirmation and consider that this area is appropriate as the extent of any Referendum.*

*Finally, I refer to a number of abbreviations throughout my Report and for the avoidance of any confusion these are set out in Appendix B.*

***Dr Louise Brooke-Smith, OBE, FRICS, MRTPI,***

***September 2023***

## **1.0 INTRODUCTION**

### **1.1 NEIGHBOURHOOD DEVELOPMENT PLAN REGIME**

1.1.1 The Neighbourhood Development Planning regime provides local communities with the ability to establish specific land use planning policies which can influence how future development comes forward in their area. It not only provides the opportunity for local people to shape their locality, but it also provides guidance for developers and landowners when considering new proposals and for decision makers when determining planning applications.

1.1.2 Any Neighbourhood Development Plan should be clear, not only in its goals and ambitions, but also in how any policies are presented. The background behind how policies have emerged should be easy to understand and robust in terms of identifying specific policy or evidence.

1.1.3 This Report provides the findings of an Examination into the Emberton Neighbourhood Development Plan, which is here on referred to as the Plan, the Emberton Neighbourhood Plan or the NP.

1.1.4 The Plan was prepared by the Emberton Parish Council, working in consultation with the Local Planning Authority, namely Milton Keynes City Council and a range of interested parties, statutory bodies, community groups, landowners and their agents, plus other key stakeholders.

1.1.5 This Report provides a recommendation as to proceeding to a Referendum. If this takes place and the Plan is endorsed by more than 50% of votes cast, then it would be 'made' by Milton Keynes City Council and would be used to assist in the determination of any subsequent planning applications for the area concerned.

### **1.2.0 APPOINTMENT AND ROLE OF THE INDEPENDENT EXAMINER**

1.2.1 In accordance with current regulations, I was formally appointed by Milton Keynes City Council, as the Examiner of the Neighbourhood Plan on the 5<sup>th</sup> July 2023. I was issued with the relevant documentation and formally began the examination in late July 2023.

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

- *The Neighbourhood Development Plan has been prepared and submitted for examination by a Qualifying Body.*

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

1.2.3 My role has also been to consider whether the Plan meets the 'Basic Conditions' and human rights requirements, as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to Neighbourhood Development Plans by section 38A of the Planning and Compulsory Purchase Act 2004.

1.2.4 In order to meet the Basic Conditions, the making of any Neighbourhood Development Plan must:

- *Have regard to national policies and advice contained in guidance issued by the Secretary of State.*
- *Contribute to the achievement of sustainable development.*
- *Be in general conformity with the strategic policies of the development plan for the area; and*
- *Not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.*

1.2.5 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for Neighbourhood Development Plans, in addition to those set out in primary legislation and referred to in the paragraph above.

- *The making of the Neighbourhood Development Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) either alone or in combination with other plans or projects.*

1.2.6 Having examined the Plan against the Basic Conditions, as set out above, and as the Independent Examiner, I am required to make one of the following recommendations:

*a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements.*

*b) that the Plan should be subject to modification but will then meet all relevant legal requirements and should proceed to Referendum.*

*c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.*

1.2.7 If recommending that the Plan should go forward to Referendum, I am also required to consider whether, or not, the Referendum Area should extend beyond the defined Emberton Neighbourhood Plan Area.

1.2.8 As noted above, the role of any Independent Examiner is to assess a Plan in terms of compliance with the Basic Conditions. While it is not to specifically comment on whether the Plan is sound, where changes could be made that would result in removing ambiguity and make the document more user friendly for all parties, this should be considered. This reflects relevant paragraphs of the PPG and the first basic condition.

1.2.9 It should also be noted that it is not the role of the Examiner to add policies, even if this is suggested by statutory consultees or stakeholders. In this regard, where relevant, comments on Regulation 16 representations are noted later in this report.

### 1.3 THE EXAMINATION PROCESS

1.3.1 I am aware that the preparation of the NP and early engagement began in 2017 and continued through the restricted period associated with the Covid19 pandemic. Accordingly, I have had regard to the relevant amendments to the salient Neighbourhood Development Planning regulations, first brought into effect in April 2020 by the then MHCLG.

1.3.2 In this case, while some public consultation on the emerging versions of the NP was completed during restricted lockdown periods, the final stages of the NP's preparation were pursued when those restrictions were lifted and hence it has been deemed entirely appropriate to continue to examine the Plan in the normal way. Indeed, any referendum that may be appropriate will take place under the salient regulations as confirmed by the Department of Levelling Up, Communities and Housing.

1.3.3 Before, throughout and after the pandemic, the general rule has remained in place, namely that examinations should preferably be conducted by written representations unless there is sufficient reason to hold a Hearing to explore

controversial or ambiguous matters. In this case, I have been able to consider the Plan by way of the key documents, relevant background information, the evidence base, supporting reports and written representations. I have not considered it necessary to hold a Hearing to complete my findings.

- 1.3.4 For the avoidance of any confusion, I have reviewed the position regarding the need to resubmit the Submission Version of the Plan and reissue the Consultation Statement. I consider that the action taken by the LPA and the QB was appropriate.
- 1.3.5 After initially submitting its Submission Version of the Plan in February 2023 and there being a period of publicity between 10<sup>th</sup> March and 21 April 2023, formal concerns were raised. It was found that the initial version of the Consultation Statement and the Assessment of Potential Housing Sites had erroneously omitted to record submissions made on behalf of Francis Jackson Homes Ltd. made at the Reg 14 stage. This matter was highlighted appropriately by agents acting for this party with respect to a site within the NP area, namely land at Acorn Nurseries, Newton Rd. The QB resubmitted its NP to Milton Keynes City Council on the 27<sup>th</sup> April 2023 with a corrected version of its Consultation Statement.
- 1.3.6 From the papers before me, I consider that the omission was unfortunate and was corrected appropriately. In accordance with Reg 16 of the salient regulations, the LA publicised the NP for a second period between 9<sup>th</sup> May 2023 and 20<sup>th</sup> June 2023.
- 1.3.7 All representation from both the first and second Reg 16 periods of consultation have been presented to me and have been reviewed.
- 1.3.8 My examination findings have resulted from my assessment of all the documents noted at Appendix A and the written submissions from interested parties at both the Regulation 14 and the two 16 stages of the NP process and are in addition to my reference to the following documents, which set out extant legislation, regulation and guidance.
- National Planning Policy Framework (The Framework) (Revised as at 2018 and 2019) and reissued with further amendments in July 2021. It should be noted that while further revisions of the NPPF have been proposed by HMGov for consultation, any changes to that document have yet to be confirmed or endorsed. Hence, the leading document for the purposes of this Examination remains the 2021 version of the NPPF.
  - Planning Practice Guidance (Paragraphs: 001 Reference ID: 41-001-20190509 onwards - Revision date: 09 05 2019)
  - Town and Country Planning Act 1990 (as amended)
  - The Planning and Compulsory Purchase Act 2004 (as amended)



- The Localism Act (2011)
  - The Neighbourhood Planning (General) Regulations (2012) and additions
  - The Neighbourhood Planning Act 2017 and associated guidance and regulations.
- 1.3.9 Finally, I confirm that I undertook an unaccompanied site visit to the Plan area in August 2023.

## **2.0 BACKGROUND TO THE EMBERTON NEIGHBOURHOOD PLAN**

- 2.1. Further to a formal application, Milton Keynes City Council confirmed the designation of the entire civil parish of Emberton as a Neighbourhood Plan Area in July 2016. I note that the area has not been the subject of any other NP proposal.
- 2.2 The Parish Council, as the relevant Qualifying Body, had initiated this and subsequently, through a specifically formed steering group, pursued appropriate consultation across the NP area including engagement with the community and stakeholders with respect to the vision of the NP.
- 2.3 The documents before me and in the public domain indicate that regular meetings and consultation with the community and stakeholders took place between 2017 and 2022. This began with consideration of the issues affecting the community and the formation of a vision and specific policy areas for the Plan.
- 2.4 The consultation background to the Plan is set out in the second version of the Consultation Statement (see comments earlier). I find that this has been prepared in compliance with Section 15(2) of Part 5 of the Neighbourhood Plan Regulations 2012 and that the community liaison was adequate at both a local level and with statutory parties. I comment further on this below.
- 2.5 I have reviewed the evidence base which supports the policies and vision of the Plan. I find this and the second version of the Consultation Statement to be proportionate to the nature of the Plan.
- 2.6 The Plan was subject to some changes as a result of the consultation process and the Reg 14 submissions by third parties. As noted above, a Submission Version was duly prepared and finalised and submitted to the LPA. After clarification of omissions from the Consultation Statement, and a second formal period of public consultation, allowing for further Reg 16 representations, it was confirmed that the Plan could proceed to Examination.
- 2.7 I have been presented with written representations to the Submission Version of the Plan which were submitted within the formal period(s). Some representations have

been in support of the emerging NP but equally some have raised objections. As noted above, I have reviewed them all.

### **3.0 COMPLIANCE WITH MATTERS OTHER THAN THE BASIC CONDITIONS AND HUMAN RIGHTS**

3.1 Given the above, I now report on the procedural tests, as set out earlier in this Report, and find as follows;

- **The Qualifying Body**

3.2 From the documentation before me, I conclude that the Emberton Parish Council is a properly constituted body, i.e., a Qualifying Body for the purposes of preparing a Neighbourhood Development Plan, in accordance with the aims of Neighbourhood Development Planning as set out in the Localism Act (2011) and recognised in the National Planning Policy Framework (as amended) and accompanying Planning Practice Guidance. Accordingly, I find this addresses the necessary requirements.

- **The Plan Area**

3.3 The Emberton Neighbourhood Area reflects the boundary of the Emberton Parish. No other Neighbourhood Development Plan has been proposed for this area. The area is not extensive and is typical of a rural parish surrounding one historic centre, namely Emberton Village. This comprises a mix of residential, and local service development lying to the north of Milton Keynes.

3.4 As noted above, an appropriately made application to prepare a NP was submitted to the Council by the Parish Council and duly endorsed. The appropriate protocol and process were followed. I am satisfied this meets the requirement relating to the purposes and identification of a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended) and salient regulations of the Neighbourhood Development Planning (General) Regulations 2012.

- **The Plan Period**

3.5 Any Neighbourhood Development Plan must specify the period during which it is to have effect. The Emberton Neighbourhood Plan states on its front cover and in its introductory sections that it addresses the period between 2019 and 2031. I note that

this reflects the end date associated with the extant Milton Keynes City Local Plan, referred to as Plan:MK (2016-2031). I am satisfied that this matter is clear.

- **Excluded Development**

- 3.6 From my review of the documents before me, the proposed policies within the NP do not relate to any of the categories of excluded development, as defined by statute and extant regulations, or to matters outside the Neighbourhood Development Plan area. I find that in terms of excluded development, the Plan meets legal requirements.

- **Development and use of land**

- 3.7 Any Neighbourhood Development Plan's policies, in accordance with current regulations, should only contain policies relating to development and/or use of land. While supporting text can reflect the goals and ambitions of any community, unless directly relating to development or use of land, this should not be included within or be confused with specific policies.
- 3.8 Where I felt that a policy, or part of a policy was ambiguous, unnecessarily duplicated other policies or statutory regulations, or concerned matters that do not relate to the development or use of land or property, I have recommended that it be modified or clearly explained as such, within the text of the Plan.

- **Public Consultation**

- 3.9 Planning legislation requires public consultation to take place during the production of Neighbourhood Development Plans. Any public consultation should be open and accessible, and any information presented should be easy to understand and to comment upon. It should enable all sectors of the local community the ability to comment on and hence shape the policies which may have a bearing on where they live, work or spend their leisure time.
- 3.10 I have reviewed the Consultation Statement prepared by the QB. As a requirement of the salient regulations of the Neighbourhood Development Planning (General) Regulations 2012 as amended, this was submitted to the Council and made available via the LPA and Parish's websites. As noted above, due to an omission in the initially issued Consultation Statement which failed to note submissions made at the Reg 14 stage of proceedings, the Statement was corrected and reissued. Hence two Reg 16 periods of consultation have been held.

- 3.11 A range of stakeholders including statutory bodies were given the opportunity to take part in proceedings during the Plan's preparation and I am assured that all representations were given due consideration at the point of submission notwithstanding the omission of reference to one Reg 14 party in the first Statement of Consultation. I am of the opinion that this was an unfortunate error that was appropriately rectified. I find that the assessment of housing land and the consultation exercise was appropriate. A sufficiently wide spectrum of the local, professional and statutory community was approached, and all comments raised were assessed.
- 3.12 I have reviewed the salient surveys and documents relating to the consultation work undertaken by the QB and consider that the various initiatives and the approach adopted was again proportionate. While concerns have been raised through representations at the Reg 14 and 16 stages of the Plan's progression, over the age of the questionnaire (2018) I do not share those concerns and consider that the residents survey still has validity. However, I have commented below where I have found the evidence base to be poor or ambiguous to the point of affecting the validity of some policies.
- 3.13 I consider that the responses to representations made to the Neighbourhood Plan, as it progressed through its protracted preparation stages, have been clearly set out in a table within the Consultation Statement. I note the responses issued by the QB and where the Plan was duly amended. Indeed, it is clear that the Plan has been subject to significant changes including the promotion of specific sites for residential development, which were subsequently dropped. I am persuaded by the evidence before me that there have been valid reasons for the change in direction of the Plan and the eventual promotion of a specific site for development, as opposed to the land originally presented. I note that where the Plan was not amended, repeated comments were made by some parties at the Reg 16 stage(s). Some objecting parties secured the services of professional agents and legal representation. Others have made individual submissions to the emerging NP. I have reviewed all representations but should stress that my role has not been to undertake a detailed analysis of the case for or against the development of any specific site. Moreover, it is a review of the process and approach taken. In this light, I believe changes to the draft version of the NP were appropriately assessed, undertaken or otherwise, and then explained by the QB.
- 3.14 As noted elsewhere in this Report, given the evidence before me, I have not felt it necessary to hold a public hearing, as the comments made by Regulation 16 parties and the stance of the LPA and QB has been clear. No issues have been ambiguous.
- 3.15 I conclude that an adequate consultation exercise was undertaken and that stakeholders had the opportunity to input into the Plan's preparation and as such, Regulations 14, and 16 have been addressed.

## 4.0 THE BASIC CONDITIONS AND HUMAN RIGHTS

### 4.1 BASIC CONDITIONS STATEMENT

4.1.1 I have reviewed the Basic Conditions Statement (BCS) (undated) and find it to be straight forward, addressing the Basic Conditions in a clear manner. I highlight these as follows.

### 4.2 NATIONAL POLICY, ADVICE AND GUIDANCE

4.2.1 As noted earlier, the extant NPPF (2018 and revised publications in 2019 and 2021) explains that a presumption in favour of sustainable development means that Neighbourhood Development Plans should support the strategic development needs set out in the Development Plan and plan positively to support appropriate local development. I have noted above about the emerging revised version of the NPPF. No new changes have been formally made and hence the 2021 version of the NPPF remains the valid document for this Examination. I note that the appropriate reference has been made to 2021 in the documents before me.

4.2.2 Neighbourhood Development Plans should be aligned with the strategic needs and priorities of the wider local area, i.e., they must be in general conformity with the strategic policies of the Development Plan. The NPPF advises that they should not promote less development than is set out in the Development Plan or undermine its strategic policies. Neighbourhood Development Plans should provide a practical framework within which decisions on planning applications can be made with predictability and efficiency. It is stressed that the examination has been of the Plan, as a whole.

4.2.3 The Basic Conditions Statement explains how the NP responds to specific core planning principles, as set out in the NPPF and makes appropriate cross reference to each NP policy.

4.2.4 Given the guidance found within Planning Practice Guidance (PPG) which accompanies the NPPF, I have considered the extent to which the NP policies meet this first basic condition in Section 5 below and, **subject to a number of modifications, find the Plan compliant.**

### **4.3 SUSTAINABLE DEVELOPMENT**

- 4.3.1 Any Neighbourhood Development Plan should contribute to the achievement of sustainable development. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental. I consider that the approach taken and explained in the Basic Conditions Statement is robust.
- 4.3.2 Whilst there is no legal requirement for any Plan to be accompanied by a separate Sustainability Appraisal, it is helpful for it to acknowledge and explain how its policies have reflected sustainability matters in all forms as expressed in the NPPF. I note that the NP has considered this.

### **4.4 THE DEVELOPMENT PLAN AND STRATEGIC POLICY**

- 4.4.1 I note that the 'Development Plan' for Emberton Neighbourhood Area comprises the Milton Keynes City Local Plan (2016-2031) adopted in 2019 and known as Plan:MK.
- 4.4.2 The table at page 6 of the BCS explains how the proposed NP policies are in general conformity with strategic policies and highlights specific policies from the adopted Development Plan. I find this to be appropriate and helpful.
- 4.4.3 I note that a revised local plan has been initiated by the LPA but has not yet reached any statutory plan stage. As such the salient strategic policies contained within Plan:MK remain valid and pertinent to this examination.
- 4.4.4 Failing to identify specific sites promoted by individual representations is not a ground to find the NP unsound, providing the proposed NP policies are generally in accordance with the strategic policies within Plan:MK and the NP does not 'promote less development than those set out in strategic policies for the area, or undermine those strategic policies' (NPPF Para 29).
- 4.4.5 There is encouragement given to both the QB and the LPA to work together to minimise conflicts and indeed for the QB to liaise appropriately with 3<sup>rd</sup> parties. I note that some Reg 16 representations consider that insufficient dialogue has taken place or agreement reached. This is unfortunate but I am not persuaded by the documents before me that there has been a failure to consult. Clearly the policies and allocation in the proposed NP are not supported by some parties and hence it is inevitable that there is concern. My role as an Examiner is to assess whether the process adopted, and the evidence base used has propriety and the ensuing policies are compliant.

4.4.6 **I find that subject to a number of modifications, as detailed below, the NP policies are in general conformity with the relevant strategic policies of the Development Plan.**

#### **4.5 EUROPEAN UNION (EU) OBLIGATIONS AND CONVENTIONS**

4.5.1 Notwithstanding the decision by the UK to leave the European Union, any Neighbourhood Development Plan must still be compatible with certain obligations adopted through European statute, as they have been incorporated into UK law. The NP would not be compliant otherwise.

##### **- Strategic Environment Assessment**

4.5.2 Directive 2001/42/EC, often referred to as the Strategic Environment Assessment (SEA) Directive, relates to the assessment of the effects of certain plans and programmes on the environment, and has relevance here. Similarly, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on Neighbourhood Development Plans.

4.5.3 I note that an SEA screening was undertaken by Milton Keynes City Council in April 2022. This involved liaison with the relevant statutory bodies. The screening responses advised that policies within the emerging Emberton NP were not expected to have any significant environmental effect and hence an SEA was not required. I understand that the formal position of the LA and statutory consultees has not changed as the Plan progressed to the Reg 16 stage. While some changes had been made to the emerging Plan, these were not of such magnitude to change the screening outcome.

4.5.4 **I concur with this and find that the Plan meets the legal requirements of the EU's SEA Directive and conclude that in respect of this EU obligation, the Plan is compliant.**

##### **- Habitat Regulations and Environmental Impact Assessment**

4.5.5 A similar exercise was undertaken at the same time with regard to Habitat Regulations. It concluded that no Habitats Regulation Assessment (HRA) was required. The Emberton NP makes necessary references to the Development Plan's HRA and no NP policies have been proposed that undermined this.

4.5.6 **I find that the NP meets the legal requirements of the EU and HRA Regulations and conclude that, in this respect, the Plan is compliant.**

4.5.7 **I further agree that an Environmental Impact Assessment was not required to accompany the NDP as none of the proposed policies relate to development of a scale or nature as to warrant such work. None fall under the criteria of the extant EIA Directive.**

- **Human Rights**

4.5.8 The Basic Conditions Statement makes reference to compliance with the European Charter on Human Rights (ECHR) and Human Rights Act 1998 in para 5.5.

4.5.9 I am unaware of any matters proposed in the NP that challenge issues of human rights and while comments have been made with regard to this in representations to the Reg 14 and 16 stages of the plan, I do not consider that sufficient or robust evidence has been presented, to indicate that this is not the case. I conclude that the Plan does not breach and is otherwise compatible with the ECHR.

4.5.10 I am not aware of any other European Directives which apply to this particular Neighbourhood Development Plan, and **hence am satisfied that the Plan is compatible with EU obligations.**

## **5.0 ASSESSMENT OF THE EMBERTON NEIGHBOURHOOD PLAN POLICIES**

### **5.1 THE OVERALL PRESENTATION AND FORM OF THE PLAN**

5.1.1 The NPPF advises that plans should provide a practical basis on which decisions on planning applications can be made with a high degree of predictability and efficiency. I consider that this can be interpreted as 'having a clear document'.

5.1.2 I find the Emberton Neighbourhood Plan is well written, clear and straightforward. The document makes good use of headings, subheading, paragraph numbering and policies are highlighted in clear boxes. I am also generally content with the extent of figures and maps within the NP with the following exceptions;

- ***Figure 5 would be improved through the use of an OS base map at a bigger scale, so the NP boundary is easier to distinguish.***
- ***Annotation in terms of orientation and description should be added to the photographs at pages 13, 23 and 24, to assist any user of the Plan.***



- ***The use of a similar tone of green for both the Newport Road and the Local Green Space at Figure 13 and the Designations and Allocation Map is confusing. This should be amended.***
- 5.1.3 The statutory context and relevant background to the Emberton NP is set out in the introductory sections of the Plan. There is a relevant and sufficient amount of narrative setting out the historic and topographical context and a clear explanation of the vision and of the Plan in Chapter 3.
- 5.1.4 ***One small typographical error at para 1.5 should be amended. Reference should be made to Annex A rather than Annex B.***
- 5.1.5 The NP policies are appropriately based on economic, social and environmental principles which reflect the comments raised during the consultation process and both the strategic policies of the Development Plan and the NPPF. I am aware that some consultees, during the preparation of the Plan and at both Reg 14 and Reg 16 stages, suggested additional initiatives and amended text that have not been included in the Submission Version of the NDP. I should stress that it is not the role of the Examiner to add further detail or policies that may have been considered by the QB through the Plan preparation, but not included in the Submission Version.
- 5.1.6 Specific policies are set out in Chapters 4 through 10 and address seven specific issues of Housing, Business and Employment, Character and Design, Highways and Transport, Environment, Climate and Flood Risk, and finally Community. These are followed by a Designation and Allocations Map.
- 5.1.7 In terms of evidence to support the NP policies, I note that appropriate text has been included to accompany each NP policy and that there is salient reference to information and documents which are in the public domain. As with many NPs, some criticism has been levied through representations, as to the robustness of the evidence base. I have therefore given this specific attention and comment where relevant on this below.
- 5.1.8 On balance, I consider that, in most places, a proportionate amount of background information and an appropriate evidence base has been used by the QB to prepare policies to address the vision and objectives of the NP. Again, I highlight below where I feel this is not the case.
- 5.1.9 Further to the above, I now consider the NP policies against the Basic Conditions and for ease of reference follow the structure and headings as adopted in the Plan. As I have set out above, I find that the Plan is compliant with Basic Conditions 4 and 5 and the following sections of this Report assess whether I consider it complies fully with:

- Basic Condition 1 (Compliance with National Policy);
- Basic Condition 2 (Delivery of Sustainable Development); and
- Basic Condition 3 (General Conformity with the Development Plan).

5.1.10 I wish to stress that my examination has comprised a review of the policies and supporting text in the context of their compliance with the Basic Conditions. It has not comprised a forensic review of the rationale behind each policy. Where I have found that the evidence base was unacceptably weak or erroneously interpreted or proposals have been suggested that conflict with extant statute or are ultra vires, I have suggested appropriate modifications. **I stress that it is not the role of the Examiner to re-write elements of the NP requiring modification on behalf of the QB or LPA.** I have, however, suggested amended text where relevant in some cases but in other cases, I consider that sufficient guidance has been presented so modification can be prepared by the QB/LPA.

5.1.11 I confirm again that I have reviewed all comments made as part of the Regulation 16 process, particularly where they have raised matters relating to compliance with national policy, sustainability, general conformity with the strategic policies of the Development Plan or the robustness of the evidence base.

## **5.2 NEIGHBOURHOOD PLAN POLICIES**

5.2.1 Turning to the specific policies and supporting text. I consider that generally the policies are clear and well set out with relevant accompanying text. In some places there is repetition of strategic policy. I am conscious of paragraph 16 of the NPPF and the guidance that straight duplication of adopted Strategic Policies should be avoided. However, where I feel that a local context has been presented in either the wording of the policy itself or the accompanying text, then I consider that an element of duplication is acceptable as it provides emphasis.

### **5.3.0 HOUSING**

5.3.1 I am aware that Plan:MK makes no specific requirement for additional housing at Emberton. However, as part of the LPAs work towards a new Local Plan a briefing note has been issued to guide the preparation of NPs across the area. As a 5 year housing supply can be identified by the LPA, there is currently no direct requirement to identify sites in Emberton other than the addition of a 'nominal' single unit.

5.3.2 The NPPF is clear in stating that NPs can, should they wish, identify more land for development than identified in the strategic policies of any Development Plan. The

outcome from the consultation period and the housing needs assessment indicated that a majority of the community supported additional housing, providing this was within any development boundary. Reflecting this, and having assessed past build rates, an additional 10 units was considered appropriate for Emberton.

- 5.3.3 The NP objectives associated with housing are clearly set out and set an appropriate context for the 4 housing policies.

#### **POLICY H1: DEVELOPMENT STRATEGY**

- 5.3.4 This policy is well articulated and advises any user of the Plan that additional housing could be accommodated on windfall sites or on an allocated site identified in a later policy. To accommodate additional housing, the development boundary has been extended around Emberton. I find this is an appropriate and pragmatic approach and find that the development boundary has been set following appropriate consultation and assessment. I acknowledge that some representations have questioned why the boundary has not included the built form to the east of the A509, and specifically not included the Acorn Nurseries site, in Newton Rd. I accept the latter has the benefit of a Certificate of Lawfulness which establishes it as brownfield land. However, the QB has explained in the Consultation Statement, to my satisfaction, why this area has not been included within any amended development boundary.
- 5.3.5 H1 is clear in explaining that any new development beyond the development boundary will need to accord with Plan:MK and the NPPF which is an appropriate stance. It would still allow for appropriate development to take place beyond the development boundary.
- 5.3.6 I find that the boundary has been amended in accordance with Plan:MK and the NPPF and generally has been extended to incorporate domestic garden land.
- 5.3.7 **I find that Policy H1 is compliant without modification.**

#### **POLICY H2: WINDFALL INFILL DEVELOPMENT**

- 5.3.8 This policy is well set out. ***However, the reference in (c), referring to the use of 'high quality design and materials' is subjective and would be better moved to the accompanying text and read as guidance as opposed to direct policy that could be interpreted in different ways by different parties.***
- 5.3.9 **With this modification, I find Policy H2 compliant.**

### **POLICY H3; LAND AT HARVEY DRIVE**

- 5.3.10 This policy specifically identifies land for development. This has followed a protracted assessment for suitable land which has included a change in the quantum of units required and the removal of some potential sites because landowners have not wished to progress their land for development. I acknowledge that a site to the east of the village, and specifically to the east of the A509, and hence beyond the development boundary did not receive support from the community. It was not progressed by the QB. While this stance has been challenged in terms of propriety by the owners and promoters of the site, I am not persuaded by the case presented by those parties that any impropriety has occurred.
- 5.3.11 The third paragraph of the policy refers again to 'high quality of design' which is subjective. ***I advise that this reference is removed. If Policy H2 (c) is addressed as detailed above, then this matter will lie in the accompanying text for the Housing chapter. The remainder of the third paragraph of H3 would then read as follows;***
- Proposals should demonstrate how they will include measures that reduce the demand for energy and resources. An electric vehicle charging point should be installed for each property.***
- 5.3.12 **With this modification I find Policy H3 compliant.**
- 5.3.13 I am aware that representations have been made that question the propriety of allocating this site. I have reviewed this matter and the protocols adopted by the QB in terms of potential or perceived conflicts of interest. I consider that the process of allocation was appropriate.

### **POLICY H4; INTEGRATION OF NEW HOUSING**

- 5.3.14 I consider that the essence of this policy could be incorporated into either Policy H1 or Policy H2. However, a stand-alone separate policy is not in conflict with the Development Plan or the NPPF. It clearly covers elements that are important to the community and setting these out as a specific policy is acceptable.
- 5.3.15 **I find Policy H4 compliant without modification.**

## **5.4.0 BUSINESS AND EMPLOYMENT**

### **POLICY BE1; BUSINESS AND EMPLOYMENT**

- 5.4.1 The introductory section of this chapter appropriately sets out the context for the single policy. Reference is made to Plan:MK Policy DS5. While the essence of Policy BE1 repeats the strategic policy found in Plan:MK, the reference in (a) to the defined development boundary means that its specific inclusion within the Emberton NP is valid.
- 5.4.2 I find the policy is clear and would be helpful to both the user of the Plan and the LPA in determining any formal application.
- 5.4.3 **Accordingly, I find Policy BE1 compliant without modification.**

#### **5.5.0 CHARACTER AND DESIGN**

- 5.5.1 The introductory sections of this chapter present an appropriate context for the subsequent 3 policies and the objectives set out on page 21 again are unambiguous, reflecting the comments received during the consultation process. It would however be helpful to any user of the Plan to make specific cross reference to Chapter 1 of the NP and Figure 2 (Emberton Conservation Area and Listed Buildings) on page 3 of the NP. This is not a required modification, but simply a suggestion.

#### **POLICY CD1; CONSERVATION AND HERITAGE**

- 5.5.2 While I consider that all the elements of this policy simply repeat the guidance within the NPPF and statute, I accept that protection and endorsement of the character of the NP area is of specific importance to the community. Hence for the purposes of emphasis, I consider that the policy is of value and of assistance to any user of the Plan.
- 5.5.3 **I find Policy CD1 compliant without modification.**

#### **POLICY CD2; HIGH QUALITY DESIGN**

- 5.5.4 While I have reservations as to the phrase 'high quality design' which is a subjective matter, I welcome the explanation in the second paragraph of the policy that references 'responding to and integrating with' the surroundings. I also find that the list of elements (a) to (g) are sufficiently detailed and hence helpful to any user of the Plan.
- 5.5.5 **Accordingly, I find that Policy CD2 is compliant without modification.**

### **POLICY CD3; CAR PARKING**

5.5.6 **I find this policy compliant without modification.**

### **5.6.0 HIGHWAYS AND TRANSPORT**

#### **POLICY HT1; TRANSPORT, HIGHWAYS AND NEW DEVELOPMENT**

5.6.1 The introductory section of this chapter is well articulated, reflecting the concern of the community and highlighted in the residents' survey. These are then reflected in the clearly set out objectives. The last objective refers to bus stops, the provision of which is a matter beyond the remit of the NP policies, but it is helpful to have the issue highlighted for any developer or user of the Plan. ***There is one typographical error in the second line of para 7.1 and 'the' should be deleted.***

5.6.2 Policy HT1 reflects much of the Strategic policy found in Plan:MK but includes local references which provide important additional guidance.

5.6.3 While not a compliancy issue, I suggest that the 4<sup>th</sup> section of the policy, which references access to the footpath network and cycling routes, could be supported by a reference to a specific map illustrating the local network / routes and local sites of attraction such as recreational areas, the Country Park and surrounding settlements. This would add context to the policy and assist any user of the Plan.

5.6.4 **Notwithstanding this suggestion, I find Policy HT1 compliant without modification.**

### **5.7.0 ENVIRONMENT**

5.7.1 Reflecting the style of the NP, this chapter opens with a clear context section and objectives which set the scene for the subsequent 4 policies. ***There are a couple of minor typographical errors; at 8.9 the reference should be made to Figure 13, not 14; at 8.10 in the first line 'Spaces' should be singular.***

#### **POLICY E1; LOCAL GREEN SPACES**

5.7.2 I note that Emberton village is not extensive, nor does it have a proliferation of open space within the built area. The exception to this is the recreation ground in Hulton Drive. I note that this area is important to the community and was highlighted during the consultation process.

5.7.3 As an open space used for sport, it is afforded protection under current statute and the NPPF. However, I accept that its specific designation as a LGS endorses that protection. Comparatively, when looking at the built area of the village, it appears

to be a large tract of land but in reality it reflects a relatively standard area for recreation and hence is an acceptable allocation.

- 5.7.4 **I find that the phrasing of Policy E1 is clear and unambiguous and hence consider that it is compliant without modification.**

#### **POLICY E2; ENVIRONMENT AND BIODIVERSITY ENHANCEMENT**

- 5.7.5 **I find this policy compliant without modification.**

#### **POLICY E3; TREES AND HEDGEROWS**

- 5.7.6 This policy refers to 'significant 'trees in the first paragraph. ***It would assist any user of the Plan if a definition of 'significant', or appropriate reference, is included in the text accompanying the policy. Similarly, an explanation of BS5837 should be included to assist any lay reader.***

- 5.7.7 **With this modification, I find Policy E3 compliant.**

#### **POLICY E4; DARK SKIES AND LIGHT POLLUTION**

- 5.7.8 There is a typographical error in line 2 of para 8.12, which should be amended to read ***'It includes some of the darkest skies.....'***

- 5.7.9 ***Para 8.13 should make specific reference to Fig 14 to avoid ambiguity which should be dated and have an overlay of the extent of the NP area. It is currently unclear and misleading.***

- 5.7.10 **With the above modifications, I find Policy E4 compliant.**

#### **5.8.0 CLIMATE AND FLOOD RISK**

- 5.8.1 The context, justification and objectives for this section of the NP are clear and well presented. ***However, Fig 15 illustrating the EA surface water flood risk across the area is difficult to read accurately and should be replaced with a clearer land-based map showing the risk areas in more definition.***

#### **POLICY CFR1; MANAGING FLOOD RISK**

- 5.8.2 **I find this policy compliant without modification.**

### **POLICY CFR; SUSTAINABLE CONSTRUCTION**

5.8.3 I note that the last point of this policy repeats similar requests in Policies H3 and HT1 with respect to electric vehicles charging points. However, I see little issue with the matter being emphasized again in this section.

5.8.4 **I find this policy compliant without modification.**

### **5.9.0 COMMUNITY**

5.9.1 This section of the Plan presents a good overall context and, given the nominal extent of community assets and facilities in the Parish, sets out realistic objectives which, inter alia, reflect recent community activity. I note this has resulted in the retention of the local pub as a community asset (The Bell and Bear PH).

### **POLICY CF1; COMMUNITY FACILITIES**

5.9.2 This policy helpfully sets out a clear list of extant community facilities. While many of these would be afforded protection under existing statute, the Development Plan and planning guidance, I accept that the identification of all facilities in this way provides emphasis. It would be helpful to any user of the Plan if these facilities were illustrated on a specific map. While the omission of a specific map does not make the policy non-compliant, its inclusion would remove ambiguity for any reader.

5.9.3 **Notwithstanding the addition of a specific map, I find the wording of Policy CF1 compliant without modification.**

### **POLICY CF2; FORMER EMBERTON SCHOOL AND PLAYING FIELD**

5.9.4 **I find this policy compliant without modification.**

### **5.10 DESIGNATIONS AND ALLOCATION MAP**

5.10.1 This is an important map illustrating all the allocations and designations proposed within the Plan. I find it reasonably clear. ***However, as noted earlier, it would assist if the colour of the LGS and the A509 were modified to enable them to be more distinguishable. This would avoid any potential confusion on the part of a user of the Plan.***



## 6.0 MONITORING AND REVIEW

6.1 I note that reference is made in the NP at paragraphs 2.15 and 2.16 to monitoring and review which will be undertaken by the QB. I further note that Plan:MK is the subject of review and when progressed may propose new areas for specific development needs. Any review of NP policies will need to take any new or changed Local Plan into account at the relevant time, and not frustrate the ability to secure sustainable development in accordance with the NPPF.

6.2 Given the approach taken in the NP before me, I would anticipate the QB, namely the Parish Council, to be pragmatic in this regard and hence consider this to be **in accordance with current guidance**.

## 7.0 REFERENDUM

7.1 **Further to my comments and only further to the proposed modifications as set out above, I recommend to Milton Keynes City Council that the Emberton Neighbourhood Plan should proceed to a Referendum.** I am required, however, to consider whether the Referendum Area should reflect the approved Neighbourhood Area or whether it should extend beyond this, in any way.

7.2 As noted earlier, the Neighbourhood Area reflects the whole of the parish of Emberton and **I am content that this should also reflect the area for any forthcoming Referendum.**

## 8.0 SUMMARY AND RECOMMENDATION

8.1 I find that the Emberton Neighbourhood Plan has been the subject of effective consultation and the resulting vision and ensuing policies reflect the findings of those consultations and evidence base. Drafts of the NP have been the subject of some amendments to take on board relevant comments from statutory consultees, the community and key stakeholders.

8.2 The resulting submission draft is well crafted and clear. While some policies repeat Plan:MK and the NPPF, I accept that this reinforces the key issues of importance to the local community.

8.3 Overall, I consider that the document is supported by an appropriate evidence base. I repeat my comments from the start of my report and confirm that I have reviewed the objections raised during the Regulation 14 and both Reg 16 stages of the NP preparation. I do not feel that, given the papers before me, the issues raised present

sufficient weight to require deletion or further modification of policies, over and above those suggested within this report.

- 8.4 In summary, the Plan complies with the legal requirements set out in Paragraph 8(1) and 8(2) of Schedule 4B to the Town and Country Planning Act 1990 and the relevant regulations relating to the preparation of a Neighbourhood Development Plan.
- 8.5 I do not have any concerns over the defined Plan Area nor with that area forming the basis for any Referendum.
- 8.6 **Hence, I recommend that further to my proposed modifications, the Emberton Neighbourhood Plan can proceed to a Referendum.**

**Louise Brooke-Smith, OBE, FRICS, MRTPI**

**September 2023**

### **Appendix A - Documents reviewed by the Examiner**

- National Planning Policy Framework (The Framework) (2018) and subject to clarification in 2019 and revision in July 2021.
- Planning Practice Guidance (Paragraphs: 001 Reference ID: 41-001-20190509 (and onwards relating to Neighbourhood Plans) - Revision date: 09 05 2019
- Town and Country Planning Act 1990 (as amended)
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Localism Act (2011)
- The Neighbourhood Development Planning (General) Regulations (2012) and additions
- The Neighbourhood Planning Act 2017 and associated guidance and regulations.
- Draft Version of the Emberton Neighbourhood Plan
- Submission Version of the Emberton Neighbourhood Plan
- Documents identified in the Emberton Neighbourhood Plan pages of the LPA and Parish Council Websites
- Plan:MK (2016 - 2031)

### **Appendix B – Examiner's use of Abbreviations**

- |                                       |               |
|---------------------------------------|---------------|
| • Emberton Neighbourhood Plan;        | NP            |
| • The Plan / The Neighbourhood Plan;  | NP            |
| • Emberton Parish Council;            | PC            |
| • Qualifying Body;                    | QB            |
| • Milton Keynes City Council;         | MKCC /Council |
| • Local Planning Authority;           | LPA           |
| • National Planning Policy Framework; | NPPF          |
| • Planning Practice Guidance;         | PPG           |
| • Basic Conditions Statement;         | BCS           |