

Moreton, Bobbingworth and the Lavers Parish Council Neighbourhood Plan.

Pre-examination Review Report for Epping Forest District Council and Moreton, Bobbingworth and the Lavers Parish Council.

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Context

Work is underway to prepare a Neighbourhood Development for Moreton, Bobbingworth and the Lavers Parish Council.

On 29th July 2013 the Neighbourhood area was formally designated by Epping Forest District Council under Regulation 7 (i) of the Neighbourhood Planning (General) Regulations, 2012.

Given that neighbourhood planning is a new process Epping Forest District Council and Moreton, Bobbingworth and the Lavers Parish Council have requested this desk based independent review of the process and documentation at this stage before the Local Planning Authority proceed to submit the proposed neighbourhood development plan for examination under Regulation 17 of the Neighbourhood Planning (General) Regulations, 2012.

From my review of the documentation it is evident that a great deal of effort has been put into working on the Neighbourhood Plan. There has clearly been extensive consultation and community involvement, which demonstrates that the local community has grasped the spirit of

neighbourhood planning. Despite this commendable degree of public consultation there remain a number of technical considerations which have to be dealt with appropriately if the neighbourhood plan is to succeed at independent examination. The findings of this review have therefore led me to make a number of recommendations as set out below.

Summary of Recommendations

Recommendation 1: Policies MBL 2.2, MBL 2.3, MBL 2.4, MBL 3.2 and MBL 3.4 should be re-written to be internally consistent and to comply with NPPF policy on the Green Belt. Any necessary further consequential changes in the drafting should also be made. Epping Forest District Council should be consulted on the extent to which any re-drafted policies comply with the strategic policies in the development plan.

Recommendation 2: The plan should be re-drafted to make it clear which parts form the ‘neighbourhood plan proposals’ and which parts are more general supporting information.

Recommendation 3: The document should not seek to rely on very special circumstances to justify an exception when drafting policies relating to development in the Green Belt.

Recommendation 4: The Basic Conditions Statement should confirm that the proposed plan does not breach and is otherwise compatible with EU obligations.

Recommendation 5: The typographical errors and inconsistencies should be corrected.

Review Findings

Part 1 - Process

	Criteria	Response/Comments
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	Yes. The Consultation Statement (section 4) states that Epping Forest District Council has formally designated the plan area.
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	Yes. The area does have a parish council and the statutory requirements have been met in this regard.
1.3	Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation or is this underway?	Yes. The plan has been subject to appropriate pre-submission consultation and publicity.
1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the plan?	Yes. The Consultation Statement demonstrates a commendable level of community engagement.
1.5	Are arrangements in place for an independent examiner to be appointed?	Discussions are underway for this to be put in place.

1.6	Are discussions taking place with the electoral services team on holding the referendum?	Discussions are underway for this to be put in place.
1.7	Is there a clear project plan for bring the plan into force and does it take account of local authority committee cycles?	Discussions are underway for this to be put in place.
1.8	Has an SEA screening been carried out by the LPA?	The Local Planning Authority is aware of the requirement for Strategic Environmental Assessment (SEA) screening to be undertaken and discussions are underway for this to be put in place.
1.9	Has an HRA screening been carried out by the Local Planning Authority?	The Local Planning Authority is also aware of this requirement.

Part 2 – Content

	Criteria	Response/Comments
2.1	Are policies appropriately justified with a clear rationale?	No. Policy MBL 2.2 contradicts Policy MBL 2.3 The latter states that all non-affordable new build housing should be located on infill sites or brownfield sites whereas the former states that such housing needs to be on brownfield or infill land only if the proposal is greater than 1-4 dwellings in scale. Policies MBL 2.3 and 2.4 conflict with Policy GB16 in the Epping Forest District Council 'Combined Policies' statement (February 2008) which restricts affordable housing to sites within the smaller settlements (i.e. infill land/sites). Because development of greenfield sites is envisaged (i.e. development in the Green Belt) both Policy MBL 2.3 and Policy MBL 2.4 appear to conflict with NPPF (paragraph 89) which limits housing to limited infilling or "limited affordable housing for local community needs under policies set out in the Local Plan".

		<p>Policy MBL 3.2 would conflict with NPPF paragraph 89 if the proposal involved the construction of new building in the Green Belt and none of the stated exceptions apply. The policy should be re-written to comply with NPPF policy on the Green Belt.</p> <p>Policy MBL 3.4 (and other policies in the Neighbourhood Plan) would conflict with NPPF paragraph 90, unless the development is brought forward under a Community Right to Build Order. The plan should be re-written to clarify the circumstances under which development is proposed to be brought forward under a Community Right to Build Order in compliance with NPPF, paragraph 90.</p> <p>Recommendation 1: Policies MBL 2.2, MBL 2.3, MBL 2.4, MBL 3.2 and MBL 3.4 should be re-written to be internally consistent and to comply with NPPF policy on the Green Belt. Any necessary further consequential changes in the drafting should also be made. Epping Forest District Council should be consulted on the extent to which any re-drafted policies comply with the strategic policies in the development plan.</p>
2.2	<p>Is it clear which parts of the draft plan form the 'neighbourhood plan proposal' (i.e. the neighbourhood <i>development plan</i>) under the Localism Act, subject to the independent examination, and which parts do not form part of the 'plan proposal', and would not be tested by the independent examination?</p>	<p>No. It is not clear which parts of the draft plan form the 'neighbourhood plan proposal' and which parts are supporting information, not be tested by the independent examination.</p> <p>Recommendation 2: The plan should be re-drafted to make it clear which parts form the 'neighbourhood plan proposal' and which parts are supporting information.</p>
2.3	<p>Are there any obvious conflicts with the NPPF?</p>	<p>Yes. The obvious conflicts with NPPF policy on the Green Belt have been described above. Policies MBL 2.2, MBL 2.3, MBL 2.4, MBL 2.5, MBL 3.2 and MBL 3.4 should all be re-written to ensure compliance with NPPF policy on the Green Belt and any necessary further consequential alternations to the drafting should be made. (See Recommendation 1 above).</p>

2.4	Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?	<p>No. The Basic Conditions Statement with reference to para 8 (2) (d) (if the making of the order contributes to the achievement of sustainable development) states that the NDP is a pro-development document and seeks the provision of more housing as evidenced by the need to ensure the future of the Parish remains sustainable. This laudable objective has to be balanced with national Government policy on the Green Belt as set out in the NPPF. The Government attaches great importance to Green Belts. (NPPF para 79). Page 15 of the draft NDP refers to the presumption against new homes on greenfield sites unless very special circumstances can be shown. That is apparently a reference to NPPF paragraph 88 which states that such very special circumstances can be taken into account when considering planning applications. The plan fails to contribute to the achievement of sustainable development because it erroneously introduces very special circumstances to introduce exceptions in the drafting of Green Belt policy when NPPF paragraph 88 makes it clear that such exceptions for very special circumstances should be introduced when considering any planning application.</p> <p>Recommendation 3: The document should not seek to rely on very special circumstances to justify an exception when drafting policies relating to development in the Green Belt.</p>
2.5	Are there any issues around compatibility with human rights or EU obligations?	<p>The Basic Conditions Statement makes it clear that relevant issues have been taken into consideration and further assessments are not required. The Basic conditions Statement should confirm that the proposed plan does not breach and is otherwise compatible with EU obligations rather than stating that “a full analysis of the impact on the Plan on these directives is not required”.</p> <p>Recommendation 4: The Basic Conditions Statement should confirm that the proposed plan does not breach and is otherwise compatible with EU obligations.</p>
2.6	Does the plan avoid dealing with excluded development including nationally significant infrastructure, waste and minerals?	<p>Yes. The Plan avoids dealing with excluded development including nationally significant infrastructure, waste and minerals.</p>

2.7	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	Epping Forest District Council has declined to comment at this stage as to whether the plan is in conformity with strategic development plan policy.
2.8	Are there any obvious errors in the plan?	<p>The Consultation Statement appears to contain two typographical errors. In the last line of paragraph 4 the date should be '29th July 2013' and not '29th July 2014'. In the first line of paragraph 5 the date should be '20th May 2013' and not '20th May 2014'.</p> <p>In the page headed "And it is not over yet!" there appears to be an error in the date proposed for the referendum.</p> <p>Recommendation 5: The typographical errors and inconsistencies should be corrected.</p>
2.9	Are the plan's policies clear and unambiguous and do they reflect the community's aspirations?	I have commented above on one contradiction between policies and on a more general conflict between the policies contained in the plan and Government policy as expressed in NPPF.

Documents List

The following documents have been examined in undertaking this review:

- Pre-Submission draft Neighbourhood Plan Approved by the Parish Council 13th January 2014, updated following six weeks consultation with Residents and Stake Holders ending on 24th March 2014.
- Moreton, Bobbingworth and the Lavers Parish Council Neighbourhood Development Plan Consultation Statement, 9th June 2014.
- Moreton, Bobbingworth and the Lavers Parish Council Neighbourhood Development Plan Basic Conditions Statement 3rd June 2014.
- Epping Forest District Council Combined Policies of Epping Forest District Local Plan (1998) and Alterations (2006), Published February 2008.
- Epping Forest District Council Local Plan Cabinet Committee Report 25th March 2013 “The National Planning Policy Framework (NPPF) One Year On”.
- Various emails from Epping Forest District Council.