

Examination Hearing Statement

Plan:MK – Matter 6 Central MK, Retail and Leisure

On behalf of: TBL (Milton Keynes) Ltd

Date: 22 June 2018

Background

This Statement supplements the written representations made on behalf of TBL (Milton Keynes) Ltd, wholly owned by the British Land Company PLC ("British Land"), to the Examination in Public of the Plan:MK.

For ease, a short summary of the aforementioned representations dated 8 January 2018 to the Proposed Submission Plan:MK consultation held in Autumn 2017 is provided below (a copy of the full representations is provided in Appendix A). Following this summary, and where relevant, we seek to address the questions raised within "*Matter 6 – Central MK, Retail and Leisure*" and respond to the modifications put forward by Milton Keynes Council ("MKC") as set out within the "Schedule of Proposed Modifications" dated March 2018.

Summary of representations

TBL (Milton Keynes) Ltd own the Kingston Centre, Winchester Circle, Milton Keynes, MK10 0BA. The Kingston Centre is an allocated District Centre (in the adopted Core Strategy, 2013). The Kingston Centre performs an important role in Milton Keynes providing a range of services for the local population.

Representations dated 8 January 2018 noted the proposed amendments to the allocation of the Kingston Centre from a district centre to a town centre. It was noted that the Kingston Centre's position in the hierarchy had not changed in Table 6.2, being second to the City Centre, rather Milton Keynes Council sought to amend their terminology.

The representations sought clarification and objected to two policies, ER11 (Assessing Edge of Centre and Out of Centre Proposals) and ER19 (Non-retail Uses on Ground Floors in Town Centre).

Policy ER11 implied that a retail impact assessment was required for applications over 2,500 sq m within allocated town centres. This was contrary to the title of the policy itself (assessing edge and out of centre proposals) and also contradicted Policy ER10 (Character and Function of the Shopping Hierarchy). The policy was not clearly drafted nor was it justified why it was more onerous than the National Planning Policy Framework (NPPF) which seeks retail impact assessments for edge of centre and out of centre proposals. Clarification was sought on these two points to justify their inclusion.

Policy ER19 sought to introduce additional restrictions on the Kingston Centre. This was in the form of restrictions on the proportion of units in non-retail use and the change of use of units from Use Class A1. Clarification was sought on the justification for this policy.

We note amendments have been made to these policies as part of the proposed modifications dated March 2018. We address the proposed modifications overleaf.

Plan making

Paragraph 182 of the National Planning Policy Framework states that in order for Local Plans to be 'Sound' they must be:

- Positively prepared;
- Justified;
- Effective; and,
- Consistent with national policy.

This Statement identifies the amendments which are required for the Local Plan to be found Sound. This Statement only references questions and issues which are relevant to TBL (Milton Keynes) Ltd representations.

Matter 6 - Central MK, Retail and Leisure

Responses to the relevant questions raised by the Inspector are set out below:

Q) 6.10 Impact Assessment	Response
<p>Are the thresholds for impact assessments in Policy ER11 soundly based and supported by robust and credible evidence? Have alternative thresholds been considered?</p>	<p>This Matter relates to <i>Policy ER11 "Assessing Edge of Centre and Out of Centre Proposals"</i></p> <p>Representations submitted in January 2018 sought clarification and justification as to why retail impact assessments were required for applications over 2,500 sq m within designated town centres as was implied by draft Policy ER11.</p> <p>The proposed modifications dated March 2018 include proposed amendments to Policy ER11. The reference for these modifications within the Proposed Modifications March 2018 document are PM60 and PM61. The modifications are set out below for ease of reference and have been copied from the Proposed Modifications document using their format: the red text is proposed to be deleted by MKC and the green text is the replacement wording.</p> <p>Amendment PM60 sets out:</p> <p>The Council will follow the sequential approach to assessing development proposals. To assess the impact of a development proposal outside of central Milton Keynes / the city centre, the Council will require a An impact assessment will be required for retail uses outside of the CMK Primary Shopping Area which exceed 900 sq m (gross) floorspace and leisure uses outside of the city centre, which exceed 900 sq m (gross).</p>

Q) 6.10 Impact Assessment	Response
	<p>Amendment PM61 sets out:</p> <p><i>"Applications for main town centre uses retail, and/or leisure uses outside of the city centre CMK primary shopping area which exceed 2,500 sqm 900 sq m (gross) floorspace will be required to undertake and provide an impact assessment in accordance with national planning policy".</i></p> <p>We object to the proposed modifications set out above.</p> <p>As it is currently drafted, Policy ER11 goes beyond national policy, paragraph 26 of the NPPF, which requires impact assessments for edge and out of town development above 2,500 sq m (if a local threshold has not been introduced). The text is set out below for reference.</p> <p>Paragraph 26 of the NPPF states that <i>"when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up to date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set threshold" (Bold: our emphasis).</i></p> <p>To confirm, the NPPF Glossary defines town centres to be an <i>"area defined on the local authority's proposal map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres apply to city centres, town centres, district centres and local centres but exclude small parade of shops of purely neighbourhood significance".</i></p> <p>The Kingston Centre is an allocated town centre within Plan:MK, as set out within Table 6.2 of the Proposed Submission Plan:MK (October 2017).</p> <p>The Proposed Submission Plan:MK (October 2017) and proposed modifications (March 2018) do not provide justification for the introduction of a retail impact assessment threshold for <i>allocated town centres</i>. The NPPF sets out that impact assessments should be required for <i>edge or out of centre</i> proposals not allocated town centres.</p> <p>The threshold for retail impact assessments has also reduced from the Proposed Submission Plan:MK (October 2017) to the publication of the proposed modifications (March 2018). The threshold has reduced from 2,500 sq m threshold to 900 sq m (gross). It is stated that this is to</p>

Q) 6.10 Impact Assessment	Response
	<p>reflect the latest evidence from the Retail Capacity and Leisure Study (March 2018).</p> <p>The Retail Capacity and Leisure Study dated March 2018 advises Milton Keynes Council should <i>"err on the side of caution and set a level below the default NPPF threshold of 2,500 sq m. Based upon our review of the current commitments proposed for the city centre and the average size and mix of units proposed, we consider that a threshold of 900 sq m would be reasonable in this case"</i> (para 16.64). <i>This should be applied to all future edge and out of centre applications for standalone retail / leisure units and/or retail /leisure parks that the City Council consider could impact on the City Centre's vitality and viability.</i></p> <p>The Study therefore identifies this threshold should be applied to edge and out of centre development.</p> <p>While the Retail Study references retail / leisure parks it does not mention these in the context of allocated town centres nor does it mention specific centres e.g. Kingston Centre.</p> <p>The justification for this restriction above and beyond the NPPF for allocated town centres has not been provided by Milton Keynes Council.</p> <p>On this basis, the threshold for impact assessments are not considered to be justified or sound.</p> <p>The Policy should be amended to be in line with its title "Assessing Edge of Centre and Out of Centre Proposals":</p> <p><i>"Applications for edge of centre and out of centre retail, and/or leisure uses will be required to undertake and provide an impact assessment in accordance with national planning policy".</i></p> <p>The threshold needs to be justified further and the Council need to demonstrate what impact assessment thresholds have been considered including any alternatives.</p>

Q) 6.11 Table 6.3	Response
<p>Table 6.3 refers to the concepts of primary and secondary frontages in relation to non-retail uses in Policy ER19. Is the approach and content of the Table justified and are the frontages accurately defined on the Policies Map?</p>	<p>This matter relates to Policy ER19 "Non-retail Uses on Ground Floors in Town Centre".</p> <p>Our representations dated January 2018 objected to Parts 2 and 3 of Policy ER19 as set out in the Proposed Submission Plan:MK. This text is set out below for reference:</p> <p><i>"Planning permission will be granted for non retail uses in town centres if they satisfy all of the following criteria:</i></p> <ol style="list-style-type: none"> <i>2. There is not an existing over-concentration of such uses within the town centre boundary and they do not create continuous frontage of 3 or more units in non-retail use within the primary shopping frontage.</i> <i>3. The general restrictions on the location and proportion on non-retail uses set out in Table 6.3".</i> <p><i>Table 6.3:</i></p> <p><i>Kingston Centre:</i></p> <p><i>Primary Frontages:</i></p> <ul style="list-style-type: none"> <i>- Change of use involving the loss of A1 retail will not normally be acceptable.</i> <i>- Change of use from one non-retail to another non-retail use may be acceptable.</i> <p><i>Change of use from non-retail use to A1 retail use will be encouraged".</i></p> <p>Our representations sought justification as to why these additional restrictions are required. The introduction of additional restrictions on an allocated centre when the retail environment is in flux is not justified.</p> <p>Retail is evolving and the retail environment is having to adapt to the changing expectations and requirements of consumers. This has an impact on physical footprints and we need to ensure town centres remain vibrant to ensure their continued vitality and viability. The Kingston Centre is an allocated centre and plays an important role.</p> <p>Policy should respond to this changing environment rather than place extra burdens on businesses. The relaxation of Permitted Development Rights to allow changes of use within A Classes is a prime example of increasing flexibility for town centres in contrast to imposing additional</p>

	<p>restrictions.</p> <p>In line with the NPPF, Plan:MK should promote competitive town centres that provide customer choice and a diverse retail offer.</p> <p>Policy ER19 has been amended within the proposed modifications dated March 2018, reference PM67.</p> <p>The number of consecutive units in non-retail use for the Kingston Centre is proposed to be increased from 3 to 5:</p> <p><i>"2. There is not an existing over-concentration of such uses within the town centre boundary and with the exception of Kingston they do not create a continuous frontage of 3 or more units in non-retail use within the primary shopping frontage. At Kingston the number of units in non-retail uses should not create a continuous frontage of 5 or more units within the primary shopping frontage".</i></p> <p>Our objection remains for this policy as it is not justified and therefore unsound.</p> <p>In addition, the following line in table 6.3 has been deleted in the Proposed Modifications, reference PM68:</p> <p>change of use involving the loss of A1 retail will not normally be acceptable.</p> <p>We support the deletion of this wording.</p>
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Appendix A

FAO: James Williamson
Development Plans
Milton Keynes Council
Civic Offices
1 Saxon Gate East
Milton Keynes
MK9 3EJ

By email only: planmk@milton-keynes.gov.uk

8 January 2018

Dear James,

Proposed Submission Plan:MK

On behalf of our Client, TBL (Milton Keynes) Ltd – wholly owned by British Land, we are writing to respond to the Proposed Submission Draft of the Plan:MK ("Plan:MK") in response to the latest consultation. The extension to the consultation deadline has been agreed with yourself, as per the email exchange dated 20 December 2017.

Background to Representations

Our Client owns the Kingston Centre, Winchester Circle, Milton Keynes, MK10 0BA. The Kingston Centre is an allocated district centre within the adopted Core Strategy (2013). The Kingston Centre comprises of shops, restaurants, cafes and coffee shops. Occupiers include Tesco, Next, M&S, Nandos and Prezzo.

As per the allocation, the Kingston Centre performs an important role in Milton Keynes providing a range of services for the local population.

We note that the Plan:MK amends the allocation of the Kingston Centre from a district centre to a town centre (Table 6.2 pg. 77). However, the Plan:MK states that the hierarchy of the Kingston Centre has not changed and that town centres now follow Central Milton Keynes in the retail hierarchy. The Plan:MK sets out that this is to put it in line with the National Planning Policy Framework (NPPF), although it is important to note that the NPPF does not define these terms (except for town centre and the definitions it encompasses). We do, however, support the retention of the allocation of the Kingston Centre in Policy ER10 recognising the important role it plays within the retail hierarchy.

Areas of Clarification and Proposed Amendments

Policy ER11 Assessing Edge of Centre and Out of Centre Proposals

This letter seeks clarification in regard to *Policy ER11 "Assessing Edge of Centre and Out of Centre Proposals"*. We object to this policy at present based on its current wording, it is contradictory and implies additional levels of control beyond what is set out within the NPPF without justification.

The title of *Policy ER11 "Assessing Edge of Centre and Out of Centre Proposals"* implies that the policy applies to edge of centre and out of centre proposals as one would expect in line with the NPPF.

The introductory text confirms this further with reference to town centre areas:

"proposals for main town centre uses outside of defined Town Centre Areas..."

However, Policy ER11, Part 2 goes on to state:

- Applications for main town centre uses **outside of the city centre** which exceed 2,500 sq m (gross) will be required to undertake and provide an impact assessment in accordance with national planning policy (bold: our emphasis).
- An impact assessment will also be required to assess the impact of proposals for main town centre uses over 350 sq m (gross) **outside of town, district, local centres within the Borough** (bold: our emphasis).

The wording of the Policy sets out that applications over 2,500 sq m outside of the **city centre** (rather than town centre) will be required to undertake an impact assessment. When read alone it is not clear that this is specifically applying to town centres, however, this is clarified by the 350 sq m threshold text.

The additional control on town centres contradicts both the title of Policy ER11 and the introductory text (as shown in the extract on Page 1 of this letter) which states it is for edge and out of centre development. Rather, the Policy applies to designated town centres also. This also contradicts *Policy ER10 Character and Function of the Shopping Hierarchy*, which sets out that planning permission will be granted for additional retail development within the primary shopping areas of existing town centres (as defined in national policy).

As currently worded, this Policy is more onerous than the NPPF by placing a requirement for an impact assessment for proposals for main town centres uses in town centres over 2,500 sq m.

The requirements for an impact assessment are set out within Paragraph 26 of the NPPF. It states that *"when assessing applications for retail, leisure and office development **outside of town centres, which are not in accordance with an up to date Local Plan**, local planning authorities should require an impact assessment if the development is over a proportionate, locally set threshold"* (bold: our emphasis).

The two key tests for impact assessments are therefore:

- 1) if the proposal is located outside of a town centre; and
- 2) if it is not in accordance with an up to date Local Plan.

To clarify, the NPPF Glossary defines town centres to be an *"area defined on the local authority's proposal map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. **References to town centres apply to city centres, town centres, district centres and local centres but exclude small parade of shops of purely neighbourhood significance**"* (bold: our emphasis).

We therefore seek justification as to why the Policy is more onerous than the NPPF as this is not set out within the supporting text. This text also does not fit within a policy that is referring to edge of centre and out of centre proposals as by their designation, these centres fall under the definition of a town centre within the NPPF.

The Policy should not include a requirement for impact assessments for designated town centres.

Policy ER19 Non-retail Uses on Ground Floors in Town Centres

Policy ER19 introduces additional restrictions on the Kingston Centre in the form of restricting the proportion of non-retail uses. The restrictions include:

- the number of continuous frontages in non-retail use (capped at 3);
- the change of use of A1.

The Policy also includes the designation of Primary and Secondary frontages within the Kingston Centre.

This Policy is more onerous than the previous Local Plan. We request clarification as to why the Policy is now more onerous for the Kingston Centre, especially in light of the evolution of the retail environment in recent years and recent responses such as the relaxation of permitted development rights by the Government.

We also request that a map is provided of the Kingston Centre which clearly shows what is proposed as primary and secondary frontages to identify the units as the numbering for such retail centres can vary across differing organisation.

As it currently stands we object to this Policy.

Summary

To summarise, we object to Policies ER11 and ER19. We seek further clarification on the proposed wording and the justification for these policies.

We would welcome the opportunity to discuss these representations further, and participate at the Examination in due course. In the meantime, if you have any queries on this letter, please contact me on the details set out overleaf, or alternatively please contact my colleague Amy Hartley on 020 7303 5937 / amhartley@deloitte.co.uk.

Yours sincerely,



Mark Underwood
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