



Report to Milton Keynes Council

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**an Inspector appointed by the Secretary of State for Housing, Communities and
Local Government**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION OF THE
MILTON KEYNES SITE ALLOCATIONS PLAN**

Document submitted for Examination on 31 March 2017

Examination hearings held on 12 and 13 September 2017

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Abbreviations used in this Report

DtC	Duty to Cooperate
EGELS	Economic Growth and Employment Land Study
LDS	Local Development Scheme
NPPF	National Planning Policy Framework
PiP	Permission in Principle
Plan:MK	The emerging local plan for Milton Keynes
SA	Sustainability Appraisal Report
SAP	Site Allocations Plan
SCI	Statement of Community Involvement
SHLAA	Strategic Housing Land Availability Assessment

Non-Technical Summary

This report concludes that the Milton Keynes Site Allocations Plan (SAP) provides an appropriate basis for the planning of the borough, providing that a number of main modifications are made to it. Milton Keynes Council has specifically requested that I recommend any main modifications necessary to enable the plan to be adopted.

All of the main modifications were proposed by the Council, and were subject to public consultation over a six-week period. I have recommended their inclusion in the SAP after considering all of the representations made in response to the consultation on them.

The main modifications can be summarised as follows:

- Section 1, which relates to a previous consultation period, is deleted;
- Section 3 is amended to provide clarity over the role and focus of the SAP;
- Amendments are made to clarify the time period over which the SAP will run;
- References to Permission in Principle are removed to reflect the fact that it cannot yet be granted through a site allocations process;
- Policies SAP1; SAP2; SAP7; SAP10; SAP11; and SAP13 are deleted, due to the fact that the sites are already in development; are now deemed unsuitable for development; or are not available for development;
- Amendments are made to some site boundaries to rectify earlier inaccuracies and/or to reflect expanded site areas;
- Policy text is added or excised to ensure compliance with, or to have regard to, relevant national and local planning policy; and
- An appendix is added to clarify which extant development plan policies will be amended by the SAP.

Introduction

1. This report contains my assessment of the Milton Keynes Site Allocations Plan (SAP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended) (the Act). It considers first whether the Plan’s preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) (NPPF) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Milton Keynes Site Allocations Plan Proposed Submission Draft submitted in March 2017 is the basis for my examination. It is the same document as was published for consultation in October 2016.

Main Modifications

3. In accordance with section 20(7C) of the Act the Council requested that I should recommend any main modifications (MMs) necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2**, **MM3**, etc and are set out in full in the Appendix.
4. Following the examination hearings, the Council prepared a schedule of proposed MMs. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

Assessment of Duty to Co-operate

5. The policies within the SAP do not address strategic planning matters as defined in the Act. Indeed, the SAP seeks only to deliver a limited amount of residential development on 15 small and medium sized sites within the built-up area of Milton Keynes. There is no evidence before me to suggest that the scale and location of development proposed would have any impact whatsoever on neighbouring authorities. There are no outstanding housing-related concerns from relevant public authorities and no such authorities sought changes to the SAP to respond to the DtC.
6. The SAP is also proposing to deliver homes to contribute towards meeting the housing target set out in the adopted Core Strategy (CS), in the context of that document’s strategic framework. As such, broader infrastructure requirements and other matters in relation to new housing provision have been considered and planned for already. It will be for the replacement Local Plan (Plan:MK) to address any matters of housing under-delivery and any new evidence that has emerged since the adoption of the CS.

7. Overall, therefore, I am satisfied that the DtC imposed by section 33A of the Act is not engaged.

Assessment of Soundness

Main Issues

8. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings I have identified three main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.

Issue 1 – Whether the SAP is consistent with, and positively promotes, the objectives and spatial policies contained within the Core Strategy

9. The CS was adopted in July 2013, setting out a requirement to deliver 28,000 new dwellings by 2026. Case law¹ is clear that later development plan documents are not required to rectify any shortcomings in a core strategy’s approach to housing land supply. Thus, it is not the role of the SAP to re-assess the approach taken by the CS.
10. References in the CS to a future SAP are limited. Nonetheless, the CS is clear that the focus of any SAP should be on residential development, to address a future potential shortfall in the rural area and to provide a stock of small sites for contingency in the urban area. This is in line with the CS’s objectives to promote the development of Central Milton Keynes and to secure sustainable rural settlements.
11. Specifically, policy CS1 of the CS states that the SAP will:
- “...provide short term flexibility and contingency ahead of a full review of this Core Strategy in Plan:MK...”*
12. The CS sets no target figure in policy for residential allocations in a SAP. Footnote 14 gives an indicative figure, based on calculations at that time, of *“just over 600 homes”*, on non-strategic sites, which are to be provided on new sites in the SAP. In addition, CS policy CS9 envisages a specific residential allocation for the village of Sherington.
13. The sites allocated in the SAP are all small and can reasonably be regarded as non-strategic. They are, however, all located in the urban area of Milton Keynes. Nonetheless, it is clear that since the CS was adopted rapid progress has been made on neighbourhood plan production in Milton Keynes. The result of this is that several made neighbourhood plans in the rural area, including in Sherington, have already allocated residential development sites. Between

¹ Oxted Residential Ltd v Tandridge DC [2016] EWCA Civ 414

them they would provide well over the housing figure envisaged for the rural area by the CS.

14. As these rural neighbourhood plans now form part of the adopted development plan, contributing towards the achievement of the 28,000 dwelling target, it is, in my judgment, perfectly reasonable for the SAP’s focus to be on allocations in the urban area of Milton Keynes. This would accord with CS policy CS1 (Milton Keynes Development Strategy), which focuses the majority of new homes and jobs on, and adjacent to, the existing urban area.
15. In addition, the total number of dwellings that could be delivered by the SAP (based on indicative figures derived from the application of an average dwelling density) is well over the 600 dwelling target referenced in the CS, even with the removal of six sites for reasons explained below.
16. **MM2** and **MM3** are required to provide the necessary clarity on this matter, with **MM1** being necessary to remove superseded information.

Conclusion on Issue 1

17. The scope of the SAP is limited to allocating residential sites to meet the, albeit light touch, requirements established by the CS, in line with the CS’s strategic and locational priorities.
18. The outcome of the site selection process has led to the allocation of land which makes a sufficient contribution to meeting the needs for residential development in Milton Keynes over the plan period as identified in the CS.
19. Thus, I am satisfied that its approach is sound, being consistent with, and positively promoting, the objectives and spatial policies of the CS.

Issue 2 –Whether the SAP has been positively prepared and whether the approach taken justifies it when considered against reasonable alternatives

20. Site appraisal was directed by a three stage assessment process detailed in the Sustainability Appraisal Report (SA) (and its appendices). It was guided by the application of 18 sustainability indicators, encompassing economic, social and environmental dimensions.
21. Such an assessment process is a tool to enable a reasonably consistent and disciplined analysis of the sustainability credentials of a range of potential development sites and the likely impacts of development upon them. It provides a clear and consistent framework for reaching conclusions about appropriate allocations and for the consideration of alternative options (i.e. the range of different sites considered for allocation).
22. That said, the use of an assessment methodology necessarily involves the application of judgement. Disagreement about such judgement, in relation to sites (and, thus, alternative options that were not pursued), appears to lie at the heart of many objections. All options have, however, been assessed

against the same sustainability objectives on a like-for-like basis so as to provide a meaningful guide to the Council about the approach that it should pursue.

23. It may be that alternative sites *could* have been allocated. This does not, however, mean that they *should* have been particularly given that the SAP makes an adequate contribution towards meeting housing needs as set out in the conclusion on Issue 1. The evidence before me does not highlight flaws in the SA of such a fundamental nature that they would invalidate the overall assessment process or undermine its outcomes. The SA is suitably comprehensive, satisfactory and legally compliant.

Conclusion on Issue 2

24. Considering the above, I conclude that the SAP’s preparation has been satisfactorily positive and that its approach is justified when considered against the reasonable alternatives.

Issue 3 – Whether the individual allocations policies are clear, justified, effective and consistent with relevant policy

25. It is evident from policy CS1, and other references in the CS supporting text, that there is an expectation that SAP sites can be deliverable in the short term. The focus is on ensuring flexibility and allowing for contingency. Given this context, sites SAP1; SAP2; SAP7; SAP10; SAP11; and SAP13 raise issues of soundness.
26. Construction of SAP1 is well under way and that on SAP10 has commenced. The sites are small (very small in the case of SAP1) and the options for alternative forms of development are extremely limited. As the works in progress are, therefore, likely to be completed (and imminently) I do not consider that they can any longer be regarded realistically as allocations.
27. SAP2 and SAP7 are both constrained. It has not been demonstrated to my satisfaction that residential development, which would provide suitable living conditions for future occupiers, could be accommodated upon them.
28. SAP11 and SAP13 are both in use for employment/retail purposes. There is no substantive evidence before me that residential development upon them would be achievable over the plan period. As such, I do not consider that there is any reasonable prospect of them contributing to the delivery of the aims of the SAP.
29. **MM7, MM8, MM9, MM14, MM17, MM18** and **MM20** are therefore necessary to remove these six sites, thus ensuring that the SAP is effective.
30. The remaining sites are located in suitable areas for residential development, with indicative capacities that appear to be broadly appropriate having regard for their immediate context and for site specific issues. Overall, the key policy principles are reasonable and justified.

31. Certain sites lie within areas covered by neighbourhood plans and/or have development briefs to guide their development. The SAP should have regard to these. In addition, a number of site boundaries are represented inaccurately, some site specific requirements deficient and some policies are unnecessarily restrictive resulting in unjustified barriers to delivery.
32. To rectify these deficiencies, **MM10, MM11, MM12, MM13, MM15, MM16, MM19, and MM21 to MM28** are necessary. This will make the relevant policies clear and effective.
33. Sites SAP18, SAP19 and SAP20 are covered by employment allocations, identified as such in the CS (and dating back to the Milton Keynes Local Plan (2005) (the Local Plan)). Site SAP6 has an historic designation as an employment site, set out in the Local Plan, although it is unclear whether this designation is still extant. Either way, these are long standing designations, none of which have been developed, and all of which were put forward as potential housing sites through the SHLAA. The CS does not preclude their development for other uses.
34. Their allocation for residential development has clearly been considered carefully, informed by an Economic Growth and Employment Land Study (EGELS)² that provides a detailed assessment of employment land needs across Milton Keynes. Although the EGELS suggests that Milton Keynes will require a future uplift in the amount of available employment land (to be allocated through Plan:MK), this is indicated as being for B8 use.
35. The potential SAP sites are not ideally located for such use, having regard to their local context and distance to the strategic road network. In addition, all are quite some way down the rankings of employment sites in Milton Keynes, considered in the EGELS, in terms of their potential for employment development.
36. In short, the allocation of these sites for housing would have, at most, a negligible effect on the overall supply of vacant employment land in Milton Keynes. There would be no impact upon the strategic aims of the CS, which seeks to maintain an appropriate balance between job creation and housing delivery. Their release would also accord with paragraph 22 of the NPPF.
37. **MM30** is required to make clear which policies in the CS will be amended as a result of SAP allocations.
38. The matter of a net gain in biodiversity, wherever possible, is addressed by CS policy CS19. It is also carried through to the draft Plan:MK, which will need to accord with national planning policy in this regard. In addition, I see no reason why the development briefs for certain SAP sites, accordance with which is required by the relevant SAP policies, cannot be amended to address any matters of detail with regard to green infrastructure. Indeed, this is arguably a

² Produced in 2015 and partially updated in 2017.

more appropriate place to set out such detail, where it would be contained within a single site specific document.

39. The CS does not define what “short term” may be. Nonetheless, the CS runs to 2026 and, in the interest of ensuring effectiveness through internal consistency within the development plan, the SAP should fall into line with this timescale. **MM2** and **MM4** are necessary to ensure that this is so. This does not, of course, prevent the allocations from coming forward much earlier in the plan period than 2026.
40. Policy SAP0 is an overarching policy, setting the basis by which planning permission will be granted for the allocation sites. **MM5**, **MM6** and **MM29** are necessary to ensure that it is consistent with Government policy and legislation, with regard to the scope of Permission in Principle (PiP). The same is true of a number of other **MMs**³, which adjust allocation policies accordingly on the matter of PiP.

Conclusion on Issue 3

41. With the MMs proposed, I consider that the individual allocations policies are clear, justified, effective and consistent with relevant policy.

Assessment of Legal Compliance

42. My examination of the compliance of the plan with the legal requirements is summarised in the paragraphs below. I conclude that the plan meets them all.
43. The SAP is identified within the approved Local Development Scheme (LDS), which has been updated on a regular, albeit infrequent, basis. I am satisfied that SAP has been prepared in accordance with the LDS.
44. Consultation on the SAP and the MMs was carried out in compliance with the Council’s Statement of Community Involvement (SCI), which was adopted in March 2014. The Statement of Consultation accompanying the submitted SAP sets out in detail the steps that were taken to ensure compliance with the SCI during the production of the SAP. On the basis of the evidence presented, I am of the view that consultation was satisfactory when measured against the SCI requirements.
45. Sustainability Appraisal has been carried out and is adequate.
46. A Habitats Regulations Appropriate Assessment Screening Report was produced for the CS. It concluded that a full Appropriate Assessment was unnecessary as, given the distance to the nearest European Sites, any impact from the CS’s policies and proposals, and any other ‘in-combination plans’, was likely to be minimal. The SAP follows the spatial strategy and residential dwelling target as set out in the CS. As such, it is reasonable to consider that

³ **MM10; MM11; MM12; MM13; MM15; MM16; MM19; MM21 to MM28.**

the residential development proposed by the SAP will not have significant impacts. Thus, a Habitats Regulations Appropriate Assessment is not required. This view has been confirmed by Natural England.

47. The CS already includes policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change. The SAP is set within this wider CS policy context and follows the overall spatial focus on Milton Keynes itself, an approach intended to reduce the need to travel and to achieve this statutory objective.
48. The Local Plan complies with all relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
49. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When the SAP is adopted, in order to comply with the legislation and give effect to the SAP, the Council will need to update the policies map to detail the sites that have been allocated.

Overall Conclusion and Recommendation

50. The SAP has a number of deficiencies in respect of soundness. This means that, in accordance with Section 20(7A) of the Act, I recommend non-adoption of the SAP as submitted. These deficiencies have been explored in the Main Issues set out above.
51. The Council has, however, requested that I recommend MMs to make the SAP sound and capable of adoption. I conclude that, with the recommended main modifications set out in the Appendix, the Milton Keynes Site Allocations Plan satisfies the requirements of Section 20(5) of the Act and meets the criteria for soundness set out in the NPPF.

Richard Schofield

INSPECTOR

This report is accompanied by an Appendix containing the Main Modifications.