

# **CASTLETHORPE NEIGHBOURHOOD PLAN**

## **Designation of Gobbey's Field as Local Green Space**

**A report to Milton Keynes Council  
into the examination of the  
Proposed Designation of Gobbey's Field as  
Local Green Space in the  
Castlethorpe Neighbourhood Plan  
by Independent Examiner, Rosemary Kidd**

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## 1.0 Summary

- 1.1 Following the examination of the Castlethorpe Neighbourhood Plan, Milton Keynes Council considered the report of the examiner and resolved to accept all the Examiner's recommendations except for that one on the proposed designation of Gobbey's Field as Local Green Space.
- 1.2 Under section 13(1) of Schedule 4B of the Town and Country Planning Act 1990, Milton Keynes Council proposed to take a different decision to that recommended by the Examiner on the matter of the designation of Gobbey's Field as Local Green Space as a result of new evidence provided by the Parish Council in support of the value that the local community places on this area of land.
- 1.3 This examination under section 13(2) of Schedule 4B of the Town and Country Planning Act 1990 has considered whether the proposal to designate the area of Gobbey's Field under Policy 5 of the Castlethorpe Neighbourhood Plan as a Local Green Space satisfies the Basic Conditions taking into account the additional evidence provided by the Parish Council.
- 1.4 The examination has concluded that there is insufficient robust evidence to demonstrate that Gobbey's Field meets the criteria of NPPF paragraph 77 to justify its designation as a Local Green Space. The recommendation is to delete the designation of Gobbey's Field from the list of Local Green Spaces in Policy 5 of the Castlethorpe Neighbourhood Plan in order to meet Basic Condition 1.

## 2.0 Introduction

### Background to the Examination

- 2.1 The examination of the submission draft Castlethorpe Neighbourhood Plan was undertaken from June to July 2016. The examiner's report concluded that, subject to making the modifications recommended by the examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.2 In respect of Policy 5, Local Green Spaces, the Examiner recommended that the Local Green Space designation be removed from Gobbey's Field for the following reasons: *"In conclusion therefore in respect of Gobbey's Field I am not satisfied that it has been demonstrated that the field is demonstrably more special to the community than other areas of countryside outside the settlement boundary. The case for designation as Local Green Space in the context of the NPPF and PPG and therefore Basic Condition No 1 has not been sufficiently made and the proposed designation should be removed."* (para 6.4.28)
- 2.3 Following the examination, Milton Keynes Council considered the report of the examiner on the Castlethorpe Neighbourhood Plan and resolved to accept all the Examiner's recommendations except for that one on the proposed designation of Gobbey's Field as Local Green Space.
- 2.4 Under section 13(1) of Schedule 4B of the Town and Country Planning Act 1990, Milton Keynes Council proposed to take a different decision to that recommended by the Examiner on the matter of the designation of Gobbey's Field as Local Green Space as a result of new evidence provided by the Parish Council in support of the value that the local community places on this area of land.
- 2.5 Section 13(1) of Schedule 4B of the Town and Country Planning Act 1990 states that if:
- (a) the local planning authority propose to make a decision which differs from that recommended by the examiner, and
  - (b) the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the authority as to a particular fact,
- the authority must notify prescribed persons of their proposed decision (and the reason for it) and invite representations.
- 2.6 Section 13(2) of Schedule 4B of the 1990 Act states that if the authority consider it appropriate to do so, they may refer the issue to independent examination.
- 2.7 Milton Keynes Council has decided to refer the matter to an independent examination. I have been appointed to undertake the examination to consider

the specific matter of the designation of Gobbey's Field as Local Green Space in the Castlethorpe Neighbourhood Plan. The examination will consider whether the proposal to designate the area of Gobbey's Field under Policy 5 of the Castlethorpe Neighbourhood Plan as a Local Green Space satisfies the Basic Conditions taking into account the additional evidence provided by the Parish Council.

### **Appointment of Independent Examiner**

- 2.8 My appointment has been made by Milton Keynes Council with the consent of Castlethorpe Parish Council. I am independent of the Parish Council, the Neighbourhood Plan Steering Group and Milton Keynes Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. My appointment has been facilitated by the Neighbourhood Planning Independent Examiners Referral Service.

### **Role of the Independent Examiner**

- 2.9 The Examiner's responsibility is to consider whether the relevant procedural matters have been complied with. In this examination, these are set out in Section 13 of Schedule 4B of the 1990 Town and Country Planning Act. The Examiner must then consider whether the proposal (in this case the designation of Gobbey's Field as a Local Green Space) meets the "Basic Conditions".
- 2.10 The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  2. the making of the neighbourhood plan contributes to the achievement of sustainable development;
  3. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
  5. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to Neighbourhood Plans:
    - Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in the primary legislation. That the making of the neighbourhood 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). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended).

### 3.0 The Examination

- 3.1 Milton Keynes Council notified the persons prescribed under the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations, 2016 and posted a notice on their website to publicise their decision not to accept the Examiner's recommendation that Gobbey's Field be designated as a Local Green Space with a 6 week period for representations to be made from 19 October to 30 November 2016.
- 3.2 I am satisfied that the procedural matters required by section 13 of Schedule 4B of the 1990 Town and Country Planning Act for consultation have been complied with.
- 3.3 The examination will consider whether the designation of Gobbey's Field as Local Green Space in Policy 5 of the Castlethorpe Neighbourhood Plan complies with Basic Condition 1 and has had regard to national policies and advice contained in guidance issued by the Secretary of State. I am satisfied that the previous examination on the Castlethorpe Neighbourhood Plan has considered whether Policy 5 and the Neighbourhood Plan as a whole satisfies the other Basic Conditions.

#### Assessment of Gobbey's Field by previous examiner

- 3.4 Paragraph 6.4.26 of the examiner's report on the Castlethorpe Neighbourhood Plan considers Gobbey's Field against the criteria in NPPF paragraph in turn. His assessment is as follows:
  - *"First, Gobbey's Field is in close proximity to the community with strong footpath links to the older part of Castlethorpe to the north of the railway via the railway footbridge to which there is open access across the field as well as formal access from the footpath link to The Chequers. It is therefore well related to its surrounding community and in that respect is not dissimilar to Castle Field – also proposed to be designated as Local Green Space.*
  - *"With respect to the second test, I acknowledge that the recreational role of Gobbey's Field is not a formal one, in the way the recreation ground is. Annexe B of the Plan setting out the Local Green Space Assessment of Sites does not present any evidence for the statement that Gobbey's Field is "without doubt the most utilised Green Space in the Parish" and no evidence to substantiate the range of recreation activities reported to take place on it. I have therefore given no weight to these statements. Whilst it is a field which allows formal and informal public access across it for*

*countryside walks, dog walking etc. it is not dissimilar in this respect to many other areas of countryside adjoining villages. I accept that the field provides a tranquil, green backdrop to the southern end of the village with open views south to the River Tove but I am not persuaded that this is any different to other areas of countryside bordering the village.*

- *“Thirdly the area is local to the settlement but it is a large field only the northern section of which is contained by development in The Chequers & Prospect Place.”*

### **Representations Received**

- 3.5 Representations were received during the consultation period on behalf of the landowner of Gobbey’s Field which opposed the designation of Gobbey’s Field as a Local Green Space. The representation stated that the only rights the public have over the land is the right of way that crosses the field; no other right of access exists.
- 3.6 Natural England also responded to say they have no objection to the proposed designation of Gobbey’s Field as Local Green Space and that it will not have significant adverse impacts on protected landscapes or species.

### **Additional Evidence Provided**

- 3.7 The Parish Council circulated a form entitled Usage Survey to residents of the parish in September 2016. In total 219 responses were received. The main activity reported was in making use of the footpath across the field for walking, jogging, access to the village shop and the duck race. The survey also indicates that there has been usage for children’s games, football, and golf. A number of respondents reported seeing regular public use of the whole of Gobbey’s Field for the past 20 years.
- 3.8 A letter has also been received from the chair of the Castlethorpe Duck Race and Fun Dog Show stating that the footpath across Gobbey’s Field is used by a large number of villagers to gain access to the bi-annual Duck Race.
- 3.9 The Parish Council has sought to argue that the Common Law/1832 Prescription Act gives those individuals with at least 20 years use a ‘right by prescription’ to continue using their personal preferred route, as use of the route was exercised without seeking or receiving permission.
- 3.10 A right by prescription concerns easements that may be acquired over land. It does not relate to the use of land for recreational purposes other than by way of access over the land. It is not part of the examination to consider whether or not any individual has acquired such rights.

### **Gobbey’s Field**

- 3.11 I undertook an unaccompanied site visit on a warm spring day.
- 3.12 Gobbey’s Field consists of a large field with an area of 4.8 ha used for grazing, although there was no livestock in the field at the time of my visit. A

public footpath enters the field at the northern corner from the footbridge over the railway line adjacent to the equipped children's playground. The path is concreted and lit for a short section from the footbridge, alongside the playground and then through the playground to the access road from The Chequers. This section of the footpath provides a direct link from the estate to the centre of the village.

- 3.13 There are two field gates on cul-de-sac heads on Shepperton Close that are locked and one has a sign stating "Private Property. No trespassing. Footpath use only." The Parish Council states that this sign was erected in December 2016. There is no footpath access from Prospect Road onto Gobbey's Field although the Parish Council claim that access can be achieved by climbing over the fence. The field is hedged and fenced to be stockproof with wire netting and barbed wire.
- 3.14 The definitive footpath across the field runs from the railway bridge through the central hedge line diagonally to the south-east corner of the field. However there is a track on the ground which follows the boundary hedge of The Chequers estate along the northernmost part of the field then crosses through the hedge line before turning diagonally across the field to the south-eastern corner of the field. The path then crosses the adjacent field to the south-east towards the river. It is evident that the path is well used across the full route towards the river and although not defined on the ground its route is clearly evident. The Parish Council website publicises the route as part of three circular routes around the village.
- 3.15 During my visit I encountered a number of dog walkers using the path across the field and continuing on the footpath towards the river. As there was no livestock in the fields at the time the dogs were running free.
- 3.16 The Gobbey's Field is clearly agricultural pasture land with a public footpath crossing it. I do not doubt that the footpath route across the fields is popular and is used by local residents for walking, jogging and to give access to the village centre and river as evidenced in the usage survey.
- 3.17 In response to my request for information on whether planning permission has ever been granted for the use of the land for recreational purposes, Milton Keynes Council has informed me that planning permission was granted in 1975 for the change of use from agriculture to recreational use of the northern half of the site adjacent to The Chequers and Prospect Place. The permission for change of use was renewed in 1981 and 1986. No evidence has been supplied to demonstrate that the planning permission was implemented. In view of the current use of the land as agricultural I have concluded that the permission was not implemented and has now lapsed.

### **Assessment of Gobbey's Field Against Basic Conditions**

- 3.18 The question that has to be addressed through this examination is whether the proposed designation of Gobbey's Field in Policy 5 of the Castlethorpe Neighbourhood Plan satisfies Basic Condition 1. This will consider whether



the additional evidence provided by the Parish Council demonstrates that Gobbey's Field as a whole satisfies the criteria set out in NPPF paragraph 77 such that the area is sufficiently special to warrant it being designated a Local Green Space. The advice in PPG on Local Green Space and other matters will be taken into account in my assessment.

3.19 NPPF paragraph 76 sets out the national policy on the designation of Local Green Space and states:

*“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”*

3.20 Paragraph 77 states that *“the Local Green Space designation will not be appropriate for most green areas or open space.”* It sets out criteria to be used to determine whether the designation would be appropriate. These are:

- *“where the green space is in reasonably close proximity to the community it serves*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife*
- *where the green area concerned is local in character and is not an extensive tract of land.”*

3.21 The Planning Practice Guidance provides guidance on a number of matters relating to the designation of Local Green Space.

3.22 I now consider each of the criteria in paragraph 77 in turn taking into account the guidance in PPG.

3.23 Firstly, I consider whether Gobbey's Field can be considered to be a green area within the meaning of the paragraph 76 of the NPPF. There is no national definition of green space and in response to the question “What types of green area can be identified as Local Green Space?” the PPG advises that:

*“The green area will need to meet the criteria set out in paragraph 77 of the National Planning Policy Framework. Whether to designate land is a matter for local discretion. For example, green areas could include land where sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis.”*

- 3.24 The critical test is to meet all the criteria set out in paragraph 77. It is noted that the examples given are areas where the public usually has access. The PPG advises that other land could be considered for designation even if there is no public access and gives examples of green areas which are valued because of their wildlife, historic significance and/or beauty.

**Criterion 1: it is within reasonably close proximity to the community it serves**

- 3.25 Gobbey's Field is in reasonably close proximity to the village of Castlethorpe and is easily accessed via the footbridge and footpath from the centre of the village and from the footpath through the playground from The Chequers housing estate. The area therefore meets this criterion.

**Criterion 2: where the green area is demonstrably special to a local community and holds a particular local significance**

- 3.26 The additional evidence supplied by the Parish Council seeks to demonstrate that the area is in recreational use and has been so for some time. The Parish Council undertook a survey of the residents of the parish in September 2016 asking for information on the frequency they use Gobbey's Field and the type of activities they undertake. Historical information was also sought on how the whole field had been used in the past for recreational purposes. The survey form asked residents to indicate that they "*greatly valued Gobbey's Field as a recreational and environmental resource and wanted to keep its current unspoiled character.*"
- 3.27 The Parish Council has prepared an analysis of the results of the survey. They received 210 individual responses. Based on a population in the parish of 1047 in 2011, this equates to approximately 21% response rate. Almost all respondents reported said they accessed the field for walking, jogging, dog walking, access to the river and canal, and access to the village shop; all of which rely on accessing the field by using the public footpath. The other activities included in the options on the survey form were for children's games (103 responses) and for football games and golf (56 responses).
- 3.28 The survey asked respondents to report how long they had seen members of the public using the whole field. There were 98 responses to this question with respondents reporting regular use for the past 20 years. Very little factual information is provided through the survey analysis of this question of the type and frequency of these activities and whereabouts in the field the activities occurred. There is no evidence to demonstrate that the field has been used for organised sport or recreational activities or that the use is anything other than informal use by local residents on an ad hoc basis. I consider that the findings of the survey are anecdotal only and do not constitute robust evidence to demonstrate that the whole of Gobbey's Field is used and valued for recreational purposes.
- 3.29 It is evident that the footpath across Gobbey's Field is well used as part of a route to the river and canal and as part of a circular route around the village.

The path from the playground over the footbridge also provides a valued shortcut to the village centre and shop. However, I consider that this does not provide robust evidence to demonstrate that the whole of Gobbey's Field is used and valued for recreational purposes.

- 3.30 The usage survey reported on the use of the area for children's games, football and golf. However, there is no provision within the area for sports and games and any such use would be on an informal basis and is considered to be incidental to the main use of the field for agriculture. The landowner has confirmed that there is no right of public access to the field except on the footpath.
- 3.31 The Qualifying Body has confirmed that no agreement has been sought from the landowner by the Parish Council or other community organisation for the use of Gobbey's Field for recreational purposes.
- 3.32 There appears to have been interest in creating a recreational area on the northern part of the site in the past with planning permission being granted in 1975 and again in 1981 and 1986 for the change of use from agriculture to recreational use. However no evidence has been provided to demonstrate that this permission was implemented and the agricultural use remains.
- 3.33 I have therefore concluded that the footpath across Gobbey's Field is valued by the local community as part of a longer route to the river and beyond. I am not satisfied that the additional evidence has demonstrated that the whole field is demonstrably any more special to the community than any other fields on the edge of the village that have access by a public footpath. I consider that the evidence submitted does not demonstrate that the whole field constitutes a "high quality public space" as stated in the Neighbourhood Plan.
- 3.34 The woodland adjacent to the field provides a pleasant backdrop and the trees near the playground and the hedgerow across the middle of the field are pleasing but the area is not demonstrably different in its beauty to other areas of agricultural land around the village. Other than a small area at the northern corner of the field which forms part of the historic fishponds area, there is no evidence of any historical significance.
- 3.35 Walkers enjoy access to the open countryside from the footpath across the site. However, the field is adjacent to the main railway line and there is frequent noise from trains such that the northern part of the area could not be recommended for its tranquillity.
- 3.36 No evidence has been provided to justify its designation on the grounds of the richness of its wildlife.

**Criterion 3: the area concerned is local in character and is not an extensive tract of land**

- 3.37 Gobbey's Field has an area of 4.8 ha, and constitutes a large parcel of agricultural land. The PPG advises that there are no hard and fast rules about

how big a Local Green Space can be because places are different and a degree of judgment will inevitably be needed.

- 3.38 The advice in the PPG is clear that “*Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently, blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name*”. The PPG on Rural Housing provides advice on avoiding blanket policies restricting housing development unless their use can be supported by robust evidence.
- 3.39 In view of its proximity to the village, the area is one that has been and may again in the future be the subject of consideration about its suitability for housing development. In my assessment, I have considered whether Gobbey’s Field satisfies the criteria of NPPF paragraph 77 and whether there is robust evidence to support its designation as a Local Green Space. In so doing I have also been mindful of the advice to avoid blanket designation of open countryside adjacent to settlements that would restrict housing development unless there is robust evidence to support the designation as Local Green Space.
- 3.40 With regard to criterion 3, I have concluded that Gobbey’s Field is a large parcel of agricultural land which in my view amounts to an extensive tract of land. I have concluded under criterion 2 that there is insufficient robust evidence to demonstrate that the whole of Gobbey’s Field is a green area that is demonstrably special to a local community and holds a particular local significance to justify its designation as a Local Green Space. Further I conclude that in view of the lack of evidence to justify the designation, if it were to be designated, this would amount to a blanket designation of open countryside adjacent to settlement which would be contrary to national planning guidance
- 3.41 In conclusion, taking into account the assessment in Appendix B of the Neighbourhood Plan and the additional evidence presented by the Parish Council following its survey of residents in September 2016, I am not satisfied that there is robust evidence to demonstrate that Gobbey’s Field meets the criteria of NPPF paragraph 77. I am therefore recommending that the area should not be designated as a Local Green Space in the Neighbourhood Plan as it does not satisfy Basic Condition 1.

**Recommendation:**

**Delete the designation of the Gobbey’s Field from the list of Local Green Spaces in Policy 5 of the Castlethorpe Neighbourhood Plan.**

## 4.0 Referendum

- 4.1 It is recommended that the Castlethorpe Neighbourhood Plan should proceed to referendum in accordance with the recommendations made in the previous examination subject to the modification to Policy 5 to delete the designation of Gobbey's Field.

## 5.0 Background Documents

5.1 In undertaking this examination, I have considered the following documents

- Castlethorpe Neighbourhood Plan Submission draft 2015 – 2030
- Castlethorpe Neighbourhood Plan Examiner's Report, July 2016
- Castlethorpe Neighbourhood Plan Decision Statement on the Examiner's report, October 2016
- Consultation statement on proposed decision to retain the Gobbey's Field Local Green Space designation.
- Supporting Evidence: Letter from the Duck Race and Dog Show
- Supporting Evidence: Usage Survey Analysis of Results
- National Planning Policy Framework March 2012
- Planning Practice Guidance March 2014 (as amended)
- The Town and Country Planning Act 1990 (as amended)
- The Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012