



Castlethorpe Neighbourhood Plan

Summary of responses received to Regulation 16 publicity period

Canal & Rivers Trust	No comments.
Avison Young on behalf of National Grid	<p>Proposed development sites crossed or in close proximity to National Grid assets:</p> <p>An assessment has been carried out with respect to National Grid's electricity and gas transmission assets which include high voltage electricity assets and high-pressure gas pipelines. National Grid has identified that it has no record of such assets crossed with proposed development sites within the Neighbourhood Plan area.</p>
Natural England	No comments.
Anglian Water	<p>Policy CAS6: Climate Change</p> <p>We note that it proposed to include an additional policy relating to climate change in the Castlethorpe Neighbourhood Plan. Policy CAS6 refers to non-residential developments within the Parish achieving a BREEAM standard of 'excellent'. We are supportive of this requirement as this can include water efficiency measures as part of the BREEAM scoring for development proposals.</p> <p>Policy CAS8: Local Green Spaces</p> <p>It is noted that Gobbey Field is proposed to be designated as an additional area of Local Green Space. There are foul sewers in Anglian Water's ownership located within this designated local green space. Land designated as Local Green Spaces has the same status as Green Belt land as outlined in the National Planning Policy Framework and the associated policy requirements. As such most types of development which require planning permission are not considered to be appropriate with some limited exceptions. It is therefore suggested that the following supporting text be added to the Neighbourhood Plan: 'For the purposes of policy CAS8 the very special circumstances would include development required by a utility company to fulfil their statutory obligations to their customers.'</p>
Network Rail	<p>Network Rail is a statutory consultee for any planning applications within 10 metres of relevant railway land (as the Rail Infrastructure Managers for the railway, set out in Article 16 of the Development Management Procedure Order) and for any development likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway (as the Rail</p>

	<p>Network Operators, set out in Schedule 4 (J) of the Development Management Procedure Order).</p> <p>Network Rail is also a statutory undertaker responsible for maintaining and operating the railway infrastructure and associated estate. It owns, operates and develops the main rail network. Network Rail aims to protect and enhance the railway infrastructure, therefore any proposed development which is in close proximity to the railway line or could potentially affect Network Rail's specific land interests will need to be carefully considered.</p> <p>Developments in the neighbourhood area should be notified to Network Rail to ensure that:</p> <p>(a) Access points / rights of way belonging to Network Rail are not impacted by developments within the area.</p> <p>(b) That any proposal does not impact upon the railway infrastructure / Network Rail land e.g.</p> <ul style="list-style-type: none"> • Drainage works / water features • Encroachment of land or air-space • Excavation works • Siting of structures/buildings less than 2m from the Network Rail boundary / Party Wall Act issues • Lighting impacting upon train drivers' ability to perceive signals • Landscaping that could impact upon overhead lines or Network Rail boundary treatments • Any piling works • Any scaffolding works • Any public open spaces and proposals where minors and young children may be likely to use a site which could result in trespass upon the railway (which we would remind the council is a criminal offence under s55 British Transport Commission Act 1949) • Any use of crane or plant • Any fencing works • Any demolition works • Any hard standing areas <p>For any proposal adjacent to the railway, Network Rail would request that a developer constructs (at their own expense) a suitable steel palisade trespass proof fence of at least 1.8m in height.</p>
Jackie Palman	Expresses support for the proposed modifications to Castlethorpe Neighbourhood Plan.
Martin Gallop	Fully supports the proposed Castlethorpe Neighbourhood Plan as it currently stands.
Sarah Grocott & James Goldsworthy	<p>1) We wholeheartedly support the changes to the plan as a whole and feel that the plan achieves the aim of helping to preserve the character of the village whilst making adequate provision for appropriate development and supporting environmental policy.</p> <p>2) In particular, we strongly believe that Gobbey's Field deserves to be designated as a Local Green Space. On many occasions I have observed bats and birds of prey over this field, providing an excellent opportunity for villagers to be exposed to some of our local wildlife. I also regularly walk my dogs there. It has particular value for us as being the only green space that my blind partner can access unaided (due to not having to cross any roads to reach it), when he needs to walk the dogs</p>

	<p>without me. Its use as an amenity for the whole village has been especially noticeable during the COVID-19 “lockdown”, when we have observed many families using the field as part of their daily exercise.</p>
<p>Kirkby Diamond, on behalf of Mrs J Markham</p>	<p>Extent of Consultation</p> <p>4.1 In the first instance, it is our view that the nature and extent of public consultation undertaken has been inadequate. As set out above, the Consultation Statement indicates that the villagers were 'told' about the intention to update the Neighbourhood Plan, and 'told' about the proposed designation of Gobbey's Field as Local Green Space. Having informed the village that the changes were to be made via the local newsletter, the Parish Council moved straight to the publication of a Pre-Submission Draft of the plan which included the proposed changes.</p> <p>4.2 From this series of events, it is quite clear that there has been no genuine attempt to consult on the need for amendments to the made neighbourhood plan, their scope or their nature; the proposed changes have effectively been presented as a <i>fait accompli</i>, and not arisen through any open discussion or consultation process.</p> <p>4.3 Our client's own representations as well as those made by others concerning the provision of housing land and the inclusion of additional sites, have simply been dismissed with 'no comment'. Thus the Proposed Modifications have been progressed without any proper assessment of the representations that have been made.</p> <p>4.4 Given that the Neighbourhood Plan remains based on a questionnaire that was undertaken in 2014, we consider that more extensive, genuine consultation should be undertaken on the proposed modifications to the Neighbourhood Plan.</p> <p>4.5 It is quite apparent from the 'Modification Proposal Statement' that the primary motivation for the proposed amendment is simply to secure additional 'protection' against new housing allocations and development, rather than any authentic review.</p> <p>Scope of the Proposed Modifications</p> <p>4.6 Secondly, it is contended that the scope of the Proposed Modifications is extremely limited, and that it should be broadened to include consideration of additional housing land.</p> <p>4.7 The existing, made Neighbourhood Plan was prepared prior to both the revised version of the National Planning Policy Framework and the adoption of Plan:MK. Consequently, the corresponding provisions within it do not consider the implications of these newer policies.</p> <p>4.8 In particular, the Proposed Modifications to the Neighbourhood Plan should openly assess the implications of the requirements within Plan:MK to deliver some 26,500 new dwellings over the plan period. This provision includes the development of 1,235 dwellings as 'windfall sites' which will include sites in the rural areas provided through the neighbourhood plan process. On this point, the Government's guidance advises that (our emphasis):" ... <i>policies in a neighbourhood plan may become out of date, for example if they conflict with policies in a local plan covering the neighbourhood area that is adopted after the making of the neighbourhood plan. In such cases, the more recent plan policy takes precedence. In addition, where a policy has been in force for a period of time, other material considerations may be given</i></p>

	<p><i>greater weight in planning decisions as the evidence base for the plan policy becomes less robust. To reduce the likelihood of a neighbourhood plan becoming out of date once a new local plan (or spatial development strategy) is adopted, communities preparing a neighbourhood plan should take account of latest and up-to-date evidence of housing need, as set out in guidance ... "</i></p> <p>4.9 The Proposed Modifications do not consider whether additional land should be allocated for housing purposes and given the material change in the development plan policies, the scope of the proposed alterations is too narrow. Consequently, it fails to comply with the guidance.</p> <p>The Requirement for Additional Sites</p> <p>4.10 Given the need to secure additional housing through 'windfall sites', it is suggested that land at Bullington End Road should be included within the Neighbourhood Plan for the purposes of residential development. The potential contribution of this site and its suitability for residential development is discussed below.</p> <p>The Need for Examination and Referendum</p> <p>4.11 Aside from the matters above, in our view the Proposed Modifications (which include the allocation of additional Local Green Space, which is contested by the landowner and required under the previous examination to be removed from the Made Plan) must be considered 'Material Modifications' and would require examination and referendum. New Buildings of Local Interest are also identified.</p> <p>4.12 As such, we do not agree with the claim that the proposed modifications are not 'so significant or substantial' as to change the nature of the Made Plan.</p>
<p>Philips Planning Services on behalf of Keynes Investments Ltd</p>	<p>Response To The Parish Councils Comments In The Consultation Statement</p> <p>We are disappointed that the Parish Council has largely repeated the comments originally made in the Draft Plan in the Submission version, rather than attempting to address the points we raised in the previous consultation.</p> <p>The Parish Council state that the original Plan Inspector considered: <i>"...that because the village is not identified for development, the need to protect it from development by designating it as an LGS was not justified. This is an incorrect statement because, if NPPF para 11d footnote 7 is engaged, then, unless all conditions in para 14 are fulfilled, there would be a presumption in favour of sustainable development as has happened in nearby Hanslope. This is the reason that the parish council has sought designation to protect this green space in perpetuity."</i> (Paragraph 1.1)</p> <p>The Parish Council are inferring that this is an attempt to protect the land on the basis of preventing future development rather than attempting to designate a piece of land which is worthy of the LGS status. This is entirely at odds with the objectives of the NPPF which requires land to only be designated as LGS where it is worthy of such protection. The Planning Practice Guidance makes clear that LGC designation <i>"should not be proposed as a 'back door' way to try to</i></p>

achieve what would amount to a new area of Green Belt by another name.” It has already been confirmed by two Examiners that the land is not worthy of the LGS designation.

The Parish Council state:

“As Modifications were being made to the Plan, it was decided to review the LGS status of Gobbey’s. A resident offered the Parish Council summary data of usage from his security CCTV which faces the field and incidentally records activity in the field. It should be stressed that the video is at a distance where no individuals can be identified so there is no breach of GDPR. The relevant guidance is “Where the image is of a crowd and does not focus on one individual or a group of individuals, it is unlikely to be personal data as the individuals will not be identifiable. Data protection law will not therefore apply.” In any case, only the people count and type of use of the field has been made available to the Parish Council in the form of Excel tables which will be submitted in a separate document. The tables show that there is significant usage of the whole field, about half of recorded usages being outside the public right of way, the path, and therefore the Parish Council decided to submit Gobbey’s Field for designation as an LGS this time with robust empirical evidence.” (Paragraph 1.3)

Leaving aside the GDPR issue, which is not a planning matter, the Parish Council appear to be stating that they do not have a copy of the video survey, only the data that has been taken from these videos by the resident. They do not therefore have the primary source of this evidence, nor does there appear to be any attempt to validate the data or make it available for scrutiny. This is not an appropriate foundation for the Council to advocate a position on this land. At present, we are being asked to consider the proposals on the basis we have no access to the primary data, no recognised methodology to the assessment and no agreed or independently validated definition by which to assess the footage; what we have is a member of the public’s interpretation.

Furthermore, the Parish Council state that the video is at a distance where people’s faces cannot be identified. If the video is not clear enough to see people’s faces, then it is probably unlikely to be clear enough to properly see what they are doing. With all due respect the data which is relied upon has significant flaws in both its collection and analysis. It is certainly not “*robust empirical evidence*” as the Parish Council claim. It is as vague and ambiguous as the data submitted under the previous two examinations which were dismissed by the Examiners.

This CCTV survey is not in the public domain so it cannot be scrutinised. Annexe B of the Submission Plan states that the raw data has been provided in a separate document titled Observations Summary. However, we must raise a concern that the LGS Evidence Report which contains the Observations Summary and forms part of the evidence base for the Neighbourhood Plan Modification, and is cross referred to in the justification statements, was only placed in the public domain on the 7th July 2020, after we had been unable to identify it and requested

a copy from Milton Keynes Council. It is our contention this document forms part of the submission required under Regulation 15 of The Neighbourhood Planning (General) Regulations 2012 (as amended). Therefore, we would question whether or not the consultation follows the prescribed period in Regulation 16(a)(v), having only been available for 10 days prior to the end of the consultation period.

In respect of the response, the Parish Council have attempted to respond to our concerns about a potential breach of GDPR as a result of the Video Survey by stating that it was filmed at a distance where people's faces cannot be recognised. Whilst GDPR is not a planning matter, reflecting upon data that refers to individuals without proper scrutiny could be seen as breach of the legislation. The Council have not responded adequately to this point so we will leave it to the relevant authorities to decide if there has been a breach.

The Parish Council states in Paragraph 2 that the field includes a SAM and has a rich ecology. It is acknowledged that the site includes part of a Scheduled Ancient Monument (SAM). However, this only covers a small area in the north western corner of the site and the Independent Examiner appointed by Milton Keynes Council confirmed that the remainder of the site does not have any historic significance. The biodiversity value of the land does not elevate it above the commonplace and it does not benefit from any special ecological designations. It is therefore incorrect to describe the sites ecology as "rich."

The Parish Council state that:

"The main thrust of the Parish Council's position is that the whole of Gobbey's Field has been used for recreational purposes for many decades and continues to be extensively used today as evidenced by the CCTV counts."

The two previous Examiners did not consider that the land has significant recreational value. The land has been in agricultural use for over forty years and there are no formal recreational facilities such as sports pitches or benches, nor supporting paraphernalia such as dog waste bins. It is simply a field with a public right of way running over part of it. This does not give the land special character or significance.

As detailed in our comments above, the "Video Survey" has no clear independence or objectivity, with no agreed methodology to the gathering of the survey data. These comments were made in our representations on the Draft Plan in March 2020 but have not been addressed by the Parish Council. There are also serious concerns about its legality. The main thrust of the Parish Council's position is therefore flawed.

The Parish Council state that Shepperton Close provides easy access to the site. However, Gobbey's Field can only be formerly accessed via the

public right of way. There are no formal rights of access from Shepperton Close or Prospect Close.

The Parish Council argue at Paragraph 3 that *“there is precedent in other ‘made’ NPs for larger areas to be designated.”*

As discussed extensively in our representations for the Draft Plan which are resubmitted in Annex A, there were very special reasons for larger sites being designated in other Neighbourhood Plans which this site does not benefit from. The size of these other sites is not therefore relevant in assessing the suitability of designating Gobbey’s Field as Local Green Space.

As acknowledged by the Parish Council at Paragraph 4, it is not a requirement of the NPPF for a parcel of land to be significantly different to other parcels of land in order to be designated as LGS. Nevertheless, the field is not significantly different to other fields surrounding the village. There are public rights of way across many of the fields surrounding the village, and activities such as dog walking and informal recreation can just as easily be carried out on the other fields. Whether the land has been used for arable farming or not is not relevant, and as confirmed by the two previous Examiners the land does not have significant recreational value.

Section 2 of the LGS Evidence Report, April 2020 contains a list of sites which have been designated as LGS in adopted Neighbourhood Plans. The report states that this list has been provided to demonstrate that the size of Gobbey’s Field is “not excessive” for designation as LGS.

The NPPF and Planning Practice Guidance do not define *“extensive tract of land”* because as set out in the Planning Practice Guidance *“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”* (Planning Practice Guidance - Open space, sports and recreation facilities, public rights of way and local green space, Paragraph: 015 Reference ID: 37-015-20140306)

The Planning Practice Guidance does however make it 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.”* (Planning Practice Guidance - Open space, sports and recreation facilities, public rights of way and local green space, Paragraph: 015 Reference ID: 37-015-20140306)

In the case of Gobbey’s Field, the Independent Examiner appointed by Milton Keynes Council considered the site to be an extensive piece of land because it is *“a large parcel of agricultural land”* and its designation would *“amount to a blanket designation of open countryside adjacent to settlement which would be contrary to national planning guidance”* (Report To MK Council, June 2017, paragraph 3.40).

It was therefore logical for the Examiner to reach the conclusion that Gobbey's Field is an extensive tract of land. It is also perfectly logical for larger sites to not be considered as extensive tracts of land depending on their own characteristics. For example, the 19 ha site known as Bersted Brooks Nature Reserve given as an example by the Parish Council was not considered to be extensive because that is the size the nature reserve happens to be and it was all considered to be worthy of a LGS designation.

The example sites listed by the Parish Council were not designated as LGS on the basis of their size. They were all designated because they were considered to be in reasonably close proximity to the community they serve, demonstrably special to a local community, and local in character and not an extensive piece of land. Two previous Examiners have already confirmed that Gobbey's Field fails the final two of these tests.

Conclusion

On behalf of our client, Keynes Investment Ltd, we strongly object to the proposed designation of the land known as Gobbey's Field, Castlethorpe as Local Green Space because it fails parts b and c of NPPF Paragraph 100 as confirmed by the original plan Examiner in July 2016, and the independent Examiner appointed by Milton Keynes Council in June 2017. As we have robustly demonstrated above, no substantive evidence has been provided to demonstrate that these decisions should now be reversed.

An attempt to proceed with the designation will fail to meet to the basic conditions as set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended), as the plan does not have regard to national policies and advice contained in guidance issued by the Secretary of State.

We kindly request our objection is given due consideration, and the designation of Gobbey's Fields is withdrawn from the Submission version of the Neighbourhood Plan.