

**Neighbourhood Plan for the  
former Land Settlement Association's  
Estate at Great Abington 2017-2031**

**Pre-Submission Plan**

**HEALTH CHECK REPORT**

**by**

**Christopher Lockhart-Mummery QC**

**Independent Examiner**

**4 September 2017**

## **Introduction**

1. This is my Health Check Report in relation to the draft Neighbourhood Plan (NP) for the former Land Settlement Association's Estate at Great Abington 2017 to 2031, pre-submission plan. The Plan, being at pre-submission stage, will not be submitted for examination for some time yet. I have been asked to undertake a health check at this relatively early stage, principally because of a wish to ensure that the plan is capable of complying with the basic condition of general conformity with the development plan.
2. The NP area is shown on the plan at page 3 of the NP, and was designated by the local planning authority, South Cambridgeshire District Council (SCDC) on 5 September 2016. The Qualifying Body (QB) is Great Abington Parish Council.
3. The history of the LSA Estate is set out in the NP, and more fully in the excellent and informative Character Assessment June 2017. I do not recite it here, save to observe the following, in which I have been much assisted by a tour of the area on 31 August 2017 in the company of the Chairman of the QB, Bernie Talbot.
4. The NP area has a distinct and most unusual character. The designated area captures that character within its boundary. The character to the north—the villages of Great and Little Abington with their historic centres and many heritage assets—is quite different. Plainly, the right area was designated.
5. One of the features of the NP area which was made abundantly apparent on my tour, and which is entirely unexpected for an area such as this, is the ad hoc nature of the planning control, and observance of planning control, that has taken place over many years. At the base date of 1983 (when the Estate was sold), it would seem that the character of the buildings and spaces between them was largely homogenous. Much has changed over the years, not always to the good. Unlawful development has taken

place; much development authorized for non-residential use (principally agricultural, or live-work, or uses originally confined to ancillary use) has “crept” to residential use, sometimes accompanied by residential development of a scale and/or appearance which is at odds with what I might describe as the original estate form of recessive, quasi-rural character and appearance.

6. Paragraph 1.2 of the NP refers to the intention to “regularise” development. I comment on this term below, but I fully understand the intention behind it.

**Documents supplied**

7. I have been supplied with:
  - the Pre-Submission Plan June 2017;
  - the Character Assessment June 2017, and
  - the Strategic Environmental Assessment (SEA) Screening Determination Statement 6 July 2017.

**Documents not yet available/supplied**

8. Owing to the stage the plan has reached, there is, of course, no basic conditions statement, no consultation statement, and no regulation 16 representations.

**A focused health check**

9. A Neighbourhood Plan must meet the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. It will do so if:
  - (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - (d) the making of the plan contributes to the achievement of sustainable development,

- (e) the making of the 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),
- (f) the making of the order does not breach, and is otherwise compatible with, EU obligations, and
- (g) prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.

10. In my view, the only basic condition which the draft plan might – at this stage – not meet is (e), general conformity with the strategic policies of the development plan. I see no difficulties in relation to (a), national guidance, or (d) the achievement of sustainable development. In relation to (f), the Screening Statement referred to above, to the effect that the plan is unlikely to result in significant environmental effects, is justified and robust. In relation to (g), no issues would arise. The uncertainty – at this stage – relates to (e), general conformity, which is discussed in further detail below.

**Suggested textual changes**

11. Before coming to the 4 draft Policies, I suggest the following textual changes to sections 1-3.

I suggest that the last sentence of paragraph 1.1 ends with “subject to other material considerations”.

In relation to paragraph 1.2, the concept of “regularising” development (which I have touched on above) implies some form of retrospective planning permission. It would be better if it read along the lines of: “The intention of the Neighbourhood Plan is to remove the uncertainty that presently arises in relation to development proposals on the Land Settlement, so that there are clear, consistent and transparent policies to

control development”. This form of expression, taken together with the subsequent policies, may induce some owners to take advantage of the development contemplated by the NP, in return for the extinguishment of the less attractive incidents of unlawful development.

In relation to paragraph 1.4, it would be better if this referred to all the policies of the Plan.

In relation to paragraph 3.1, this should read:

*“The preparation of a Neighbourhood Plan must follow the requirements of the legislation, in particular Schedule 4B to the Town and Country Planning Act 1990. The Examiner will check that the statutory requirements have been followed accordingly”.*

In relation to paragraph 3.2(i), this should read “is appropriate having regard to national policies and advice contained in guidance issued by the Secretary of State”.

In relation to paragraph 3.3, the second sentence should read: “The NP must be in general conformity with the strategic policies of the development plan which are:”. I give further advice on this topic below, which may well require alteration and updating of this text.

I consider that section 4 of the NP is excellent, as are the terms of the Aims and Objectives in section 5 and the general principles underpinning the policies in section 6.1.

### **Policy 1**

12. The title to this policy should be: “Extensions to and Rebuilding of Original Dwellings (including those that have been rebuilt)”.

13. Paragraph 4.13 states that the policies relate to the baseline, being the situation as at 1983 immediately prior to the decision to sell the Estate. That being so, Policy 1 has the potential for ambiguity. Its first paragraph refers to “original dwellings”, whereas its second paragraph refers to the floor area of the “existing dwelling”. It may be that this apparent ambiguity is not real, but any uncertainty should be clarified in the supporting text.
14. It also seems to me that there may be some potential ambiguity in relation to the piggeries. I understand that the intention is that the policy should not apply in relation to piggeries converted to residential use since 1983, or to additional dwellings (if any) subsequently created separately from the original dwelling and separately from the piggery. This presumably not the case, in view of the reference to “original dwellings”, but there may be room for further clarity here.

**General conformity**

15. The current development plan comprises the South Cambridgeshire Core Strategy DPD (January 2007) and Development Control Policies DPD (July 2007). The EIP into the emerging local plan (which will supersede the existing development plan) has concluded, with consultation on major modifications due in autumn 2017. I understand that it is currently anticipated that the plan will be adopted in spring 2018 (though I am aware that it has been an extended process to date).
16. So far as the existing development plan is concerned, the relevant strategic policies for the purposes of Policy 1 are HG/6 and HG/7. In my view, while there are slight differences in proposed policy 1, there should be no issue as to general conformity. In relation to the emerging local plan, I would state the same position in relation to policies H/12 and H/13, noting that in the text to H/12 there is, indeed, reference to the Estate.

17. Accordingly, there should, in my view, be no issue as to general conformity, whichever is the adopted plan at the date of the examination.
18. It is accordingly my view that Policy 1 is, in principle, suitable to proceed to Examination.

### **Policy 2**

19. In my view, there are several uncertainties as to the scope of this policy. I share the views expressed in the Response dated 27 June 2017 from the District Council. These should be addressed to remove any uncertainties. The notes to Map 1 and Map 2 should be removed, and clearly expressed in the supporting text to the policy. I find paragraph 6.14 to be lacking in clarity.

### **General conformity**

20. Policy 2, if made, has the potential to result in the grant of planning permission for some 55 new dwellings in the countryside. Policy DP/7, Development Frameworks, of the adopted Development Control Policies DPD provides:

*“1. Outside urban and village frameworks, only development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside will be permitted”.*

In other words, the development of only a single non-agricultural dwelling in the NP area would conflict with this strategic policy.

In my view, whilst acknowledging that the statutory test relates to general conformity of the Neighbourhood Plan with the strategic policies (as a whole) of the development plan, there is a clear issue of non-conformity here. Policy DP/7 applies to the NP area, and would not normally contemplate anything like the scale of development which could arise under Policy 2. Acknowledging, again, that officers of the District Council are generally supportive of the approach of the Plan, there must be some considerable risk that an Examiner might fail this policy on general conformity grounds.

21. Draft Policy S/7, Development Frameworks, as now proposed to be modified, provides:

*“2. Outside development frameworks, only allocations within Neighbourhood Plans that have come into force and development for agriculture, horticulture, forestry...will be permitted...”*

Paragraph 2.51A of the draft supporting text refers to the Council’s support of Parish-led proposals. Policy 2 is not strictly an “allocation”, but since the policy is confined to the rare circumstances of the former Estate, I would see no general conformity issue in relation to this policy. I conclude, therefore, that it would be wise to ensure that the examination takes place after the adoption of the new local plan.

22. As presently drafted, Policy 2 includes the following:

*“No other additional dwellings requiring planning permission will be permitted in the NP area”.*

Related to this, the second sentence of policy 4 states: *“All residential proposals requiring planning permission will be assessed against Policies 1 and 2 of this plan”.* The supporting text states: *“Policy 4 also clarifies that Local Plan policy allowing other residential proposals in the countryside would no longer apply in the NP area”.*

23. Before my visit to the area, I did not understand this approach. These policies conflict with adopted strategic policies HG/8 and HG/9, and the emerging local plan policies H/16 and H/17. I note the terms of paragraph 3.15 of the Character Assessment (referring to non-residential uses), but it is not clear as to how many non-residential buildings would be capable of policy-compliant conversion to residential use. Paragraph 6.22 of the Plan refers to the “necessity” for this approach. It refers to “unacceptable cumulative impacts...an unintended quantity of development”.

24. It is at this point that the observations at paragraph 5 above are relevant. On numerous occasions, structures permitted for purported agricultural use have been converted to residential uses. I saw substantial two-storey “barns”, with glazing which appeared to be suitable for residential use. There is therefore clear evidence justifying an extremely cautious approach to a permissive regime for new agricultural dwellings
25. There being, therefore, a genuine planning concern here – one which is not shared by the District Council – it needs proper justification. Simply to assert (paragraph 6.22) that there is a “necessity” to override local plan policies is insufficient. Further, it would be unwise to use the term “override”. If it is genuinely necessary to discourage this form of potential development, it would be preferable to say so – i.e. that residential conversions and new rural dwellings will be “discouraged” or “restrained”. If an embargo (as presently stated) it to be retained in Policy 2, it may well not survive, at least in the absence of the clear justification referred to above.
26. Policy 2 ends as follows:

*“It is a condition of development that owner(s) of the new dwelling must be or become members of the Abington Estate Management Limited and accept liability for the charges and conditions associated with the new dwelling”.*

It would not be possible to impose a planning condition to this effect. The point is not justified in the text. If it were justified, the concern might be capable of being dealt with through section 106 obligations.

### **Policy 3**

27. I see no difficulties presented by this policy. I note that the Plan contains no policy for business development. I assume that the Parish Council are content to rely on other development plan policies. A cross-reference to these might be helpful.

**Policy 4**

28. The first sentence of this Policy adds nothing. I have expressed my concerns as to the second sentence of this policy, above. There is no need to repeat the relevant part of Policy 2, assuming it, or something like it, is to be retained. I see no purpose in the third sentence, which might in any event be part of the cross-reference suggested in paragraph 27 above.

**Christopher Lockhart-Mummery QC**

4 September 2017