

Botley Parish Neighbourhood Development Plan

Examiner's Clarification Note

This Note sets out my initial comments on the submitted Plan. It also sets out areas where it would be helpful to have some further clarification. For the avoidance of any doubt, matters of clarification are entirely normal at this early stage of the examination process.

Initial Comments

This Note is based on the second submitted Plan (dated April 2024) which was subject to the most recent consultation exercise (which ended on 16 October 2024). That version of the Plan sought comments on the elements of the Plan which had changed from the initial submitted version. However, for completeness, this Note takes account of the comments made on both versions of the Plan.

The Plan raises a complex series of issues for the examination. On the one hand, it is distinctive to the parish and provides a clear vision for the neighbourhood area. The presentation of the Plan is very good and it makes good use of high-quality maps and photographs. The difference between the policies and the supporting text is very clear.

However, on the other hand, there are significant outstanding matters about the acceptability of the proposed housing allocation in relation to flood risk and mitigation measures. In addition, there are tensions between the approach taken in the adopted Local Plan and in the submitted Plan on Local Settlement Gaps (Policy Six) and on the development of one of the strategic sites in the Local Plan (Policy Nine). These issues are explored further in this Note.

Points for Clarification

I have read the submitted documents and the representations made to the Plan. I have also visited the neighbourhood area. I am now able to raise issues for clarification with the Parish Council.

The comments made on the points in this Note will be used to assist in the preparation of the examination report and in recommending any modifications that may be necessary to the Plan to ensure that it meets the basic conditions.

I set out specific policy clarification points below in the order in which they appear in the submitted Plan:

Policy Three

The policy elements (b/c/d) go well beyond the matter-of-fact approach taken in paragraph 107 of the NPPF. It would be helpful if the Parish Council explained the way in which it has addressed these matters.

Where are maps 1-3 located in the May 2024 version of the Plan?

The tabular information about the proposed Local Green Spaces is very helpful. However, it reads as background information that would sit better in an appendix of the Plan. Does the Parish Council have any views on this point?

The Parish Council's comments on the representation from the Trustees of the Mulberry Investments Pension Scheme would be appreciated.

Policy Four

The proposed investment priorities are generally appropriate. However, would a museum be deliverable within the Plan period?

In general terms, should the contents of the policy be a community aspiration (about how Section 106 monies are applied) rather than a land use planning policy?

Policy Six

This policy has attracted considerable objection

The evidence suggests that the policy is not in general conformity with Strategic Policy 6 of the Local Plan and fails to take account of the outcome of the examination of the Local Plan.

In this context does the Parish Council wish to add anything further to its approach to the proposed Local Settlement Gaps in the Plan?

Policies Seven and Eight

For clarity, my comments and questions relate to the two policies as now presented in the May 2024 version of the Plan. The policies have attracted considerable commentary.

My initial conclusion is that the Plan includes limited detailed evidence about:

- the deliverability of the allocated site;
- the way in which potential flooding issues can be resolved; and
- the way in which the environmental issues associated with their development can be appropriately mitigated.

On the one hand, these technical issues which may be capable of being resolved. On the other hand, the inclusion of the site in the Plan depends on the integrity of (and interplay between) the site selection process, the Environmental Report, and the Habitats Regulations Assessment.

The Parish Council's comments on these observations would be appreciated. It would also be helpful if it advised about the extent to which the significant objections to the proposed development and mitigation package from statutory bodies (Natural England and the Environment Agency) can be addressed.

Policy Nine

The policy has also attracted considerable commentary.

Has the Parish Council tested the impact of the policy (including the requirement for allotments or additional community space and a cemetery) would have on the overall delivery of housing on the site and its deliverability/commercial viability?

Is the Parish Council satisfied that the policy is in general conformity with Strategy Policy 1 of the Local Plan?

Is the Parish Council satisfied that the policy has regard to national policy (in paragraph 29 of the NPPF) that neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies?

Does the Parish Council wish to elaborate further on the contents of paragraph 92-98 of the Plan? Is it reasonable for me to conclude that the principal driver for the policy is the community feedback (as described in paragraph 92 of the Plan)?

Policy Ten

Does this policy bring any added value beyond national and local policies? Is it needed?

Policy Eleven

Does this policy bring any added value beyond national and local policies? Is it needed?

Policy Twelve

Does this policy bring any added value beyond national and local policies? Is it needed?

Policy Thirteen

This policy has attracted a range of comments. I would welcome the Parish Council's response to the Borough Council's representation.

Some developers question whether there is sufficient evidence to depart from existing Borough Council parking standards. I would appreciate the Parish Council's comments on this point and the extent to which this policy brings any added value beyond national and local policies.

Policy Fourteen

As the Plan acknowledges, this policy seeks to build on the contents of Policies DM23 and DM24 of the Local Plan. In principle, such an approach is acceptable, and I note that the two policies in the Local Plan are not strategic policies. National policy comments that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area where they are in conflict (NPPF paragraph 30). In this context the extent to which the submitted policy meets the basic conditions is a particularly important matter.

An important issue is the differing approach taken in the Local Plan and in the Neighbourhood Plan. Whilst the two policies in the former are non-prescriptive, Policy Fourteen is very prescriptive and has various layers and requirements. In addition, it does not appear to have been tested for its impact on commercial viability, and therefore several of its elements provide an opportunity for an alternative approach to be taken (where justified). It would be helpful if the Parish Council expanded on the way in which it has approached this matter.

On a specific point, and as the Borough Council comments, there is a risk that the development of sites allocated in the adopted Local Plan with a 35% affordable housing threshold applying could be made unviable and therefore undeliverable if the threshold in the submitted policy is introduced without any supporting viability evidence to justify the higher figure.

It would be helpful if the Parish Council commented on the extent to which it has addressed this potential risk.

Policy Fifteen

In general terms, this is good policy which is underpinned by the Botley Design Guide. In the round it is a very good local response to Section 12 of the NPPF.

Criterion d) is vague. How would an applicant know which elements of the Strategy applied to the development concerned. Please can the Parish Council advise on its thinking?

Criterion e) is prescriptive. I am minded to recommend that it should apply where it is viable and practicable to do so? Does the Parish Council have any comments on this proposition?

Several developers make detailed comments on the policy. The latter part of this Note provides an opportunity for the Parish Council to comment on such matters.

Policy Seventeen

The thrust of the policy is very appropriate. However, it includes both land use policies and supporting text. Was this deliberate?

The fourth part of the policy has now been overtaken by the introduction of Part S of the Building Regulations. As such, I will recommend that this part is deleted, and that the national position is addressed in the supporting text.

Policy Eighteen

I am minded to recommend that the order of the two elements of the policy is reversed so that it has a positive focus. Does the Parish Council have any comments on this proposition?

The first part of the policy comments about existing community facilities. Is this intended to have general effect (without identifying specific facilities) and as advised in paragraph 191 of the Plan?

Representations

Does the Parish Council wish to comment on any of the representations made to the Plan?

It would be helpful if the Parish Council commented on the representations made to the first submitted Plan by:

- Trustees of the Mulberry Investments Pension Scheme
- Bloor Homes
- Bellway Homes
- Miller Homes
- Persimmon Homes
- CCW Services Limited
- Land Quest
- Environment Agency
- Natural England
- Stratland Estates

It would be helpful if the Parish Council comment on the representations made to the second submitted Plan by:

- Bloor Homes/Bellway Homes
- Miller Homes
- Natural England
- Environment Agency

I acknowledge that some of the potential responses may overlap with the Parish Council's responses to the policy-based questions in this Note. I am happy for the Parish Council to organise its response as it sees fit.

I would also find it helpful if the Parish Council responded to the Borough Council's comments and suggested changes to the policies and the supporting text. Given that the Borough Council's comments on the second submitted Plan largely update its early comments, I suggest that they are used as a basis for response.

Protocol for responses

I would be grateful for responses to the questions raised by 29 November 2024. Please let me know if this timetable may be challenging to achieve. It is intended to maintain the momentum of the examination.

If certain responses are available before others, I would be happy to receive the information on a piecemeal basis. Irrespective of how the information is assembled, please could it come to me directly from the Borough Council. In addition, please can all responses make direct reference to the policy or the matter concerned.

Andrew Ashcroft

Independent Examiner

Botley Parish Neighbourhood Development Plan.

31 October 2024