

# Milton Abbot, Chillaton and Kelly (MACK) Neighbourhood Plan 2021 to 2034

---

## **Initial Comments of the Independent Examiner**

**Prepared by**

**JOHN SLATER BA(Hons), DMS, MRTPI**

**John Slater Planning Ltd**

**9<sup>th</sup> November 2021**

## Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Milton Abbot, Chillaton and Kelly Neighbourhood Plan, which I will refer to as the MACK Plan, which is the acronym used in the plan. I have carried out my initial review of the Plan and the accompanying documents which I have been sent. I visited the plan area on Wednesday 3<sup>rd</sup> November 2021. I spent nearly three hours within the plan area.
2. I have concluded that I should be able to deal with the examination solely based on the written material and it will not be necessary for me to call for a public hearing. However, there are a number of matters that I need to ask questions or which seek clarification based on what I have read in the plan or saw on my site visit. This is quite common in the examination process.

## Regulation 16 Comments

3. I would firstly like to offer the MACK Plan Committee and the Milton Abbot Group Parish Council (MAG PC) an opportunity to comment on the representations that were submitted to the plan as part of the Regulation 16 consultation.
4. I am not expecting a response in respect of every point raised at Regulation 16, just those comments that the team feels it wishes to respond to.

## Changes to the NPPF

5. The neighbourhood plan was drawn up against the background of the 2019 version of the National Planning Policy Framework and this is reflected in the Basic Condition Statements.
6. On 20<sup>th</sup> July 2021, the Secretary of State issued revisions to the National Planning Policy Framework (NPPF). This most recent version can be found at <https://www.gov.uk/government/publications/national-planning-policy-framework--2>.
7. With the recent changes to the national policy context, my examination will need to assess whether the changes to the Framework will have a material impact on my assessment of the basic conditions, particularly whether the plan has regard to the policy and advice of the Secretary of State. I would invite the Borough Council and the MACK Plan Committee to comment on whether the changes to the Framework should have a material impact on my conclusions.

## Strategic Policies

8. Can West Devon Borough Council confirm which of the Joint Local Plan policies, are for the purpose of the basic condition, the strategic policies that the neighbourhood plan has to be in general conformity with?

## Qualifying Body

9. I note that the Milton Abbot Group Parish Council is shown as being the Qualifying Body for the plan area, but the plan area covers land which falls outside of the Group Parish boundary and which is covered by the Kelly Parish Meeting. I assume that there is no actual Parish Council for Kelly although the plan area designation application in 2014 referred to the application being made by MAG PC and *Kelly Parish Council*. Under the provisions of Section 61 F (2) of the Town and Country Planning Act 1990 if another parish council is acting for the purpose of neighbourhood planning, as qualifying body for that area, then it can only do so if the “other parish council has given its consent”. Can I be provided with evidence that the Kelly Parish Meeting / Parish Council has given its explicit consent for Milton Abbot Group Parish Council to be the Qualifying Body for its part of the neighbourhood plan area.
10. Can the West Devon Borough Council give a view as to whether a parish meeting has the same status as a parish council, for the purpose of neighbourhood plan legislation and also give a view that a parish meeting is empowered to make that decision, as I am aware that the powers of a parish meeting are somewhat different to a parish council.
11. This situation regarding a parish meeting is not one I have not come across before and I need to be sure that the appropriate agreements are in place.
12. The matter is further confused by the reference in AECOM Housing Needs Assessment in paragraph 33 to the neighbourhood area boundary comprised the parishes of Milton Abbot, Kelly, Bradstone and Dunterton. I am assuming that was a historical reference but it would help me to understand how the jurisdiction of MAG PC relates to what are described as “civil parishes”.

## Policy 4-1: Biodiversity

13. Would the MACK Plan Team offer a view as to whether the provisions of this policy would be expected to apply to minor development, including householder applications?

## Policy 4-2: Environmental Considerations

14. Beyond compliance with Building Regulations, how would a decision maker judge whether a new property would be constructed in a manner “that supports Government environmental targets”? I do note that the 4 examples are not a comprehensive list, but matters such as to the type of heating system is a matter for the Building Regulations rather than planning controls.

## Tamar Valley AONB

15. Can the Borough Council provide me with a clearer map that shows the boundary of the AONB, so that I can gain an better appreciation of its

boundary in relation to Milton Abbot? The maps on page 22 and Map 5.1 could be clearer.

### **Policy 5-1: Protecting our Heritage**

16. I appreciate that currently there are no non-designated heritage assets in the parish. I am assuming that the purpose of their reference in the policy is to cover the possibility that some may be designated by the Borough Council in the future.
17. The policy appears to confer the same weight on all heritage assets whether designated or not, which is not the approach set out by the Secretary of State, in paragraphs 201 to 203 of the NPPF or the Joint Local Plan. I would also invite the MACK team to describe how and whether the policy adds a local dimension to the existing national policy or the Policy DEV 21 on the Joint Local Plan.

### **Policy 6-1: Promoting Employment**

18. Does the MACK Team wish to suggest an updated wording of this policy, in the light of the introduction of Class E Uses in the Town and Country Planning (Use Classes) (Amendment)(England) Order 2020?
19. Does the MACK Team have a view on whether this policy is consistent, through the restriction of new employment uses to only previously developed land or land within the settlement boundary, with paragraph 84 of the NPPF which supports “the sustainable growth and expansion of all types of businesses in rural areas through inter alia, well designed new buildings” and which in particular, paragraph 85, which states that “sites to meet local business and community needs may be found adjacent to and beyond existing settlements”?

### **Policy 7-1: Sustaining Local Infrastructure**

20. Can the Borough Council provide me with a link to the Local Validation Checklist which specifies what documents need to accompany a planning application?
21. Can the MACK Team or the Borough Council confirm that there is capacity in the village school to accommodate the children generated by the scale of the housing allocation for the plan area expected by the Local Plan?

### **Policy 7-2: Community Facilities**

22. Does the MACK Team have any evidence as to the actual likelihood of the Chichester Arms in Chillaton re-opening as a public house, or is it better to find a new viable use for this building?
23. I am assuming that in the first bullet point in a) that there is a missing “will” before “not be supported”.

### **Policy 8-1: Parking**

24. Is my interpretation of the policy correct , that if a garage is provided, then it would not count towards the required parking standard, when considering the adequacy of parking provision,?
25. Can the plan team identify which areas of public parking will not be permitted to be lost – is it concern a general concern over the loss of off-street parking or are there areas of public parking that I am not aware of?

### **Policy 9-1: Affordable Housing**

26. Local Plan Policy DEV8 refers to schemes of over 6 units needing to make a financial contribution and for schemes of over 11 being required to provide on-site provision of affordable housing. Is it the policy's aspirations that *all future appropriate housing* needs to provide for affordable housing?
27. What factors would identify whether an exception site was *justified*?
28. Does the Borough Council have a view as to whether affordable housing can be retained as affordable housing in perpetuity or whether it is covered by right to buy legislation?
29. Does the Plan Team or the Borough Council have any views on whether the policy should refer to First Homes?

### **Policy 9-2: Class Q Permitted Development Schemes**

30. Can the MACK Team explain how the policy would be applied, if the scheme meets the criteria set out in the General Permitted Development Order? Surely the policy cannot support a scheme that meets the 2 tests, if that same criteria is part of the consideration as to whether planning permission is granted by the Order. If the criteria are not met, then the development would not be covered by Class Q rights and planning permission would be required.

### **Policy 9-3: Housing Design and Density**

31. Can the Plan Team advise me who would be expected to assess schemes against the Building for Life criteria and can the Borough Council advise whether it has any assessors within the planning department?
32. I note that the policy refers to the RIBA minimum space standards. Are these different to the Government's Technical Housing Space Standards and are these are required to be supported by a Local Plan policy?
33. The policy refers to major schemes delivering "village green spaces"- is that looking for open green space or is the expectation something more specifically described as a village green?
34. Can the policy be more specific regarding the additional community benefits which are expected to be delivered from residential development, as I will need to ensure that any planning obligations would meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010, namely that the obligations meet the tests which are also set out in

paragraph 57 of the NPPF, namely that the obligation would be necessary to make the development acceptable in planning terms, be directly related to the development and be fairly and reasonably related in scale and kind to the development?

#### Policy 9-4: Amenity Space

35. Is it envisaged that a small development, say a single or a couple of houses within a village, should be required to provide communal areas rather than private amenity space?

#### Policy 9-5: Settlement Boundary

36. I would welcome the views of the Plan Team on whether the policy should be worded positively, as stated in Paragraph 16 of the NPPF, along the lines of housing development within the defined settlement boundary “will be supported.”
37. I note reference to *brownfield sites* in the second paragraph of the policy. I am aware that one of the arguments for the choice of Site E is the fact that the site is already developed, but in terms of the wording of the policy, land that is used or was last used for agriculture, is excluded from the definition of previously developed land in the Glossary of the NPPF.
38. Can the MACK Team provide me with the criteria and methodology that was used to define the areas within the settlement boundary and in particular, I note that there are two areas which extend the proposed boundary beyond that line that was advocated by the Borough Council in the Thriving Towns and Villages Settlement Boundary Topic Paper. Could I be given specific justification for those 2 particular areas being included within the settlement boundary?
39. I note that the allocation site and the intervening allotment gardens (Site MA -B) are included within the boundary. Does the team have a response to the point that, by the choice of Site MA- E and its inclusion within the settlement boundary, there is likely to be a presumption in favour of residential development on that intervening site, as infill development

#### Concluding Remarks

31. I am sending this note direct to both MAG Parish Council, and West Devon Borough Council. I would request that the two parties' response to my questions should be sent to me by 12 pm on **30<sup>th</sup> November 2021** and also be copied to the other party.

32. I would also request that copies of this note and the respective responses are placed on the Neighbourhood Plan's and also the Borough Council's website.

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

Independent Examiner to the Milton Abbot, Chillaton and Kelly Neighbourhood Plan

9<sup>th</sup> October 2021