

# INDEPENDENT EXAMINATION OF THE MYLAND AND BRAISWICK NEIGHBOURHOOD PLAN

2016-2032 (REVIEWED 2022-23)

EXAMINER: Andrew Seaman BA (Hons) MA MRTPI

Mr P Hewitt  
Chair of the Myland & Braiswick Neighbourhood Plan Group

Mrs R Forkin  
Colchester City Council

Examination Ref: 01/AS/MBNP

Via email

2 August 2023

Dear Mr Hewitt and Mrs Forkin

## EXAMINATION OF THE MYLAND AND BRAISWICK NEIGHBOURHOOD PLAN (REVIEW)

Following the submission for examination of the modification proposal to the Myland and Braiswick Neighbourhood Plan (the draft Plan), I would like to clarify some procedural matters. I also have a small number of preliminary questions for Colchester City Council (CCC) and Myland and Braiswick Neighbourhood Plan Group (MBG).

### 1. Examination Documentation

I can confirm that I am satisfied that I have received a submission of the modification proposal, including the draft Plan (as proposed to be modified); the summary of the proposals; the Basic Conditions and Consultation Statements; a summary of the Regulation 16 representations; a Review Modification Statement which confirms that MBG consider that the modifications contained in the draft Plan are not so significant or substantial as to change the nature of the neighbourhood development plan which the draft Plan would replace.

This has provided me with information to undertake my initial determination under paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended).

### 2. Determination under Paragraph 10(1) of Schedule A2<sup>1</sup>

I am required determine whether the modifications contained in the draft Plan are so significant or substantial as to change the nature of the neighbourhood development plan which the draft Plan would replace. The purpose of this determination is to establish the appropriate examination process for the draft Plan which will, amongst other things, affect whether or not the draft Plan will need to be the subject of a referendum if it is to be made.

MBG is of the opinion that the changes to the original plan are material modifications and do require examination. MBG consider that the material modifications are not so significant or substantial as to change the nature of the plan and therefore a referendum is not required. This is because the policies have been updated to reflect local changes in policy considerations and the NPPF.

In accordance with Regulation 14(a)(v) of the Neighbourhood Planning (General) Regulations 2012 (as amended), Myland Community Council and Braiswick Neighbourhood Planning Group has

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<sup>1</sup> Planning and Compulsory Purchase Act 2004 (as amended).

considered under which of the three types of Neighbourhood Plan modification the Review contained herewith should be categorised. The submitted Review Modification Statement (reviewed Spring 2022 to ensure compliance with Regulation 15(1)(f)) concludes that MBG is in harmony with CCC in that the proposed material modifications within the submitted Neighbourhood Plan do not change the nature of the plan or order and would require examination but not a referendum. CCC has confirmed that it shares this view in the Regulation 17(e)(ii)<sup>2</sup> statement (dated May 2023).

Having assessed the written submissions, including the Schedule of Responses, I determine that the modifications proposed in the draft Plan are material but do not change the nature of the made Plan. As a consequence, should I recommend under the terms of Schedule A2 that the draft Plan be made (with or without examiner modifications), a referendum stage will not be a necessary part of the statutory process.

### 3. Site Visit

I intend to undertake a site visit to the neighbourhood plan area between 15 and 22 August. This will assist in my assessment of the draft Plan, including the issues identified in the representations.

The visit will be undertaken unaccompanied. It is very important that I am not approached to discuss any aspects of the draft Plan or the neighbourhood area, as this may be perceived to prejudice my independence and risk compromising the fairness of the examination process.

### 4. Written Representations

At this stage and in light of the detailed submissions made and issues raised, I consider the examination can be conducted solely by the written representations procedure, without the need for a hearing notwithstanding a representor request for the latter. However, I will reserve the option to convene a hearing should I consider there are exceptional reasons for doing so.

### 5. Further Clarification

Set out in Annex 1 to this letter are initial questions seeking further clarification. I would be grateful if you can seek to provide a written response within **10 days** of the date of this letter.

### 6. Examination Timetable

As you will be aware, the intention is to examine the draft Plan (including conduct of the site visit) with a view to providing a draft report (for 'fact checking') within around 6 weeks of submission of the draft Plan (I received the draft plan and its documentation on 23 July 2023).

As I have raised some initial questions, I must provide you with sufficient opportunity to reply. Consequentially, the examination timetable will be extended. Please be assured that I will endeavour to mitigate any delay as far as is practicable. The IPe office team will seek to keep you updated on the anticipated delivery date of the draft report.

If you have any process questions related to the conduct of the examination, which you would like me to address, please do not hesitate to contact the office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure a copy of this letter and any respective responses, are placed on the Parish Council and Local Authority websites.

Thank you in advance for your assistance. I will contact you further with any additional questions if they arise.

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<sup>2</sup> The Neighbourhood Planning (General) Regulations 2012 (as amended).

Your sincerely

*Andrew Seaman*

Examiner

## Annex 1

From my initial reading of the updated Neighbourhood Plan and the supporting evidence, I have a number of questions for CCC and MBG. I would be grateful for the submission of a response within **10 days** of the date of this letter.

### Question for Colchester City Council

1. Could the Council please confirm whether the Schedule of Responses contains the text of the representations in full or is in any way summarised. If the latter, please provide hard copies or fully scanned (redacted) versions of the Regulation 16 representations received.
2. Can you please confirm the formal designation of the Myland and Braiswick Neighbourhood Plan area (presumably established pre-2016) and that the plan area is not proposed to be altered as part of the current review?

### Questions for Myland and Braiswick Neighbourhood Planning Group

1. I have noted the updated Review Modification Statement which refers to a track changed version of the draft Neighbourhood Plan. For the avoidance of doubt, could you please provide a link to the document itself and confirm that this represents the totality of changes proposed as part of the Neighbourhood Plan review?
2. A Schedule of the Regulation 16 consultation responses has been provided by CCC. Should you wish to address specifically any points raised in the responses, please set out any further changes to the draft Neighbourhood Plan proposed as a consequence, if appropriate.
3. Please confirm (with links for access) any key evidence sources that support the proposed changes to the Neighbourhood Plan. For example, in relation to the additional policies proposed and amended within the submitted Plan (i.e. housing, employment, environment etc).
4. The submitted consultation statement refers to 'Reviewed Spring 2022'. Is this the latest version of the Consultation Statement?
5. The Neighbourhood Planning (General) Regulations 2012 (as amended)<sup>3</sup> require a consultation statement to contain the following (Reg 15):

(2) In this regulation "consultation statement" means a document which—

- (a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan [**F10** or neighbourhood development plan as proposed to be modified.];
- (b) explains how they were consulted;
- (c) summarises the main issues and concerns raised by the persons consulted; and
- (d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan [**F11** or neighbourhood development plan as proposed to be modified.]

Could you please provide supplementary details explaining how the relevant Regulation 14 consultation (August 2022) was undertaken with a summary of the main issues and concerns raised and, thereby, how they have been considered and addressed as appropriate?

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<sup>3</sup> <https://www.legislation.gov.uk/uksi/2012/637/regulation/15>

Also see general advice in the [Locality Neighbourhood Plans Roadmap](#)