

HINDHEAD KNOLL ALLOCATION

Case Officer: Andrew Turner
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1. Purpose

1.1 The report provides a response to a number of questions raised by Walton Community Council (WCC) in relation to the housing allocation of Hindhead Knoll within Plan:MK.

2. Recommendations

2.1 That the Committee notes the report.

3. Matters raised and response

3.1 WCC wrote to Cllr Anthony Brown, the previous chair of Development Control Committee (DCC), posing several questions in relation to the housing allocation of Hindhead Knoll within Plan:MK (the email is provided in full at Annex A). This was subsequent to the determination of an application for 30 two-bed apartments at Walnut Tree Reserve Sites A & D (ref: 19/02856/FUL), which was approved by Development Control Committee on 4 June 2020.

3.2 This correspondence follows on from previous Freedom of Information requests and a Local Government Ombudsman (LGO) investigation (Annex B), as well as various correspondence with other members and officers of the Council, since Plan:MK was adopted in March 2019. All of this has focussed on the matter of how the housing allocation of Hindhead Knoll, and specifically a change in the capacity/density of the allocation, came to be proposed and adopted within Plan:MK.

3.3 Responses to the questions posed are set out below following the headings of the WCC email.

Density increase

3.4 WCC ask **“Why was the density at the site increased from 25 over the two sites at Hindhead Knoll to 80 (50 at Hindhead Knoll/Lichfield Down and 30 at Hindhead Knoll/Highgate Over?)”**

3.5 As stated in response to previous Freedom of Information requests, we do not have a documented audit trail explaining why the capacity of the site was increased to 80. The proposed change originated from discussions between council officers and Milton Keynes Development Partnership (MKDP) about this and other sites controlled by MKDP.

3.6 WCC ask **“Who made this decision and how was it made?”**

3.7 Cabinet resolved on the 3 October 2017:

“That the Proposed Submission version of Plan:MK be recommended to Council and published for six weeks’ consultation and then submitted to the Secretary of State for Communities and Local Government under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended);

That the Head of Planning be authorised, in consultation with the Cabinet Member for Place, to make any necessary minor amendments to Plan:MK and its supporting documents following the consultation.

That the Head of Planning be authorised, in consultation with the Cabinet Member for Place, to suggest any necessary modifications to Plan:MK during the examination process to secure its soundness, in accordance with the findings of the Planning Inspector and subject to any necessary public consultation.”

- 3.8 Following consultation during November and December 2017, further discussions were held with MKDP regarding sites controlled by them resulting in a proposed amendment to the Hindhead Knoll allocation. Draft schedules of proposed modifications were shared with the Portfolio Holder and Member Working Group during early and mid-March 2018. However, these did not include the proposed change to Hindhead Knoll.
- 3.9 In light of the Proposed Submission consultation responses and further information on MKDP sites, final schedules of proposed modifications were drafted and submitted to the Secretary of State for examination on 29 March 2018.
- 3.10 In submitting the plan for examination, the Council formally asked the appointed Inspector, in accordance with section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended), to recommend any such main modifications that he/she considers necessary to make the Council’s submitted plan sound and legally compliant. Alongside the plan and letter were several other submission documents. Of note in this matter was the Plan:MK Proposed Submission Schedule of Proposed Modifications (March 2018) which included the proposed change to Appendix A of Plan:MK to modify the entry for the Hindhead Knoll allocation so that the site capacity would change from 25 dwellings to 85.
- 3.11 In the light of examination hearings and correspondence with the Plan:MK Inspector, and in line with the Cabinet resolution, two new proposed modifications schedules, Main and Additional, were discussed by the Portfolio Holder and the Member Working Group on 26 September 2018. Revised versions were subsequently provided to them on 12 October 2018 electronically for review and comment. These included the change to the Hindhead Knoll allocation; however, they did not provide a reason for the proposed change. Those same schedules were also provided to the Plan:MK Inspector on 10 October for his review. Versions of the Additional Modifications schedule provided to the Portfolio Holder, Member Working Group and Inspector all contained the change to the Hindhead Knoll allocation (80 units, split 30 and 50 across two sites). Final versions, reflecting feedback received, were sent to the Plan:MK Inspector on 24

October 2018 for his final approval. The Plan:MK Inspector gave his final approval on 26 October 2018. No further changes were made to the Hindhead Knoll allocation through this process. The proposed change to the Hindhead Knoll allocation was kept within the Proposed Schedule of Additional Modifications.

- 3.12 As stated in our response to the Local Government Ombudsman investigation, the decision to include the change to the Hindhead Knoll allocation within the Proposed Schedule of Additional Modifications (as opposed to the Proposed Schedule of Main Modifications) was ultimately made by the Plan:MK Inspector, which the Local Government Ombudsman agreed with.

Verbal Feedback from MKDP

- 3.13 WCC state that “Referring to the response to our FOI, the Planning Officer stated that the increase in density was made after verbal feedback with MKDP regarding the capacity of the site. **What verbal feedback was given by MKDP in order for MKC to act the way it did?**”
- 3.14 We do not have a written record of the verbal feedback provided by MKDP. Given the passage of time (over three years ago), the officers involved do not have a precise recollection of what was discussed. However, the discussion covered the likely achievable capacity of the Hindhead Knoll site (amongst other MKDP sites) based on the current situation with the site at that time.

Outcome of Discussions and Justifications

- 3.15 Walton Community Council stated that “The response to the FOI stated that there was no written documentation to justify the increase at the site. **What discussions took place between MKC, GUH and MKDP to justify the increase in density? When did these discussions take place? What was the outcome of these discussions? As a result of these discussions, Specifically, what was the reasons for the increase in density?**”
- 3.16 As per the response at 3.14 above, there is no documentation of the discussions with MKDP or their outcomes pertaining to the Hindhead Knoll site. Discussions were not held between officers and GUH (Grand Union Housing) about the capacity/density of Hindhead Knoll.

Public Scrutiny

- 3.17 WCC state that “The change in density was substantial. **Why was the amendment in Plan:MK not included in the ‘Schedule of Proposed Main Modifications’ document, but instead, included in a ‘Schedule of Proposed Additional Modifications’ document that was supposed to be for typographical errors only?** (a matter brought up by the LGO).”
- 3.18 Please see response at 3.7 – 3.12 above. This was ultimately a decision, through the Local Plan Examination in Public, for the appointed Planning Inspector to make which the Local Government Ombudsman agreed with.
- 3.19 WCC ask “**Why was this significant increase not subject to public consultation?**”

- 3.20 Please see response at 3.7 - 3.12 above. As stated in previous correspondence, public consultation took place on the Proposed Schedule of Main Modifications. Whilst public consultation did not take place on the Proposed Schedule of Additional Modifications, this was published alongside the Proposed Schedule of Main Modifications for transparency. Notifications of the consultation with a link to all of the documents was sent out to all parish and town councils on 29 October 2018. As part of the examination, consultees could have raised concerns about any change being classed as an Additional Modification rather than a Main Modification.
- 3.21 WCC ask **“Should such a significant increase in density be allowed to be decided after a phone call between the Council and MKDP without any justification given?”**
- 3.22 As set out under 3.7 - 3.12 above, the process by which this change was proposed and agreed was more comprehensive than a phone call between officers and MKDP. Whilst engagement with MKDP would have been the genesis of the proposed change, other periods of review and check occurred prior to public consultation on the Proposed Schedule of Main Modifications taking place in October 2018 (as set out under 3.7 – 3.12).
- 3.23 WCC ask **“Should such significant increases in density at development sites be subject to public scrutiny?”**
- 3.24 This is a judgement to be made based on the facts at the time. We will reflect upon this instance when developing the next Local Plan and taking it through its stages of preparation (see Next Steps below). As stated in previous correspondence, whilst public consultation did not take place on the Proposed Schedule of Additional Modifications, it was published alongside the Proposed Schedule of Main Modifications for transparency. Notifications of the consultation with a link to all of the documents was sent out to all parish and town councils on 29 October 2018. As part of the examination, consultees could have raised concerns about any change being classed as an Additional Modification rather than a Main Modification.
- 3.25 WCC ask **“What MKC procedures are in place that allow such a significant increase without public scrutiny or written justification?”**
- 3.26 Please see response in 3.7 - 3.12 above explaining the process followed for reviewing and agreeing the proposed change under Plan:MK. Arrangements for engaging with members and the public on the next Local Plan will continue to be framed by the Council’s Statement of Community Involvement and relevant legislation. However, practices are likely to be different from the previous experience, for instance there is a new Planning Cabinet Advisory Group that meets in public with agendas, papers and minutes made publicly available on CMIS, which contrasts with how the previous Member Working Group operated.
- 3.27 WCC ask **“Which Councillors were involved in the decision to increase the density at the site?”** and **“If there was no Councillor involvement, what does this say about your democratic processes?”**
- 3.28 Please see response at 3.7 - 3.12 above and section 4 ‘Next steps’ below.

3.29 WCC ask **“What does this decision in increased density say about your governance arrangements and your current and future decision-making processes?”**

3.30 As noted above, decision-making was undertaken in line with the Cabinet resolution in 2017 with input from the Member Working Group. Governance arrangements for the next Local Plan are already different to those in place when preparing Plan:MK, and these arrangements will likely evolve further during the course of preparing the new Local Plan. It should also be noted that the Government are considering radical changes to how Local Plans are prepared with far reaching changes proposed to the format and content of Local Plans and public engagement and consultation. Once these changes are confirmed through legislation and national policy, we will need to reflect on what this means in practical terms for engagement, consultation and decision-making on the Local Plan.

Ignoring Your Own Policies in Plan:MK

3.31 WCC state that **“The DCC accepted that the proposed level of development at the site had clearly exceeded the policy requirement of the Walton Neighbourhood Plan. It also exceeded the development densities for non-central areas as set out in the Plan:MK. Should the standard densities in Plan:MK have been taken into consideration by those who changed the density, and by the Development Control Committee on 4 June?”**

3.32 In the same way in which density is considered for applications, general densities are considered when proposing allocations alongside a range of site-specific information. This can result in a different density being proposed for an allocation compared to the general densities in HN1. This appears to have been the case with Hindhead Knoll, based upon the information about the site available to the council at the time (see 3.14 above), however we accept that there is no audit trail or written justification for this available.

3.33 On the issue of the applications being contrary to HN1, the issue was covered in the main DCC report under paragraphs 7.2 - 7.10.

3.34 The issue over the conflict between the Neighbourhood Plan Policy (WNP5) and the Policies in Plan:MK was resolved in favour of Plan:MK, given Plan:MK being more recently adopted. This reflects the statutory duty under section 38(5) of the Planning and Compulsory Purchase Act 2004.

3.35 Paragraph 7.2 of the report acknowledges that **“the Neighbourhood Plan Policy allocates this site for a residential development which should not exceed 35 dwellings per hectare (net) which would result in a development of 11 dwellings on the site”**. However, although it was accepted that the proposed density exceeds that of the Neighbourhood Plan Policy, reference was made to policy DS2.A.3 of Plan:MK which states that housing needs will, in part, be met by **“the completion of existing commitments as outlined in Appendix A”**. The site subject to the application is listed as HS82 Reserve Site Hindhead Knoll in Appendix A with an allocation of 30 units. Paragraphs 7.8-7.10 of the report thoroughly discuss the interaction of policies HN1 and WNP5.

- 3.36 The minutes for the meeting record the commentary regarding density and the manner in which the allocation was modified in the examination of Plan:MK (minute ref. DCC06). Given this and the above discussion, it is evident that the standard densities in Plan:MK were before the Committee and taken into consideration in reaching their decision.
- 3.37 WCC ask “Most importantly, we would like you to answer the concern raised by the LGO – **why did MKC choose not to change the Schedule of Main Modifications which would have had the benefit of public consultation on the change?**”
- 3.38 As noted earlier, there is no written record documenting the discussions between officers and MKDP or officers with the Portfolio Holder during February-March 2018 or September-October 2018 pertaining to the change to the Hindhead Knoll allocation appearing within the Proposed Schedule of Additional Modifications instead of the Proposed Schedule of Main Modifications. However, and as accepted by the Local Government Ombudsman, it was ultimately the Plan:MK Inspector’s decision as to what changes should be judged Additional or Main Modifications.

4. Next steps

- 4.1 It is clear from the history that, in the case of the Hindhead Knoll allocation, inadequate record keeping and document management for meetings of officers with MKDP, and officers with the Portfolio Holder, has resulted in the Council being unable to answer legitimate questions helpfully. This has been reflected upon. With the new Planning Cabinet Advisory Group replacing the Member Working Group, the Portfolio Holder now seeks advice from other councillors on planning policy matters in a more public, transparent and documented fashion, with documents being published on CMIS. As we move through the process of preparing the new Local Plan, the newly established corporate governance arrangements for reviewing progress will provide the necessary check and challenge throughout to ensure robust record keeping, document management and decision-making processes are in place and being followed
- 4.2 Further efforts will be made to ensure appropriate record keeping is in place when periods of engagement and consultation take place with stakeholders and when preparing evidence, alongside the established democratic decision-making stages and processes. However, it must be acknowledged that not every discussion or point of detail considered in the preparation of a Local Plan will be documented as this would be a disproportionate burden to place upon the process. The Local Government Ombudsman found no fault with the Council in this regard. Proposed changes to the plan making system in England will also have a bearing upon this issue, which will need to be reflected upon once those changes are finalised and better understood.

List of Annexes

A – Email from WCC to Councillor Anthony Brown, 17 May 2021

B – Local Government Ombudsman's (LGO's) decision, 21 January 2021

Email from WCC to Councillor Anthony Brown, 17 May 2021

From: WCC Lesley Sung <manager@waltoncommunitycouncil.gov.uk>

Sent: 17 May 2021 10:24

To: Anthony Brown <Anthony.Brown1@milton-keynes.gov.uk>

Cc: Peter Marland <Peter.Marland@Milton-keynes.gov.uk>; Peter Brown <Peter.Brown@milton-keynes.gov.uk>; Dino Imbimbo <Dino.Imbimbo@Milton-keynes.gov.uk>; Andrew Turner <Andrew.Turner@milton-keynes.gov.uk>; Stuart Copeland <[REDACTED]>; Cllr. Adam Chapman-Ballard <adam.chapmanballard@waltoncommunitycouncil.gov.uk>; Cllr. Jaime Tamagnini-Barbosa <jaime.tamagnini@waltoncommunitycouncil.gov.uk>; Mick Legg <Mick.Legg@milton-keynes.gov.uk>; Jenni Ferrans <[REDACTED]>; David Tooley <[REDACTED]>

Subject: [EXT] DEVELOPMENT CONTROL INTERVAL INVESTIGATION - HINDHEAD KNOLL

Importance: High

Dear Councillor Brown

Back in June 2020, you agreed to carry out an internal investigation into the reasons and justification for the increased density at the Hindhead Knoll development site. At that meeting you and the Vice-Chairman (Cllr Bint) said that you would take on board our comments and I had requested that your findings are made public. At the July 2020 Development Control Committee, you said that you did not wish to interfere with any ongoing investigation (complaint made to the Local Government Ombudsman).

Following the outcome of the Local Government Ombudsman, on 15 February 2021, you met with myself, Councillor Adam Chapman-Ballard and Stuart Copeland remotely, to discuss the outcome of the complaint to the LGO and how you was to progress the internal investigation. Since then, I have not heard anything back. It is now nearly a year since you agreed to conduct the investigation.

The LGO may have found that MKC was not at fault but he did raise some concerns that “a major change to the density of dwellings on the site was included in a document which the Council’s own website describes as being used to make corrections to typographical errors and update factual information. Indeed, when reading through the Schedule of Additional Modifications, the observer will note the red lines denoting typographical errors and updates of information. **A change in the density of the sites is more than just a typographical error**”; and **the Council could change the number of proposed dwellings when it drafted its Local Plan. It could have chosen to include the change in the Schedule of Main Modifications which would have had the benefit of public consultation on the change. It did not do so.**

The LGO found these actions by MKC “questionable” but concluded that MKC was “not at fault” because the Inspector did not pick this up and the Inspector’s actions are beyond the scope of the investigation.

If you recall, on 31 July 2021, I sent you the documentation (the FOI, MKC’s response to the FOI, the complaint and MKC’s response to the complaint, the request to take the complaint to

stage 2 and MKC's response, the complaint to the LGO and at the time, our request for the SoS to call in the application) to help you with the investigation.

This development is still a sore issue for our residents and now that the development is taking place, there is a reluctant acceptance that this awful development will soon blight our neighbourhood. Our residents are still expecting you to respond to our request to internally investigate this matter, as promised at the meeting of DCC on 4 June, and now that you have the outcome from the LGO, then, as part of your internal investigation and I now hope that you are in a position to answer the questions we asked, which were:

1. Density Increase

Why was the density at the site increased from 25 over the two sites at Hindhead Knoll to 80 (50 at Hindhead Knoll/Lichfield Down and 30 at Hindhead Knoll/Highgate Over?) Who made this decision and how was it made?

2. Verbal Feedback from MKDP

Referring to the response to our FOI, the Planning Officer stated that the increase in density was made after verbal feedback with MKDP regarding the capacity of the site. What verbal feedback was given by MKDP in order for MKC to act the way it did?

3. Outcome of Discussions and Justifications

The response to the FOI stated that there was no written documentation to justify the increase at the site. What discussions took place between MKC, GUH and MKDP to justify the increase in density?

When did these discussions take place?

What was the outcome of these discussions?

As a result of these discussions, Specifically, what was the reasons for the increase in density?

4. Public Scrutiny

The change in density was substantial. Why was the amendment in Plan:MK not included in the 'Schedule of Proposed Main Modifications' document, but instead, included in a 'Schedule of Proposed Additional Modifications' document that was supposed to be for typographical errors only? (a matter brought up by the LGO).

Why was this significant increase not subject to public consultation?

Should such a significant increase in density be allowed to be decided after a phone call between the Council and MKDP without any justification given?

Should such significant increases in density at development sites be subject to public scrutiny?

What MKC procedures are in place that allow such a significant increase without public scrutiny or written justification?

Which Councillors were involved in the decision to increase the density at the site?

If there was no Councillor involvement, what does this say about your democratic processes?

What does this decision in increased density say about your governance arrangements and your current and future decision-making processes?

5. Ignoring Your Own Policies in Plan:MK

The DCC accepted that the proposed level of development at the site had clearly exceeded the policy requirement of the Walton Neighbourhood Plan. It also exceeded the development densities for non-central areas as set out in the Plan:MK. Should the standard densities in Plan:MK have been taken into consideration by those who changed the density, and by the Development Control Committee on 4 June?

Most importantly, we would like you to answer the concern raised by the LGO – why did MKC choose not to change the Schedule of Main Modifications which would have had the benefit of public consultation on the change?

Kind Regards

Lesley

LESLEY SUNG

COUNCIL MANAGER

WALTON COMMUNITY COUNCIL

Mobile: [REDACTED]

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