

The Neighbourhood Development Plan for Berinsfield 2015-2027 and Neighbourhood Development Orders 1 and 2

Report of Examination

Report to South Oxfordshire District Council

of the Independent Examiner:

John Parmiter FRICS FRSA MRTPI



11 May 2016

Contents	page
Summary	2
1. Introduction	4
2. The Neighbourhood Plan and Orders - preparation and public consultation	6
3. The Neighbourhood Plan and Orders in their planning and local context	9
4. Neighbourhood Plan - Overview	11
5. Neighbourhood Development Orders - Overview	12
6. High level conclusions	13
7. Local Green Space	13
8. Minerals	14
9. Flood risk, natural environment	14
10. Other policies	14
11. Conclusions and recommendations	14

Summary

1. From my examination of the submitted Neighbourhood Development Plan for Berinsfield, together with the two draft Neighbourhood Development Orders and the supporting documents, including all the representations made, I have concluded that neither the Neighbourhood Development Plan nor the Neighbourhood Development Orders should be made.
2. In summary, the Plan must meet the Basic Conditions which are that it must:
 - Be appropriate to make the plan, having regard to national policies and advice;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies of the development plan; and
 - Not breach, and be otherwise compatible with, European Union and European Convention on Human Rights obligations.
3. In relation to the proposed Orders, the Basic Conditions are the same. The legal requirements are similar but include requirements for:
 - A map which identifies the land to which the order relates
 - A consultation statement, which must:
 - Include details of the persons and bodies consulted
 - Explain how they were consulted
 - Summarise the main issues and concerns raised; and
 - Describe how these issues and concerns have been considered and, where relevant, addressed in the proposed order.
 - The proposed order; and
 - A statement explaining how the proposed orders meet the basic conditions.
4. I have concluded, in relation to the legal requirements for the Neighbourhood Development Plan, that:
 - It has been prepared and submitted for examination by a qualifying body - Berinsfield Parish Council;
 - It has been prepared for an area properly designated; and does not cover more than one neighbourhood plan area;
 - It does relate to “excluded development”;
 - It specifies the period to which it has effect – from 2015 to 2027; and
 - The policies do not all relate to the development and use of land for a designated neighbourhood area.
5. In relation to the legal requirements for the Neighbourhood Development Orders I have concluded that they (especially in relation to Regulation 22):
 - Do not contain a map identifying the land to which the orders relate;

- Do not identify adequately, in the consultation statement, the persons and bodies that were consulted about the orders, as opposed to the plan. Consequently; nor does the consultation statement explain how they were consulted; it does not summarise the main issues and concerns raised, or describe how these issues and concerns have been considered and, where relevant, addressed in the proposed orders;
- Do not set out adequately how the orders would meet the basic conditions;
- Have not been screened as to their potential environmental effects;
- Are likely to impact mineral resources, which is excluded development;
- Are not appropriately drafted.

6. In relation to the Plan meeting the Basic Conditions, I have concluded that it:

- Does not have regard to national policies, particularly in relation to policies for the Green Belt;
- Does not promote sustainable development;
- Is not supported by proportionate, robust evidence to support many of the policies in the plan; and
- Is not in general conformity with the strategic policies of the development plan.

7. I have therefore concluded that neither the Neighbourhood Development Plan, nor the proposed Orders, meet the legal requirements or the Basic Conditions.

8. I consequently recommend that neither the Plan nor the Orders should proceed to a Referendum or be made.

9. If the plan or orders were to go forward to Referendum, I recommend that the Referendum Area should be the same as the Parish area.

1. Introduction

- 1.1 I am appointed by South Oxfordshire District Council, with the support of Berinsfield Parish Council, the Qualifying Body, to undertake an independent examination of the Neighbourhood Development Plan for Berinsfield, together with two Neighbourhood Development Orders, as submitted for examination.
- 1.2 I am a planning and development professional of 40 years standing and a member of NPIERS' Panel of Independent Examiners. I am independent of any local connections and have no conflicts of interests.

The Scope of the Examination

- 1.3 It is the role of the Independent Examiner to consider whether making the plan meets the "Basic Conditions." These are that in making the Neighbourhood Development Plan it must:
- be appropriate to do so, having regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies of the development plan (see Development Plan, below) for the area; and
 - not breach, and must be otherwise be compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.
- 1.4 Regulations also require that the Neighbourhood Plan should not be likely to have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.
- 1.5 In examining the Plan and Orders I am also required to establish whether, in summary, they:
- Have been prepared and submitted for examination by a qualifying body;
 - Have been prepared for an area that has been properly designated
 - Meet the requirements that they must not include excluded development
 - Must not relate to more than one Neighbourhood Area; and
 - Relate to the development and use of land.
- 1.6 Finally, as independent Examiner, I must make one of the following recommendations in relation to the Plan and Orders proceeding to a Referendum:
- a) that they should proceed to Referendum, on the basis that they meets all legal requirements;
 - b) that once modified to meet all relevant legal requirements they should proceed to Referendum; or
 - c) that they should not proceed to Referendum, on the basis that they do not meet the relevant legal requirements.

- 1.7 If recommending that the Plan and Orders should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Area to which the Plan relates.

The Examination process

- 1.8 I was appointed to examine the plan on 29th February 2016. The default position is that neighbourhood plan examinations are conducted by written representations. However, in this case, I decided that I needed clarification of certain matters and held a short local public hearing on 12th April 2016, at Berinsfield Community Association.

The Examination documents

- 1.9 In addition to the legal and national policy framework and guidance (principally The Town and Country Planning Acts, Localism Act, Neighbourhood Plans Regulations, the National Planning Policy Framework and the Planning Policy Guidance) together with the development plan, the relevant documents that were furnished to me, and were identified on the District Council's websites as the neighbourhood plan (which included the two NDOs) and its supporting documentation for examination, were:

- Berinsfield Draft Neighbourhood Development Plan
- Basic Conditions Statement;
- Consultation Statement;
- Sustainability Appraisal;
- Screening Statement: SEA and HRA;
- and the following supporting documents:
 - Berinsfield Community Survey Report with appendices
 - Berinsfield Flood Risk Assessment
 - Dorchester Gravel Pits (Queenford Pit) Local Wildlife Site review
 - Queenford Lake site status.

- 1.10 In addition I was furnished with the South Oxfordshire Core Strategy 2027 and a Cabinet Report (dated 7.4.16) on the proposed Berinsfield regeneration strategy.

The Qualifying Body and the Designated Area

- 1.11 Berinsfield Parish Council is the Qualifying Body for the designated area that is the neighbourhood plan area. South Oxfordshire District Council, the local authority, designated the Neighbourhood Area in October 2013. There is no other neighbourhood plan for this area.

The Neighbourhood Plan Area

- 1.12 The plan area is focused on the village of Berinsfield, which lies within the green belt, some 8 miles to the south of Oxford. The village is unusual in that it has existed in its present form only since about 1960, a larger area having been used as a WWII airfield and then sold to the (then) Bullingdon Rural District Council in 1957. Its original layout was planned by William Holford but it has developed further since.

- 1.13 The village is made up predominantly of 1960s and 70s houses arranged around a large central green; there is a primary school, health centre, local shops and some social facilities, together with some employment areas. Beyond the village lies open countryside and, to the south, water bodies created from old mineral workings, one of which (Queenford Lake) is within the plan area and the subject of an NDO.
- 1.14 The plan explains that today the village – which now houses over 2800 inhabitants – “... bears more relation to a run-down urban district of a town or city than to a rural village”. The village is at a much higher density than its neighbours and provides a relatively high level of rented affordable housing. The Consultation Statement notes, in its introduction, that: “Although Berinsfield is regarded as one of the least affluent communities in Oxfordshire, it is a vibrant village with a strong community spirit”.
- 1.15 The plan notes – based on work to support an earlier Parish Plan – that the village suffers from a number of problems associated with the physical nature of the village. These include: the unstructured nature of the central green, a lack of mature trees, inadequate parking, social problems including high unemployment and vandalism, a lack of play and social facilities, poor image a fragmentation of responsibilities.

2. Neighbourhood Plan and Order preparation and public consultation

The Neighbourhood Development Plan

- 2.1 The Neighbourhood Plan grew out of earlier plans and the opportunity that neighbourhood planning gave the local community to address concerns on its key issues including the need for economic and housing growth (including housing an ageing population), securing improvements to the primary school, more shops, more and better parking in and around the village, better cycleways and buggy-friendly routes and generally more amenity space.
- 2.2 The Consultation Statement notes, in its introduction, that the mission is: “In order to meet the housing and employment needs, improve its overall amenity value and protect the village with its lifestyle for posterity, as well as benefitting from 25% of all CIL payments ...”. The strategic aims are to achieve the vision, meet the strategic housing allocation (of at least 109 homes by 2027) and indicate how the development of parish assets will be funded.
- 2.3 The Parish submitted its application to undertake a neighbourhood plan in July 2013 and set up a Steering Group, who began carrying out a number of public consultations seeking the views of local residents, businesses and other stakeholders. The Parish Council monitored progress at each of its regular meetings. The level of community consultation and involvement is set out in the Consultation Statement.
- 2.4 The plan consultation picked up many of the issues that were flagged in 2008 in preparing the Parish Plan, followed up by public meetings and consultations on themes including housing, leisure facilities and meeting places in 2010/11. They in turn informed the Community-led Plan of 2012. The main themes, which emerged and became the focus of the consultations, were: developing new housing outwith the current village boundaries and ensuring sufficient supporting infrastructure, including drainage/sewerage, paths, parking, cycle paths and public transport.
- 2.5 The district council, in partnership with Soha Housing, commissioned an Environmental Impact Assessment of Berinsfield in 2012 which identified that the

village had many problems mostly created by the layout and architecture of the 1960s village masterplan.

- 2.6 The Parish commissioned the Oxfordshire Rural Community Council to carry out a detailed survey of households in late 2014 which provided an update view of the wishes of residents for housing types and mix, employment opportunities and parking provision.
- 2.7 The Parish consulted with the local authority, which provided detailed comments, the County Council's relevant teams, as well as statutory bodies, including Natural England (NE), Historic England (HE) and the Environment Agency (EA). The appendices to the Consultation Statement sets out the representations to the Regulation 14 pre-submission version of the plan –a as well as the Scoping Report – and the Parish Council's response.
- 2.8 Allowing for multiple comments a total of 11 parties made representations to the plan, including by Soha Housing, EA, Oxford County, NE, HE, Dorchester parish, residents, and a landowner, as well as the District Council (although slightly late).

Neighbourhood Development Orders

- 2.9 What is not at all clear is the extent to which the two Orders, which make up chapter 17 of the plan document, were subject to public consultation in a way that made their implications apparent; for example, the inclusion of the orders is not clear from the plan's cover and the Consultation Statement gives no indication that the Orders were subject to any consultation that identified them appropriately.
- 2.10 Some parties seem to have been confused by the way the document presents the NDOs; for example, the County Council was not clear whether the plan intended to include NDOs or simply indicate draft NDOs will be prepared. Historic England did comment but the Environment Agency did not. The District Council did not make final comments on them, though their last stated position was that they did not recognise the validity of the NDOs, which have to follow the same criteria as the plan and that the two identified have not been formally designated. They considered them to be aspirations and not Neighbourhood Development Orders.

Environmental Assessment and EU Directives

- 2.11 Under Article 3(3) and 3(4) of the Strategic Environmental Assessment (SEA) Directive 2001/42/EC a SEA is required of plans and programmes which "determine the use of small areas at a local level". The District Council is the "responsible authority" and must determine whether the plan is likely to have significant environmental effects. The District Council determined, in a Screening Statement in November 2014, that the plan would require a Strategic Environmental Assessment. A Sustainability Appraisal was prepared by the Parish Council in March 2015, which states it incorporates a Strategic Environmental Assessment, as the plan "...seeks to designate sites for housing."
- 2.12 I understand that the District Council is content that the SA meets the statutory requirements for SEA for the overall quantum of development and for potential site allocations. The Council was, however, concerned about some of the conclusions reached in the SA with particular reference to BER24 for example.
- 2.13 A screening opinion was published by SODC in November 2014. This stated that an

SEA would be required for the NDP primarily because, but not limited to, the fact that it would seek to identify sites for at least 109 homes. At the time of screening the intention to create NDO was not made clear to the District Council and so this was not included in the Screening Opinion Statement. The District Council's understanding of the NDO is that they were an aspiration that would be subsidiary to the NDP. These would follow the formal processes required after the adoption of the NDP.

European Sites and the Habitats Directive

- 2.14 The November 2014 Screening Statement, to determine the need for an Appropriate Assessment under the Habitats Regulations, concluded that the plan would have significant effects on Natura 2000 sites and that it required an Appropriate Assessment. The statement notes that the District Council intended to do this by updating the Appropriate Assessment for the Core Strategy, to include the effects of allocations made to the larger villages. I note that the Parish did not consider an Appropriate Assessment specifically necessary for the plan.
- 2.15 An Appropriate Assessment was included for the development quantum in the larger villages. However, this did not specifically include the NDOs.

Examination version – public consultation

- 2.16 The draft plan was the subject of a formal seven-week consultation period, under Regulation 16, from 30th November 2015 to 15th January, subsequently extended to 29th January 2016. Including Berinsfield Parish representations, a total of 15 representations were made, including the District and County Councils, the Environment Agency and Historic England, Drayton St Leonard PC, the Clinical Commissioning Group, the Employment Action Group, various residents and three landowners.
- 2.17 The representations from the District and County Councils raised fundamental issues about the failure of the plan to meet the Basic Conditions, which I deal with first in the Overview sections (4 and 5) of my report

Human Rights and European Obligations

- 2.18 I have no reason to believe that making the plan or the orders would breach or is incompatible with the European Convention on Human Rights.
- 2.19 Some concerns were raised in relation to a major site in the plan (BER24) being promoted for development (and NDO1) by the landowner, who also chaired the plan's Steering Group. I therefore made specific enquires about how this issue was handled by the plan's promoters, and particularly by the Steering Group itself, at the hearing. I am reasonably satisfied that the plan's progress was subject to sufficient levels of transparency and probity.

Plan period

- 2.20 The neighbourhood plan states clearly on the cover and in a number of places, for example in the Executive Summary, that the plan covers the period to 2027, which is co-terminus with the plan period of the Core Strategy, adopted December 2012.

Excluded development

- 2.21 A neighbourhood plan cannot include policies for excluded development, such as minerals and waste. The County Council raised some concerns about the affect of some of the plan's policies on deposits of sand and gravel. I have concluded that, without modification, the plan does include excluded development.

3. The draft Neighbourhood Plan and the Orders in their planning and local context

National policies and advice

- 3.1 The neighbourhood development plan (NDP) and the neighbourhood development orders must have regard to national policies and advice contained in guidance issued by the Secretary of State and contribute to the achievement of sustainable development (the first two Basic Conditions). Paragraph 16 of the National Planning Policy Framework (the Framework) is concerned with neighbourhood planning: *“The application of the presumption [in favour of sustainable development] will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:*

- *“develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; [and]*
- *plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan;”*

- 3.2 The plan and orders must give sufficient clarity to enable a policy to do the development management job it is intended to do; or to have due regard to Guidance. For example, para 042 of the Guidance explains that:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

- 3.3 Also, there has to be evidence to support particular policies, notwithstanding it may express a strong and well-intentioned aspiration or concern of the local community. The Guidance (recently revised Para 040 ref 41-040-20160211) states:

“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.

A local planning authority should share relevant evidence, including that gathered to support its own plan making, with a qualifying body

Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply,

these policies should take account of latest and up-to-date evidence of housing need.

In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making”.

- 3.4 The latter references to housing need were added before the hearing and so I had asked the local authority and Parish to address me on the latest position, which I cover later in my report.
- 3.5 The Basic Conditions Statement sets out how the Parish Council considers that the plan has appropriate regard to national policy and meets the relevant Framework policies. Chapter 17 of the plan includes a Basic Conditions Statement in support of the proposed Orders.
- 3.6 The Evidence Base sets out at section 2 how the plan is related to meeting national policy and policies for: Building a strong competitive economy; Supporting a prosperous rural economy; Promoting sustainable transport; Supporting high quality communications infrastructure; Delivering a wide choice of high quality homes; Self-build options; Requiring good design; Promoting healthy communities; Protecting Green belt land; Meeting the challenge of climate change, flooding and coastal change; Conserving and enhancing the natural environment; and Conserving and enhancing the historic environment; Facilitating the sustainable use of minerals. And in section 3, Contributing to sustainable development.
- 3.7 The most fundamental issue for the plan and orders in relation to the Framework is in relation to its location within the Green belt. As paragraph 83 makes clear: “Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.” While the exceptional circumstances have been accepted in the adopted Core Strategy (which is part of the Local Plan) – see below - the review has not taken place. The whole plan area remains in the Green Belt.

The Development Plan - strategic policies

- 3.8 The neighbourhood development plan must be in general conformity with the strategic policies of the development plan for the area, which is the South Oxfordshire Core Strategy, adopted in December 2012 and the Local Plan 2011.
- 3.9 The District Council did not supply a list of those policies it considered to be strategic. However, the most significant strategic policy is the effect of the village being “washed over” by the Oxford Green Belt. Policy CSEN2 Green Belt states that a local review of the Green Belt will take place at Berinsfield. The supporting text (14.6) cross-references section 7 of the plan (set out in paras 7.21 & 7.22) which explains the exceptional circumstances warranting a local review, to be taken forward in the Site Allocations DPD; though at the hearing the District Council explained this now might be a specific Berinsfield DPD.
- 3.10 The Core Strategy identifies, at para 7.20, some thirteen larger villages (including Berinsfield) to accommodate growth, 11,487 (547 pa) homes and that the District Council considered that Berinsfield’s “share” would be a minimum of 109 homes. The NDP took this on board.
- 3.11 The District Council were able to update me on the current position on housing need

and supply at the hearing, in accordance with the recent changes to the Guidance: essentially they do not have 5 year supply of housing, as there is a shortfall in the Didcot area. This is by far the largest housing supply area, in terms of housing numbers; the rest of the district actually having an oversupply (and I note that recent appeals have undermined the approach of using two separate supply areas). The recent SHMA identifies a much higher need for housing than recognised in the Core Strategy. In the broadest terms I understand this might mean 40% higher - the SHMA mid-point, un-moderated appeal position, is 16,275 (775 pa).

- 3.12 The local Green Belt review has not taken place. At the hearing the District Council explained the current position: The Cabinet had very recently (7 April) considered a report on the regeneration of Berinsfield, which has since been endorsed by Full meeting of the District Council on 14th April. The Council now proposed to allocate £1.5m to prepare a comprehensive regeneration strategy and delivery plan for Berinsfield by December 2017.
- 3.13 The report rehearsed the exceptional circumstances for a Green Belt Review (in the Core Strategy) and set out the objectives, the proposed approach and measures it would take, how it would consult with local people and how regeneration might be funded. The report included a “planning statement of intent” to explain to developers and landowners why only proposals that meet the exceptional circumstances test will be considered. The essence of the Council’s position is that “... should a delivery plan prove viable, the council will then consider promoting a proportionate release of land from the Green Belt.”
- 3.14 The Council’s position on the Neighbourhood Development Plan – mirrored by the County Council’s representations - can be summed up by supporting the aspirations of the community but opposing the making of the plan, as it fails to meet the Basic Conditions. In their representations they summarise the main headings of their objections to the plan’s failure to meet strategic policies, including, as follows:
- The plan cannot allocate sites for development in the Green Belt;
 - The majority of proposed planning policies do not conform to the development plan’s policies (or the general requirements of the Framework);
 - There appears to be limited justification for differences with (national and development plan policies, including the way flood risk is managed, for example (which is also echoed by the Environment Agency); and
 - Lack of a credible evidence base to support the content of the plan, including the arguments used to allocate a local wildlife site.
- 3.15 The County Council also has significant concerns over the impact of policies on sand and gravel deposits, the natural environment, a Local Wildlife Site (BER 24) and in relation to the area’s archaeological heritage.

4. Neighbourhood Plan - Overview

- 4.1 The plan sets the scene for its policies in five introductory chapters. These explain the statutory context (and opportunity), the issues and the vision for the plan area. The document then covers – in chapters 7-13 - the seven area-wide policies, covering selected topics: Housing, environmental, transport, lifestyle and wellbeing, recreation, employment and community.

- 4.2 Chapter 14, under the heading Policy Delivery, then identifies a range of Assets of Community Value that will be protected; though no plan is supplied to locate them. It is unclear if those listed have actually been formally designated. Certainly there is no provision for the plan to do it.
- 4.3 Chapter 15 contains twenty-six potential development sites: BER 1-26. The sites are also identified (not very legibly) on a map of Potential Development Sites at Appendix A; this is the plan's equivalent of a Proposals Map. The list contains three potential NDOs, though one (for BER25) has effectively been withdrawn as planning consent has since been granted for it (the others are part of chapter 17 promoting them). The purpose of chapter 15 is not clear. Certainly the terms in which each policy is expressed does not indicate which sites are actually site allocations and which are really aspirations. At the hearing I was asked to consider most of them as site allocations, though it was admitted that no site assessment process was followed in line with Guidance.
- 4.4 Chapter 16 is described as Next Steps, a summary of the plan's progress. Chapter 17 covers the two NDOs, see below. Finally there are some appendices, mainly listing the plan's policies.
- 4.5 The plan represents the local community's aspirations and this it does reasonably well. Where it falls down is in the way the policies have been prepared. There is no real recognition that a neighbourhood plan cannot plan for development, on the potential scale proposed, in the Green Belt. In too many cases there is very little "proportionate, robust evidence [to] support the choices made and the approach taken" (para 41-040, the Guidance) in relation to policies.
- 4.6 It is not at all clear from the plan whether the 26 potential development sites are intended to be site allocations or not; and if they are, there is no "appraisal of options and an assessment of individual sites against clearly identified criteria" (para 41-042). It is not even apparent what scale of development the plan has in mind for those sites which the Parish, as indicated at the hearing, should be considered as allocations. But it was almost certainly greater than the 109 homes suggested by the development plan.
- 4.7 Presentationally, the plan is let down by poor mapping, omissions, inaccuracies and inconsistencies in the narrative.

5. The Neighbourhood Development Orders (NDOs) - Overview

- 5.1 Chapter 17 of the document promotes two NDOs:
- NDO1 - Queenford Lakes, is also site specific BER24, a Local Wildlife Site, which is being promoted for outline consent for boat manufacturing, a 120-bed hotel, 10 self-build homes and a lakefront café; and
 - NDO2 - Wally Corner, is being promoted for full consent for a 3MW community-owned solar farm.
- 5.2 There is no defined map or site plan for either site, nor indicative layouts and no supporting statements, drawings or technical information to support the case for development. There is no proportionate, robust evidence to support the choices made or the approaches taken, as required by Guidance. There are no conditions attached to either NDO. It is not clear if either site has been screened for the

proposed developments” potential environmental effects, especially in relation to NDO1 which is a Local Wildlife Site. Both are in the Oxford Green Belt. Wally Corner lies over sand and gravel deposits.

- 5.3 The Consultation Statement does not make clear how consultations were carried out on the NDOs as distinct from the plan itself. It seems to me from the material before me that it is likely that local consultees were not always aware of the implications of the NDOs in chapter 17. The Consultation Statement also contains some misleading statements about BER24/NDO1 (eg. at para 4.2). It is, as a matter of fact, a designated Local Wildlife Site. While NDO1 is described as a “former mineral extraction site” it erroneously describes the site (and by implication, all of it) as previously developed land, though it is apparent that there are some limited areas than can be considered as such.
- 5.4 Aside from the lack of information on the NDOs themselves, Chapter 17 seeks to make the case for the Orders meeting the Basic Conditions in a discrete statement. However, it is not convincing. There is no evidence to support the Orders; and there is no convincing case that either proposals are appropriate development in the Green Belt or can constitute an exception by virtue of “very special circumstances”; nor that they promote sustainable development. There are incompatibilities with the development plan’s strategic policies in relation to flood risk, ecology and, significantly, minerals.

6. High level conclusions

- 6.1 The Neighbourhood Development Plan: Given the whole plan area remains in the Oxford Green Belt I can see no basis for allocating land for development on the scale envisaged. It is simply not possible for a neighbourhood development plan to do this; it is for the Local Plan. It is therefore fundamentally contrary to national policy and the strategic policies of the development plan and on that basis alone I conclude that the making of the plan does not meet the Basic Conditions.
- 6.2 The Neighbourhood Development Orders: The wholly inadequate level of specificity for each proposed Order make it impossible to support the making of either. The failure to meet the legal requirements and the conflict with national and strategic development plan policy lead me to conclude that they do not meet the legal requirements or the Basic Conditions.
- 6.3 There are other difficulties with the plan, which contribute to its failure to meet the Basic Conditions, which I now turn to. However, given the fundamental flaws in the plan identified so far I do not provide a detailed critique of each policy in turn but identify the broad policy areas that will need to be address in any future plan.

7. Local Green Space

- 7.1 The draft neighbourhood plan promotes a whole series of areas as Local Green Space under Policy L6. However, the sites are not listed, there is no supporting text to the policy (which comes in the section on Healthy Living) and no evidence in the Basic Conditions Statement to support the proposed designations. The only indication of what and where they are is on the map of potential development sites, which is only legible at a much greater scale. Crucially, there is no statement anywhere of how the designations meet the criteria in the Framework (para 77). I find that the designations cannot be supported as they do not meet the Basic Conditions.

8. Minerals

- 8.1 The proposals for the development to the east and north of the village affect deposits of sand and gravel which underlie this area and which form part of a strategic resource – The Thames and Lower Thames Valleys area from Oxford to Caversham - a minerals safeguarding area within which other development which would prevent mineral working would not normally be permitted. Minerals constraints have not been part of any site appraisal process or formed part of the plan's evidence base.
- 8.2 Due to the potential impact on minerals I conclude that both the plan and the orders involve "excluded development" which they are unable to do.

9. Flood Risk, natural environment

- 9.1 The plan's policy approach is inconsistent with national policy for flood risk and is not evidenced. The Environment Agency, amongst other objects to this. Consequently this aspect of the plan does not meet the Basic Conditions.
- 9.2 The plan policies should be based on up-to-date information about the natural environment (Framework 165). The plan, however, is not based on adequate evidence, for example that ecological information has been considered.

10. Other policies

- 10.1 In too many cases there is very little "proportionate, robust evidence [to] support the choices made and the approach taken" (para 41-040, the Guidance) in relation to policies. And no systematic approach to site selection and deliverability or an assessment of options has been carried out. There are some failures to meet certain legal requirements.
- 10.2 The plan's approach to housing mix, affordable housing and self-build is poorly evidenced. The plan's approach to community ownership of renewable energy projects is not a land use policy approach; similarly, towards communications infrastructure. The plan can only contain policies related to the use and development of land.
- 10.3 The approach to planning obligations – for example provision of parish council or community meeting space as part of development of the Abbey Sports Centre – is not evidenced.
- 10.3 The plan lists Assets of Community Value but a neighbourhood plan cannot designate or grant properties this status; nor is the inclusion of certain assets in chapter 14 evidenced.
- 10.4 The plan contains no references to protecting the archaeological heritage of the area. This is an omission. Finally, the plan contains insufficiently evidenced policies on the transport implications of the plan.

11. Conclusions and recommendations

- 11.1 I can see that the Parish Council and its volunteers have put in a great deal of hard work into the submission of the plan and the supporting documents. The plan seeks to represent the local community's aspirations and this it does reasonably well.

Where it has failed is in the way the policies have been prepared. Crucially, there is no real recognition that a neighbourhood plan cannot plan for development, on the potential scale proposed, in the Green Belt.

- 11.2 Therefore, from my examination of the submitted Berinsfield Neighbourhood Development Plan, Neighbourhood Development Orders 1 and 2, together with all supporting documents, including having regard to all the representations made, I have concluded that neither the making of the plan or the orders will meet the Basic Conditions or meet the legal requirements. I have set out my reasons, drawn from the findings in my report, in the Summary, on page 2.
- 11.3 In summary, I recommend that neither the Neighbourhood Development Plan nor the Neighbourhood Development Orders should proceed to referendum or be made. I conclude that if the plan and orders did proceed to referendum then the referendum area should be the same as the plan area.
- 11.4 Finally, my thanks to both Parish and District Council for their support in making the examination so smooth.

John Parmiter FRICS FRSA MRTPI

Independent Examiner

Director, John Parmiter Ltd

john@johnparmiter.com www.johnparmiter.com

11 May 2016