

## **Benson Neighbourhood Plan Review (Submission Plan dated September 2022)**

As you are aware I have been appointed to conduct the Examination of the Benson Neighbourhood Plan Review. In order that I may progress the Examination I would be grateful for the Qualifying Body's response to the initial enquiries below; the local authority may also have comments.

My purpose here is to better understand the intention behind the policy content from the authors and it is not to invite new content or policies that will not have been subjected to the public consultation process. In particular I need to be sure that the Plan meets the obligation to “contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” (NPPF para 16). It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained in an appropriately modified wording for the policy.

My initial view, subject to the responses to this request and a brief site visit, is that the Examination can be concluded on the basis of written representations alone since the matters for consideration have been expressed clearly by all parties.

In order to ensure transparency with the conduct of the Examination a copy of these queries is being sent to the Local Planning Authority with a request that the exchange of emails be published on the webpage relating to the Neighbourhood Plan Review alongside the representations received during the Regulation 16 public consultation. Where relevant, I have included below matters raised during that formal consultation.

### **Modifications**

There are three types of modification which can be made to a Neighbourhood Plan. The process will depend on the degree of change which the modification involves:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or
- material modifications which do not change the nature of the plan or order and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

My understanding from the material that I have read is that the Qualifying Body has made modifications that they believe fall within the second category above: “We believe that none of these changes are so significant, individually or collectively, that they change the nature of our Plan”. The NPPF was last updated in 2021 and it is against that version of the NPPF that I must conduct my Examination. From the Statement of Modifications and a comparison of the Review document and

the 'made' Neighbourhood Plan I have identified the following matters – please advise if you identify instances where I have missed other areas of modification.

### **Table of Contents**

It is a puzzle that the “Table of Contents” includes only a very limited signposting of Plan policies, although it includes within its listing the “List of Policies” which is not itself indexed to pages (although I note the online version incorporates hyperlinks). Ideally Plan policies ought to be read within their context and it would therefore seem preferable for the Table of Contents to reference all the Policies and their page numbers. The List of Policies might be adapted to show a comparison of Policy numbering between the Review and the original Plan.

Whilst the paragraph numbering within the Plan changes to reflect each section, the section headings are themselves not numbered. It would probably aid read-across between the paragraphs and the sections, particularly when content is being quoted within Officer reports, if the sections were numbered both here and within the body of the Plan.

I also note within the Table that the entry for “Conservation and Heritage” has an indicator (presumably picked up from the page that is being indexed) suggesting there is a footnote, but this is superfluous in the context of the contents' listing.

Your comments are invited.

### **Executive Summary**

It is appropriate for the Executive Summary to be updated to reflect the Review process.

Under the sub-heading “Deliver approximately 565 new houses”, whilst stating the housing numbers is helpful, what is significant in policy terms is that the expectation from the Local Plan 2035 of 15% growth in Larger Villages had already been met in Benson, and this achievement has been acknowledged by the District Council. An extra sentence to this effect would I believe be helpful.

Under the sub-heading “Designate Local Green Spaces”, in the first sentence the use of capital letters for “Local Green Space” is inappropriate since, as you acknowledge, any prospective designations on the new estates will be resolved in a future review.

Under the sub-heading “Climate Statement”, at the top of page 14, strictly speaking it is not the purpose of a Local Green Space designation to “safeguard the flood retention capacity” of any space; this part of the sentence therefore ought to be omitted lest it mislead.

Your comments are invited.

### **Foreword**

No comments.

### **Introduction & Background**

No comments.

### **The Neighbourhood Area**

No comments.

### **Planning Policy Context**

For clarity the dating of the NPPF ought to be 'July 2021'. Paragraph 3.4 ought to have an additional sentence to clarify that the Revised Plan has been written to assure general conformity with the Local Plan 2035. The source for the map on page 26 ought to be declared – presumably it is the Local Plan document?

I note that the local authority has requested that references to the superseded Core Strategy should be avoided, and they have suggested ways that this might be achieved. To me their proposals seem appropriate.

In relation to paragraph 3.10, as noted in representations, it is unclear why it is felt that the retention of allocation Policy BEN2 might “ensure that the site delivers all the infrastructure and other planning benefits promised by the development, precisely in accordance with both the Neighbourhood Plan policy and the planning permission”; the basis for the granting of the planning permission is a matter of record. However, I accept that this part of the Plan is not so dated as to have become irrelevant to the implementation and understanding of the Plan overall, and therefore the judgement made within the Review process about which parts to review seems to be a rational one.

The relevance of the lengthy paragraph 3.11 within the context of a section on “Planning Policy Context” is obscure. The new Local Plan 2035 has not brought into question the allocations made in the original Neighbourhood Plan and therefore their justification is not needed to be repeated here at such length?

Paragraph 3.18 appears to make a reference back to the NPPF but, as is later noted, there are supporting policies relating to green infrastructure within the Local Plan 2035, which is what is being addressed at this juncture. Does this paragraph need to be relocated or the content reviewed?

Your responses are invited.

### **Community Views on Planning**

No comments.

### **Vision, Objectives and Land Use Policies**

I note that this section has not been altered.

#### **Land Use Policies**

##### **Housing Allocation Policy**

I am seeking a little further explanation about the process by which the land now to be excluded was not included within the planning application(s) for BEN 3/4. As you will have seen, a representation objects to these exclusions and the basis on which sites already assessed as suitable for sustainable development are to be excluded. Was the amended site boundary a developer decision? You may have comments on the representation related to the amendment to be made through the Review? Planning Practice Guidance (Paragraph: 009 Reference ID: 41-009-20190509) suggests “allocating reserve sites to ensure that emerging evidence of housing need is addressed”. Was such an approach considered as part of the deliberations on these already allocated sites? I do however note that the Parish will have provided for over twice as much housing as the minimum suggested via the Local Plan process.

##### **Policy NP1 – Housing**

Although representations have challenged the value and purpose of the addition relating to Settlement Boundaries, I am inclined to accept the local authority view that the boundaries

legitimately add local detail to aid the implementation of the Local Plan, in particular Policy STRAT1 which makes specific mention of “protecting and enhancing the countryside ..... by ensuring that outside of the towns and villages any change relates to very specific needs”. I note that a methodology is defined and a commentary on its application are both helpfully provided in Appendix M. I acknowledge that it would not be appropriate to include within the settlement boundary sites which are not allocated or do not have a planning consent. Although I appreciate that consistency of application is key, my one area of reservation, where I would appreciate more detail on the thinking prior to my viewing, relates to what I believe to be lodges adjacent to the Thames, at the western edge of the defined boundary, which would seem more likely to be regarded as non-permanent structures associated with the countryside (albeit in this case riverside) than a settlement; their density may have influenced your decision here?

A representation queries the boundary for Preston Crowmarsh: “[The Preston Crowmarsh Conservation Area] includes 'Greenhaye'/No 45 Preston Crowmarsh, an Edwardian property built in 1906 and lying at the heart of Preston Crowmarsh. Why is this period property the only house in P.C. outside the Settlement Boundary? Why is the woodland to the North of 'Greenhaye' also excluded from the Settlement?” Some explanation would be helpful.

The local authority has made a suggestion about a minor rewording of the Policy that I assess as appropriate. The County Council has also suggested an amendment that may be considered appropriate for completeness.

Your comments are invited.

### **Site Allocations**

My understanding is that these sections have not been part of the Review. However, the local authority has suggested some rewordings designed to provide greater clarity. These appear uncontentious?

### **The Riverside**

This section appears to me to be oddly located, within a section otherwise exclusively devoted to allocating land for housing. The Policy relating to the land-use designation of a Local Green Space that has a riverside location is elsewhere within the Plan. Was it perhaps intended that a whole new section should be added?

Paragraph 6.38 refers to the extract of the Environment Agency map being Figure 11 whereas in reality it is Figure 22. Again, it appears odd that the map doesn't sit with the first reference to it and where its relevance to the Riverside is evident.

It is unclear to me how the boundary for the “Buffer Zone” has been defined. I note that part of the area is within the designated AONB, though there are also AONB parts that are excluded (as I read Figure 10). There is no evident read-across between the area boundaries shown in the Landscape Assessment (Appendix E Part 2) and the boundaries for the Buffer Zone. The authorship\* of the Landscape Assessment appears to be undeclared and it seems to suffer from a lack of sub-maps to help understand the detailed references to particular features and locations. Unlike the Settlement Boundary, there is no apparent methodology for defining the edges and coverage of the Buffer Zone? In terms of purpose, I am wondering what distinguishes it from the sections in the Design Statement that address particular locations, including the riverside and the countryside. The Policy wording refers to “the physical and visual aspects of the character, quality and appearance of this landscape”, suggesting that these are distinct, but if they are to be respected then I would suggest they need more clarity of definition. A lack of a reference to Appendix B is surprising and rather

reinforces my initial view that there is some disconnect between purpose and execution. Some further explanation would be helpful.

\* The authorship may be important to declare when, as has happened in representations, the accuracy of content is challenged. Does the author possess qualifications appropriate to the appraisal of landscape character? To what degree is the content prepared independently of those proposing policy derived from the findings?

### **Conservation and Heritage**

My understanding is that Policy NP6 has not been revised.

### **Design**

I note that “This policy remains unchanged in substance, but the Design Statement to which it refers has been revised to include more detail of measures to mitigate and adapt to climate change”. The local authority has noted updates to the text required because the Joint Design Guide was adopted in June 2022 and suggestions that it is still “draft” are incorrect.

The revised Design Statement – subject to my comments above – seems to have been expanded appropriately and consistently. I note that the new sections are not yet fully integrated within the contents page – page numbering and hyperlinking are missing.

On one particular matter, it is noted on page 45 of the Design Statement that national policy “is not intended to discourage alterations to adapt to or mitigate climate change, but does require careful consideration of options that are appropriate both to significant external and internal historic character, and to the nature of the historic construction”. The guidance at R4 is however more blunt than it might be, given that it is not particular to Benson and detailed guidance on adaptation does exist, and it may be read as a discouragement to adaptation.

Your comments are invited.

### **Roads and Transport**

I note that minor changes and some reordering of content have taken place as part of the Review. The local authority has identified at paragraph 9.16 that, since the Oxfordshire Local Transport and Connectivity Plan was adopted in July 2022, the prefix ‘proposed’ needs to be deleted. In other respects, the amendments have not given rise to any issues.

### **Community Facilities' Policies**

#### **Village Centre**

In relation to the wording of Policy NP14 the local authority has commented: “The final criterion is concerned with demonstrating there is no market interest in the premises following one year of active and effective marketing. As currently drafted the policy requires that this applies to all proposals provided either the first criterion (vitality) or second criterion (evidenced community need) are met. However, this may prevent sustainable forms of development coming forward in a timely manner. For example, if an applicant is able to demonstrate that the new use meets an evidenced community need, but has not completed one year of active and effective marketing, the policy would not support the development. We therefore recommend that the at the end of the second criterion ‘and’ is replaced with ‘or’.” This seems to be an appropriate amendment.

In relation to Policy NP15 I am unclear what the fourth bullet point might be thought to be addressing? The Neighbourhood Plan Policies will all need to be addressed where applicable, but it is hard to see where a conversion from a residential use might conflict with a policy (NP14) about

changes away from Class E. Also, in the last sentence of the Policy, I believe it would be appropriate to replace “will be” with ‘are’.

In other respects, there are no alterations giving rise to issues. Your comments are invited.

### **Environmental Policies**

I note that this section has been appropriately updated to take account of the impact of the Environment Act 2021. Much of the content is factual, however there are a few wording issues arising:

- paragraph 11.6 says that the NPPF “requires that we”, implying it is referring to the Qualifying Body, “plan for ecological networks”. There is in fact no obligation placed on the Qualifying Body.
- Paragraph 11.14 sits under a heading “Local Green Space and ..” but references green spaces more generally; since the term Local Green Space relates to a particular designation (as addressed later) I believe that omitting “Local” from the heading or replacing “Green” with ‘Open’ would be more appropriate. The same comment applies to the title of Policy NP22.

In relation to the designation of the additional Local Green Space I have a number of queries regarding the evidence that might be said to support that the area is “Demonstrably special to a local community and holds a particular local significance and local in character and is not an extensive tract of land.” (NPPF paragraph 102):

- “Professional surveys in Spring /summer 2022 confirmed the areas importance for these species” – but there is no reference link to this?
- “The meadows have been identified by TVERC as possible priority habitat” – but there is no reference link to this and it would seem that this future ‘potential’ would not be realised without the co-operation of the landowner, and the Regulation 14 Consultation suggests that the landowners are not supportive of the designation? Have further conversations been had with the landowners or their representatives?
- “The meadows are the last remaining flood meadows in Benson that are [are] publicly accessible. The meadows lie adjacent to the Thames Path National Trail” – but the access appears to be limited to a public footpath and the Planning Policy Guidance says “There is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation”. (Paragraph: 018 Reference ID: 37-018-20140306).
- “The natural capital value of the fields also includes their role in providing flood attenuation locally” – but areas liable to flooding are already protected from inappropriate development by other parts of the NPPF.
- “The fields connect physically to meadows that stretch upstream towards Shillingford, with the complex providing an important stepping stone linking the Thames Clifton to Shillingford Conservation Target Area (CTA) to the Thames Wallingford to Goring CTA” - but the required “particular local significance” needs to be intrinsic to the space to be designated.
- The tabulation in Appendix K notes the measurement of the space as “Limited defined boundary. Size = 4.12 ha total, or 1 ha +3.1 ha.” – but these particular forms of description do not appear to be explained elsewhere.

Your responses here would be appreciated.

In relation to Policy NP22–Creation of New Local Green Spaces I note that the additional wording is an ‘encouragement’ which would have the potential to open a dialogue with the community.

With Policy NP23 – Biodiversity I am unsure that ‘considering opportunities for the inclusion of’ suggests anything more than a paper exercise, whereas the stated objective would seem to be the planting of street trees wherever practicable. Therefore, a rewording as ‘demonstrate the appropriate use of street tree planting’ might achieve more? The local authority has raised a valid concern that the second paragraph of the policy should be focused on development proposals rather than developers. The same concern is expressed for Policy NP24 – Wildlife Corridor.

I note that Policy NP26 – Benson Brook (referenced in your Modification Statement as NP24) has been updated to better conform with the equivalent Local Plan 2035 Policy.

### **Landscape and Distinctiveness of Settlements**

In relation to Policy NP27 the local authority has commented: “The policy is titled ‘distinctiveness of settlements’ and seeks to maintain the separation between settlements. However, the final bullet point lists ‘between the above settlements and outlying farmsteads’. In policy terms outlying farmsteads are part of the open countryside and not considered a settlement or part of the built-up area. For this reason, we recommend this final bullet point is deleted from the policy.” I further note in support of this suggested amendment that Policy NP28 already references the rural setting of farmsteads.

I note that Policies NP27 and NP28 both reference Figure 20 and this seems to emphasise the considerable degree of overlap between the two. However, it is equally clear that the illustrated gaps are partial and omit the separation that is sought between Benson and Rokemarsh, which is part of the detail in Appendix E Part 4. Evidently the majority of the desired gap is outside of the Plan boundary, but not all. However, I note that a representation argues that “it has been demonstrated that the site [of the Paddocks] would not prejudice the coalescence between Benson and Rokemarsh, thus ensuring that each settlement retains a separate identity and distinctiveness to one another”.

I feel that clarity would be gained, and nothing evident would be lost, if the second (and perhaps the third) elements of Policy NP28 were added to Policy NP27, thus merging the two. The third element of NP28 is obscure as to its expectation by caveating. If the expectation is that ‘Where possible, development proposals should improve public access to the countryside’ then that has already been addressed more appropriately within earlier Policies?

Similarly, Policy NP29 – Landscape Buffers seems to cover the same policy territory as the Concept Plan introduced as Figure 6, in wording terms there is potential confusion with the purpose of the Riverside “Buffer”, and in coverage it appears to relate less to the existing landscape than the interventions necessitated by development. Is Policy NP29 perhaps more duplication?

Appendix E Part 4 is more explanatory than analytical of the value of the gaps between settlements – however it does provide more supporting detail than it would have been appropriate to include with the Plan itself. The detailing of views in Appendix E Part 3 is helpful in illustrating the landscape character at various locations.

The local authority has noted a factual error referring to a ‘Reg 19’ public consultation in the final sentence of paragraph 11.46 whereas the reference would more likely be to ‘Reg 14’.

The amendments to Policy NP30 - Flood Risk and SuDS are indeed minor. I note that Thames Water has suggested further amendments for this policy area but I feel that their comments are already addressed at the Local Plan level.

Your comments are invited.

## **Appendices**

I have noted points above on the content in Appendices where they interrelate to reviewed Policy content. The County Council has noted a factual error in the content relating to Site Assessment for BEN9 Benson Material Store in Appendix A. Whilst this is not material to any part of the Plan Revision it would be appropriate for any factual errors to be corrected as soon as they are confirmed.