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Sent via email

Dear Rosalynn

**Response to the Benson Neighbourhood Plan Team’s answers to the Examiner’s opening queries in respect of the emerging Benson Neighbourhood Plan Review**

On behalf of Victoria Land (the client), we welcome the opportunity to provide a response to the Benson Neighbourhood Plan (NP) Team’s answers to the Examining Inspector’s queries. My client is involved in the site Land Adjacent to The Orchard, Benson and is the applicant that is seeking planning permission for its development of up to 19 dwellings with all matters reserved except for access, which is currently at appeal<sup>1</sup> with a decision due imminently.

The client team took note of the Examining Inspector’s queries and have since reviewed the NP Team’s response to these. Whilst previous representations have been submitted to the neighbourhood plan consultations that ran last year, given the detailed content of the NP Team’s response, we felt it necessary to provide a further response to this as its content is unjustified and, in places, **factually incorrect**.

**Inspector’s query:** *“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.”*

The NP team in responding to this firstly highlight that the difference in ownership of the subject site compared to the wider allocation BEN 3/4 was not known at the early stages of the preparation of the current NP and that it only came to light in May 2017 when the NP was at an advanced stage. As set out in our previous representations, the site has been owned by the current landowner for over 12 years. There was **no change of ownership during the evolution of the NP or the plans for BEN 3/4**. Furthermore, my client held pre-application consultations with South Oxfordshire District Council and the NP Team on 29<sup>th</sup> June 2017 and 12<sup>th</sup> October 2017 respectively, to discuss the delivery of housing on the site. Regulation 16 consultation on the current NP was undertaken between 13<sup>th</sup>

<sup>1</sup> APP/A3115/W/22/3297026.



December 2017 and 28<sup>th</sup> January 2018. The site was shown as part of the emerging NP and the original application for the site was submitted in January 2018 and registered on 16<sup>th</sup> January 2018. The Benson NP was eventually made on 23<sup>rd</sup> August 2018.

The chronology of events demonstrates that BNP Group were in **full knowledge** of the ownership of the Site and the intention to deliver this part of the allocation separately to the DWH land from an early stage in the process.

The NP team go onto say that from May 2017 they were clear that they would not support standalone proposals on the site, giving three reasons why:

- *“Did not align with the neighbourhood plan’s strategy to focus allocations around the delivery of the Relief Road,*
- *Did not integrate well with the village, and*
- *Would compromise our objective to achieve a green buffer at the Northern and Eastern edges of the BEN4 site (as allocated in the made plan) – an area which plays a critical part in preserving the separation of Benson and Rokemarsh.”*

The first bullet point is factually incorrect. The S106 Agreement attached to the live appeal sets out a contribution that will help facilitate the Relief Road.

We contest the second bullet point. The site forms part of a wider allocation that integrates well with the existing village and that would not create coalescence, as the NP team further insinuate in their response. A pedestrian link connects the site to the wider village as per the appeal proposals which has been accepted by the Local Highways Authority as being safe and suitable. Indeed, the Inspector as part of the previously dismissed appeal concluded the following:

*“Furthermore, the appeal site has a logical layout and character that reflects the modern forms of development within the locality. The site maintains the visual and physical separation between the settlement of Rokemarsh and **avoids coalescence**. The appeal site will result in a change to the character of the site, however, the development of the site when seen in the context of the development to the north would not cause adverse harm to the Clay Vale Character area, or the setting of Chilterns ridge AONB and the North Wessex Downs AONB” [own emphasis].*

Finally, the third bullet point above is factually incorrect. As per the representation submitted to the last consultation, the development of my client’s site will not affect the green buffer at the northern and eastern edges of the entire allocated site as per Figure 6 of the emerging NP. Indeed the Inspector within the previous appeal decision states the following:

*“That said, Figure 12 of the NP includes indicative areas of greenspace and a greenspace buffer where the main purpose is to ensure adequate open landscape space which is rural in character within the development scheme, as well as to ensure separation between Benson and other neighbouring settlements in accordance with Policy NP27 of the NP. It is not evident to me that the appeal site is designated as open space as the areas for greenspace notated in Figure 12 excludes the appeal site which is marked as ‘white’ alongside the area to the north which is also earmarked for housing development.”*

This reaffirms that the site is not seen as a sensitive site for development, reflected with its allocation for residential development in the current NP.

Taking all three reasons above into account, it can be concluded that the site's development would not conflict with the NP team's consideration for delivery of development within the village.

The NP team go onto state "it was not our intention for the allocated sites or parts of allocated sites to come forward in a piecemeal or standalone manner." In principle, there is nothing to stop this from occurring, particularly where there may be different land ownerships in play as is the case here, and to which the NP team **were aware of** during the preparation of the current NP. Notwithstanding this, it should be noted that the application currently at appeal was submitted at the same time as the reserved matters application for the wider allocation (at the request of the LPA), so both schemes could be considered comprehensively. This demonstrates my client's willingness to see the entire allocation come forward as one.

In addition to the NP team's statement, they provide several bullet points setting out reasons why they are against 'standalone development'. The following deals with each of these in turn.

***The Orchard site is not part of our strategic plan to deliver a well-integrated set of developments containing the Relief Road necessary to solve our community's number one issue. Development on this site would be poorly-integrated to the village and other planned development and would detract from this strategic plan.***

The site is allocated in the current NP that forms part of BEN3/4 to help deliver the Relief Road. Indeed, the S106 Agreement attached to the live appeal is set to contribute towards its delivery.

For reasons already set out above, the site is considered to be well integrated with the village and the wider allocation.

***It would add further housing to Benson that is already accommodating far more than its housing requirement - an additional 831 dwellings on an existing housing stock, at the time of the original NP development, of 1,350 dwellings. This represents an increase of over 60%.***

Paragraph 4.26 of the South Oxfordshire Local Plan states that in Benson a number of planning appeals have been allowed, achieving the minimum 15% growth level. However, paragraph 4.30 demonstrates that there is still an opportunity to allocate sites even when Larger Villages have exceeded the 15%+ growth rate, so long as the growth is sustainable for the village and accords with national planning policy.

This is written in the context of Policy STRAT2 of the Local Plan, an overarching local plan policy on housing delivery which highlights that proposed housing targets comprise minimum figures. The Local Plan is therefore clear that where suitable sites for development can come forward at Larger Villages that would deliver growth sustainable for that village, in principle, these should be allowed, subject to meeting other relevant local and national planning policies.

Notwithstanding all the above, the site is **already allocated** in the NP. It would be unreasonable to not continue to allocate this site further in the emerging NP for reasons that are not consistent with the strategy of the Local Plan and go against the basic condition set out in the PPG: Contribute towards achieving sustainable development.

***It would result in removal of the separation between Benson and Rokemarsh that our detailed negotiations on site layout with David Wilson Homes had secured. It would also break the green buffer between Benson's built area and the countryside. The 'Benson Indicative Concept Plan' in Figure 6 of our Revised Plan shows how development on this site would clearly harm this ambition.***

As set out in our representations previously, the Inspector previously commented on the matter of coalescence stating:

*“NP Policy NP27 relates to the coalescence of settlements rather than the coalescence of parishes. The actual impacts of the development such as the provision of services and facilities is catered for by the Benson settlement. As such, I do not consider that the proposal is contrary to NP Policy NP27.”*

He then went onto state:

*“Whilst indicative, the proposed layout of the appeal scheme would match the development to the north in terms of the extent of its encroachment towards Rokemarsh. The indicative scheme to the north includes a landscape buffer which runs from the commencement of the boundary of The Orchard adjacent to the appeal site. **In my view the proposed properties in the northern scheme would be more visible in long distance views from Rokemarsh than the appeal site.**”*

*Taking these factors into account I am satisfied that adequate greenspace and a landscape buffer between the appeal site and Rokemarsh could be delivered in order to provide significant separation and to avoid coalescence occurring between Benson and Rokemarsh.” [own emphasis].*

Indeed, the first bullet point of paragraph 11.42 in the emerging NP includes *“Settlement boundaries to clarify the distinction between built-up area and countryside.”* Clearly the development of the site would meet this aim, forming part of the built up area of the village.

In addition, for reasons already set out above, the development of this site would not conflict with concept plan in Figure 6 which indicatively shows the area of Green Infrastructure to be delivered in the wider allocation.

***The site is over a mile from Benson’s village centre and is not sustainable in terms of transport, as residents will inevitably default to their cars.***

The recent planning application was consulted upon by the Local Highways Authority who raised no objection to the proposals. Their comments specifically state *“The location of the site is within reasonable walking and cycling distances of local amenities, subject to the provision of appropriate links.”* A footpath link is proposed as part of the live appeal which the Local Highways Authority has accepted as a suitable solution.

***Every consultation we undertook during development of our original NP showed strong support for accepting the housing necessary to realise the Relief Road, but no support at all for further housing beyond this within the plan period – the independent “Community Questionnaire Report” and Pre-Submission Consultation Statement from the original NP are probably the two most important documents. And every consultation event for this Revised Plan has reinforced this.***

***The NPT, supported by the Parish Council, has worked very hard over a long time to explain to our community why we needed to propose a much larger number of houses than our local plan requirement. They have accepted 565 dwellings allocated in our NP (versus the requirement of 383 in SODC’s Local Plan 2035). This is on top of 187 dwellings permitted before the original NP was made, plus another 79 ‘windfall’ and other developments. The total increase of 831 dwellings or 60% growth over a 5 or 6 year period is a hard ‘ask’ of any village and it is remarkable how well our community has supported our plan, once they understood and bought into what we were trying to achieve. Our community engagement evidence indicates there is currently no support for further development beyond the significant planned development***

***supported in the made plan. If the plan review is required to make provision for further housing growth, our neighbourhood plan will be judged by the community to have failed.***

Dealing with both points together, the site was considered to help deliver the Relief Road which is reflected in the S106 Agreement attached to the live appeal. In this context, the site fully accords with the NP's development strategy and therefore Policies STRAT1 and H1 of the Local Plan. The S106 Agreement along with the accompanying documentation that supports the live appeal demonstrates that this site can come forward with the services and infrastructure that either already exist or are to be delivered/contributed towards. As above, the Local Plan is clear that the housing requirement is a minimum figure and that where suitable sites can come forward that allow for sustainable growth, these should be allowed in principle. This point also answers a further comment made by the NP team, repeated below for ease:

*"The Ridge case depends heavily on Local Plan Policy H4 and its context narrative to show that Benson could still take more developments. Ridge quotes "The Council will support Larger Villages to allocate further development sites should the NDP so wish, where this level of growth is sustainable for that village and where this in accordance with national policies and guidance." For all the reasons given above, development on this site as a standalone application would not integrate well with the village and would create additional pressure on already stretched services and facilities. As such it would not represent sustainable development. Furthermore, there is no public support for additional housing allocations."*

Finally, the NP team make specific reference to the previous dismissed appeal highlighting the Inspector's reason for refusal, which primarily related to the lack of pedestrian connectivity between the site and the remainder of the village. As mentioned already, since then the site has been subject to a new planning application which proposed footpath links from the site immediately into the wider allocation and as an alternative, along Braze Lane. The former whilst preferable cannot be delivered given the reluctance from DWH (and the SODC planners failure to properly enforce LP Policy DES1). As a result, the appeal proposals now look to deliver a footpath connection along Braze Lane connecting to the new Watlington roundabout which was considered a safe and suitable option from the Local Highways Authority. Whilst officers resolved to refuse the application as they did not consider sufficient evidence had been put forward about the deliverability of the footpath link, the Appellant submitted a S278 agreement in relation to the new Watlington roundabout during the appeal which confirms that the footpath can be delivered being either on the Appellant's land or on highways land. It also provides reassurance that the footpath can be delivered in a timely manner, noting that the works to the roundabout should have been completed no later than 31<sup>st</sup> December 2022, or in any event within six months from the date on which the works started (clause 3.4). A copy of the S278 agreement is appended in the representation submitted in December 2022.

The NP team highlight the amount of objection received by the community in respect of further housing in the village. In doing so they mention two schemes, one which has been submitted in outline form for 180 dwellings (ref. P23/S0035/O) and the other also submitted in outline form for up to 150 dwellings (ref. P22/S4031/O). The difference in these cases compared to subject site is that these are not allocated in the current NP or Local Plan. Their suitability for development has therefore not been assessed by the LPA nor any Examining Inspector. Rather, this site's current allocation in the NP would have been examined as part of the previous NP consultation. Clearly the Examining Inspector considered the site suitable for development previously, which is then reflected in the Inspector's conclusions within the previous appeal decision. Nothing has changed materially that would alter these conclusions other than the delivery of further housing in the village. However, that is not a reason to refuse the development of this site for reasons already set out above.

The NP team finally outline two key challenges which they have concentrated on in reviewing the NP, those being:

- Benson’s ability to cope with housing growth; and
- The deterioration of key services within the village.

The matter of fact is that the site ‘The Orchard’ **is an allocation in the current NP** and therefore its development and any impact on the village would have been considered in detail at the previous examination of the NP. Carrying the site through as an allocation as part of the NP review would not therefore materially impact on the two key challenges in which the village claim to be facing. Rather, the site coming forward helps deliver the Relief Road, a component centred around the NP’s development strategy, as well as providing contributions to existing services and facilities.

In this regard, we would like to reiterate the conclusions of our previous representations insofar that the emerging NP consultation documentation does not provide robust justification to warrant the removal of the site ‘The Orchard’ from allocation BEN3/4. If the site were to be removed, it is considered the NP would fail to meet the following basic conditions as per the PPG:

- Contributing to achieving sustainable development; and
- General conformity with strategic policies contained in the development plan.

**Inspector’s query:** *“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”.*

In answer to the above query, the NP team consider that the importance of coalescence was misunderstood at the previous appeal attached to the site and that the Inspector failed to recognise the NP team did not consider that the site would be developed. Whilst the NP team might have thought this, it was very clear during the progression of the current NP through to its adoption that the site formed part of an allocation for residential development. **This is not a robust reason to now remove the site as an allocation.**

The NP team go onto state that the Inspector only considered the extent of the proposed development northwards and did not consider the impact of the development eastwards. However, this is also incorrect. Paragraph 14 of the appeal decision considered views contained within the LVIA that was submitted, including viewpoint 8 which was taken from an easterly direction. In this context, the Inspector concluded that *“the appeal site would be well contained by boundary hedgerows and additional landscape planting and would not be particularly apparent in views from the wider countryside or interfere with significant local views such as from Eyre Lane (view 8) or other views as outlined in Figure 11 of the NP and highlighted by Policy NP28 of the NP.”* The Inspector then went onto state at paragraph 17:

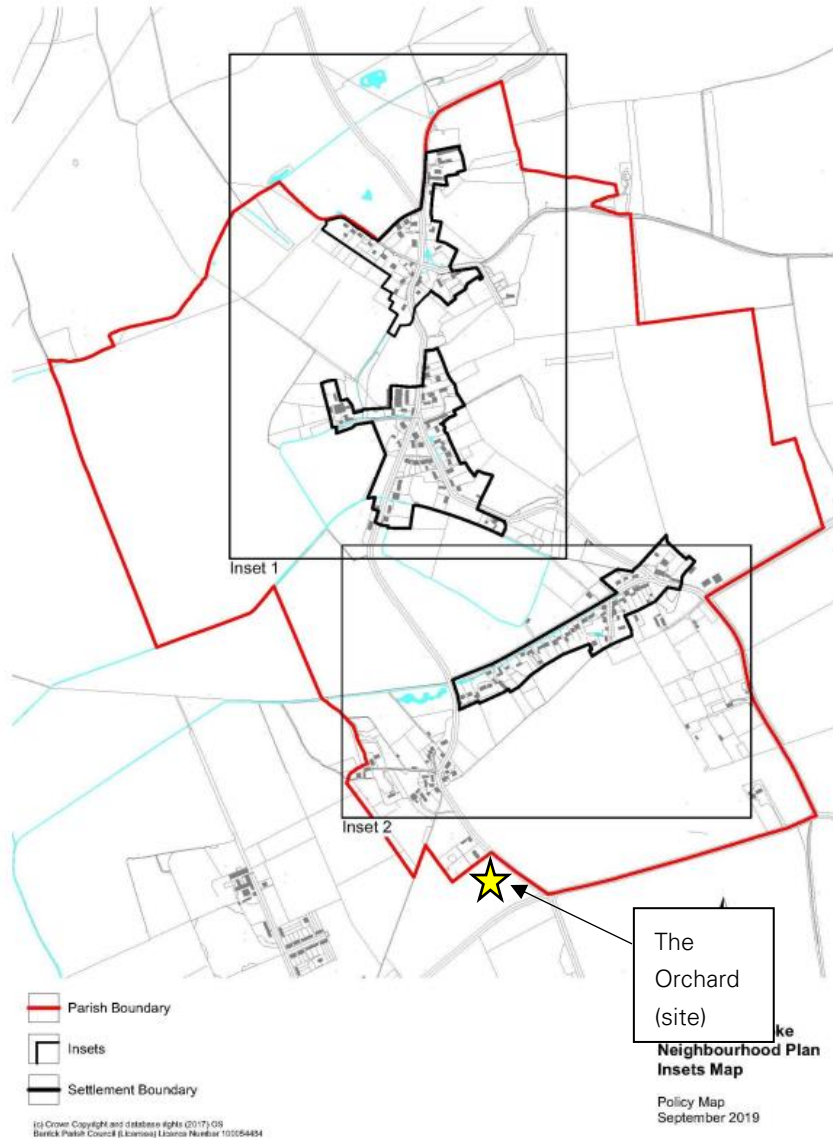
*“Consequently, whilst the proposed development would result in a change to the character of the appeal site and the immediate locality which includes the Clay Vale Landscape Character Area, given the landscape treatment required as part of the scheme and the neighbouring development to the north, such a change would result in very limited harm to the character and appearance of the area or countryside.”*

Notwithstanding the clear conclusions from the Inspector, the NP team continue to raise concerns over the development of the site, having particular regard to its visibility from Rokemarsh and maintaining the open space

between Benson and Rokemarsh. They are also concerned that there would be no room left to provide a further landscape buffer north of the site once developed and that the new houses will be 'very visible' in views from along the B4009.

Dealing with their first concern, as per the previous conclusions of the Inspector and LVIA's submitted with both applications attached to the site, there is not considered to be any adverse visual harm in landscape terms from Rokemarsh to Benson given the development of the wider allocation. As per the LVIA submitted with the most recent application: *"While the setting of The Orchards may be affected by its introduction, the cluster of houses which form the centre of Rokemarsh would remain separated by intervening fields and would have a limited inter-visibility with the site."* Such conclusions were agreed with by the landscape officer at the Council who had regard to the previous Inspector's conclusions and did not form a reason to refuse the proposals.

Dealing with their second concern, clearly the development of the site will not materially affect the extent of open space between both settlements as agreed by the previous Inspector. This can be seen within the Berrick and Roke Neighbourhood Plan Insets Map (page 27) where there is a clear open space between the settlement boundary and the site itself (see Figure 1).



In terms of the third point, no justification has been put forward for the addition of another landscape buffer over and above what is already included as part of the current and emerging NP. If the NP team felt strongly about this, it should have been reflected in Figure 6 of the emerging NP, or indeed, set out within the evidence base. It is worth noting that the mitigation proposed by the landscape officer, which the Appellant has agreed to adhere to, includes: *“proposed buildings should be set back from adjacent property on the northern boundary of the site and tree planting included on the boundary to soften the impact of the new development and protect visual amenity.”* Notwithstanding this, no plausible justification has been put forward to remove the site as an allocation in the NP, so regardless, the development of the site remains acceptable.

Dealing with their final point, the conclusions of this are incorrect. As per the LVIA submitted with the most recent planning application:

*“For those travelling towards Benson the site is not clearly visible until the road reaches the junction with Braze Lane. At this point, there is a large break in the roadside hedgerow, resulting in there being clear views towards the site.*

*The field that is visible in the foreground in all of the views from The Sands forms part of the DWH planning permission for residential development.”*

This demonstrates that with the DWH scheme (which is being constructed) there would be no discernible landscape impact on users of the B4009.

The NP team comment that retaining *“the eastern spur of that site, between the new roundabout and Braze Lane, as green space, along with areas to the north of the development”* and *“the green space afforded by the horse paddocks **(no planning applications were then expected for this site)** would allow for an appropriate gap between the extended built area of Benson and the hamlet of Rokemarsh”* [own emphasis added]. The NP team cannot simply use assumption to justify removing the site as an allocation for development. The NP team knew that the site had been allocated for development and that it could come forward, particularly given they were aware of the difference in ownership during the progression of the now made NP.

The NP team go onto request that the Inspector considers the site to be designated as an Important Local Gap within the emerging NP. This is the first time in which the NP team have identified the site becoming an Important Local Gap and with it being so far in the process of the NP review, **this is completely unreasonable**. Particularly given no robust justification has been put forward as to why. The only superfluous reason being that the site should be removed as an allocation for development, which as demonstrated above has not been robustly justified. We respectfully suggest the Inspector does not consider such a request late in the day, particularly with no technical justification to support it.

Finally, the NP team make the following comment:

*“It is also important to note that the appeal report was published in July 2019, before any of the allocated sites in our NP were permitted (BEN 1 Phase 2 received full approval in August 2019; BEN3/4 in October 2021; and BEN2 in August 2022) and therefore the Inspector would not have been aware of the location or extent of any green buffers forming part of those sites.”*

This point is misleading. The outline approval attached to the wider allocation (ref. P17/S1964/O) included parameter plans that indicated the extend of open space and landscaping that was intended. Those plans, particularly drawing



no. 3500-03, were required by Condition 2 attached to the outline approval to be complied with as part of the future development proposals.

Regardless of this, the point remains that the site was allocated for development in the current NP, tested through examination by an Inspector, and deemed suitable for development. The extent of landscape buffers and coalescence would have been considered as part of this.

**Concluding comments**

Overall, whilst it is understood the review of a NP presents opportunities for amendments, it remains our case that the emerging NP **does not** include robust justification to remove the site 'The Orchard' as an allocation for development for reasons set out above. Doing so would result in the emerging NP not meeting the following basic conditions as per the PPG:

- Contributing to achieving sustainable development; and
- General conformity with strategic policies contained in the development plan.

Similarly, it has been demonstrated that the site would not create coalescence between Benson and Rokemarsh, nor would it hinder the landscape buffers/green infrastructure conceptually designed within the emerging NP.

In addition, it is unreasonable for the NP team so late in the NP review process to suggest the site be identified as an Important Local Gap with no technical justification, and indeed undermining its deliverability as a sustainable location for residential development.

I trust the above will be taken into account as the examination of the NP draws to an end. If you require any further information please do not hesitate to contact me.

Yours Sincerely,



**Claudia Jones MRTPI**  
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