

# **BENSON NEIGHBOURHOOD PLAN REVISION 2022 - 2035**

**The Report of the Independent Examiner to South Oxfordshire District Council  
on the Benson Neighbourhood Plan Revision**

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8<sup>th</sup> March 2023**

## Summary

I was appointed by South Oxfordshire District Council, in agreement with the Benson Parish Council, in December 2022 to undertake the Independent Examination of the Benson Neighbourhood Plan Revision.

The Examination has been undertaken by written representations.

The Neighbourhood Plan proposes modifications to some of the Policies in the 'made' Plan. It continues in its purpose to bring forward positive and sustainable development in the Neighbourhood Area. There is an evident focus on safeguarding the Area's distinctive character.

The Plan Revision has been underpinned by community support and proportionate community engagement. The Plan adds appropriate local detail to sit alongside the South Oxfordshire Local Plan 2035.

Subject to a series of recommended modifications set out in this Report I have concluded that the Benson Neighbourhood Plan Revision meets all the necessary legal requirements and should proceed to be made by South Oxfordshire District Council.

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## **Introduction**

This report sets out the findings of the Independent Examination of the Benson Neighbourhood Plan Revision 2022-2035. The Plan was submitted to South Oxfordshire District Council by Benson Parish Council in their capacity as the 'qualifying body' responsible for preparing the Neighbourhood Plan.

Neighbourhood Plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy. The NPPF was amended in 2021 and it is against that version of the NPPF that this Examination is conducted.

This report assesses whether the Benson Neighbourhood Plan Revision is legally compliant and meets the 'basic conditions' and other statutory requirements that such plans are required to meet. It also considers the content of the Plan and, where necessary, recommends modifications to its policies and supporting text.

## **The Role of the Independent Examiner**

The Examiner's role is to ensure that any submitted neighbourhood plan meets the legislative and procedural requirements. I was appointed by South Oxfordshire District Council, in agreement with the Benson Parish Council, to conduct the examination of the Benson Neighbourhood Plan Revision and to report my findings. I am independent of both the South Oxfordshire District Council and the Benson Parish Council. I do not have any interest in any land that may be affected by the Plan.

I possess the appropriate qualifications and experience to undertake this role. I have over 40 years' experience in various local authorities and third sector bodies as well as with the professional body for planners in the United Kingdom. I am a Chartered Town Planner and a panel member for the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I am a Member of the Royal Town Planning Institute.

In examining the Plan, I am also required, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

These are helpfully covered in the submitted Basic Conditions Statement and, subject to the contents of this Report, I can confirm that I am satisfied that each of the above points has been properly addressed and met.

## **The Plan Revision**

The Neighbourhood Planning Act 2017 identifies that Qualifying Bodies may seek to review 'made' neighbourhood plans. It introduces a proportionate process for the modification of Neighbourhood Plans where a Neighbourhood Development Plan has already been made in relation to that Neighbourhood Area.

There are three types of modification which can be made through a Neighbourhood Plan Revision. The process depends 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.

The Benson Parish and South Oxfordshire District Councils have, as is appropriate, considered this issue and taken the view that the proposed changes to the 'made' Plan fall into the second category: "material modifications which do not change the nature of the plan or order and which would require examination but not a referendum". I have properly considered these assessments and agree that, whilst the Plan Revision includes some material modifications, these do not change the nature of the Plan, which takes an ambitious but balanced view of local growth, and the Revision requires examination but not a referendum. I have reached this decision for the following reasons:

- revised policies largely update those in the 'made' Plan;
- where there are additional policies these do not change the nature of the Plan when considered alongside the made Plan; and
- modifications made within the Revision bring the Plan up to date to reflect changes in national and local planning policy.

It is therefore appropriate for me to examine the Plan against Schedule A2 of the Planning and Compulsory Purchase Act 2004. The regulations identify that an Independent Examiner's report must recommend one of three outcomes:

- that the local planning authority should make the draft plan; or
- that the local planning authority should make the draft plan with the modifications specified in the report; or
- that the local planning authority should not make the draft plan.

I will later consider each Plan Policy in turn and identify any modifications required to ensure that they meet the Basic Conditions and my recommendations then follow.

In undertaking this examination I have considered the following documents:

- Benson Neighbourhood Plan 2022-2035 Revision as submitted
- Parish Council Modification Statement (April 2022)
- District Council Modification Statement (December 2022)
- Benson Revised Neighbourhood Plan Basic Conditions Statement (undated)
- Benson Revised Neighbourhood Plan Revision Consultation Statement (September 2022)
- Screening Statement on the determination of the need for a Strategic Environmental Assessment (SEA) in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 and European Directive 2001/42/EC for the Benson Neighbourhood Development Plan Review (July 2022)
- Benson Neighbourhood Plan 2018 - 2033

- Content at: [www.southoxon.gov.uk/south-oxfordshire-district-council/planning-and-development/local-plan-and-planning-policies/neighbourhood-plans/emerging-neighbourhood-plans/benson-neighbourhood-plan/](http://www.southoxon.gov.uk/south-oxfordshire-district-council/planning-and-development/local-plan-and-planning-policies/neighbourhood-plans/emerging-neighbourhood-plans/benson-neighbourhood-plan/)
- Content at: <https://benonpc.org.uk/npd/>
- Representations made to the Regulation 16 public consultation on the Benson Neighbourhood Plan
- South Oxfordshire Local Plan 2035
- National Planning Policy Framework (NPPF) (2021)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)

I carried out an unaccompanied visit to the Neighbourhood Area on 21<sup>st</sup> February 2023 in particular to view the sites referenced within the Plan.

The legislation establishes that, as a general rule, neighbourhood plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Benson Neighbourhood Plan Revision could be examined without the need for a public hearing and I advised South Oxfordshire District Council accordingly. The Qualifying Body and the local authority have helpfully responded to my enquiries so that I may have a thorough understanding of the context and thinking behind the Plan, and the correspondence has been shown on the South Oxfordshire District Council neighbourhood planning website for the Benson Neighbourhood Plan Revision.

### **Benson Neighbourhood Area**

A map showing the boundary of the Benson Neighbourhood Area has been provided within the Neighbourhood Plan. Further to an application made by Benson Parish Council, South Oxfordshire District Council approved the designation of the Neighbourhood Area on January 9<sup>th</sup> 2013. This satisfied the requirement in line with the purposes of preparing a Neighbourhood Plan under section 61G(1) of the Town and Country Planning Act 1990 (as amended).

### **Consultation**

In accordance with the Neighbourhood Planning (General) Regulations 2012, the qualifying body has prepared a Consultation Statement to accompany the Plan.

The Planning Practice Guidance says:

“A qualifying body should be inclusive and open in the preparation of its neighbourhood plan [or Order] and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging neighbourhood plan [or Order]
- is made aware of how their views have informed the draft neighbourhood plan [or Order].” (Reference ID: 41-047-20140306)

I note that the decision to revise the Neighbourhood Plan was taken in early 2022 and the Neighbourhood Plan Development Team organised a public meeting with on-line follow-up in March 2022, both of which were publicised through social media. The formal six-week public consultation period on the Pre-Submission Benson Neighbourhood Plan Revision ran between 9<sup>th</sup> May and 20<sup>th</sup> June 2022. The Revised Plan put on Parish Council website with hard copies available at the Parish Hall and in the Library with information circulated through public events and social media. A summary report of the analysis of the 68 responses

received and the actions relating to them was prepared and is included within the Consultation Statement.

I am therefore satisfied that the consultation process was proportionate to the scale of the Revision and accords with the requirements of the Regulations and the Practice Guidance and that, in having regard to national policy and guidance, the Basic Conditions have been met.

### **Representations Received**

Consultation on the submitted Plan Revision, in accordance with Neighbourhood Planning Regulation 16, was undertaken by South Oxfordshire District Council from Thursday November 10<sup>th</sup> until Thursday December 22<sup>nd</sup> 2022. I have been passed 41 representations in total and these have been made available on the Neighbourhood Plan Review webpage. A significant number of the representations are supportive of the Plan in some or many respects; this may helpfully indicate the value of the public consultation. In reaching my own conclusions about the specifics of the content of the Plan I may later reference Regulation 16 representations and note points of agreement or disagreement with them, just as the Qualifying Body has already done for earlier consultations. That does not imply or suggest that consultation has been inadequate, merely that a test against the Basic Conditions is being applied.

## **The Neighbourhood Plan**

### **Basic Conditions**

The Independent Examiner is required to consider whether a neighbourhood plan meets the “Basic Conditions”, as set out in law following the Localism Act 2011. In order to meet the Basic Conditions, the Plan must:

- have 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 for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

The submitted Basic Conditions Statement has helpfully set out to address the issues in the same order as above and, where appropriate, has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. I note that the Local Plan is the South Oxfordshire Local Plan 2035

I have examined and will below consider the Neighbourhood Plan against all of the Basic Conditions above, utilising the supporting material provided in the Basic Conditions Statement and other available evidence as appropriate.

Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan Revision continues to have regard to national planning policies and guidance in general terms. The Plan continues to set out the community needs it will meet whilst identifying and safeguarding Benson’s distinctive features and character. The Revision has been approached with transparency and care, with input as required and support from South Oxfordshire District Council.

Because this is a Plan Revision, in the majority of instances, regard for national policies and general conformity with local strategic policies have already been established at the previous Examination. However, in the writing up of the current Plan document, it is sometimes the case that the phraseology is imprecise, not helpful, or it falls short in justifying aspects of the

selected policy. Planning Practice Guidance says 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” (Paragraph: 041 Reference ID: 41-041-20140306). Accordingly, I have been obliged to recommend modifications so as to ensure both clarity and meeting of the ‘Basic Conditions’.

## **The Plan in Detail**

### **Front Cover**

I note that the period that the Plan covers has been clearly stated on the front cover. The “Submission Version” title can now be removed.

### **Table of Contents**

I shared with the Qualifying Body a concern 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 (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 Qualifying Body explained that there had been software compatibility issues which could be addressed when finalising the post-examination revision.

Whilst the paragraph numbering within the Plan changes to reflect each section, the section headings are themselves not numbered. I noted to the Qualifying Body that 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 in the Table of Contents 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. The Qualifying Body agreed that these changes should be made.

Once the Table of Content is complete, I suggested that the “List of Policies” (pages 17 & 18) might be adapted to show a comparison of Policy numbering between the Review and the original Plan, allowing people to quickly see the areas changed. The Qualifying Body agreed that such a change could be helpful to readers.

### **Recommendation 1:**

*1.1 Delete from the front cover and the page headings “Submission Version – September 2022”; delete or update the ‘version’ information on page 2.*

*1.2 Review the Table of Contents in the light of the modifications recommended in this Report and so as to number the section heading (also in the body of the Plan), reference all the Policy content and remove the stray footnote indicator.*

*1.3 Bring forward and alter the table ‘List of Policies’ to provide a comparison between the numbers and titles used in the Revision and the original versions of the Plan.*

### **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 reference 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 the text acknowledges, 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 a purpose of the Local Green Space designation (NPPF paras 101 – 103) to “safeguard the flood retention capacity” of any space; the Qualifying Body suggested revised wording to ensure that the sentence did not mislead and I have based my recommendation on that.

**Recommendation 2:**

*2.1 Under the sub-heading “Deliver approximately 565 new houses”, in the last sentence of the first paragraph replace “a” with ‘the 15% growth’.*

*2.2 Under the sub-heading “Designate Local Green Spaces”, in the first sentence remove the use of capital letters for “Local Green Space”.*

*2.3 Under the sub-heading “Climate Statement”, at the top of page 14, replace the bullet point beginning “using Local Green Space designation” with ‘using Local Green Space designation to safeguard the Flood Meadows beside the River Thames for their beauty, biodiversity and their value for healthy exercise and enjoyment’.*

**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 Revision Plan has been written to assure general conformity with the Local Plan 2035. The Local Plan source for the map on page 26 ought to be declared.

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 with which the Qualifying Body agreed.

In relation to paragraph 3.10, as noted in representations, it is unclear why it is felt that the retention of allocation Policy BEN1 Phase 2 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 Revision process about which parts to review has been 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. However, the Qualifying Body has explained that “This paragraph is simply intended to explain why it was necessary to allocate the sites

selected and the amount of new housing proposed; and why the Relief Road was such an important factor". I am therefore content that the Plan should continue forward some explanatory detail as part of the transition to the Revision.

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. The Qualifying Body responded: "We agree this paragraph is not clear enough. The vague reference to 'framework' at the start is to Local Plan 2035, not to the NPPF. We would be happy to amend it to refer explicitly to Local Plan 2035 policies (as well as the Environment Act 2021)." Accordingly, some minor rewording is recommended.

**Recommendation 3:**

*Under the heading "Planning Policy Content":*

*3.1 In the opening sentence use '2021' in full.*

*3.2 Reword paragraph 3.4 as: 'Unlike the original Benson Neighbourhood Plan, this Revision has been written to assure conformity solely with the strategic policies of the adopted Local Plan 2035'.*

*3.3 Declare the Local Plan source for the map on page 26.*

*3.4 Replace paragraph 3.7 with 'Policy H9 in the Local Plan 2035 sets out that 40% affordable housing is required on all sites with a net gain of 10 or more dwellings or where the site has an area of 0.5 hectares or more. In the AONB this is required on sites with a net gain of five or more dwellings.'*

*3.5 Reword paragraph 3.12 as: 'The Local Plan 2035 requires the mix of housing types to reflect local circumstances. This Revision maintains its focus on promoting a housing mix that matches the needs of our community'.*

*3.6 In paragraph 3.18 replace "The framework" with 'The Local Plan 2035'.*

**Community Views on Planning**

No comments.

**Vision, Objectives and Land Use Policies**

I note that this section has not been altered.

**Land Use Policies**

**Introduction**

**Housing Allocation Policy**

The amendment to the Allocated Sites Map – described in the Modification Statement as a "minor change" to "remove two small strips of land no longer required to meet housing quota for BEN3/4 consented site" - has proved to be the most contentious of changes.

Understandably so since it removes the significant benefit of an allocation of land for development. On behalf of an affected landowner, a representation has provided extensive arguments as to why "the emerging NP **does not** [original emphasis] include robust justification to remove the site 'The Orchard' as an allocation for development". The representation continues that the removal of the site will result in "the emerging NP not meeting the following basic conditions as per the PPG [Planning Practice Guidance]:

- 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.” The Qualifying Body has reasoned that the challenges are ill-founded and the objector has further argued that their case is robust. I therefore propose to consider the issues one-by-one.

Prior to this I need also to consider the matter of accuracy with the description of how it came about that the original BEN3/4 site was not subsequently planned comprehensively, a matter raised by me in my opening enquiries. I have no ability – and probably it would serve no purpose – to adjudicate between the differing accounts of who knew what when. Evidently David Wilson Homes were able to achieve the required housing numbers to underwrite the cost of their section of relief road without the need to acquire the land now “no longer required to meet housing quota for BEN3/4 consented site” (Qualifying Body’s explanation). The NPPF says (paragraph 119): “Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions”. This sentence might be considered descriptive of the exercise being undertaken within the Benson Neighbourhood Plan Revision – reviewing progress to ensure an appropriately balanced and effective use of land to deliver the Plan objectives. This therefore is the appropriate context for me to consider the specific issues from the representation.

#### 1. Contributing to achieving sustainable development

The representation notes, correctly, that the land in question has previously been included within a site assessed as being capable of supporting sustainable development. The Qualifying Body has explained: “The Orchard was only included in the BEN4 allocation of our original NP because it was included by SODC in their February 2015 ‘Call for Sites’ map for Benson”. The Qualifying Body, now being better informed about the delivery capacity of sites with a planning consent and conscious of the ‘growing pains’ arising from Benson expanding very significantly and quite quickly, feels the need to re-draw a line. In that endeavour they are supported by the local planning authority which has acknowledged the extent to which Benson has gone beyond reasonable growth expectations as a Large Village. The Local Plan 2035 has assessed 15% growth as sustainably proportionate at Large Villages, of which Benson is one. It is reasonable to conclude that disproportionate growth may, intrinsically, no longer be regarded as sustainable. A plan-led system is designed to assure balanced growth.

As the NPPF notes (paragraph 8), achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:

An economic objective that includes identifying and coordinating the provision of infrastructure: the Benson Neighbourhood Plan has exceeded the minimum levels of growth required by the Local Plan in order to achieve the full funding of a relief road from approved developments. That challenging objective has been achieved and no further such funding is required.

A social objective which includes supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations: the Benson Neighbourhood Plan has provided significantly more than double the number of houses needed to meet the local authority assessed housing requirement and that deliberate over-supply can now be seen to be challenging the social cohesion needed for a healthy community. Paragraph 4.30 of the Local Plan says: “The Council will support Larger Villages to allocate further development sites *should the NDP so wish [my emphasis]*, where this level of growth is sustainable for that village.” The Neighbourhood Plan therefore has a key role in defining growth limits.

An environmental objective including to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently: the Benson Neighbourhood Plan has sought a rural community balance between built and open spaces with transition zones between the open countryside and the new construction. From my visit to the Neighbourhood Area, it was evident that the site in question is an important part of that transition zone. Whilst it may be less possible to conclude that Benson and Rokemarsh are in danger of actual coalescence, none-the-less Braze Lane which, travelling west, branches off toward Rokemarsh before the first new roundabout of the Relief Road, presently has a distinctly rural character. Although construction in that part of Benson is far from complete, the evidence of the sheer scale of the change occurring leads me confidently to conclude that the significant transitional benefit of the land between Braze Lane and the new construction on the countryside edge is now very evident on the ground. Within a comprehensive proposal for the original BEN3/4 site there would have been a clear case for the site being part of the planned open space and transitional landscaping. I am aware of previous Appeal decisions which have dismissed proposals for the development of land at The Orchards whilst, within their reports, suggesting the land is suitable for development in principle. The fact remains that The Orchards is detached (without direct road or pedestrian connections) from the comprehensively planned construction already commenced and needs to be assessed in its rural, Braze Lane context. As such the site is an outlier to both Benson and Rokemarsh.

The NPPF notes the need for mutually supportive proposals to assure progress across all three overarching objectives. The above analysis shows a clear potential for development pursued for its own sake to imbalance the benefits that have been sought through a plan-led approach to growth. The NPPF (paragraph 15) says “Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; *and a platform for local people to shape their surroundings [my emphasis]*”. My conclusion therefore is that it is appropriate for the Neighbourhood Plan Revision to revisit the matter of land take and that it is appropriate for land take to be reduced in line with the planning consents granted.

## 2. General conformity with strategic policies contained in the development plan

The representation has advanced a case that the Plan Revision would conflict with the Basic Condition requirement for general conformity with the Local Plan: “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.” I note that Benson has already allocated sites beyond the 15% growth rate.

Quoting the exact words of paragraph 4.30 of the Local Plan: “The Council will support Larger Villages to allocate further development sites *should the NDP so wish [my emphasis]*, where this level of growth is sustainable for that village, and where this is in accordance with national policies and guidance”. National Planning Practice Guidance says (Paragraph: 044 Reference ID: 41-044-20190509) “A neighbourhood plan can allocate additional sites [I believe it is reasonable here to infer housing numerically also] to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy.” The local planning authority has acknowledged that Benson has no obligation to provide any additional housing

through the Local Plan period to 2035 based on its evidence of need. The Qualifying Body has no evidence to suggest that there are unmet needs (with much construction still in the pipeline) and it is reasonable to infer that additional housing in excess of twice the level of need identified cannot confidently be said to be “sustainable for that village”. No evidence has been put forward to suggest that is the case. My conclusion is therefore that, in this matter, there is no conflict with the Local Plan general conformity requirement, and I note that the local authority has not suggested that is the case.

3. It has been demonstrated that the site would not create coalescence between Benson and Rokemarsh: having considered the factors addressed at previous Appeals, the details now presented in the representation to refute coalescence and the contra arguments, and the evidence of my own site visit, my conclusion is that ‘The Orchard’ site is not fundamental to any risk of coalescence. I will consider other impacts below, but it is evident that Rokemarsh will remain a distinct settlement set in its own countryside surrounds.

4. [The site] would [not] hinder the landscape buffers/green infrastructure conceptually designed within the emerging NP: as noted above, the significant transitional benefit of the site on the countryside edge is now very evident on the ground. Within a comprehensive proposal for the original BEN3/4 site there would have been a clear case for the site being part of the planned open space. I note that one of the reasons for the refusal of planning application P21/S0882/O was that: “It has not been demonstrated the proposal would not threaten the health and longevity of trees and hedgerows on 3rd party land, making a positive contribution to the rural character and appearance of the area that forms an important transition from the village to wider countryside and which is intended to be retained and enhanced as part of a landscape buffer for the adjacent development, and alongside the introduction of hard engineering features for the footway and signage this means the proposal will result in detrimental harm to the rural character and appearance of the site and its surroundings. As such, the proposal is contrary to Policy DES1 (High Quality Development) and Policy ENV1 (Landscape and Countryside).” My conclusion accords with this reasoning; the site is on the wrong side of the landscaped buffer.

My overall conclusion is therefore that the harms arising from continuing to show ‘The Orchard’ site (and in a similar manner other land to the north-west) as allocated for development significantly outweigh the proposed benefits for Benson, the objectives of the plan to realise a relief road for Benson having already been realised or put in train. Accordingly, for consistency and to avoid confusion, the detailing of Figure 6 (excluding the key which, it seems, has already been adjusted) should be matched with Figures 4, 5 & 7 by not highlighting the areas now omitted from the land take.

### **Policy NP1 – Housing**

Although representations have challenged the value and purpose of the addition relating to Settlement Boundaries, I accept the local authority view that the boundaries legitimately add local detail to aid the implementation of the Local Plan. In particular I note that Policy STRAT1 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 stated and a commentary on its application provided in Appendix M; these demonstrate that the boundary has been defined transparently and consistently. I acknowledge that it would not be appropriate to include within the settlement boundary sites which are not now allocated or do not have a planning consent. My one initial area of reservation related to the 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. The Qualifying Body has explained: “We consulted with SODC on this and they considered that it would be appropriate to include the site within the settlement boundary, in order to ensure the methodology is consistently applied – the area contains a concentration of built form,

which relates well to the settlement, in line with criterion 1 of the methodology”. The explanation is well reasoned and I accept that the methodology is being applied consistently.

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?” The Qualifying Body has responded: “Greenhaye is an Edwardian villa set well back c.125 metres behind the main building line along the lane through Preston Crowmarsh (and c.170 metres from the lane itself). It stands alone between a woodland plantation to the north and fields to the south. This is unusual for Preston Crowmarsh where development is characterised by historic buildings that hug the lane, with deeper grouping seen only at the modern houses at either end of the hamlet..... Given Criteria 1, 3, 5 and 8 of the Methodology set out in Appendix M, the NPT considered that it would not be consistent to include Greenhaye within the boundary.” It is important to note that a Conservation Area and a Settlement Boundary perform very different functions, with very different methodologies. Having examined the position of the Greenhaye property for myself, I can see that its setting and density are more akin to the countryside than the built-up area. My conclusion therefore is that the methodology for defining the Settlement Boundary has been applied appropriately and consistently.

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. The Qualifying Body accepted both amendments.

### **Site Allocations**

This section has not been part of the substantive Review. A representation has commented that the Site Assessment Report, prepared as part of the adopted Neighbourhood Plan in October 2017, made a number of assumptions .... which are considered to be out-of-date; but as the allocations have not been reviewed neither has the Assessment Report. The local authority has suggested some minor rewordings designed simply to provide greater clarity. The Qualifying Body agreed that these were uncontentious.

#### **Recommendation 4:**

*4.1 Under the heading “Housing Allocation Policy” amend the first sentence of paragraph 6.10 to read: ‘This Revision Plan includes changes to the clauses of Neighbourhood Plan Policy NP1 that deal with development other than major allocations’.*

*4.2 Within Figure 6 remove the brown shading for the sites now excluded from the BEN 3/4 land take.*

*4.3 Within Policy NP1:*

*4.3.1 In the third paragraph replace “expectations” with ‘strategy’.*

*4.3.2 Amend the final paragraph to read:*

*‘Proposals for development outside the settlement boundaries for Benson and Preston Crowmarsh will only be supported if they are consistent with Local Plan 2035 policies for management of the countryside, and with other policies in the Local Plan 2035 and this Plan Revision.’*

*4.4 Under the heading “Site Allocations”:*

*4.4.1 Amend the second criteria of Policy NP2 to read:*

*‘Provision of public open spaces at the indicative scale, with recreation and play facilities as required by Policies NP20 and NP22, including Skate Park and Fitness Trail, plus the provision of a Community Hall building with appropriate parking’.*

*4.4.2 Delete the third criterion, beginning “Payment to OCC”, of Policy NP3.*

*4.4.3 Delete the third criterion, beginning “Payment to OCC”, of Policy NP4.*

As amended Policies NP1 – NP4 meet the Basic Conditions.

### **The Riverside**

I commented to the Qualifying Body that the Riverside section appeared oddly located, within a section otherwise exclusively devoted to allocating land for housing. The Policy relating to the designation of a Local Green Space that has a riverside location is elsewhere within the Plan. The Qualifying Body responded: “The NPT would like to see the Riverside section retained in this location in the Plan because of its strategic importance, but would be happy to make it a separate chapter if the Examiner thinks this appropriate. There is also some advantage in this location as NP5 replaces a discontinued policy, thereby allowing policy numbering to continue much as in the original plan, and minimising confusion for readers familiar with the previous Plan. We recognise that an alternative home for this section could be with the Landscape policies, but note that the strategy might not wholly fit with the landscape subject matter.”

I accept the reasoning but, for a “strategic” policy I would expect a methodology for 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 and 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. Unlike the Settlement Boundary, there is no commentary defining the edges and coverage of the Buffer Zone, and from my visit to the area it is clear that not all included spaces are equally intervisible, distance alone in some instances making a difference.

As noted by the local authority, Policy NP5 has appropriate regard for national and local policy on landscape and design, and as now written, without unacceptable duplication of those. Its distinctive element is its defined area of application. I should therefore restrict my recommendations to what is required in terms of presentation appropriate to the nature of the policy evidence presented. The presentation must also have regard to the boundary of the Neighbourhood Area and not move outside it; the supporting text explains that many valued views are from the Thames Path rather than from the river bank within the Area.

Paragraph 6.38 refers to the extract of the Environment Agency map being Figure 11 whereas in reality it is Figure 22.

#### ***Recommendation 5:***

*Under the heading “Riverside”:*

*5.1 In paragraph 6.38 correct the reference to “Figure 11” to ‘Figure 22’, update the map and ensure a clear source reference.*

*5.2 Within Figure 10:*

*5.2.1 Replace the boundary and infill indicating the Buffer Zone with an open green hatching showing the buffer as indicative rather than hard-bounded.*

*5.2.2 Amend the view arrows such that they all originate inside the defined Neighbourhood Area.*

As amended Policy NP5 meets the Basic Conditions.

## **Conservation and Heritage**

Policy NP6 has not been revised.

### **Design**

I note that “This policy [NP7] 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 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 blunter 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. The Qualifying Body suggested revised wording on which my recommendation is based.

#### **Recommendation 6:**

*Under the heading “Design”:*

*6.1 Ensure that all references to the South Oxfordshire District Council’s Joint Design Guide acknowledge that it is now an adopted Supplementary Planning Document and replace the first three sentences of paragraph 8.3 with: ‘South Oxfordshire District Council’s Joint Design Guide outlines processes for assessing and responding to the character of the locality and the needs of development. Given the diversity of settlements within the District however, the Guidance does not offer advice on specific locations.’*

*6.2 Within the “Design Statement” referenced in Policy NP7:*

*6.2.1 Ensure that the new sections are fully integrated within the contents page: page numbering and hyperlinking.*

*6.2.2 On page 46 replace R4 with:*

*‘Modifications to the fabric of historic buildings within the Neighbourhood Plan Area, to increase thermal efficiency and/or introduce renewable energy, should have regard for the particular character of the building, and for related local and national guidance relevant to its historic significance.’*

Policy NP7 continues to meet the Basic Conditions.

## **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.

#### **Recommendation 7:**

*Under the heading ‘Roads and Transport’ in paragraph 9.16 delete “proposed” which precedes “Oxfordshire Local Transport and Connectivity Plan”.*

Policies NP8 - NP11 continue to meet the Basic Conditions.



## **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 and, subject to a slight variation, the Qualifying Body agreed with the 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'. The Qualifying Body agreed with these amendments.

#### **Recommendation 8:**

*Under the heading "Community Facilities Policies":*

*8.1 Amend Policy NP14 to read:*

*'Where planning permission is required, proposals that result in the loss of Class E (Commercial, Business and Service) uses at ground floor level within the Village Centre, as identified in Figure 17, should, to be supported:*

- not undermine the vitality and viability of the village centre, and either*
- ensure the new use meets an evidenced community need, or*
- evidence that there is no market interest in the premises concerned for Class E uses following one year of active and effective marketing.*

*8.2 Within Policy NP15 delete the fourth bullet point and, in the last sentence replace "will be" with 'are'.*

As amended Policies NP14 & NP15 meet the Basic Conditions.

## **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 11.5 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. Whilst accepting the point the Qualifying Body commented: "We would welcome recommendations to clarify the proactive role of the NP in planning for ecological networks". I believe that is already covered in paragraph 11.7.
- 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 observation applies to the title of Policy NP22. The Qualifying Body acknowledged that this was appropriate.

In relation to the designation of the additional Local Green Space – Flood Meadows” - a number of queries arose 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 are no reference links to these. The Qualifying Body explained: “A team of experienced local bird recorders conducted 12 surveys of the Flood Meadows during the breeding season between April and July 2022, using a formal transect-based methodology. A further professional survey and report was commissioned from Wild Oxfordshire. There is already a link to this professional survey at the end of Para 30 of Appendix K (Benson’s Green Infrastructure Assets)...”. Accordingly, I will recommend that the referencing within Appendix K is made complete and the Plan itself references Appendix K.
- “The meadows have been identified by TVERC as possible priority habitat” – but there is no reference link to this. The Qualifying Body provided a copy of the related map which established that the proposed Local Green Space was amongst a number of similarly designated spaces; it is not therefore of great significance to the matter of designation.
- The Regulation 14 Consultation suggested that the landowners are not supportive of the designation. However, the Qualifying Body confirmed that conversations have been conducted with the landowners’ agents to keep them informed of proposals.
- “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 two public footpaths 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 Qualifying Body commented: “Residents and visitors understand and respect that the densely vegetated hinterland is private land and that the many breeding birds (as well as the significant ranges of plants, amphibians and insects) should not be disturbed. We believe that the status of this specific area as part of a National Trail, the openness of the flood meadows site, its unspoilt riverside landscape, the views of it and from it, and the breadth of activities and pastimes conducted along the river (walking, running, fishing, wild-swimming, dog-walking, picnicking, wildlife watching etc) means that this area is far more than just a ‘right of way’ and therefore needs protection beyond that provided for rights of way.”
- “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 Qualifying Body responded: “We understand that NPPF Section 14 covers many aspects of flood management and mitigation, but appears to omit discussion of natural mitigation methods and how they should be viewed in a planning context”.
- “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 Qualifying Body commented: “The RSPB and all the Wildlife Trusts in the UK are clear that preserving/increasing biodiversity depends fundamentally on scaling up habitats through the aggregation of smaller sites and the creation of safe corridors between them”. Whilst this may be true in relation to increasing biodiversity it is not relevant to the designation of a particular space as a Local Green Space for which there are very specific criteria.
- 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. The Qualifying Body has explained: “The measurements relate to the 2 Flood Meadows (having areas of 1 ha and 3.1 ha respectively) and are included to demonstrate that they meet the third criterion in Para 102 of the NPPF that the designated spaces should be local and not an extensive tract of land”.

My conclusion from the additional explanations and supporting material now provided is that the Flood Meadows meet the criteria for designation as a Local Green Space but the references to the network of natural spaces of which the particular Flood Meadows form a part are irrelevant, and are therefore potentially confusing, and should be omitted in this particular context. The value of the spaces to nature and for recreation is evident but the *particular* local significance is largely in the easy accessibility of the spaces to the Benson community.

In relation to Policy NP22 – Creation of New Local Green Spaces I noted that the additional wording is an ‘encouragement’ which would have the potential to open a dialogue with the community. However, the Qualifying Body responded: “On reflection this final sentence is now redundant, as the uses of the green spaces on all our allocated sites have been agreed, following lots of community engagement (e.g. on BEN3/4, community engagement has driven the provision of extra allotments, a community orchard and an enhancement of the eastern circular walking route to accommodate cyclists) and we are explicitly not seeking to allocate any further sites in this plan review.” My recommendation therefore follows this reflection.

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, and the Qualifying Body agreed. The local authority 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 (incorrectly referenced in the Qualifying Body’s Modification Statement as NP24) has been updated to better conform with the equivalent Local Plan 2035 Policy.

**Recommendation 9:**

*Under the heading “Environmental Policies”:*

*9.1 Amend paragraph 11.5 to read:*

*‘The NPPF (Section 15) expects that the planning system recognises ecological networks, green and blue assets, their maintenance and protection, and opportunities for enhancement. Enhancement can involve improving the management of existing sites and creating new ones, particularly where they connect up existing green spaces.’*

*9.2 In the heading immediately prior to paragraph 11.14 omit “Local”.*

*9.3 In paragraph 11.15, between “spaces” and “from”, add ‘of particular local significance’.*

*9.4 In paragraph 11.16, in the last sentence, replace “LGS” with ‘Local Green Space’.*

*9.5 In paragraph 11.17, after “summer 2022”, insert ‘(detailed references in Appendix K)’.*

*9.6 Delete paragraph 11.18 and renumber subsequent paragraphs accordingly.*

9.7 Within Policy NP21 delete “(new Local Green Space designation)” and number the spaces to match the numbers used in Figure 19.

9.8 The reference at the end of paragraph 11.24 is incorrect. It should be reworded as “See Para 11.44 and map at Figure 21”.

9.9 Within Policy NP22 delete “Local” in the title and delete the final sentence.

9.10 Within Policy NP23 replace the last sentence with:  
‘Development proposals should demonstrate the appropriate use of street tree planting to provide space for nature throughout the village and shade in a warming climate.’

9.11 Within Policy NP24 replace the last sentence with:  
‘Where ecologically relevant, proposals are encouraged to incorporate features into fences and walls that allow dispersal of wildlife through areas of green space and gardens.’

As amended Policies NP21 – NP24 & NP26 meet the Basic Conditions. Policy NP25 continues to meet the Basic Conditions.

### **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. The Qualifying Body responded that: “The NPT wished to include reference to farmsteads in Policy NP27 because the gaps between Benson and Hale Farm, and between Preston Crowmarsh and Crowmarsh Battle Farm, are now reduced to single fields.” But this seems to ignore the point of clarification that the local authority is making – to suggest that these farms are other than ‘in the countryside’ is potentially undermining of the purpose of defining a Settlement Boundary.

I note that Policies NP27 and NP28 both reference Figure 20 and this seems to emphasise the considerable degree of overlap between the two. I queried with the Qualifying Body whether anything 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 Qualifying Body responded: “The NPT did consider whether a single policy would suffice but opted for two separate policies on the basis that they applied to different strands of landscape policy. NP27 is very much about the gaps and preserving open rural space between the settlements. It relates to whether significant building might be permitted or not, and to what extent. Policy NP28 is more about the suitability of development for particular landscape settings, bearing in mind the possibility of approval for buildings in the countryside in certain circumstances, as set out in national Policy and in SODC Local Plan 35 policies H1, H19, CF2 and EMP10.” The separation ought therefore to be made more distinct.

A representation comments that “the evidence base supporting revised Policy NP28 is considered to be inaccurate and requires full consideration at Examination”. I have considered the new and revised content of Appendix E. The new Appendix E2 adds appropriate local detail to the areas as defined by the South Oxfordshire Landscape Character Assessment 2017. The detailing of views in Appendix E Part 3 is helpful in illustrating the landscape character at various locations. 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. Overall I regard the E Appendices as meeting the expectations of objective

assessment; it is inevitable that some detail will be open to challenge but that does not invalidate the assessments overall.

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 should 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.

**Recommendation 10:**

*Under the heading "Landscape and Distinctiveness of Settlements":*

*10.1 Within Policy NP27 remove the final bullet point and the final sentence.*

*10.2 Within Policy NP28 after "viewpoints" add 'and important local gaps' and replace the final sentence with:*

*'Where possible, development proposals should improve public access to and enjoyment of the countryside.'*

*10.3 In Paragraph 11.42 delete 'and identifies locally important gaps in Figure 20' in the last sentence of bullet point 4. Split the fifth bullet point into two after the first reference to Appendix E. Reword the new sixth bullet point as: 'A revised Policy NP28. This relates more comprehensively to all development within the Plan area, including within the countryside and requires consideration of a greater number of views, important local gaps and the new Landscape Character Assessments in Appendix E. The views and important gaps are shown in Figure 20 below together with a short description of each view. Illustrations are included in Appendix E Part 3. Views from outside the Plan area are taken into account, particularly where affecting views into and out of the AONBs, but only with regard to development within the Plan area.'*

*10.4 In paragraph 11.46 replace "Reg 19" with 'Regulation 14'.*

Policies NP27 – NP30, incorporating the amendments as noted above, meet the Basic Conditions.

**Appendices**

I have noted points above on the content in Appendices where they interrelate to reviewed Policy content. The County Council have 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 the Qualifying Body agreed it would be appropriate for any factual errors to be corrected as soon as they are confirmed.

**Recommendation 11:**

*Within Appendix A Site Assessment correct the entry for BEN9 Benson Material Store, land to the south of St Helen's Avenue by removing the detail: 'lies almost wholly in Flood Zone'.*

## European Union (EU) and European Convention on Human Rights (ECHR) Obligations

A further Basic Condition, which the Benson Neighbourhood Plan Revision must meet, is compatibility with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal. A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion for the Benson Neighbourhood Plan Revision has been used to determine whether or not the content of the Plan requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plan and Programmes Regulations 2004. In accordance with Regulation 9 of the SEA Regulations 2004, South Oxfordshire District Council determined in their Report dated July 2022 that “The Benson NDP Review is unlikely to have significant effects on Natura 2000 sites, therefore, an Appropriate Assessment for the Benson Neighbourhood Development Plan Review is not required” and “Based on the assessment presented in Appendices 1 & 3 [of their Report], the Benson NDP Review is unlikely to have a significant effect on the environment” and in conclusion “The Benson NDP Review does not require a Strategic Environment Assessment”. Where input was forthcoming, the Statutory Consultees supported this conclusion.

As indicated in the Basic Conditions Statement, “The Revised Plan has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. The main issues for planning in the context of human rights are protection of property, right to respect for private and family life and prohibition of discrimination. The Plan complies with the requirements of the Human Rights Act 1998.” No evidence has been put forward to demonstrate that this is not the case.

Taking all of the above into account, I am satisfied that the Benson Neighbourhood Plan Revision is compatible with EU obligations and that it does not breach, nor is in any way incompatible with, the ECHR.

### Conclusions

The Revision of the ‘made’ Benson Neighbourhood Plan sets out some modified and new policies to guide and direct development proposals in the period up to 2035. It has been properly prepared to improve the Plan and to address changes in national and local planning policy which have arisen since the initial Plan was ‘made’. My assessment is that the Plan Revision includes material modifications which do not change the nature of the Plan and which require examination but not a referendum.

My Independent Examination of the Plan concludes that the Benson Neighbourhood Plan Revision meets the basic conditions for the preparation of a Neighbourhood Plan subject to a number of recommended modifications. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met but the Plan Revision remains fundamentally unchanged in its role and direction set for it by the Qualifying Body.

***Accordingly, I recommend that South Oxfordshire District Council should ‘make’ the draft Benson Neighbourhood Plan Revision, subject to the modifications set out in this Report.***

**Recommendations:** (this is a listing of the recommendations exactly as they are included in the Report)

Rec.	Text	Reason
1	<p>1.1 Delete from the front cover and the page headings “Submission Version – September 2022”; delete or update the ‘version’ information on page 2.</p> <p>1.2 Review the Table of Contents in the light of the modifications recommended in this Report and so as to number the section heading (also in the body of the Plan), reference all the Policy content and remove the stray footnote indicator.</p> <p>1.3 Bring forward and alter the table ‘List of Policies’ to provide a comparison between the numbers and titles used in the Revision and the original versions of the Plan.</p>	For clarity and accuracy
2	<p>2.1 Under the sub-heading “Deliver approximately 565 new houses”, in the last sentence of the first paragraph replace “a” with ‘the 15% growth’.</p> <p>2.2 Under the sub-heading “Designate Local Green Spaces”, in the first sentence remove the use of capital letters for “Local Green Space”.</p> <p>2.3 Under the sub-heading “Climate Statement”, at the top of page 14, replace the bullet point beginning “using Local Green Space designation” with ‘using Local Green Space designation to safeguard the Flood Meadows beside the River Thames for its beauty, biodiversity and its value for healthy exercise and enjoyment’.</p>	For clarity and accuracy
3	<p>Under the heading “Planning Policy Content”:</p> <p>3.1 In the opening sentence use ‘2021’ in full.</p> <p>3.2 Reword paragraph 3.4 as: ‘Unlike the original Benson Neighbourhood Plan, this Revision has been written to assure conformity solely with the strategic policies of the adopted Local Plan 2035’.</p>	For clarity and accuracy

	<p>3.3 Declare the Local Plan source for the map on page 26.</p> <p>3.4 Replace paragraph 3.7 with ‘Policy H9 in the Local Plan 2035 sets out that 40% affordable housing is required on all sites with a net gain of 10 or more dwelling or where the site has an area of 0.5 hectares or more. In the AONB this is required on sites with a net gain of five or more dwellings.’</p> <p><i>3.5 Reword paragraph 3.12 as: ‘The Local Plan 2035 requires the mix of housing types to reflect local circumstances. This Revision maintains its focus on promoting a housing mix that matches the needs of our community’.</i></p> <p>3.6 In paragraph 3.18 replace “The framework” with ‘The Local Plan 2035’.</p>	
4	<p>4.1 Under the heading “Housing Allocation Policy” amend the first sentence of paragraph 6.10 to read: ‘This Revision Plan includes changes to the clauses of Neighbourhood Plan Policy NP1 that deal with development other than major allocations’.</p> <p>4.2 Within Figure 6 remove the brown shading for the sites now excluded from the BEN 3/4 land take.</p> <p>4.3 Within Policy NP1:</p> <p style="padding-left: 40px;">4.3.1 In the third paragraph replace “expectations” with ‘strategy’.</p> <p style="padding-left: 40px;">4.3.2 Amend the final paragraph to read: ‘Proposals for development outside the settlement boundaries for Benson and Preston Crowmarsh will only be supported if they are consistent with Local Plan 2035 policies for management of the countryside, and with other policies in the Local Plan 2035 and this Plan Revision.’</p> <p>4.4 Under the heading “Site Allocations”:</p> <p style="padding-left: 40px;">4.4.1 Amend the second criteria of Policy NP2 to read: ‘Provision of public open spaces at the indicative scale, with recreation</p>	For clarity and accuracy and to meet Basic Condition 1



	<p>and play facilities as required by Policies NP20 and NP22, including Skate Park and Fitness Trail, plus the provision of a Community Hall building with appropriate parking’.</p> <p>4.4.2 Delete the third criterion, beginning “Payment to OCC”, of Policy NP3.</p> <p>4.4.3 Delete the third criterion, beginning “Payment to OCC”, of Policy NP4.</p>	
5	<p>Under the heading “Riverside”:</p> <p>5.1 In paragraph 6.38 correct the reference to “Figure 11” to ‘Figure 22’, update the map and ensure a clear source reference.</p> <p>5.2 Within Figure 10:</p> <p>5.2.1 Replace the boundary and infill indicating the Buffer Zone with an open green hatching showing the buffer as indicative rather than hard-bounded.</p> <p>5.2.2 Amend the view arrows such that they all originate inside the defined Neighbourhood Area.</p>	For clarity and accuracy and to meet Basic Condition 1
6	<p>Under the heading “Design”:</p> <p>6.1 Ensure that all references to the South Oxfordshire District Council Joint Design Guide acknowledge that it is now an adopted Supplementary Planning Document and replace the first three sentences of paragraph 8.3 with: ‘The South Oxfordshire’s Joint Design Guide outlines processes for assessing and responding to the character of the locality and the needs of development. Given the diversity of settlements within the District however, the Guidance does not offer advice on specific locations.’</p> <p>6.2 Within the “Design Statement” referenced in Policy NP7:</p> <p>6.2.1 Ensure that the new sections are fully integrated within the contents page: page numbering and hyperlinking.</p> <p>6.2.2 On page 46 replace R4 with:</p>	For clarity and accuracy

	<p>'Modifications to the fabric of historic buildings within the Neighbourhood Plan Area, to increase thermal efficiency and/or introduce renewable energy, should have regard for the particular character of the building, and for related local and national guidance relevant to its historic significance.'</p>	
7	<p>Under the heading 'Roads and Transport' in paragraph 9.16 delete "proposed" which precedes "Oxfordshire Local Transport and Connectivity Plan".</p>	<p>For clarity and accuracy</p>
8	<p>Under the heading "Community Facilities Policies":</p> <p>8.1 Amend Policy NP14 to read:  'Where planning permission is required, proposals that result in the loss of Class E (Commercial, Business and Service) uses at ground floor level within the Village Centre, as identified in Figure 17, should, to be supported:</p> <ul style="list-style-type: none"> <li>• not undermine the vitality and viability of the village centre, and either</li> <li>• ensure the new use meets an evidenced community need, or</li> <li>• evidence that there is no market interest in the premises concerned for Class E uses following one year of active and effective marketing.</li> </ul> <p>8.2 Within Policy NP15 delete the fourth bullet point and, in the last sentence replace "will be" with 'are'.</p>	<p>For clarity and accuracy and to meet Basic Condition 1</p>
9	<p>Under the heading "Environmental Policies":</p> <p>9.1 Amend paragraph 11.5 to read:  'The NPPF (Section 15) expects that the planning system recognises ecological networks, green and blue assets, their maintenance and protection, and opportunities for enhancement. Enhancement can involve improving the management of existing sites and creating new ones, particularly where they connect up existing green spaces.'</p> <p>9.2 In the heading immediately prior to paragraph 11.14 omit "Local".</p>	<p>For clarity and accuracy and to meet Basic Condition 1</p>

	<p>9.3 In paragraph 11.15, between “spaces” and “from”, add ‘of particular local significance’.</p> <p>9.4 In paragraph 11.16, in the last sentence, replace “LGS” with ‘Local Green Space’.</p> <p>9.5 In paragraph 11.17, after “summer 2022”, insert ‘(detailed references in Appendix K)’.</p> <p>9.6 Delete paragraph 11.18 and renumber subsequent paragraphs accordingly.</p> <p>9.7 Within Policy NP21 delete “(new Local Green Space designation)” and number the spaces to match the numbers used in Figure 19.</p> <p>9.8 The reference at the end of paragraph 11.24 is incorrect. It should be reworded as “See Para 11.44 and map at Figure 21”.</p> <p>9.9 Within Policy NP22 delete “Local” in the title and delete the final sentence.</p> <p>9.10 Within Policy NP23 replace the last sentence with: ‘Development proposals should demonstrate the appropriate use of street tree planting to provide space for nature throughout the village and shade in a warming climate.’</p> <p>9.11 Within Policy NP24 replace the last sentence with: ‘Where ecologically relevant, proposals are encouraged to incorporate features into fences and walls that allow dispersal of wildlife through areas of green space and gardens.’</p>	
10	<p>Under the heading “Landscape and Distinctiveness of Settlements”:</p> <p>10.1 Within Policy NP27 remove the final bullet point and the final sentence.</p> <p>10.2 Within Policy NP28 after “viewpoints” add ‘and important local gaps’ and replace the final sentence with: ‘Where possible, development proposals should improve public access to and enjoyment of the countryside.’</p>	For clarity and accuracy and to meet Basic Condition 1

	<p>10.3 In Paragraph 11.42 delete <i>'and identifies locally important gaps in Figure 20'</i> in the last sentence of bullet point 4. Split the fifth bullet point into two after the first reference to Appendix E. Reword the new sixth bullet point as: <i>'A revised Policy NP28. This relates more comprehensively to all development within the Plan area, including within the countryside and requires consideration of a greater number of views, important local gaps and the new Landscape Character Assessments in Appendix E. The views and important gaps are shown in Figure 20 below together with a short description of each view. Illustrations are included in Appendix E Part 3. Views from outside the Plan area are taken into account, particularly where affecting views into and out of the AONBs, but only with regard to development within the Plan area.'</i></p> <p>10.4 In paragraph 11.46 replace "Reg 19" with 'Regulation 14'.</p>	
11	<p>Within Appendix A Site Assessment correct the entry for BEN9 Benson Material Store, land to the south of St Helen's Avenue by removing the detail: 'lies almost wholly in Flood Zone'.</p>	For accuracy