

SOUTH OXFORDSHIRE DISTRICT COUNCIL

BENSON NEIGHBOURHOOD DEVELOPMENT PLAN REVIEW: FINAL DECISION STATEMENT

DATE OF PUBLICATION – 01 NOVEMBER 2023

1. Decision

- 1.1. Following an Independent Examination South Oxfordshire District Council decided at the Council meeting on 14 March 2023:
1. To make the Benson Neighbourhood Development Plan Review with the modifications specified in the Examiner's report.
 2. To delegate to the Head of Policy and Programmes, in consultation with the appropriate Cabinet Member and in agreement with the Qualifying Body, Benson Parish Council, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

2. Background

- 2.1 The Benson Neighbourhood Development Plan was adopted in 2018. Following the plan's adoption, the Parish Council started to work on the review of the made neighbourhood plan in late 2019. The plan review was submitted to the district council in May 2022.
- 2.2 Following the submission of the Benson Neighbourhood Plan Review ('the Plan') to the Council, the plan was publicised and comments were invited from the public and stakeholders.
- 2.3 South Oxfordshire District Council appointed an independent Examiner, Andrew Matheson to review whether the plan met the basic conditions required by legislation.
- 2.4 The Examiner's Report concluded, subject to the modifications proposed in his report, that the plan meets the Basic Conditions and should be made by the council.
- 2.5 The council determined on 14 March 2023 that the Plan, as modified by the Examiner's recommendations, should be made.

3. Reason for decision

- 3.1 The Neighbourhood Planning Act 2017 identifies the circumstances that might arise as parish councils 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 area.
- 3.2 Whether modifications change the nature of the plan is a decision for the independent examiner. The examiner will consider the nature of the existing plan, alongside representations and the statements on the matter made by the qualifying body and the local planning authority.
- 3.3 Benson Parish Council has considered this issue. It took the view that the proposed changes to the 'made' Plan fall into the second category.
- 3.4 South Oxfordshire District Council undertook a separate assessment and concluded that the proposed modifications materially affect the policies in the plan. However, although material, the modifications were not considered to be so significant or so substantial as to change the nature of the plan. The goals and objectives of the plan were updated but remained largely unchanged in their nature.
- 3.5 With the consent of Benson Parish Council, the council appointed Mr. Andrew Matheson to examine the Plan. The Independent Examiner considered this issue and concluded that the review of the Plan included material modifications which did not change the nature of the Plan, and which required examination but not a referendum. The Examiner 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.
- 3.6 In these circumstances, proposals for the modification of made neighbourhood development plans are examined in line with the procedures set out in Schedule A2 of the Planning and Compulsory Purchase Act 2004 (As Amended).
- 3.7 Paragraph 13 of Schedule A2 of the 2004 Act sets out that after considering a draft plan, the examiner must make a report on the draft plan containing one of the following recommendations: that the council should make the draft plan; or that the council should make the draft plan with the modifications specified in the report; or that the council should not make the draft plan.

- 3.8 The Examiner's Report is available in Appendix 1. The Examiner's Report assesses the policies in the plan and identifies any modifications required to ensure that they meet the basic conditions. The Examiner concluded that the Plan meets the basic conditions subject to a limited number of recommended modifications. The recommended modifications refine the wording of the policies concerned. Nevertheless, the submitted review of the Plan remains fundamentally unchanged in its role and purpose. The Examiner's Report recommends that the council should make the Plan with the modifications specified in the Report. A listing of the Examiner's recommendations exactly as they are shown in his Report is available in Appendix 2.
- 3.9 Paragraph 14 of Schedule A2 of the 2004 Act sets out that if the Examiner's Report recommends that the council should make the draft plan with the modifications specified in the report, the council must make the draft plan with those modifications. The only circumstance where the council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 3.10 The making of the Benson Neighbourhood Development Plan Review (the Plan) would not breach, or otherwise be incompatible with, any EU or human rights obligations, including the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). In addition, no issues arise in respect of equality under general principles of EU law or any EU equality directive. In order to comply with the basic condition on the European Union legislation, the council produced a Strategic Environmental Assessment Screening Report in July 2022. It comments that the Plan does not allocate any new sites for development, it carries over the existing allocations, and continues to place great emphasis on conserving the character and appearance of the area. In addition, it comments that the allocations already benefit from planning permission. The report concludes that the implementation of the review of the Plan would not result in likely significant effects on the environment.
- 3.11 The reviewed Plan would not give rise to significant environmental effects on European sites. The council screened the Plan's potential impact on EU Special Areas of Conservation (SACs) in July 2022. The Habitats Regulations Assessment Screening Report concluded that the Plan would not have any likely significant effects on the integrity of European sites in or around South

Oxfordshire, either alone or in combination with other plans or programmes and that an Appropriate Assessment is therefore not required.

- 3.12 The council is satisfied that the Plan is in all respects fully compatible with Convention rights contained in the Human Rights Act 1988. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.
- 3.13 The modifications set out in the Examiner's Report individually or combined are not considered to produce likely significant environmental effects and are unlikely to have any significant effects on the integrity of European Designated Sites.
- 3.14 As the Examiner's Report recommends that the council should make the Plan with the modifications specified in the Report and the council is satisfied that the making of the Plan would not breach, or otherwise be incompatible with, any EU or human rights obligations as incorporated into UK law, the council must make the Benson Neighbourhood Development Plan Review.

4. Other Information

- 4.1 In accordance with Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012, this Decision Statement and the made Benson Neighbourhood Plan Review can be viewed on the Council's website:
<https://www.southoxon.gov.uk/south-oxfordshire-district-council/planning-and-development/local-plan-and-planning-policies/neighbourhood-plans/emerging-neighbourhood-plans/benson-neighbourhood-plan/>

- 4.2 Copies of this Decision Statement and the Benson Neighbourhood Plan Review can be inspected at:

Reception South Oxfordshire District Council Abbey House, Abbey Close, Abingdon OX14 3JE	If you would like to view these documents at the Council offices, please contact us on 01235 422600 or email: planning.policy@southandvale.gov.uk to book an appointment.
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- 4.3 In accordance with Regulation 19(b) and Regulation 30 of the Neighbourhood Planning (General) Regulations 2012, a copy of this Decision Statement has been sent to:

- The qualifying body, namely Benson Parish Council
- The persons who asked to be notified of the decision

Signed: 

Date: 01/11/2023

Ricardo Rios
Planning Policy Team Leader (Neighbourhood)

Appendix 1 Examiners Report

<https://www.southoxon.gov.uk/wp-content/uploads/sites/2/2023/03/Benson-NP-Review-Examination-Report-FINAL-March-2023.pdf>

Appendix 2 – Listing of the Examiner’s recommendations exactly as they are shown in his 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"> • 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. <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