

Eynsham Parish Council

Eynsham Neighbourhood Plan 2017 - 2031

A report to West Oxfordshire District Council on the
independent examination of the Eynsham Neighbourhood Plan

by the Independent Examiner

Ann Skippers BSc (Hons) MRTPI FRSA FHEA AoU

11 May 2018

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Summary

I have been appointed as the independent examiner of the Eynsham Neighbourhood Development Plan.

The examination began in October 2017. A meeting was held in December 2017 to explore some of my initial concerns about the Plan.

The Plan has been prepared in challenging circumstances against the backdrop of a changing planning context at District level and in tandem with an emerging Local Plan that proposes a Strategic Location for Growth for a new Garden Village and a Strategic Development Area to the west of Eynsham, both falling within the Parish and Plan area. The Plan has sought to influence and guide development. Whilst this may otherwise have provided a degree of assurance on the functional relationship and alignment between the two plans, this has not been the case in Eynsham and the relationship between the emerging neighbourhood plan, the emerging Local Plan and the adopted Local Plan has not been agreed between the Parish and District Councils. This has led to the unfortunate situation where the Plan is, in my view, so intrinsically linked to the emerging Local Plan that this has proven to be one of the most challenging examinations I have undertaken.

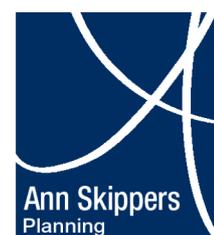
As a result I have reluctantly reached the conclusion that it would not be appropriate to make the Plan having regard to national policies and guidance issued by the Secretary of State; the making of the Plan would not necessarily contribute to the achievement of sustainable development and the making of the Plan may be incompatible with EU obligations.

Added to this the Consultation Statement and Basic Conditions Statement are lacking in detail and this has not assisted matters.

This conclusion has been the source of considerable regret on my part as overall the Plan takes a pragmatic approach to the significant development proposed for the Parish in the emerging Local Plan, represents several years of hard work and there are many elements of the Plan which are innovative and could in principle be found to meet the basic conditions. It is, in the main, the presentation of the Plan and the relationship between its three component parts – the policies, supporting text and recommendations – which I have found to lack clarity and precision and so do not provide a practical framework within which decisions on planning applications can be made. Had I made modifications to address these deficiencies, I would have effectively had to rewrite the Plan and would have done so without any great certainty as to what the intentions of the community had been.

I therefore recommend that the Plan should not proceed to referendum. If the Plan were to go forward to referendum, I recommend that the referendum area be the same as the Plan area.

Ann Skippers MRTPI
Ann Skippers Planning
11 May 2018



1.0 Introduction

This is the report of the independent examiner into the Eynsham Neighbourhood Development Plan (the Plan).

I have been appointed by West Oxfordshire District Council (WODC) with the agreement of the Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions¹ are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

- The making of the neighbourhood plan is not likely to have a significant effect on a European site² or a European offshore marine site³ either alone or in combination with other plans or projects.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁴

I have examined the submitted Plan against each of these basic conditions and the convention rights and my conclusions are set out in section 10.0 of this report.

The examiner is also required to check⁵ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

These matters are considered in the next section of this report.

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case West Oxfordshire District Council. The plan then becomes part of the development plan for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

² As defined in the Conservation of Habitats and Species Regulations 2012

³ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁴ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

⁵ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

3.0 Other examination requirements

Qualifying body

The ENP has been prepared by the Eynsham Futures Steering Group on behalf of Eynsham Parish Council. The Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

Plan area

The ENP plan area was approved by West Oxfordshire District Council on 2 December 2014. The plan area is coterminous with the Parish administrative boundary. The ENP relates to this area and does not relate to more than one neighbourhood area and therefore complies with the necessary requirements.

Plan period

The ENP appropriately covers the period 2017– 2031 to align with the emerging West Oxfordshire Local Plan 2031. The dates are clearly stated on the front cover and confirmed in the ENP itself.

Excluded development

The ENP does not include policies that relate to any of the categories of excluded development and therefore meets this requirement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. Usually, a policy or proposal that is not related to the development and use of land is readily identifiable and recommendations can be made that it be clearly differentiated or even moved to a separate section or annex of the Plan if necessary. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.⁶

The ENP contains policies in blue boxes and 'recommendations' in green boxes seeking to differentiate between the two. I have found it difficult to recommend modifications to clearly differentiate between policies and more aspirational recommendations falling outside the development and use of land definition because some of the recommendations relate to planning matters and so could have been included within planning policies. However, in relation to addressing this

⁶ PPG para 004 ref id 41-004-20140306

concern, it would be possible for the Parish Council to revise the ENP to ensure that this requirement can be satisfactorily met. I return to this issue in a later section.

4.0 Procedural matters

This examination began in October 2017. Having completed an initial review of all the submitted documentation and the representations made at Regulation 16 stage, I undertook an unaccompanied site visit to the plan area on 1 November 2017.

It was apparent at this early stage that I would have some questions and matters to clarify. Due to the nature of the questions, I decided that the most appropriate way forward was to hold a meeting between the Parish Council, WODC and I. This meeting was held on 4 December 2017 in Eynsham.

In advance of the meeting, I prepared an agenda and list of invited participants, discussed administrative arrangements for the meeting including the venue. The meeting was publicised in advance.

As that note stated, the meeting sought to i) better understand the intent of the ENP and ii) to establish and agree a way forward with both Councils. It was made clear that this meeting was not a hearing and that I may still have requested a hearing at a later stage. No statements or evidence were requested in advance of the meeting.

Although the meeting was held in public, the invited participants were representatives of the Parish and District Councils.

Following the meeting, I wrote to both Councils on 4 December 2017 setting out three options; i) allowing the examination to continue but in the knowledge that I had reservations about the ENP and if I were to find it met the basic conditions, major modifications would be needed, ii) to withdraw the ENP to allow revisions to be made to it by the Parish Council working closely with WODC and iii) pause the examination to await the outcome of the emerging Local Plan and rework some of the policies to allow for greater certainty.

In the meantime, notes of the meeting were drawn up and these are dated 27 December 2017.

I then wrote to both Councils on 27 December 2017. This second letter was written having received confirmation that the ENP was withdrawn from the examination on 13 December by the Parish Council, but correspondence of the same date threw some doubt as to whether this had actually been the intention.

This letter then set out further clarification on the differences between a withdrawal and suspension of an examination as I see them and also set out the specific areas I recommended the Parish Council reviewed. This was on the basis that I had been informed the Parish Council intended to revise the Plan and that the requisite

periods of consultation and so on would be held. I also suggested that the opportunity was taken to revise the Consultation Statement, the Basic Conditions Statement and that a new Strategic Environmental Assessment screening should be undertaken given the revised policies. Furthermore I suggested that this work be dovetailed with the emerging Local Plan. I asked to be notified of the decision by 15 January 2018.

On 16 January I was advised by WODC that both Councils wished me to proceed with the examination. A combination of work commitments and family circumstances meant that regrettably it is only recently that I have been able to resume the examination.

Before issuing this report, I wrote again to both Councils on 1 May 2018 reiterating that concerns remain about the ENP and commenting that my advice was that it be withdrawn to allow its deficiencies to be remedied and to enable it to progress alongside the emerging Local Plan. With the passage of time, the LP 2031 has now reached its latter stages. A further opportunity has therefore been given to withdraw the ENP from examination.

All correspondence referred to above and any information given to me as a result of that correspondence are available from WODC's website. The three letters I have sent and the notes in relation to the meeting are appended to this report.

I made it clear at the meeting of 4 December 2017, that I may still have held a hearing. The general rule of thumb is that the examination will take the form of written representations.⁷ However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. After further consideration of the documentation including the information gained as a result of that meeting and in reviewing the representations received at Regulation 16, I decided that no further purpose would be served by a hearing and that it was not necessary to hold a hearing to ensure that a person has a fair chance to put a case.

I am grateful to both Parish and District Councils for the courteous and helpful way they have assisted me during the examination.

I have had regard to the following documents specific to this examination:

- The submitted ENP, draft for submission, July 2017
- Statement of Conformity, draft for submission, July 2017
- Consultation Statement, draft for submission, July 2017
- Pre-submission Consultation feedback Report dated 11 July 2017
- Consultation Statement supporting documents version 1
- Initial Community Engagement Findings August 2015

⁷ Schedule 4B (9) of the Town and Country Planning Act 1990

- What the people of Eynsham said about the (almost finished) Neighbourhood Plan, undated
- EF Feedback Form Analysis V.2 THEMED dated 11 January 2017
- Residents Critique of the Eynsham Neighbourhood Plan in its Strategic Context dated 15 March 2017
- Strategic Environmental Assessment Screening Report dated April 2017
- Sustainability assessment – Scoping Report dated 11 July 2017
- Sustainability Report, draft for submission, July 2017
- Compliance Review of SA/SEA to date dated June 2017
- Site Options – Assessment, draft for submission, July 2017
- Local Green Space (LGS) Designations dated 12 March 2017
- NPIERS Health Check Review Report for Eynsham Neighbourhood Development Plan dated 8 May 2017
- West Oxfordshire Local Plan 2011 adopted June 2006
- Information relating to the emerging West Oxfordshire Local Plan 2031 on WODC’s website including the Composite version of the Local Plan 20131 showing schedules of further main modifications and further additional modifications and Inspector’s letter to the Council (WODC) of 16 January 2018
- Additional information supplied to me after the 4 December 2017 meeting
- Counsel’s advice to WODC dated 13 April 2018 sent to me by WODC on 17 April 2018 for information

5.0 Consultation

A document titled Consultation Statement and dated July 2017 and a separate document titled ‘Pre-submission Consultation Feedback Report’ dated 11 July 2017 have been submitted and taken together these documents appear to constitute the Consultation Statement. Unfortunately neither of these documents confirms the dates for the pre-submission (Regulation 14) consultation period.

The Sustainability Report refers to public consultation on the draft vision and policies on 19 November 2016 and recorded in the ‘Pre-submission Consultation Feedback Report’, but then suggests the ENP was updated and the emerging Local Plan updated and “consultation begins”. The next entry in the Sustainability Report indicates the draft Plan was sent to statutory consultees and interested parties and residents were encouraged to provide feedback on 12 December 2016. The next entry indicates that the six week consultation ended on 31 January 2017.

The Consultation Statement usefully includes a ‘Consultation Timeline’; this finishes in January 2017 referring the reader to section 05 of the document in relation to “statutory consultation” and “pre-submission feedback recording (Sept – Jan 2017)”. Section 05 states that:

“Formal pre-submission consultation began with the three primary consultees, English Nature, Historic England and the Environment Agency as

there had been inconclusive discussions with WODC about the need for an SEA for a neighbourhood Plan which did not allocate sites. The agencies agreed but WODC decided once the plan had been submitted that an SEA was required – see 5.3 below. The Neighbourhood Plan itself was sent out by email to all those on the Consultees List on 12/12/2016 asking for a response by 31/01/2017. WODC were also sent the list on 12/12/2016 asking if there was anyone else we should add – they did not feel [STET] able to supply a list of consultees due to confidentiality concerns; they responded on 20/02/2017 saying we should have contacted Oxfordshire CCG and the Highways Agency. In fact Eynsham Parish Council had a meeting with representatives of OCCG during the consultation period and their comments have been included. There are no trunk roads within Eynsham Parish so HA are not really relevant although they will have an opportunity to respond to the formal consultation organised by WODC; OCC Highways were consulted and did respond.”

The Consultation Statement continues with a subheading “Pre-submission feedback recording (September - January 2017)”. It continues: “Once the Neighbourhood Plan had taken shape to the point where we could ask people's opinion of it...we began to record their comments and our response to them... The process of informal consultation with residents began in September as versions of the plan were made available on the Parish Council web-site culminating with the statutory pre-submission consultation described in 5.1 above.”

It is clear that considerable and sustained work on the ENP has taken place since 2015 and the approach to consultation has been underpinned by three principles of collaboration, inclusion and participation as the community engagement strategy explains and this is to be commended. A Steering Group was established to prepare the Plan. Task groups were formed to consider topic based issues such as transport and environment.

Between March 2015 and January 2017, a variety of methods were used to engage residents, businesses and other stakeholders. These included a launch event, other events, public meetings, surveys, individual meetings with stakeholders including local societies. The Parish newsletter, Facebook and web pages were used to update progress and invite views. A joint workshop was held with WODC and Oxford County Council and developers to consider a site known as west of Eynsham.

From the information, it would appear that pre-submission consultation took place over a period extending from 12 December 2016 to 31 January 2017. I am, however, unclear as to when the pre-submission consultation period took place, to which version of a draft plan it referred, who was consulted other than Natural England Historic England and the Environment Agency together with WODC and those consultees indicated in Appendix 1 of the Consultation Statement and how any consultation was conducted, particularly in relation to a clearly defined six week period for members of the public and others. **This leaves me in some doubt as to whether Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 has been satisfactorily complied with.**

Whilst I recognise that some information has been given, **the Consultation Statement and its accompanying documents do not clearly comply with Regulation 15** of the same Regulations which requires a consultation statement to:

- Contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan
- Explains how they were consulted
- Summarises the main issues and concerns raised by the persons consulted and
- Describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

6.0 The basic conditions

This section contains general information about each of the basic conditions. The ENP needs to meet all the basic conditions to proceed to referendum and in this section I indicate in broad terms those areas where I consider the ENP to meet the basic conditions or not.

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.⁸

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.⁹

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at <https://www.gov.uk/government/collections/planning-practice-guidance>. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to it in preparing this report.

⁸ NPPF paras 14, 16

⁹ *Ibid* para 184

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹⁰

PPG indicates that a policy should be clear and unambiguous¹¹ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹²

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹³ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁴

As submitted the ENP does not fully accord with the range of practical issues identified in the NPPF and PPG. I explain more about this in section 8.0.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁵ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.¹⁶

I am not satisfied that the overall effect of the submitted ENP would be to contribute towards the achievement of sustainable development in the plan area. I expand on this point in section 8.0.

General conformity with the strategic policies in the development plan

It is worth bearing in mind that the relevant basic condition only refers to the adopted development plan. This is clear from the Regulations and confirmed in PPG.¹⁷

In this case, the development plan for the area is the West Oxfordshire Local Plan 2011 (LP 2011). The LP 2011 was adopted in June 2006. WODC's website confirms

¹⁰ NPPF para 17

¹¹ PPG para 041 ref id 41-041-20140306

¹² *Ibid*

¹³ *Ibid* para 040 ref id 41-040-20160211

¹⁴ *Ibid* para 040 ref id 41-040-20160211

¹⁵ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

¹⁶ *Ibid* para 7

¹⁷ PPG para 009 ref id 41-009-20160211

all policies and proposals are saved with the exceptions of Policies NE8, NE9, T5 and T7 and Proposals 2, 6, 13 and 14. Given that the LP 2011 was adopted before the publication of the NPPF in 2012, the weight to be attributed to LP 2011 policies will vary depending on their degree of consistency with the NPPF. In support of the LP, WODC has published Supplementary Planning Documents on affordable housing and design.

I consider that the ENP delivers a local dimension to this strategic context and supplements the detail already included in the LP 2011. It is against the policies in the saved Local Plan that I need to apply this judgement. I consider that the ENP meets this basic condition.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.¹⁸

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.¹⁹ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

¹⁸ PPG para 031 ref id 11-031-20150209

¹⁹ *Ibid* para 047 ref id 11-047-20150209

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in an earlier section of this report.

I am not satisfied that EU obligations in respect of SEA and HRA have been complied with. I explain more about this in section 8.0.

European Convention on Human Rights (ECHR)

The 'Statement of Conformity' states that the ENP complies with these requirements. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

7.0 Overall finding

It is with regret that I have reached the conclusion that the ENP should not proceed to referendum. The reasons for this are explained in the next section.

8.0 Reasons

At the heart of the matter, is the desire of the ENP to influence and align with the emerging Local Plan 2031 (LP 2031) which will replace the LP 2011 in due course.

On the latest available information it is anticipated that the LP 2031 will be adopted later this year. The emerging LP has a long history; in July 2015 the Stage 1 examination was carried out and the examination suspended. A new planning inspector was then appointed to conduct the examination.

'Main Modifications' to the LP were submitted to the Planning Inspectorate on 10 March 2017. Stage 2 and 3 of the examination hearing sessions were held in May and July 2017.

Additional consultation on technical evidence took place in November 2017 and on 16 January 2018 the Inspector wrote to WODC on the way forward for the LP. WODC then published a series of further main modifications to the LP. Consultation took place on these from 22 February until 9 April 2018.

The Further Main Modifications were intended to address various issues raised during and since the LP examination hearing sessions held in May and July 2017 including those set out in the Inspector's letter of 16 January 2018. As part of this consultation, a schedule of further main modifications, a schedule of further additional modifications, a schedule of policy map changes, LP Policies Map, a composite version of the LP 2031, a further addendum to the Sustainability Appraisal

and a Habitats Regulations Assessment screening letter were published. The website indicates that comments were received from around 100 individual and organisations. These are now available on the WODC website which indicates these have been provided to the Inspector. A final report is now awaited.

Given the advanced stage of the LP 2031, it is commonly regarded as good practice for the draft ENP to have taken account of the emerging planning policy context.

Many other examinations I have carried out have similarly been prepared in the context of an emerging Local Plan. Indeed PPG confirms that neighbourhood plans can be developed before or at the same time as the local planning authority is producing its Local Plan²⁰ and judgment from the Courts²¹ has also confirmed that a neighbourhood plan may include policies relating to the use and development of land for housing in the absence of any development plan document setting out strategic housing policies.

PPG advises that “although a draft neighbourhood plan is not tested against the policies in an emerging Local Plan, the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested”. As an example, PPG cites up to date housing needs evidence as relevant to the question of whether a housing supply policy in a neighbourhood plan contributes to the achievement of sustainable development.

PPG advises that when a neighbourhood plan is brought forward before a Local Plan, the qualifying body and local planning authority should discuss and aim to agree the relationship between the policies in the adopted development plan, the emerging Local Plan and the emerging neighbouring plan. This was one of the questions posed at the meeting held last December. Sadly, due to what appears to me to be a fundamental breakdown in the relationship between the two Councils, this has not occurred to any helpful degree. In fact both parties confirmed that the relationship between them had not always been constructive and there had been uncertainty around the emerging Local Plan, particularly in relation to housing numbers and site allocations. This has resulted in a very difficult and unfortunate context within which the neighbourhood plan has been developed.

Those preparing the ENP have faced a planning context at District level that has changed significantly during the course of plan preparation. As I understand it, Eynsham was originally expected to accommodate some 250 new dwellings. Subsequently, this figure has increased to 3,200 new dwellings.

The emerging Local Plan explains that Eynsham is the fourth largest village in the District. It forms part of one of five sub areas; the Eynsham – Woodstock Sub Area. The evidence underpinning the emerging Local Plan means that in relation to housing numbers, WODC has had to accommodate some of the unmet need from

²⁰ PPG para 009 ref id 41-009-20160211

²¹ Gladman Developments Ltd v Aylesbury Vale District Council [2014] EWHC 4323 (Admin)

their neighbouring authority, Oxford City. As a result, the LP 2031 proposes a Strategic Location for Growth (SLG) to the north of the A40 and a Strategic Development Area (SDA) to the west of Eynsham for about 1000 units. The SLG is to be the Oxfordshire Cotswolds Garden Village (OCGV) and the emerging Local Plan indicates that an Area Action Plan will be produced to finalise numbers. These matters are subject to policies and text which form part of the further main modifications.

The Inspector indicated in a letter to WODC of 16 January 2018 that subject to any necessary Sustainability Assessment and Habitats Regulations Assessment and public consultation together with further changes to one of the other sub-areas, the Local Plan “is likely to be capable of being found legally compliant and sound”. However, the Inspector emphasised that the “examination is not yet concluded, consultation on further main modifications is yet to take place and, consequently, these comments are without prejudice to my final conclusions on the plan.”. That consultation has now taken place and the representations put before the Inspector.

This has proved to be a challenging scenario because of the intrinsic relationship between the ENP and the emerging Local Plan. Given the expectation, and WODC’s confidence, that the emerging Local Plan will be adopted soon, I made a somewhat unusual suggestion that there would be some merit in ‘waiting’ for the emerging Local Plan to be adopted in this particular set of circumstances.

This suggestion was made for a number of reasons. Firstly, the ENP is intrinsically linked to the LP 2031 in its evolution, its clearly articulated vision and objectives, its content and in the way it is written and presented.

Secondly, it contains a set of policies designed to apply to the existing settlement and the proposed allocated sites including the OCGV. As well as its premise being based on the emerging LP 2031, it contains “spatial policies”; Spatial Policies ENP16 and ENP17 that specifically relate to the proposed SLG and SDA.

I have sought to establish whether or not it was the intention of the ENP to allocate these sites in its own right. The documentation (including the ‘Statement of Conformity’) and responses at the December 2017 meeting from the Parish Council confirmed that it had not been the intention to allocate sites, but to rely on the sites proposed in the emerging Local Plan. The ENP sought to guide and influence the development of those sites, but did not propose them as site allocations in its own right. WODC recognise that the community wish to guide new development in the area but are clear that the details of the proposed site allocations will be contained in an Area Action Plan for the SLG and a Masterplan for the SDA whilst confirming elements of the ENP could be incorporated into such documents.

Whilst the balance of probability might suggest these policies are not site allocations because the Parish Council was clear in their intention, the policies themselves are written and presented in a way that means they are site-specific in that they relate to a specific location and are identified on a map. Either way the language used is

open to interpretation and both are heavily linked to the emerging LP 2031. If they are considered to be site allocations, this has particular implications for Strategic Environmental Assessment (SEA) which I discuss in the next paragraphs.

It is apparent from the Screening Report dated April 2017 and the consultation responses received from the statutory consultees that there was a lack of clarity over the status of the spatial policies which I share. In any event a SEA has been produced as the Screening Report confirmed that a SEA would be needed largely based on the proposed spatial policies in the ENP.

A Scoping Report was prepared. This made extensive references to the Sustainability Assessment (SA) work being carried out at District level on the emerging Local Plan and used it as a basis for developing the work at neighbourhood plan level.

Sustainability issues, baseline information, issues, problems and trends all derive from the work at District level. The Scoping Report however applied these issues identified at District level to the local level and also used other information and data, for example from the ACRE Community Profile and other locally gathered information. Given PPG advice that SEA should “only focus on what is needed to assess the likely significant effects...it does not need to be done in any more detail, or using more resources, than is considered appropriate for the content and level of detail in the neighbourhood plan”,²² I consider the Scoping Report is satisfactory. I note too that the consultation bodies were consulted on the Scoping Report and suggestions made to improve it, but no objections to it were raised.

A Sustainability Report (SR) dated July 2017 (which I have taken to the Environmental Report required under the EAPPR) has been submitted. It relies heavily on the SA produced for the emerging Local Plan. Whilst I note that the SR also seeks to distil District level information to a more local level and uses local information which I consider to be acceptable and I am mindful of PPG advice referred to above, **it should have contained more information and explanation in it, including on reasonable alternatives and in relation to other policies in the ENP.**

The SR explains that possible development sites were assessed but as WODC put forward a total of 3200 new houses “it meant all possible sites were allocated leaving the ENP with no reasonable alternatives to choose from”.²³ It explains that two ‘spatial policies’ “address the particular requirements of development west and north of the village with policies designed to mitigate adverse effects which are particular to development in these locations”.²⁴

There are two other matters of concern in relation to the SEA. The first is that in responding to the screening opinion, the Environment Agency required appropriate flood risk evidence in relation to the sites and an assessment on the impacts of the

²² PPG para 030 ref id 11-030-20150209

²³ Sustainability Report page 5

²⁴ *Ibid*

ENP on watercourses under the Water Framework Directive. I accept that this work may have been carried out as part of the Local Plan, but there is no mention of the watercourses or the Water Framework Directive in the document.

The second is that Natural England suggested screening under the Conservation of Habitats and Species Regulations 2010. I understand that the Oxford Meadows Area of Special Conservation (SAC) lies approximately 3km east of the village centre. This point was addressed in the SR, but again reliance placed on the work associated with the emerging Local Plan. The SR explains that an additional clause has been added to Policy ENP4a to the effect that “development shall not adversely affect the integrity of the Oxford Meadows SAC.” **I do not consider this to be sufficient as no further assessment was carried out and there remains a high degree of reliance on the work on the LP 2031.**

In accordance with the Habitats Regulations, it is also necessary to demonstrate that the neighbourhood plan either alone, or in combination with other plans and programmes, is unlikely to have a significant effect. **Based on the evidence and documentation before me, I am not able to confirm this is likely to be the case.**

Within the context of this particular plan and the documents submitted, I am not satisfied that an appropriate approach or level of detail has been adopted in relation to the requirements for SEA and HRA.

I explained at the meeting held in December 2017 that the ENP could allocate sites or seek to influence the type of development on them through policies in the ENP. I also suggested that WODC might wish to take its lead from the contents of the ENP for the Area Action Plan and Masterplan as an expression of what the community sought.

However, given the intrinsic relationship between the ENP and the emerging Local Plan, consideration should be given to the respective timings of each. This is because if the ENP was adopted before the LP 2031, it would be more than likely to be out of date or even superseded by the LP 2031 once adopted, particularly if any conflicts between the two plans occurred. This scenario would be most unfortunate as it would render the ENP’s value almost worthless in its current iteration. Hence there was a need to ensure both were consistent. Due to the lack of a consistently constructive dialogue between the two Councils and the changing planning context, any agreement over the relationship between the two plans seems unlikely.

This has meant that the ENP contains a set of policies designed to apply to the existing settlement and the proposed allocated sites including the OCGV. **In this context, I am not satisfied that the overall effect of the submitted ENP would be to contribute towards the achievement of sustainable development in the plan area.**

There are a number of other equally pertinent issues that have led me to feel unable to support a recommendation that the ENP progress to referendum.

The ENP contains policies in blue boxes, recommendations in green boxes and supporting text. At the December 2017 meeting, I sought to understand the intentions and 'status' of the policies, supporting text and recommendations and to understand the relationship between each of these elements of the ENP. I explained that some of the supporting text appeared to include different or additional requirements to the policy that it sits alongside. Some of the recommendations were development and use of land related and so could have been included in the policies. This is important for a number of reasons. The NPPF is clear that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.²⁵ PPG advises that policies should be clear and unambiguous.²⁶ They should be concise, precise and supported by appropriate evidence.²⁷ Aspirations can also be included in neighbourhood plans, but these should be clearly differentiated.²⁸

At the December 2017 meeting, I was advised that although the policies have been divided into "Policies' and 'Spatial Policies', there were some options in them and also flexibility in how they might be applied. All were intended to apply to any new villages as well as the existing village of Eynsham.". In line with national policy and guidance, policies need to be clear and precise. The inclusion of options does not provide the necessary clarity. The relationship between policies, recommendations and text is not always clear throughout the ENP.

In general policies often refer to emerging LP policies that have not yet been adopted and many refer to the 800/1000/2000m distance and a masterplan. The supporting text often refers to the OCGV, introduces new policy requirements that do not appear in the policy and/or adds further requirements which could have been incorporated in policy. The text also often requires other organisations to take action rather than placing the emphasis on the Parish Council to work to achieve an action in relation to the jurisdiction of other agencies. Recommendations often seek WODC or other organisations to do something rather than the Parish Council and some could have potentially have formed part of policy.

I advised that as a result, some potentially significant changes to policy wording would be needed to remove options, clarify references, change maps, make the policies more precise and so on. At that time, I considered that it might be possible for modifications, however significant, to address these concerns. At the same time, I wanted the Parish Council to be aware of this to avoid surprises further down the line including the potential for losing the essence of what the ENP is seeking to achieve.

In recommencing the examination, I have sought to see how modifications might make the ENP acceptable in relation to these concerns. However, this ambition has proved impossible for two reasons. The first is an inherent lack of clarity around the

²⁵ NPPF para 17

²⁶ PPG para 041 ref id 41-041-20140306

²⁷ *Ibid*

²⁸ *Ibid* para 004 ref id 41-004-20170728

intentions of the policies concerned. The second is the very nature of some of the policies. By way of example, those with options would have had to be deleted. I have reached the conclusion that the modifications I would need to recommend to policies and the supporting text as well as the recommendations (aspirations) in the ENP are likely to be so numerous and of a type that would effectively amount to a significant rewriting of the ENP. In addition, I would not have been sure that I would have interpreted the intention of the policies correctly.

I do not consider that rewriting of the ENP should be my role. It would mean that the ENP would become a very different plan and may not represent the intentions of the community. **As submitted the ENP does not fully accord with the range of practical issues identified in the NPPF and PPG.**

In addition, **two of the submitted documents are deficient.** I have discussed the Consultation Statement earlier. Whilst this can be readily revised if the ENP is resubmitted, it illustrates the difficulties encountered. The 'Statement of Conformity' which I have taken to be the document more commonly referred to as the 'Basic Conditions Statement' does not address all the basic conditions. Such a document is the main way for a qualifying body to demonstrate how the neighbourhood plan meets all of the basic conditions. In the event the ENP is resubmitted, I suggest that this document is revised.

To conclude this section, the combination of the relative timing of the emerging ENP and the emerging Local Plan, the changing context at District level, the lack of constructive agreement between the two Councils, the intrinsic link and reliance of the proposed ENP on the emerging Local Plan together with the way the ENP has been executed and some of the supporting documentation has been produced have led me to reach the conclusion that I do not feel able to recommend it proceeds to referendum.

I have also viewed a health check which was undertaken. There is no doubt that health checks can make a huge difference to the outcome of examinations. Nevertheless they are not carried out to the same degree of scrutiny and cannot provide a guarantee of success at examination. I am not bound by any earlier health check and plainly I have had other, additional or revised documents and evidence as well as the representations made at Regulation 16 stage available to me.

9.0 General comments on individual policies

Turning now to each individual policy, I now offer some brief and general comments designed to constructively assist the Parish Council in the event it revises the ENP. Often the same comments could be made on a number of policies; I have not sought to repeat each and every one on each policy, but rather to give a flavour of the issues that should be addressed.

Policy ENP1 Housing

This policy seems to apply to larger developments as the supporting text introduces thresholds of 30 or more and 50 or more. There is no explanation or justification for the thresholds which do not appear in the policy itself. Mention is also made of self-build homes and a proportion of lifetime homes as well as rural exception sites in the supporting text but not in the policy. The policy itself seeks to provide balanced and mixed communities through a mix of house types and tenures. It provides for affordable housing but introduces exceptions to the District requirement which may undermine this at District level. It seeks to promote smaller units in line with evidence collected for the ENP.

It introduces the concept of a 1000m threshold for development to be located within so that the compact and walkable nature of the village is maintained, but then permits exceptions. The supporting text then suggests that 1200m may be acceptable and 800m for housing suitable for older people. A number of notes and appendices sit alongside the 'reasonable walking distance' criteria. Note B refers to the OCGV. In essence the thrust of the policy in seeking to provide mixed and balanced communities, the definition of the village centre and the concept of a reasonable walking distance are in principle appropriate and would meet the basic conditions. There is however a lack of clarity in the exceptions as it would be impossible for a developer submitting a planning application to know how to adhere to this policy and there are matters in the supporting text which could have been included in the policy.

Therefore it is not clear, concise or precise or provide the practical framework on which decisions on planning applications can be made and would necessitate some modification.

Policy ENP2 Design

In principle, a policy of this type could be revised to meet the basic conditions in seeking high quality design. Reference is made to WODC's Design Guide in the policy, but the supporting text describes this as both a "starting point" and "mandatory". This latter aspiration is not correct as it is a supplementary planning document. The policy seeks a masterplan for developments of more than 100 units. The supporting text refers to the LP 2031 as well as the OCGV as does recommendation 2 (which is the first recommendation, but the ENP explains that the recommendations are numbered to match the policy number they sit alongside which I find generally confusing). The text includes additional requirements such as sustainable urban drainage systems. In essence, the text includes more items which potentially could have been included within the policy.

Policy ENP3 Community Facilities including infrastructure and utilities

A number of concerns arise with this policy. Firstly, new residents are to have the same access to facilities as existing residents. Whilst I understand what is meant this is impossible to define. Secondly, the policy refers to land in proportion to the size of each new development which again I cannot define. Thirdly, it requires larger developments to contribute to community building and pre-school as appropriate within the 1000m, but no evidence of need or viability accompanies the policy.

The policy and its supporting text seeks to ensure that facilities are provided for and made available to new residents; in principle this meets the basic conditions, but the language used needs more clarity and the policy more justification. Again quite specific requirements such as 300 square metre of floor area for community buildings or the provision of allotments are referred to in the text without any cross reference to the policy or any explanation.

Policy ENP3a Health Care Facilities

This policy refers to the new settlement north of the A40 (the OCGV) requiring primary care facilities within threshold distances and refers to the masterplan. The recommendation requires WODC to consult with relevant bodies. It is clear from the ENP that there is a concern over the provision of health facilities.

Policy ENP 3b Infrastructure and Utilities

I would consider that this policy would meet the basic conditions. However, the text includes more requirements than the policy and the language used reads as if it were policy. This leads to a lack of clarity.

Policy ENP 4 Green Infrastructure – the setting for new developments

Whilst this policy applies universally, its contents are more appropriate for larger developments. Nonetheless it essentially meets the basic conditions.

Policy ENP4a Enhancing Biodiversity

The policy is generally clearly worded , but refers to the Oxford Meadows SAC which is a matter for further consideration and work in relation to habitats and the supporting documentation to ensure that this issue is adequately explained and covered.

Policy ENP5 Sustainability: Climate Change

Some of the requirements set out in the policy are not appropriate for inclusion in a neighbourhood plan according to a Written Ministerial Statement²⁹ as they are akin to the introduction of local standards or requirements relating to the construction, internal layout or performance of new dwellings.

Policy ENP6 Education

The requirements in the policy do not reflect the text and vice versa. Evidence is needed to support any requirements of this nature. It again refers to larger allocated sites and master planning. This again may be a matter of presentation and a need for clarity over the intent of the policy.

Policy ENP7 Sustainable Transport

Reference is made within the policy to an emerging Local Plan policy that may change. Detailed requirements are sought and require robust justification such as the restriction through the village. The recommendation requires Oxfordshire County Council and WODC to take action rather than the Parish Council working with these organisations to encourage them to action these points. Some of the text contains some new or different requirements.

Policy ENP8 Connected Place – integration of new developments with the village

This policy repeats the 1000m distance as well as seeking appropriate routes. The text refers to “allocated sites”.

Policy ENP9 Parking

Reference is made to an emerging Local Plan policy that may change. Otherwise the policy meets the basic conditions. The text refers to the OCGV.

Policy ENP10 Building a Strong Sustainable Economy

Reference is made to emerging Local Plan policies that may change. The text seeks to introduce requirements such as restricting retail development accessed from the A40 and offers support for hotels which do not appear in the policy and are not explained.

Policy ENP11 Retail

This policy would require modification as the policy permits retail subject to viability of the existing provision, then refers to two distances and stores should be “appropriate” making it difficult for the development industry to know what might

²⁹ Written Ministerial Statement 25 March 2015

be sought here. The policy refers to the redevelopment of the Spar site which in principle could arguably be supported, but may be better as a separate site-specific policy showing on a map the site and any site-specific requirements. Liaison with the site owner should take place. Pubs and eateries are then time restricted and retained but no mention of viability etc. in the policy itself which could result in stagnation, empty or derelict properties.

Policy ENP12 Local Green Space

The Policy itself is worded clearly. Sixteen Local Green Spaces are proposed and a supporting document assessing each site is available. The text explains that some of the proposed spaces are subject to planning applications and the designation, in whole or in part, will depend on the outcome of those applications. This policy then contains options which is not permissible; this could have been dealt with through a modification that deleted these proposals. In addition, one space appears to be on the site of the proposed SDA and may have affected the deliverability of infrastructure in relation to that site. It is particularly in circumstances like this that the relationship between the ENP and the LP 2031 is key.

Policy ENP13 Trees

In principle a policy that supports the protection of trees where appropriate and replacement planting may be acceptable, particularly where trees make a significant contribution to the area and are a significant feature. This policy seeks to retain trees to be maintained in good health, but seeks any trees lost through development to be replaced on site or nearby. There is little recognition that some trees may not be healthy or worthy of retention. Practically replacements “nearby” may lead to confusion and often land nearby will not be within the applicant’s control.

Additionally it seeks additional trees in proportion to the size of the development, but there is little way of knowing what this means or how an applicant might seek to comply with this requirement. This then does not provide a practical framework for decision making. The text refers to tree preservation orders and the recommendation suggests sites for such orders, but is not practical in its wording or action sought.

Policy ENP14 Sustainable Growth

This is the first of the ‘Spatial Policies’ which page 37 of the ENP explains relate to any development that takes place in the Parish generally and in particular identified locations within the Parish. It refers to locations put forward in Appendix A which in turn refers to the WODC SHLAA sites. The policy is loosely worded; for example it requires new settlements (presumably the OCGV) to “establish similar qualities” to the existing village. It refers to sequential testing as part of all masterplans. It refers to larger allocated sites and requirements re main roads and to have a masterplan in place and approved before consideration of any individual proposals. It explains that a new settlement can be acceptable if planned together with a future expansion of

the village “so as to integrate and separate the two communities where appropriate” which seems to me to be opposing statements and at the very least has a lack of clarity. The text refers to west of Eynsham potentially being a reserve site. There are a number of associated recommendations.

Policy ENP15 Eynsham Village Centre

The policy contains issues of merit, but the text refers to many more things such as houses in multiple occupation as does the ‘recommendation’. The text also refers to matters such as bus seating that are not development and use of land related, but could be aspirational. There is a general lack of clarity over the presentation and the connection between policies, text and ‘recommendations’.

Policy ENP16 North of the A40

There is a lack of clarity as to whether or not this is a site allocation or not as explained in section 8.0. On balance it has been determined that it is probably not. Nevertheless the policy seeks to “safeguard” the site. There is some confusion between whether this area will be a new separate community or integrated with Eynsham. It refers to other matters such as employment opportunities that also form part of proposals in the LP 2031. The text contains options and highlights the uncertain circumstances in which the ENP has been produced. Recommendations do not align with the policy. Evidence is needed to ensure ‘fit’ between the LP 2031 and the ENP. There may be some overlap between this policy and Policy ENP16.

Policy ENP17 Development of a western extension to the village

This policy concerns the proposed SDA in the LP 2031. It seeks to influence development on that site, but requires coordination or agreement between the different layers of planning policy and evidence to justify its requirements. The text refers to a linear park concept which could be policy. The recommendations also refer to phasing in connection with the proposed SLG.

Policy ENP18 Southern Industrial Area

The text offers support for a small hotel, but this is not included in the policy illustrating the mismatch between policy and text and the difficulty for me in determining what the intention of the ENP is and any modifications could have been made to the ENP.

10.0 Conclusions

I have found this examination to be particularly challenging. It is clear that those preparing the ENP have spent a great deal of time and effort on it and that the ENP has been prepared with the best of intentions.

The ENP has been prepared in the context of a changing planning dynamic at District level and this has not been easy for either the Parish or District Councils. The dialogue between the two Councils has unfortunately not been as constructive as it might have been.

Neighbourhood planning gives communities power to develop a shared vision for their area and to shape the development and growth of that local area. There are many innovative ideas, concepts and ways of tackling difficult issues facing the community given the likely level of significant growth it faces. Community concerns over the A40, infrastructure keeping pace with housing development and the protection of key green spaces and ensuring that the existing village is protected and that new development responds to the locality and the compact nature and character of Eynsham are all, in my view, valid planning issues and are to be commended.

It is then with considerable disappointment that I am unable to recommend the ENP progresses to referendum because of the way in which the ENP is presented and written and the impossible task I felt I would have had to modify it to make the practical framework for decision making, national policy and guidance seeks. This task would have been made impossible because I simply cannot tell from the document precisely what the community seeks. To try and modify would then have been a wasted journey for us all because the ENP would have become a very different plan, in all likelihood would not represent the intentions of the community and in all probability have resulted in a lack of community ownership of the ENP. To this extent it fails to have regard to national policy in that it does not have the clarity to provide a consistent basis for decision making during the Plan period.

It is my view that it is not appropriate to make the ENP having regard to national policies and advice contained in guidance issued by the Secretary of State. I am not satisfied that the making of the neighbourhood plan will contribute to the achievement of sustainable development or that it would be compatible with European Union obligations namely SEA and HRA. Furthermore there are deficiencies in the submitted Consultation Statement and Basic Conditions Statement.

It is regrettable that the original decision that the Parish Council would review and revise the ENP and the examination should be suspended or the ENP withdrawn from examination after the December 2017 meeting and my letters of 4 and 27 December 2017 was reversed.

In any event, if the ENP were to progress to referendum, it would in effect be rendered worthless as soon as the emerging Local Plan is adopted. This is because if there is any conflict between plans, it is the more recently adopted that takes precedence. On the other hand if the ENP were to be revised and constructive dialogue as to the respective roles of the Local Plan and ENP were to occur and the ENP used in the way that it is envisaged through the localism agenda, the ideas, concepts and issues raised in the ENP as a result of community engagement would at the very least feed into and strongly influence any subsequent document such as an Area Action Plan on the SLG and SDA sites.

11.0 Formal recommendation

I recommend to West Oxfordshire District Council that the Eynsham Neighbourhood Plan should not proceed to referendum. The reasons are:

- **it would not be appropriate to make the Plan having regard to national policies and guidance issued by the Secretary of State**
- **The making of the Plan would not necessarily contribute to the achievement of sustainable development and**
- **The making of the Plan may be incompatible with EU obligations.**

In addition both the Consultation Statement and Basic Conditions Statement are lacking in detail and this has not assisted matters.

Had I felt able to make a recommendation that the ENP could proceed, with or without modifications, I would have recommended that the referendum area be the ENP area.

Ann Skippers

Ann Skippers MRTPI

11 May 2018

Appendix 1

Eynsham Neighbourhood Plan Examination Procedural/Clarification Meeting

Meeting Date and Time: TBC (please see notice of meeting)

Meeting Venue: TBC (please refer to notice of meeting)

Participants

Eynsham Parish Council/Eynsham Futures representatives (EPC)

West Oxfordshire District Council (WODC)

Purpose of meeting

This meeting has been requested by the Independent Examiner, Ann Skippers who will chair the meeting. The meeting is open to the public and anyone can attend and observe. However, the Examiner is only inviting representatives of EPC and WODC to participate in the meeting.

The meeting seeks to provide more information to the Examiner based on the agenda below. It is not an opportunity to consider the merits or otherwise debate elements of the Eynsham Neighbourhood Plan (ENP) or to consider any representations. It is not the same as a hearing and it may be that a hearing will be convened at a later date if the Examiner considers this to be necessary. The meeting is designed to assist the Examiner to better understand the intent of the ENP and to establish and agree a way forward with EPC and WODC for the examination of the ENP.

Submission of information

The Examiner is not requesting statements or any further evidence or information to be submitted before the meeting.

Agenda

The Examiner will chair the meeting and all participants should please come prepared with the answers to the following matters:

1. To receive a short verbal update on the progress of the emerging Local Plan and likely timescales for its adoption from WODC.
2. To hear from both EPC and WODC how they have discussed and agreed the relationship between policies in the emerging ENP, the emerging Local Plan and the adopted Local Plan given that the ENP is being developed at the same time as WODC is producing its Local Plan. This should include how the reasoning and evidence informing the Local Plan process has been shared and how the emerging ENP and emerging Local Plan might complement each other.

3. To understand whether the sites referred to in the ENP namely a) the western extension to the village, b) the proposed Garden Village north of the A40, c) the Southern Industrial Area, d) Spar and the policies that refer to these sites are intended to be site allocations in the ENP i.e. in their own right regardless of the content in the emerging Local Plan or whether it was intended that the ENP would rely on and complement the proposed site allocations in the emerging Local Plan (for a) and b)). The answer to this question will have implications for the process of examining the ENP.
4. To understand the intentions and 'status' of the policies, the supporting text to the policies and the recommendations in the ENP given the way in which these three elements are written and presented as well as to understand the relationship between each of these elements. By way of explanation some of the supporting text appears to include different or additional requirements than the policy it sits alongside and some of the recommendations are planning related and so could have been policies. Therefore the Examiner would like to understand the intention behind each different element (policy, text, recommendation).
5. To establish what European sites and any other sites of national or local importance fall within or are near to the ENP Plan area and to see their location(s) on a map.

In order to answer this question it would be most helpful if EPC and WODC could prepare a map in readiness for the meeting that shows their location(s) so that this matter can be confirmed factually and quickly at the meeting. Any existing map from a WODC document can of course be used for this purpose. In particular this query relates to the location of the Oxford Meadows Special Area of Conservation and any SSSIs, SAMs or other such designations.

6. To factually check whether the overall housing figures and those for a) the western extension to the village and b) the proposed Garden Village north of the A40 quoted in the ENP in relation to those being promoted in the emerging Local Plan are the same or to understand the reasons for any differences.
7. To factually check whether the map(s) in the ENP are accurate in particular in relation to the western extension to the village boundaries. It would be appreciated if WODC could lead on this in relation to any proposed site allocation boundaries delineated in both emerging Plans.
8. To factually establish whether any part of the proposed Barnard Gate Garden Village proposal site falls within the ENP area.
9. To find out the planning status of New Wintles Farm in terms of what this facility is and what implications, if any, there are for the ENP.

By their nature, some of the matters overlap and the answers to one matter may well impact others.

Ann Skippers

17 November 2017

Appendix 2

Eynsham Neighbourhood Plan Examination

Information for Exploratory Meeting from the Examiner for the Parish Council and WODC

Venue: Bartholomew Room, The Square, Eynsham, Oxfordshire, OX29 4HW

Date and time: Monday 4 December 2017 2 - 5pm

List of Participants: Eynsham Parish Council, West Oxfordshire District Council (WODC)

I will aim to arrive at the venue about **45 minutes before the meeting starts**. Please ensure the venue is open and someone from both the Parish Council and WODC is there to meet me on arrival.

On arrival I will need to check that:

1. The venue is accessible.
2. The room is suitable for the meeting and that its layout is conducive to the meeting. Ideally participants should be able to sit around a large table whilst members of the public should be suitably seated so they can see and hear the proceedings in comfort.
3. The room is suitable in terms of any health and safety requirements. I will need to know:
 - a) the arrangements for activating the fire alarm and contacting the emergency services
 - b) the sound of the alarm and any differing alarm signals
 - c) the evacuation procedure from the room, the location of fire exits and evacuation routes and to ensure that fire exits are not blocked by furniture etc. and the assembly point(s)
 - d) whether there are any planned fire alarms or drills.
4. The location of the toilets.
5. Water is available for all participants.

Please ensure that someone is available to brief me on these matters and where possible, the room has been suitably laid out and water has already been placed on the table and so on.

Once I have checked these matters, I will wait either alone or with both Parish Council and the local planning authority representatives until it is time for the meeting to begin.

The venue should open to the public 15 minutes before the meeting is due to begin.

At 2pm I will open the meeting by introducing myself and the purpose of the meeting including making reference to the agenda (which has been previously provided). ***It may be helpful to have some copies of the agenda available for any***

members of the public.

I will check everyone, including any members of the public, can hear me.

I will take the names of all participants and ask you to briefly introduce yourselves. I will ask all participants to fill in an attendance sheet that I will provide that simply records name, any job title and organisation represented.

I will ask if there are any members of the press attending.

I will explain how the meeting will run including any breaks, emergency procedures and any other 'housekeeping' matters including mobile phones.

I will then move to the first matter on the agenda.

Ann Skippers, Independent Examiner

Appendix 3

Eynsham Neighbourhood Plan (ENP) Examination Procedural/Clarification Meeting Notes

Meeting Date and Time: Monday 4 December 2017 2pm

Meeting Venue: Bartholomew Room, The Square, Eynsham, Oxfordshire OX29 4HW

Participants

Eynsham Parish Council/Eynsham Futures representatives (EPC) – Richard Andrews, Peter Emery, Dennis Stukenbroeker

West Oxfordshire District Council (WODC) – Astrid Harvey, Andrew Thomson, Chris Hargraves

Purpose of meeting

The public meeting was requested by the Independent Examiner, Ann Skippers (AS) who chaired the meeting. The purpose of the meeting was to provide more information and clarity on certain matters to gain a better understanding of the NP and to establish and agree a way forward with EPC and WODC for the examination of the NP. It was made clear that the meeting was not an opportunity to consider the merits or otherwise debate elements of the NP or to consider representations.

This is a record of the key aspects of the meeting; by their nature, some of the matters overlapped.

Agenda

10. To receive a short verbal update on the progress of the emerging Local Plan and likely timescales for its adoption from WODC.

WODC explained that the emerging Local Plan had originally been submitted in July 2015, but the examination had been suspended pending housing requirement issues. It had been submitted in March 2017 with hearings held in May/June 2017. Further information had been requested and was currently being consulted upon. Interim findings were expected from the Inspector in early 2018 with the expectation that modifications would be consulted upon in January/February 2018 with a view to adopting the Local Plan in late Spring 2018.

11. To hear from both EPC and WODC how they have discussed and agreed the relationship between policies in the emerging ENP, the emerging Local Plan and the adopted Local Plan given that the ENP is being developed at the same time as WODC is producing its Local Plan.

Both parties indicated that relationships between them had not always been constructive. There had been uncertainty around the emerging Local Plan, particularly in relation to housing numbers and site allocations.

12. To understand whether the sites referred to in the ENP namely a) the western extension to the village, b) the proposed Garden Village north of the A40, c) the Southern Industrial Area, d) Spar and the policies that refer to these sites are intended to be site allocations in the ENP i.e. in their own right regardless of the content in the emerging Local Plan or whether it was intended that the ENP would rely on and complement the proposed site allocations in the emerging Local Plan (for a) and b)).

EPC confirmed that it had not been the intention to allocate sites, but to rely on the sites proposed in the emerging Local Plan. The ENP sought to guide and influence the development of those sites, but did not propose them as site allocations in its own right.

WODC recognised the desire of EPC to guide new development in their area. Should the Inspector accept the approach in the emerging Local Plan, then further work would be carried out on the details of proposed site allocations through an Area Action Plan (site north of the A40) and Masterplan (site to the west of Eynsham). WODC indicated opportunities would arise through these routes for EPC to contribute and WODC would prefer this rather than through the ENP whilst confirming elements of the ENP could be incorporated into Area Action Plans and Masterplans.

The Examiner explained there was no need for the NP to 'wait' until the emerging Local Plan had been adopted and that the ENP could a) allocate the sites or b) seek to influence the type of development on them through policies in the NP suggesting that WODC might wish to take its lead from the contents of the ENP for the Area Action Plan and Masterplan. However, given the relationship between the ENP and the emerging Local Plan and the respective timings of each, consideration could be given to which should be adopted first as the ENP if adopted first might be quickly out of date or even superceded by the Local Plan once adopted. Hence there was a need to ensure both were consistent.

13. To understand the intentions and 'status' of the policies, the supporting text to the policies and the recommendations in the ENP given the way in which these three elements are written and presented as well as to understand the relationship between each of these elements. By way of explanation some of the supporting text appears to include different or additional requirements than the policy it sits alongside and some of the recommendations are planning related and so could have been policies. Therefore the Examiner would like to understand the intention behind each different element (policy, text, recommendation).

Although the policies had been divided into "Policies" and "Spatial Policies", there were some options in them and also flexibility in how they might be applied. All were intended to apply to any new villages as well as the existing village of Eynsham. As a result some potentially significant changes to policy wording would be needed to remove options, clarify references to safeguarding land (as no allocations were

being made), change maps, make the policies more precise and so on. It was explained that the intention was to ensure that EPC were aware of these concerns and potential modifications at an early stage to avoid surprises further down the line including the potential for losing the essence of what the ENP is about.

14. To establish what European sites and any other sites of national or local importance fall within or are near to the ENP Plan area and to see their location(s) on a map.

A series of maps were presented for discussion. It transpired that the maps required further updates so European sites in or close to the ENP area could be identified.

15. To factually check whether the overall housing figures and those for a) the western extension to the village and b) the proposed Garden Village north of the A40 quoted in the ENP in relation to those being promoted in the emerging Local Plan are the same or to understand the reasons for any differences.

EPC explained that the policy relating to the west of Eynsham showed that 600 dwellings were deliverable. WODC indicated that the emerging Local Plan allocation is for 1,000 dwellings including two sites at Eynsham Plant Centre and Thornbury Road that already have consent.

16. To factually check whether the map(s) in the ENP are accurate in particular in relation to the western extension to the village boundaries.

The extent of the boundary in the ENP was agreed as accurate and broadly consistent with the emerging Local Plan.

17. To factually establish whether any part of the proposed Barnard Gate Garden Village proposal site falls within the ENP area.

Some of the site does fall within the ENP area.

18. To find out the planning status of New Wintles Farm in terms of what this facility is and what implications, if any, there are for the ENP.

The status of New Whintles Farm was agreed as an aggregate recycling facility. It falls within the proposed Garden Village site to the north of the A40 and any implications would be addressed through the preparation of the Area Action Plan.

As the meeting drew to a close at around 4.40pm, brief comments were made about the comprehensiveness of the basic conditions statement by the examiner and EPC drew attention to a health check report which had been carried out, but not raised these issues. Three options for the way ahead were identified:

- continue with the examination
- pause the examination and review the situation
- withdraw the ENP and resubmit taking into account the issues raised.

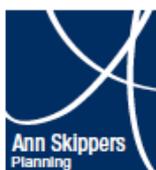
The examination will be paused to give EPC an opportunity to consider its preferred way forward.

I am grateful to both EPC and WODC for assisting with note taking during the meeting.

Ann Skippers
27 December 2017

It should be noted that after the meeting, the Examiner wrote a letter dated 4 December 2017 to WODC and EPC and this is available separately. Another letter dated 27 December is also available separately.

Appendix 4



146 New London Road, Chelmsford, Essex CM2 0AW
T. 07776 204651
E. ann@annskippers.co.uk
W. annskippers.co.uk

4 December 2017

Dear Astrid and Richard,

Examination of the Eynsham Neighbourhood Plan

Following on from the clarification meeting held today in Eynsham about the Neighbourhood Plan (NP), I felt it would be useful to write setting out the options available to the Parish Council and to do so quickly given I understand the Parish Council has a meeting tomorrow.

First of all I would like to thank you both very much on behalf of your respective Councils for ensuring the meeting was organised well and ran smoothly.

I am most grateful for the assistance given and courtesy extended to me from everyone participating around the table in addressing the points on the previously published agenda. Notes of the meeting will be made available on the websites of both Councils in due course.

In the interim period, I would like to confirm the options open to the Parish Council as I see them following on from today's meeting. There may be others to consider too and it might be useful for independent advice to be sought.

As I indicated at the meeting, in many respects the NP is ambitious and innovative in its approach. In some areas/policies though, there is a lack of clarity and precision needed for planning policies.

As you know my role as independent examiner is limited to making a recommendation as to whether the NP can proceed to referendum, can proceed to referendum subject to modifications (which are not binding) or should not proceed as it does not meet the requisite legislative and regulatory requirements. I am mindful that many of those involved in neighbourhood planning have spent a great deal of time and effort on their NPs and that modifications can come as a significant disappointment. I would therefore, as far as possible, like to ensure the Parish Council is comfortable with the way forward.

The options for the Parish Council seem to be:

1. Allow the examination to continue which may mean that if I conclude the NP can progress to referendum, it can only do so subject to a series of modifications including some deletion of, what seem to me, to be key policies. It should be noted that I may also have some additional queries and questions and I cannot, at this stage, say whether a hearing would be needed or not should I continue with the examination. I would however seek to continue with the examination in a timely manner.

Charisma Spatial Planning Ltd trading as Ann Skippers Planning
Directors: Ann Skippers BSc (Hons) MRTPI FHEA FRSA and Clive Hollyman BA (Hons) MRTPI MCI
Registered Office: 146 New London Road Chelmsford Essex CM2 0AW
Registered in England and Wales No: 4752512 VAT Registration No: 839 4451 02

In this scenario, if the Parish Council felt unable to support the recommended modifications and did not want the NP to progress on that basis, it would have the option of withdrawing the NP before the District Council made any decision on the examiner's report.

Alternatively, the Parish Council could ask the District Council to progress the NP to referendum, but then undertake an early review of the NP, perhaps tying in with progress and hopefully more certainty on the Local Plan later next year.

Of course the District Council may or may not agree my modifications and will take a decision on whether to progress the NP on receipt of my report. Consultation may also need to be undertaken again and sometimes re-examination if new or different modifications to those I put forward are agreed between the Councils. There is more information about this on the Planning Practice Guidance website.

2. Withdraw the NP from examination to allow the Parish Council to reconsider and rework/rewrite some of the policies in the NP; this would require new periods of Regulation 14 and Regulation 16 consultation, but often these stages can be executed quite quickly given the Plan is being revised with a view to reaching examination stage again as quickly as possible. This option puts the ball in the Parish Council to reconsider some of its policies and gives the opportunity to work with the District Council as much as possible on any revisions if desired.
3. Pause the examination to await the outcome of the emerging Local Plan to give the NP more certainty and then rework/rewrite some of the policies to reflect what will be a more certain Local Plan scenario; this would also mean that new periods of consultation would be required for the NP.

I confirm I will not undertake any further work on the examination until I hear back from you as to the preferred way forward.

This letter is a matter of public record and should be placed on the Council's websites.

Yours sincerely

Ann Skippers

Ann Skippers MRTPI
Director

via email to Astrid Harvey, Community Planning Officer for West Oxfordshire & Cotswold District Councils and Richard Andrews, Eynsham Parish Council (via Astrid Harvey)

Appendix 5



146 New London Road, Chelmsford, Essex CM2 0AW
T. 07776 204651
E. ann@annskippers.co.uk
W. annskippers.co.uk

27 December 2017

Dear Astrid and Richard,

Examination of the Eynsham Neighbourhood Plan

Following on from the clarification meeting held on 4 December and my letter of the same date, I am writing to acknowledge the withdrawal of the NP by the Parish Council on 13 December. I have also been copied in on a further email from Councillor Andrews on 13 December 2017 which then throws some doubt on whether the examination is to be suspended or withdrawn.

I am therefore writing to shed some light on this and to offer some further, more specific thoughts on the changes I suggest the Parish Council may wish to consider as it is clear that the Parish Council will review some of the policies in the NP and the procedure that should then be followed.

My earlier letter of 4 December used the language 'withdraw' rather than 'suspend'. However, the key difference between the terminology is that if the NP examination is suspended, once it recommences I continue with the examination. If the NP is withdrawn, then there is no obligation on West Oxfordshire District Council to reengage me to undertake the examination and of course even if the local planning authority wishes to do so, the Parish Council may not agree with that course of action. So whilst there is merit in reappointing me as I have undertaken a significant amount of work already, there is no obligation to come back to me should the NP be withdrawn from examination. Of course, I do hope that both Councils would like to appoint me again in this scenario and I confirm I would be pleased to continue my work on this NP. It may be easier to suspend the examination and I confirm I am also satisfied with that approach.

I now turn to the specific areas that I suggest the Parish Council may wish to review (there may be others and I reiterate that the Parish Council may wish to seek some independent advice to help it progress the NP):

1. Revise the maps to make it clear that any references to proposals in the emerging Local Plan are just that and do not form part of the NP or remove them. Subsequent suggestions may require further changes to the maps.
2. Ensure that any explanation and references as to how the NP fits in with the emerging Local Plan are clear and succinct including references to Masterplans etc. and consider whether this explanation should be largely factual.

Charisma Spatial Planning Ltd trading as Ann Skippers Planning
Directors: Ann Skippers BSc (Hons) MRTPI RHEA FRSA and Clive Hollyman BA (Hons) MRTPI MCM1
Registered Office: 146 New London Road Chelmsford Essex CM2 0AW
Registered in England and Wales No: 4752512 VAT Registration No: 839 4451 02

3. Make sure the NP makes a clear distinction between planning and non-planning issues. For instance the NP refers to safe crossings and junctions on the A40 and tree preservation orders, but both would fall outside its scope, but both could be community aspirations or action points for the Parish Council to pursue separately and be included in the NP as community aspirations so that these are not lost.
4. Ensure that the policies are clearly and precisely worded. Any matters in the policy should be reflected in the supporting text and vice versa. An example of this is a specific figure for allotments is referred to in the text but not in the policy.
5. Ensure policies do not contain 'options'; an example of this is the 1000/1200m distance. Whatever distance is sought needs to be evidenced and whilst it is of course acceptable to have a degree of flexibility, the NP needs to be clear on what it seeks. A further example of this is with some of the proposed Local Green Spaces and their dependency on the outcome of planning applications.
6. The NP cannot deal with space standards or technical standards.
7. Policies should not refer to or rely on emerging Local Plan policies (in case they are not accepted or changed by the Inspector considering the Local Plan).
8. Ensure that the policies including the spatial policies do not refer to specific sites or otherwise suggest they are site allocations (if this is what is desired). Policies should be written so they apply across the NP area if the NP does not wish to allocate sites for development. NB it is acceptable to refer to Eynsham Village Centre and Industrial Area as they currently exist and can be identified on a map so they are not allocations but policies that refer to specific existing areas.
9. Clarify whether the Spar site is a site allocation or not and action accordingly.
10. Ensure that any planning requirements are within the policies not just the supporting text and can be achieved through the NP. For instance the text makes reference to support for hotels, but this does not appear in policy.
11. The supporting text and/or recommendations should not require other bodies to undertake things; they should be worded so that the Parish Council takes action and seeks (for example) to work in partnership with other organisations or will seek to persuade another organisation etc.
12. Remove any material not relevant to the contents of the NP such as Appendix A from the NP itself.

In terms of the way forward, once the Parish Council has confirmed whether it wishes to suspend or withdraw, the NP will be revised. A further period of Regulation 14 consultation should then be held for a minimum of six weeks.

The supporting documents will need to be revised to consider the amended NP and I strongly suggest the opportunity is taken to make the Basic Conditions Statement more comprehensive. The Consultation Statement should detail all the earlier engagement as well as the new period of

Regulation 14 consultation i.e. it should deal with everything. The revised NP will also need a new or updated **screening** for Strategic Environmental Assessment (SEA) and Habitats Regulations; this is usually and helpfully carried out by the local planning authority and this will need to be subject to the (separate) SEA consultation processes. It cannot rely on the work carried out for the emerging Local Plan, but can utilise the evidence.

Once the Regulation 14 period has ended, the SEA and Habitats work undertaken, the NP will then be ready to be (re)submitted to the District Council. A new Regulation 16 period of consultation will then be undertaken. Once this has expired the examination can (re)commence.

There is no reason why the periods of consultation cannot be executed quite quickly given the Plan is being revised with a view to reaching examination stage again as quickly as possible.

Given this level of work and the need to revise supporting documents so they refer to the new version of the NP, it might be prudent to dovetail the revisions to see what happens with the emerging Local Plan.

I will not undertake any further substantive work on the NP, but will expect to receive confirmation as to whether the NP is withdrawn or whether the examination is suspended by 15 January 2018. Should the examination be suspended, I suggest we draw up a mutually agreed timetable for the way ahead.

This letter is a matter of public record and should be placed on the Council's websites.

Yours sincerely

Ann Skippers

Ann Skippers MRTPI
Director

via email to Astrid Harvey, Community Planning Officer for West Oxfordshire & Cotswold District Councils and Richard Andrews, Eynsham Parish Council (via Astrid Harvey)

Appendix 6

Dear Astrid and Richard,

Examination of the Eynsham Neighbourhood Plan (ENP)

I feel it is appropriate to write to you both once again before issuing a draft report for fact checking later today as set out in the agreed programme between us all following your request earlier this year that I should resume the examination.

As you are aware from both the meeting held last December and my two letters of 4 and 27 December 2017, I have various concerns about the ENP and some of its supporting documentation progressing in their current form. In those letters, I set out a number of options that I felt would allow the ENP to progress successfully whilst ensuring that the Parish Council retained a strong sense of ownership of the ENP and to enable the emerging ENP to successfully dovetail with the emerging Local Plan.

I must express my sincere regret that this earlier advice following our meeting and the options put forward to you in my letter have not been taken. I remain of the view that the most appropriate way forward for the ENP is to be withdrawn from examination to allow its deficiencies to be remedied and to enable it to progress alongside the emerging Local Plan now that has reached its latter stages. I therefore wished to confirm clearly that this remains my advice before issuing my draft report.

I will therefore wait to hear from you later today following this note before moving to issue my draft report for fact checking as agreed.

Yours sincerely

Ann Skippers
Independent Examiner
1 May 2018