

**EYNHAM NEIGHBOURHOOD PLAN
SUBMISSION (REGULATION 16)
CONSULTATION**

**REPRESENTATIONS
ON BEHALF
OF
BERKELEY STRATEGIC LAND LTD**

Carter Jonas

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1.0 INTRODUCTION

- 1.1 Carter Jonas LLP is instructed by Berkeley Strategic Land Limited (“Berkeley”) to prepare this submission in response to the West Oxfordshire District Council consultation on the Eynsham Neighbourhood Plan (“the Neighbourhood Plan”).
- 1.2 The most recent draft of the Neighbourhood Plan is being consulted upon under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Localism Act 2011. It is also noted that Neighbourhood Plans are covered by the same provisions in the National Planning Policy Framework (NPPF) as Local Plans, in that they will be considered under the 2012 NPPF if they were submitted to the District Council before 24 January 2019.
- 1.3 Berkeley has under its control a large proportion of the land included in the West of Eynsham Strategic Development Area (“SDA”) allocation in the District Council’s recently adopted Local Plan 2031 (“the Local Plan”).
- 1.4 The Neighbourhood Plan was prepared by the Eynsham Futures Steering Group (EFSG) and is broadly supported by Berkeley. Berkeley would be very pleased to work with the Steering Group and Parish Council, before and post the ‘making’ of the Neighbourhood Plan, on the Supplementary Planning Document for West Eynsham. Berkeley submits however that changes are necessary to the Neighbourhood Plan to ensure that it meets the basic conditions and in particular that it remains in conformity with the Local Plan.

2.0 CONTEXT

- 2.1 Berkeley welcomes much of the Neighbourhood Plan and appreciates its sensitivities and context. Berkeley is also pleased to note that much of what they submitted to the regulation 14 consultation has been considered and acted upon in the submission draft of the Neighbourhood Plan.
- 2.2 Berkeley recognises Eynsham for the cohesive community and attractive village it currently is and intends to bring forward development proposals to reinforce and enhance these attributes. Berkeley has a well-earned reputation both for thoughtful ‘place-making’ and the quality of its schemes and it intends to apply its expertise to ensure the success of West of Eynsham for both current and future residents of the Village.
- 2.3 Berkeley fully supports the principle of a cohesive development supported by adequate infrastructure and delivered through an agreed ‘masterplan’. It is committed to biodiversity gains within its developments and agrees with the concept of a linear park. It accepts the need to contribute towards the necessary infrastructure to support Eynsham.
- 2.4 Together with the District Council, and in consultation with the Parish Council and other stakeholders, Berkeley will engage in the preparation of a comprehensive masterplan for West of Eynsham that will form an integral part of the Supplementary Planning Document (SPD) for the site. The purpose of the SPD is to supplement the Local Plan policy by providing more detailed guidance about the type and location of uses within the site, the infrastructure required to support the development and design. Community engagement is an integral and essential part of the SPD process and

Berkeley looks forward to the consultation and collaboration that the coming months will bring.

- 2.5 The representations that Berkeley wishes us to make are intended in the spirit of co-operation and Berkeley looks forward to ongoing collaboration with the Parish Council and others. In particular, Berkeley recognises that it will need to make the case to the Parish Council and others to support the proposed alignment for the ‘Spine Road’ and, in particular its egress to Stanton Harcourt Road, and the capacity of the land to the south of Chilbridge Road to accommodate development. However, Berkeley believes that the most appropriate forum within which to debate and secure the proper planning of the West of Eynsham development is the SPD, rather than the Neighbourhood Plan.

3.0 THE BASIC CONDITIONS AND NATIONAL POLICY

- 3.1 For a Neighbourhood Plan to be considered acceptable for adoption by a Local Planning Authority – for it to be ‘made’ and become part of the Development Plan – it should conform to the *basic conditions*. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) and applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are (conditions b & c not referenced as they relate only the neighbourhood development orders):

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
- d. the making of the neighbourhood plan contributes to the achievement of sustainable development.
- e. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
- g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

National Planning Policy Framework (NPPF)

- 3.2 The NPPF was revised in 2018, but it includes transitional arrangements to allow emerging plans to be considered under the previous framework:

214. *“The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted⁶⁹ on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.”*

Footnote 69: *“...For neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority...”*

- 2.3 The Neighbourhood Plan was submitted to West Oxfordshire District Council in December 2018 i.e. before the deadline date included in the NPPF (2018)

paragraph 214 cited above. As such, the Neighbourhood Plan will be considered in reference to the NPPF 2012. The following paragraphs are those of most relevance to the comments submitted hereunder:

16. *The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:*
- *develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;*
 - *plan positively to support local development, shaping and directing development in their area 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 their neighbourhood plan to proceed.*
17. *... planning should:*
- *be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency*
28. *...neighbourhood plans should:*
- *support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;*
 - *promote the development and diversification of agricultural and other land-based rural businesses;*
58. *Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments:*
- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
- *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
- *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*
- *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
- *are visually attractive as a result of good architecture and appropriate landscaping.*

184. *Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.*

Planning practice guidance (PPG)

3.4 There is also specific Neighbourhood Planning PPG and of particular relevance to the concerns recorded in these submissions is advice at paragraph: 041 Reference ID: 41-041-20140306:

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

4.0 EYNESHAM NEIGHBOURHOOD PLAN

General observations

- 4.1 The function of the Neighbourhood Plan is confused in places. There are some policies that are clear in their requirements (or encouragement) of applicants and how a decision taker should react to the provisions of those policies. There are other elements, including the 'recommendations' and 'Parish Council intentions' that are more ambiguous, and as such Berkeley is concerned about their inclusion in the plan, and is not convinced that they will meet the basic conditions.
- 4.2 The Neighbourhood Plan will, once 'made,' form part of the Development Plan and therefore the policies will carry the same weight as those in the Local Plan. The Neighbourhood Plan policies will be used by Officers and Members of the Local Planning Authority including sometimes through delegated powers. The expressed views and intentions of the Parish Council – as written into the Neighbourhood Plan and highlighted in green boxes – in contrast to the policies risk ambiguity and confusion for the decision taker for planning applications. This will especially be the case in understanding any hierarchy in policies, and what precisely the 'intentions and recommendations' of the Parish Council will mean for an individual planning application.
- 4.3 Furthermore, a development plan document is not the appropriate place to state an opinion about a site allocation that is in a 'parent' strategic plan. This raises clear concerns regarding the general conformity of the neighbourhood plan with the adopted Local Plan.

Policies

- 4.4 The Neighbourhood Plan as drafted includes a number of policies which effect the West Eynsham SDA. These include:
- ENP1 and ENP8 and Notes A and B, which draw heavily on a concept of walking distances as a measure of sustainability;
 - ENP3, 3a, 3b, which consider the provision of services and facilities;
 - ENP4 and 4a, which seek to enhance biodiversity;
 - ENP6, which specifically seeks to manage education provision;
 - ENP7, which seeks to direct transport considerations;
 - ENP12, which identifies an area on the West of Eynsham SDA to be preserved for 'Local Green Space';
 - ENP14, which sets out a description of sustainable development; and,
 - ENP17, which is a specific policy for Strategic Development Areas.

Policies ENP1 and ENP8 and Notes A and B

- 4.5 Berkeley is pleased to read the revised version of this policy and how it engages with the need for a balanced mix of dwelling type and tenures, cross referencing the relevant Local Plan policies. Berkeley maintains its concerns, however, regarding walking distances – a theme in a number of the Neighbourhood Plan policies – but particularly those elements of the plan referenced above. Whilst it is argued that these walking distances are an element of Eynsham’s character it is not clear how this can effectively be maintained, or what robust justification there is to include it in the policy.
- 4.6 Berkeley contest that the intention of the policy is to assess a potential site or planning application by its proximity to services and it is too simplistic to measure a site’s sustainable credentials solely on the walking distance to the existing village centre and key village facilities. By way of an example, as was explained in the regulation 14 submissions, the West Eynsham SDA allocation lies on the western edge of Eynsham, within walking and cycling distance of the wide range of shops, services, clubs and community facilities in the village.
- 4.7 Berkeley is pleased to note that the wording of ENP1 is of encouragement, that development “*should*” be within the identified thresholds and as such is content that it is clear that the walking distances are for guidance purposes and are not a policy *requirement*. Berkeley submit that a more appropriate and reasonable approach would be to amend the plan to remove reference to specific walking distances and instead refer to the principle that new development should, where possible, be provided within a convenient and safe walking and cycling distance of new and existing facilities.

Policies ENP3, 3a and 3b

- 4.8 Infrastructure matters are considered in the Local Plan and supporting Infrastructure Delivery Plan (“IDP”). The Local Plan has been through a rigorous examination exercise to understand the evidential weight that underpins it, and there are adopted policies to provide some additional planned infrastructure and this is not referenced clearly enough in the Neighbourhood Plan, and especially in support of Policy ENP3.
- 4.9 There is a requirement for allotments included in ENP3 that lacks sufficient justification. The commentary suggests a current supply of 1 allotment per 24 homes and an aspiration for 1 per 20 homes. This level of provision is considered to be disproportionately high, and encouraging allotments within new development will reduce the land available for other complementary activities and green spaces. It should be noted that there is no legal national minimum provision standard for allotments. Some useful guidance can be found in the 1969 Thorpe Report which recommends a minimum provision equivalent to 15 allotments per 1,000 households, or 1 allotment per 66 homes, but this is not legally binding.
- 4.10 For the larger developments covered by parts G and H of policy ENP3 it would be more appropriate for this to be considered through the emerging Garden Village Area Action Plan, West Eynsham Supplementary Planning Document and, the IDP rather than in this policy. Therefore it is suggested that these last two criteria are deleted from the policy.

- 4.11 Policy ENP3a refers to the walking distances about which Berkeley maintains its concerns. However, it is pleasing to note that the policy seeks assessment of impacts rather than simply expecting the provision of new facilities.
- 4.12 Policy ENP3b, as it did at Regulation 14, includes repetition of national and local policy and its role specific to development in Eynsham is not clear. Notwithstanding this, the policy should be revised to ensure it meets the basic conditions, it is not reasonable to suggest that *consent* will not be given before utility networks are assessed, as this can be acceptably conditioned as part of the consent.

Policies ENP4 and 4a

- 4.13 Berkeley is pleased to note the revisions to these policies and that they recognise the cross over with the Local Plan. Berkeley's intention is to include a comprehensive Green Infrastructure Network within the development proposals for the West Eynsham SDA and will explore options with stakeholders through the masterplanning and SPD processes.

Policy ENP6

- 4.14 Berkeley is pleased to note that the concerns it raised at regulation 14 have been noted, and the phasing of development and the managed delivery of new infrastructure has been recognised. Berkeley is content that this policy is capable of meeting the basic conditions.

Policy ENP7

- 4.15 Berkeley maintains concerns about the content of ENP7, in particular about suggestions that all new residential streets should be designed to a 20mph speed limit. This blanket approach is unreasonably restrictive and does not pay sufficient regard to the emerging Supplementary Planning Document and masterplanning exercise. There is the potential that these other planning documents could identify different transport solutions that could conflict with what is proposed in the Neighbourhood Plan.
- 4.16 Policy ENP7 should be deleted as it relates to SDA sites which are allocated in the Local Plan. Thus meaning that this policy is a duplication of strategic policy and risks conflict with the emerging SPD / AAP.

Policy ENP12

- 4.17 Berkeley notes that Policy ENP12 identifies an area on the West Eynsham SDA to be preserved for 'Local Green Space'. Berkeley would suggest that the provision of public open spaces within the SDA would best be considered through the comprehensive master plan process for the whole site.

Policy ENP14

- 4.18 Berkeley maintains its concerns about the purpose of this policy that it raised at the regulation 14 consultation. The purpose of Policy ENP14 is not clear. This policy repeats not only national wording regarding character and setting, but also the wording of the Local Plan and other policies of the Neighbourhood Plan. However, Berkeley is pleased to see that the EFSG has highlighted the need to effectively write briefs for, and masterplan, large scale sites and the need to coordinate infrastructure provision.

These elements of the policy, Berkeley maintain, could be made more specific, and would operate more effectively if included in proposed policies ENP16 and ENP17.

- 4.19 Berkeley respectfully suggest that the provisions of this policy are better served by existing policies of the Local Plan and/or others proposed in the Neighbourhood Plan. The policy wording should be significantly reduced and moved into site specific policies. Moving the policy wording could have the added benefit of focusing a reader's attention on site (or theme) specific policies in the Neighbourhood Plan.

Policy ENP17

- 4.20 It is not made clear in the Neighbourhood Plan what the relationship is between policy EW2 of the Local Plan, the emerging Supplementary Planning Document (SPD) and the draft Policy ENP17. The general comments in the introduction to the Neighbourhood Plan that the Neighbourhood Plan is intended to complement the Local Plan does not give sufficient direction to either applicants or decision takers. This risks particular confusion in decision making, and raises the potential for duplication and / or contradiction.
- 4.21 The purpose of the policy is also unclear. The ostensive purpose of the policy is to manage any large scale development but the detail in the supporting text is quite clearly directed to the West Eynsham SDA. There is a conflict between the generic provisions of the policy – that are more generic even than the adopted policy EW2 of the Local Plan – and the detailed and site specific comments of the supporting text and 'recommendations.'
- 4.22 The West of Eynsham SDA is a key strategic housing allocation in the Local Plan. National planning policy, paragraph 184 as quoted above, requires that Neighbourhood Plans must be in general conformity with strategic policies of the Local Plan. As such, Berkeley would respectfully suggest that it is not appropriate to have policies in the Neighbourhood Plan which directly relate to the SDA and could complicate or jeopardise the work done to date by the District Council on the Local Plan and in its emerging SPD.
- 4.23 If the EFSG has concerns over the West of Eynsham SDA, or has specific requirements for it, they should be raised through the SPD process; not through potentially conflicting policies in its Neighbourhood Plan.
- 4.24 Berkeley notes the 'recommendations to the parish Council' and in particular those at Rec 17 C:

"Creation of a bypass-style Link Road may have significant drawbacks. While recognising that a western link road may reduce through traffic on Witney, Acre End and Station Roads, Eynsham Parish Council considers it to be poor use of land otherwise suitable for homes and supports WOLP policy EW2 in seeking the optimum form of the Spine Road, which EPC envisages as being a street with homes fronting onto it, within the development."

- 4.25 There is a Local Plan requirement for the West of Eynsham SDA to deliver 1,000 new homes and a new spine road between the A40 and Stanton Harcourt Road. The landscape and visual baseline work carried out to date by Berkeley, which formed part of its submissions to the Local Plan Examination, has shown that there is scope in

landscape terms to deliver that number of homes and the spine road without affecting adversely the landscape character of the area.

- 4.26 It is understood that development south of Chilbridge Road is not supported, however, landscape evidence which Berkeley has produced does not support this view and it is suggested that the suitability of this area for development should be tested through the SPD process rather than being determined in the Neighbourhood Plan.
- 4.27 As to access, there is a clear requirement in transportation terms for a spine road through the SDA linking the A40 with the B4449. A spine road will also ease congestion in Eynsham village centre.
- 4.28 Therefore, the recommendations at REC 17; criteria C and D, should be removed from the Neighbourhood Plan because they prejudice the SPD process.

Masterplaning

- 4.29 Berkeley supports a comprehensive masterplan approach to the development of the West of Eynsham SDA and would welcome input from the EFSG and Eynsham Parish Council.
- 4.30 Berkeley hopes it can work proactively with the EFSG and Parish Council. It has a proven track record in promoting and delivering large, complex strategic sites. Some of its current projects include 1,250 homes with associated services facilities and infrastructure on Land North-East of Bury St Edmunds; circa 500 homes at Abbey Barn South in High Wycombe; and 750 homes with associated services facilities and infrastructure (including a link road and a primary school) at Warfield, near Bracknell). All of these projects were master plan led.
- 4.31 To recap, the West of Eynsham SDA will:
- Assist in meeting the Council's increased requirement for housing;
 - Be ideally placed to assist in meeting Oxford's unmet need;
 - Contribute by way of direct provision and financial contributions to -
 - improved community infrastructure (health, library provision, community buildings, sport and recreation provision, public open space, etc.);
 - primary education; and,
 - secondary and special needs education provision
 - Provide further support for the existing village centre and assist in the delivery of additional services and facilities within the strategic allocation; and,
 - Assist in the delivery of a new road linking the A40 with the B4449 thereby reducing congestion in the village centre.

5.0 CONCLUSION

- 5.1 Berkeley is pleased to have an opportunity to comment on the Eynsham Neighbourhood Plan. It is clear to see the effort that has been put into the Neighbourhood Plan and the ambitions of the Parish Council and community. Berkeley is also pleased to note that many of its suggestions made at the regulation 14 consultation stage have been taken on board through the final drafting. There remain, however, some details that Berkeley believes should be refined to ensure that the Neighbourhood Plan meets the basic conditions.
- 5.2 National planning policy states that Neighbourhood Plans should be in general conformity with the strategic policies of the Local Plan. As such, it remains Berkeley's view that the Neighbourhood Plan should not have policies which relate to the West of Eynsham SDA and could potentially conflict with SDA policies in the Local Plan and emerging SPD. Given the strategic nature and scale of the allocated growth at West Eynsham the SPD and IDP are more appropriate mechanisms to plan for the development of the site and the infrastructure required to support the growth.
- 5.3 It is understood that proposed policy ENP17 is written as a generic response to 'SDA scale' proposals but the supporting text is closely related to the West Eynsham allocation and as such still represents the potential to conflict with the adopted Local Plan and its policy EW2.
- 5.4 Berkeley does however support the Neighbourhood Plan's aspiration for an overarching West of Eynsham SDA Masterplan and would welcome the opportunity to work with the EFSG and Eynsham Parish Council as that masterplan develops through the SPD process.