

# Deddington Neighbourhood Plan 2020–2040

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## Initial Comments of the Independent Examiner

**Prepared by**

**JOHN SLATER BA(Hons), DMS, MRTPI John Slater Planning Ltd**

**31<sup>st</sup> August 2023**

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John Slater Planning Ltd

## Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Deddington Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents which I have been sent. I visited the parish on Tuesday 29<sup>th</sup> August 2023. I spent nearly 2 and half hours in the parish, visiting each of the villages. Deddington was particularly busy and bustling and I enjoyed some lunchtime refreshments at Foodies!
2. My preliminary view is that I should be able to deal with the examination of this Plan by the consideration of the written material only. I do have to reserve the right to call for a public hearing, if I consider that it will assist my examination, but that may only be necessary, if there are issues that emerge from the responses to this note, which I feel warrant further exploration.
3. Set out in the following paragraphs are a number of questions or requests for clarification or comments which are directed to the Parish Council or in some cases from Cherwell District Council. Such requests are quite normal during the examination process and the replies will help me prepare my report and come to my conclusions.

## Regulation 16 Comments

4. I would firstly like to offer the Parish Council the opportunity to comment on the representations that were submitted as part of the Regulation 16 consultation. I am not expecting a response in respect of every point, just those that the Parish Council feels it wishes to respond to.

## Strategic Environmental Assessment and Habitat Regulation Assessment

5. Would the Parish Council provide me with the dates that the Strategic Environmental Assessment was the subject to public consultation as required by the SEA Regulations 2005.

March 25 – May 6, 2023

6. Could Cherwell District Council provide me with a copy of its Screening Determination in respect of the plan under the Conservation of Habitat and Species Regulations 2017 – the Habitat Regulations.

## Housing Numbers

7. I note that in the District Council's Regulation 16 comments, it suggests that the Council's Executive will be considering a revised draft Local Plan on 4<sup>th</sup> September 2023, which will then be the subject of its own consultation. I appreciate that can be accorded little weight, but can the District Council

comment on whether that version of the plan has any implications in terms of likely housing numbers to be required for the Deddington parish.

We realise this question is directed at the District Council. However we can provide the following answers. The Council's Executive approved a revised draft Local Plan for consultation at its September 4th meeting. The draft plan does not allocate numbers of new homes to individual rural communities. However it identifies 11 larger and more sustainable villages, including Deddington and requires that 500 additional new homes be built across the 11 communities. An 11<sup>th</sup> share for Deddington would amount to 45 and a half dwellings. The NP allocation is nearly double that number and greater than the number ( $126 - 50 = 76$  homes) indicated in the Housing Needs Assessment.

8. The District Council states, in its Reg 16 comments, that it cannot offer a housing number to the parish, even an indicative one, as expected by paragraph 67 of the NPPF. Does the District Council have a view on the proposed quantum of housing being proposed for the parish, in the neighbourhood plan, for the period up to 2040?

### **Policy DEDD2: Deddington Village Settlement Boundary**

We note that the examiner has not posed a question of us on this policy, but we cannot leave the LPA's Reg 16 comments unaddressed. We accept that this LPA, like the others in Oxfordshire, is not one that has a legacy of operating settlement boundaries. It is perhaps to be expected that it may therefore have a view that the policy "would serve to severely restrict development beyond the defined settlement boundaries". But even if development management custom and practice at the LPA is to be generous about how 'built up limits' to villages are defined, its adopted policies are very clear in requiring development to be located within those limits.

This continues to be frustrating as we have gone to some lengths throughout the process and in the submitted documentation to explain why 'severely restrict development' outside the boundaries is precisely the outcome desired to maintain the currency of the plan-led system. Provided we as plan makers are positive in planning for development in the plan period, which we consider we have been, then boundaries are intended to prevent ad hoc proposals adjoining or outside them. We have experienced the consequence of the current ambiguity of adopted policy at Clifton Road and do not want this repeated. But we will also monitor and review our plan in future years to ensure the boundaries remain in step with strategic housing land supply policy.

## Policy DEDD2: Deddington Village Site Allocation

9. Would the Parish Council describe how it arrived at a figure of 80 dwellings, in terms of the housing capacity of the site. I note that the SEA assessed the site as being capable of accommodating 90 units.

The site is 3.3 hectares in size. The Neighbourhood Plan steering group (NPSG) worked on the basis that the norm for new estates in Deddington is 25 homes per hectare. The AECOM Housing Needs Assessment calculated the housing need in Deddington up to 2040 as 76 houses. This site offers generous open space, including a wild flower meadow, a community orchard, a belt of trees, a car park and a central green with a play area – all of which are very welcome, of course. We were concerned that a high overall density of houses, with this amount of open space, would result in cramped plots with small gardens-

10. Should the drafting in the bullet points include the addition of “and” after each element of the policy?

Yes, good idea for clarity.

11. I would draw particular attention to the comments submitted at Reg 16 stage on behalf of the promoter of the site, which makes some comments, not just on the question of housing numbers, where it is suggested that there was Parish Council agreement to a figure of 85 units, but also on the phasing of the delivery of the nursery and parking areas. This seems to suggest that some changes are required to the final sentence of paragraph 5.8.

It is true that the Parish council resolved at its March 15, 2023, meeting to approve the Neighbourhood Plan should go to a Regulation 16 consultation with an allocation of 80-85 houses. The plan was not adjusted accordingly at the time but could be now.

Concerning the final sentence of paragraph 5.8 (at what stage in the development the nursery and car park should be provided), we had understood from our correspondence that the land interest had agreed to this policy provision, as the housing scheme is of a size that will be built out in one phase and reasonably quickly (with a relatively high market absorption rate) and to reflect the urgent need to relocate the nursery. We understand that developers of this type and size of scheme are generally able to finance this modest scale of forward infrastructure, even if they would prefer not to, given a choice.

We are concerned that if you are minded to recommend a modification per the land interest proposal, that the land interest may choose a different delivery plan and to divide the scheme into two phases with the first comprising only 44 units. We cannot see a way in which the LPA would be able to insist on the completion of the second phase, with the nursery and car park. And yet the delivery of those two community benefits was absolutely integral to the choice of this scheme in the site selection process.

We fear that such a modification may send a signal to the community that the policy is being 'watered down' and that the nursery and car park will never be delivered. Communities are rightly sceptical about such matters having being let down many times before and we are not confident the plan will pass referendum if modified.

12. Does the Parish Council have a view as to whether the nursery should be accessed from within the development itself, rather than from the Banbury Road as required by the Highway Authority? It is shown as such on the site promoter's latest concept plan.

We are happy to fall in with OCC Highways' advice on this matter – that the nursery should be accessed by motor vehicle from within the development. We would also very much favour a pedestrian and cycle access from the Banbury Road to the nursery and the southern end of that section of the development.

### **Policy DEDD 3: Housing Mix**

13. I would invite the Parish Council to set out what criteria it would seek for new residents of affordable housing to meet the "connection to the parish" policy – a number of neighbourhood plans do this in respect of exception sites and also what would be the criteria for being considered a key worker in the context of Deddington Parish?

We attach an Appendix A defining what we mean by a Deddington connection, and a key worker.

14. Does the District Council, as Housing Authority, have a local housing allocation policy for the allocation of affordable housing and does it include a local connection element in terms of letting and sale of affordable housing and similarly does that have a key worker element?

CDC does not appear to have a formal housing allocation criterion which prioritises people with a local connection, however in practice they have, at the parish council's urging, prioritised local people for new affordable property in Deddington. CDC (including the housing department) have never raised an objection to our repeated requests that they prioritise local people for local affordable housing, whether to rent or to buy.

CDC's housing department does prioritise key workers, who are normally placed in Band 2. They define key worker very much as we do (see the Housing for Key Workers section on the CDC website: <https://www.cherwell.gov.uk/info/78/finding-a-home-in-cherwell/591/housing-for-key-workers>).

### **Policy DEDD 4: Design Quality in Deddington**

15. Whilst I appreciate its community role, I was surprised to see the Windmill Centre being identified as a non-designated *heritage* asset. Can the Parish Council elaborate on its significance as a *heritage* asset? Its community role is already protected by Policy DEDD 10.

We found it difficult in some instances such as this to differentiate between the social and heritage value of buildings. Although of no local architectural value, the guidance on local heritage assets allows for buildings with strong social connections to the past to be identified as such. This is the case for the Windmill Centre. It is built within the grounds of a local senior school (Windmill School) which served the locality for many years. The current tennis courts stand on the site of the school tennis court. However, as noted, the Centre is included in Policy DEDD10 and if the examiner is minded to recommend its deletion from Policy DEDD4 then we will happily accept that.

## Policy DEDD 7: Landscape Character and Key Views

16. Can the Parish Council expand on how it chose the key viewpoints set out in the plan ? Why were these specifically chosen, in preference to similar views, such as those available to both the north and south of the road from Deddington to Hempton? For example, I could not identify the public viewpoint 2 from Snakehill Lane, maybe due to the current height of the hedges. It may help future decision makers if there was a supporting document, describing the precise viewpoints for the views to be assessed, supplemented by photos of the views.

The NP steering group have conducted two parish surveys, one in 2014, one in 2022, in which parishioners were asked which views they particularly valued. This formed the basis of the choice of views, together with the local knowledge of the Environment sub-group. We concentrated on views in the vicinity of Deddington village since that was where development was likely to be, but did add two views around Hempton including the one from Snakehill Lane. [From the photograph included, it looks as if the hedgerow on the east side of Snakehill might well obscure the view with full summer growth, but the view is clearly visible from further down the lane.] It is true there are spectacular views across the valleys to the north and south along most of the road connecting Deddington to Hempton; similar views to the ones photographed for 4 a) and 4 b) are visible consistently along the road.

We attach photographs of the views Appendix B and a supporting document describing the standpoints for the views in Appendix C.

## Policy DEDD8: Travel Planning

17. Should the policy require that *all* types of development should be providing access to the highway network in a way that mitigates potential adverse transport impacts?

Yes, good idea. So the first sentence of A) could read

**All new developments** should seek to provide access to the local road network in a way that mitigates potential adverse transport impacts, including by the introduction of traffic calming measures.

18. I will need to see convincing evidence to justify why applicants will need to have to demonstrate that their development will not result in adverse effects on air quality at the junction of the A4260 and the B4031. Is there empirical evidence of a problem of air quality at this particular junction? I note that the plan's own SEA stated that there was no Air Quality Management Areas in the plan area and that development taken forward through the neighbourhood plan would not be likely to have significant impacts on pollutant levels in the most sensitive locations in the parish. Is the Parish Council looking for applicants to have to submit an Air Quality Assessment and if it does, what scale of development would be expected to submit one?

The short answer is that we do not yet have specific data, but we do have plenty of circumstantial evidence. In the Parish we have seen increases in traffic over the years, both HGVs and cars. Traffic can be waiting north to south, east to west at the traffic lights for many minutes, especially at peak hours. Queues can reach as far as Adderbury if the motorway is closed. A particular problem is for cars waiting to turn right into Hempton Road – if more than three are waiting this further holds up traffic.

With drivers decelerating and stopping at lights, then revving up to move quickly when lights go green, peak particle concentration was found to be 29 times higher than that during free flowing traffic conditions (13 Feb 2015 University of Surrey). The primary school is next to the traffic. Housing in the High Street, Horsefair and to a lesser extent the Banbury Road, and Hempton Road, fronts directly on to the roads meeting at this junction – alongside the stationary cars waiting at the traffic lights. Traffic jams outside your front door can triple pollution levels.

It is noted that one of the advantages of the site allocated in this NP, is that, located as it is to the north of Deddington village on the Banbury Road A4260, traffic from the estate heading north will not have to pass through the traffic lights or the centre of the village.

The nearest air quality diffusion tubes are in Heyford and Adderbury – the Autonomic Monitoring Station is in Chipping Norton. The Parish Council is currently trying to obtain equipment to measure air pollution in Deddington and anticipated that a mitigation measure to comply with clause A would be the financing of this equipment. Of course, only major development schemes (per the NPPF) may be able to make that contribution. Should the examiner be minded to recommend that the clause is modified to relate only to major development schemes then that would be accepted.

19. Clause B relates to all development proposals, where reasonable to do so, to make financial contributions. Any planning obligation must meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010, namely that that the payment is required to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Could the plan provide more explicit criteria to assist a decision maker in deciding what size and types of proposals would need to make a contribution to local sustainable transport measures?

The Stagecoach S4 bus running between Oxford and Banbury is the only public transport serving Deddington village (apart from a community bus from Middle

Barton which calls twice a week). OCC has a well-established formula for stipulating S106 contributions for the S4 bus service in connection with any new developments in Deddington. There are S4 bus stops within a few meters of the entrance to the proposed allocated site. Clause B mentions the S4, but we could spell out more clearly that we would expect the developers to meet the Transport contribution calculated by OCC.

If in future a sizeable development were approved in Clifton or Hempton, the Parish Council would request some public link to the S4 route. However we do not anticipate that within the plan period.

20. Can Cherwell District Council advise me whether it has adopted a Community Infrastructure Levy scheme and if it has, does the scheme cover payments to local transport improvements?

### **Policy DEDD 11: Community Facilities**

21. Whilst it is normal that a planning policy would seek information on the marketing of a community facility, before a new use is considered, I do have concerns about how a decision maker would be able to assess whether “all reasonable efforts have been made to improve the operation and management of the business or facility.” Can the Parish Council explain how that it expects that criteria would be assessed, when a planning application or an appeal for a new use is being considered?

The policy wording has been deployed in other adopted Local Plans and made Neighbourhood Plans in respect of ensuring proposals to redevelop or reuse community facilities, especially pubs, are properly argued and evidenced. Applicants submit a marketing report that sets out the efforts to find an alternative use(r) and the planning statement argues why the land/building is no longer suited to any type of other community use or benefit. It is then the planning judgement of the decision maker to determine if this information is sufficient and if the case has been well enough argued.

There are recent examples where pubs have clearly been allowed to deteriorate with the intention of driving down business, and making a planning application for destruction or change of use more likely to be granted. In its comments on a planning application as a consultee, the Parish Council would be able to advise CDC from local knowledge whether reasonable efforts were being made to maintain the business.

22. I saw a number of pubs apparently closed on the market. Would the Parish Council be looking at the existence of alternative pubs in the specific village or the parish, as being covered by the penultimate bullet point?

At present two of the four pubs in Deddington village are closed and seeking new buyers or tenants. They are not yet being marketed as potential private houses. There are two other pubs in the village. However the number of eating places and pubs in the village has made Deddington something of a “destination” for evenings and lunches out for people from quite a large area. This adds to the prosperity and vitality of the parish, which we hope will be bolstered by the 160+ new residents that



will occupy the allocated housing scheme which lies within walking distance of them all.

23. Does the Parish Council have a view as to how long a community facility should be marketed for before planning permission for a new use of the building, to be countenanced?

We thought about this carefully. We have business people who are members of the Parish Council and who argue that it is unfair to set a period of, say, 12 months for a pub or business that has tried to prosper but is in danger of going bankrupt. Also it is not clear that the same period of months is suitable for all community facilities. For example it would be a catastrophe if the Health Centre were to wish to sell up (unless they were moving to other premises in the village) and a year would be a reasonable time for it to be marketed as a health centre. Six months might be an appropriate period for a pub. We would therefore leave it to the judgement of the applicant and LPA and have not specified a single period.

### **Policy DEDD 12: Deddington Village Centre**

24. In terms of Clause B, are the policy requirements related to change of use of a pub separate to the criteria set in Policy DEDD11? It seems a question as to whether they are being assessed as a business or a community facility.

We would expect applicants to have regard to the requirements of both policies, which are complementary – in effect Policy DEDD11 unpacks the first bullet of clause B into greater detail. In both cases, the survival of pubs and businesses is very important to the sustainability of the parish, in the provision of employment and to the general prosperity and vitality of the village centre. Yes, they are businesses – but food shops, hairdressers, hardware store, therapy centres, dress shops, estate agents serve a community purpose as well. They are readily accessible for local residents (including a larger proportion of elderly residents than in the country at large) and they reduce the need for travel, with its concomitant air pollution.

### **Policy DEDD 13: Local Business**

25. One of the basic conditions I need to consider, is whether the plan has had regard to national policy. Paragraph 84 of the NPPF states that plans should enable the sustainable growth and expansion of all types of businesses in rural areas both through the conversion of existing buildings and well-designed new buildings. I will need to be convinced why business buildings should not be supported in the countryside of the parish if they meet other criteria.

The policy makes a distinction between the growth and expansion of existing (Class E) business locations, which is already adopted development plan policy and is supported, and proposals for new businesses in the open countryside, which the policy seeks to prevent. NPPF §84 is a general ambition that applies across all rural areas – it must be for the development plan to balance how that ambition is achieved alongside landscape character protection in a specific area.

The examiner will have observed the sporadic development of medium sized industrial units – along Clifton Road for example – that are remote from settlements. Their location and accumulation can begin to change the character of the rural area if not managed spatially, which is the purpose of clause B especially.

It is noted that the policy wording needs to be modified to reflect the full definition of Class E (i.e. ‘commercial, business ...’) in its first sentence and to make the intended subdivision of Class E in clauses A and B clearer, per the explanation in §5.35.

## **Policy DEDD16: Zero Carbon Buildings**

26. Is the expectation that using landform, layout, building orientation, massing and landscaping will deliver zero carbon performance? The Secretary of State’s policy is that neighbourhood plans should not set any local technical standards or requirements relating to the construction, internal layout or performance of new buildings. Whilst this expectation is set out in a Written Ministerial Statement to the House of Commons, dated 25<sup>th</sup> March 2015, this policy has not been withdrawn and is still constitutes current advice. I would welcome the comments of the Parish Council as to why the circumstances in the parish justifies a neighbourhood plan taking a different approach compared to the rest of Cherwell district. I believe that the Secretary of State’s expectations are that technical performance requirements should either be set nationally through the Building Regulations or if through planning policy, it should be done via the local plan rather than by a neighbourhood plan.

Firstly, although the examiner is correct in stating that the WMS 2015 has not yet been withdrawn, the implication that it is sufficient to outweigh other considerations in neighbourhood planning is incorrect. The most recent benchmark on this matter was established by the Inspector of the Bath & North East Somerset Local Plan in his report of December 2022. The relevant extract of that report is include below:

*“80. The Planning and Energy Act 2008 includes provisions for local planning authorities to exceed the minimum energy efficiency requirements of the Building Regulations where they are not inconsistent with relevant national policies for England. The Written Ministerial Statement of 25 March 2015 (WMS 2015) sets out that for the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill. Whilst there are such provisions in the Deregulation Act 2015, they have not been enacted, and the Government has confirmed that they will not so amend the Planning and Energy Act 2008, which means that local authorities retain powers to set local energy efficiency standards for new homes.*

*81. One of the tests of soundness is that local plans are consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the NPPF and other statements of national planning policy, where relevant.*

*82. The WMS 2015 sets out the government’s expectation that plan policies should not be used to set conditions on planning permissions with requirements above the*

*equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes. The Government amended Part L of the Building Regulations in 2021 (now in force) in respect of energy efficiency standards, to a level which exceeds that in Level 4 of the Code for Sustainable Homes (Part L 2021 is a 31% reduction over Part L 2013 and Code for Sustainable Homes Level 4 is a 19% reduction over Part L 2013).*

*83. The change in Part L of the Building Regulations is an interim measure in the implementation of the Future Homes Standard, with which the Government has stated from 2025, will deliver homes that are zero-carbon ready. The change in the Building Regulations is part of Government action to meet its legal commitment to bring all greenhouse gas emissions to net zero by 2050 (The Climate Change Act 2008 (2050 Target Amendment) Order 2019).*

***84. The WMS 2015 has clearly been overtaken by events and does not reflect Part L of the Building Regulations, the Future Homes Standard, or the legally binding commitment to bring all greenhouse gas emissions to net zero by 2050. (our emphasis)***

*85. I therefore consider **that the relevance of the WMS 2015 to assessing the soundness of the Policy has been reduced significantly**, along with the relevant parts of the PPG on Climate Change, given national policy on climate change. The NPPF is clear that mitigating and adapting to climate change, including moving to a low carbon economy, is one of the key elements of sustainable development, and that the planning system should support the transition to a low carbon future in a changing climate. Whilst NPPF154b sets out that any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards, for the reasons set out, that whilst I give the WMS 2015 some weight, any inconsistency with it, given that it has been overtaken by events, does not lead me to conclude that Policy SCR6 is unsound, nor inconsistent with relevant national policies."*

Earlier, in 2020, a neighbourhood plan examiner (Peter Biggars, of the Witchford NP in East Cambs), tackled the same WMS matter. He stated:

*" ... Although the 2015 written ministerial statement does advise that the standard will not be applied through neighbourhood plans the NPPF dating from February 2019, and therefore a much more recent national policy statement, makes no such restriction. At §127 (now §130 in NPPF 2021) it requires that planning policies "create places that are safe, inclusive and accessible and which promote health and well-being" and footnote 46 (now 49) to that paragraph states that "Planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Thus, I do not have an issue with the principle of what the WNP is seeking to do as it has regard to national advice and has been supported by the Local Planning Authority."*

This same position has now been supported by neighbourhood plan examiners in 2023 in Buckinghamshire (at the Ivers and Hazlemere, both since made by Buckinghamshire Council) and West Oxfordshire (at Cassington, also now made) in relation to identical policies to DEDD16.

Secondly, however, as has been stressed in the supporting text and in the Basic Conditions Statement, the policy does not make achieving the standard a requirement. Rather, it is carefully worded to incentivise the use of the standard by increasing the burden on developers to demonstrate that the energy performance measures they propose are delivered on site and through the first year of occupation. There is considerable evidence that shows the absence of this feedback loop, managed through the discharge of a planning condition, has led to frequent under-performance in what is built.

In which case, the policy would be compliant with the WMS even if it carried its former weight. Although challenging for a local planning authority to enforce, some already do so for housing projects (Milton Keynes and Bath & North East Somerset) and many more for commercial projects. With two new neighbourhood plans to implement with this policy, and with many more in the examination pipeline in the county, Bucks Council is now working up a means by which the post occupancy testing regime should be applied. No planning authority that has declared a climate emergency, like this LPA, can afford not to put in place such a system.

The policy does not present a departure from the adopted Local Plan (policies ESD1-ESD3), which in any event are out of step with all that has been adopted and announced since 2015. As stressed above, it does not require zero carbon housing but encourages it, per the Local Plan. Its value added is in putting in place an effective means by which the performance of the energy and construction measures that are proposed (if not to a PassiveHaus type certified standard) are actually delivered and maintained through the occupation of the building. The Local Plan is silent on how this essential feedback loop to ensure ESD2 and ESD3 are properly implemented.

There are many in the sustainable construction sector that have long advocated for development plans to address this system weakness and of course such matters should not ideally be left to neighbourhood plans to address. In the absence of national policy – it is uncertain if the national Future Homes Standard will do so – and of a willingness of LPAs to invest in implementing this kind of policy, for those communities like Deddington that take the climate emergency seriously, this is necessary. The Parish Council would be more than happy for DEDD16 to inspire a districtwide equivalent in the new Local Plan.

## Concluding Remarks

27. I am sending this note direct to Deddington Parish Council, as well as Cherwell District Council and I would request that the two parties' response to my questions should be sent to me by 5 pm on **22<sup>nd</sup> September 2023** and also copied to the other party.

28. I would also request that copies of this note and the respective responses are placed on the Neighbourhood Plan's and also Cherwell District Council's website.

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John Slater Planning Ltd  
Independent Examiner to the Deddington Neighbourhood Plan 31<sup>st</sup> August 2023

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