

# LOCHAILORT NEWBURY LIMITED

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West Berkshire Council  
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**RG14 5LD**

3<sup>rd</sup> March 2023

Dear 

## **West Berkshire Local Plan Review 2022 – 2039: Proposed Submission (January 2023): Representations on the Regulation 19 consultation**

As the owner of the Kennet Centre in Newbury, we set out in this letter our representations on those policies in the Proposed Submission Local Plan that are relevant to this key regeneration site in Newbury's town centre.

An application for the redevelopment of the site was refused in November 2022 for:

*“Full planning permission for the phased redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents’ ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking and cycle parking; landscaping and open space; sustainable energy installations; and associated works.”*

It is however the intention of Lochailort Newbury Ltd to continue to pursue the redevelopment of this site and the below representations are made in this regard.

The site is located in the centre of Newbury and currently forms one of two purpose-built shopping centres in the town. The existing shopping centre has suffered a gradual but sustained period of decline as a result of the redevelopment and newer retail centres in the town, and edge of town, changes in the pattern of retail including online shopping and more recently the COVID-19 pandemic. The Kennet Centre is now a failed and out of date shopping centre in need of significant investment and repurposing.

The regeneration benefits of redeveloping the site as a mixed use scheme incorporating residential, commercial and retail will result in significant economic, environmental and social benefits for Newbury and these are detailed in Appendix 1.

### **Site Allocation**

The Regulation 18 included draft Policy RSA 1 which allocated the Kennet Centre for a mixed use development and acknowledged its highly sustainable location, with the intention to draft further detailed policy criteria.

The draft policy is set out below:

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## Policy RSA 1

### The Kennet Centre, Newbury (Site Ref: NEW3)

The site, as identified on the indicative map, is proposed to be allocated for a mixed-use development that includes approximately 250 dwellings. The residential aspect would complement the existing uses on the site.

The site occupies a highly sustainable location and may present opportunities for higher densities than estimated using the West Berkshire Density Pattern Book, as much will depend on the mixture of uses and design of the development.

Detailed policy criteria will be developed to highlight specific mitigation measures and infrastructure requirements, and will include the need for the design and scale of development to complement existing buildings and the Newbury Conservation Area.

Lochailort Newbury Ltd wrote to the Council in response the Regulation 18 in their letter of 5<sup>th</sup> February 2021 as follows and, while the policy is no longer included in the Proposed Submission Local Plan, the below comments still stand:

*We **support** the identification of the Kennet Centre as a site in need of regeneration.*

*We **support** the explicit recognition that this is a highly sustainable location.*

*We also **support** the flexible wording of the policy in referring to a mix of uses rather than setting out any use mix requirement or restriction.*

*However, we also request the following **policy changes** to align the emerging site-specific allocation with our comprehensive redevelopment masterplan that has already been subject to extensive consultation:*

*It is within the context of the above background that we make the following representations.*

#### 1. Quantum of residential development

*The iterative masterplanning process that we have undertaken over the past months has confirmed that, as part of a mix of uses, this highly-sustainable location could accommodate **a minimum of 400 dwellings**. The reference to “approximately 250 dwellings” in the draft policy should be increased to “approximately 400 dwellings, or approximately 500 dwellings should C2 uses form part of the redevelopment.”*

#### 2. Existing uses

*It would be difficult to extend or redevelop the Kennet Centre in its current form from an engineering and energy performance perspective and to that end, whilst we intend to retain the existing multi-storey car park and the 2009-built cinema wing, the rest of the centre (built in phases from the 1970s onwards) will be demolished in its entirety. The policy wording should be amended to read “The residential aspect would complement any retained and/or additional non-residential uses on the site.”*

#### 3. Development density

*The Kennet Centre occupies a significant parcel of land in West Berkshire’s largest town centre. It benefits from excellent sustainable transport links by virtue of its location mid-way between the railway station and bus station. It has a level of accessibility to services, facilities and employment opportunities that no other brownfield site in the District can equal. Its comprehensive redevelopment offers an unparalleled opportunity to revitalise and regenerate this part of the town centre.*

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*Consequently, the site's unique sustainability credentials, together with its scale, mean that redevelopment here should be maximised to make the most efficient use of the site and thus minimise the quantum of development needed on greenfield land elsewhere. The opportunity for sustainable energy installations is also maximised with higher density schemes.*

*This means that an appropriate development density should be informed by proper master planning and contextual analysis, rather than being led or constrained by the more generalised approach adopted in the West Berkshire Density Pattern Book. Accordingly, the policy wording should be amended to read "The site occupies a highly sustainable location and presents an opportunity for a substantially higher density than estimated using the West Berkshire Density Pattern Book."*

#### 4. Appraisal criteria

*We acknowledge the site's location within the Conservation Area, where the test is whether a development preserves or enhances the area's character and appearance. We would expect the appraisal criteria to be defined to align with the statutory test.*

It is acknowledged that WBC does not consider it necessary to allocate sites within development boundaries as the principle of development is established as set out in paragraph 6.26 of the Submission Draft Local Plan. However, we consider that the Kennet Centre site allocation should be reinstated to acknowledge the importance of this site to Newbury in terms of town centre uses, significant residential development, highly sustainable location and regeneration.

There is exceptionally strong policy support for the principle of the comprehensive redevelopment within the *National Planning Policy Framework, Planning Practice Guidance*, and the numerous ministerial and Prime Ministerial announcements and speeches on the importance of revitalising our town centres. It is notable that the Newbury BID formally support the redevelopment. A site allocation would acknowledge the significant challenges the existing Kennet Centre faces and the considerable benefits its redevelopment would bring to Newbury. It would also assist in the delivery of this important site.

#### **Policy SP1: Spatial Strategy**

We support the "town centre first" strategy and the sequential approach within it.

We note that within Newbury Town Centre, there is a minimum density requirement of 70 dwellings per hectare for flatted developments. We support a minimum density approach however note that the potential for higher densities should be acknowledged, as set out at paragraph 25 of the NPPF, and request that the policy wording is amended as follows (**in bold**):

*Within Newbury, Thatcham, Tilehurst, Purley on Thames, and Calcot, developments are expected to secure a net density of at least 35 dwellings per hectare with densities of at least 70 dwellings per hectare in town centres and for flatted developments, **with the potential for significantly higher densities** along main transport routes and close to transport nodes.*

We note that the recent developments in Newbury town centre have consistently achieved densities higher than 100 dwellings per hectare, with Sterling Cables and the Bayer Office development achieving densities at circa 150 dwellings per hectare, and higher.

#### **Policy SP6: Flood Risk**

It is noted that Policy SP6 requires that the Sequential Test is strictly applied in all areas of flooding. We have no objection to this policy in principle however a large part of Newbury is located within the Flood Zone, including part of the Kennet Centre. As such, a Sequential Test is required for its redevelopment, and for any other sites within the Flood Zone.

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However, the policy also notes that allocated sites will have been subject to the Sequential Test at the plan-making stage. Given the importance of the Kennet Centre to Newbury town centre, in respect of its size, current under-use and potential, alongside its highly sustainable location, it is entirely suitable to be allocated, as a large, town centre site within a predominantly rural local authority.

The requirement for a Sequential Test as part of the planning application process, when a site allocation would forgo such need, on a site which is wholly suitable for redevelopment (with no objection to the recent application from the Environment Agency) results in additional and unnecessary bureaucracy and results in a Local Plan that fails to meet the over-arching soundness requirements of the NPPF in terms of delivery.

## **Policy DM44: Parking**

We object to the inflexibility of the minimum car parking standards set out in draft Policy DC36. The policy directly and indirectly encourages car ownership and usage to the detriment of other more sustainable forms of travel and entirely fails to support the Council's declared climate emergency.

Policy SP1: Spatial Strategy, directs development to the most sustainable locations in the borough. Policy DM44 is inconsistent with this approach and fails to acknowledge that there will undeniably be circumstances where parking levels as proposed would be wholly inappropriate taking into account location, access to public transport, local amenities and the type of development proposed and inherent car ownership patterns for said type of development. Maximum restraint should be applied to parking levels in highly sustainable locations. The centre of Newbury lies within walking distance of the train station and bus station, and there are alternative modes of transport available including car hire schemes, electric charging locations and cycle facilities in the town centre.

This policy fails to meet the soundness tests in the NPPF as it fails to offer any exception taking account of the variables set out in paragraph 107 of the NPPF. As such, the following wording should be added to this policy:

*It will increasingly be the case that the level of onsite car parking should be reduced in the most sustainable locations. Where developments can demonstrate that non car-based travel modes have been maximised (for example through the implementation of car share schemes, by virtue of proximity to public transport hubs, or through enhanced cyclists' facilities) a reduced level of onsite car parking will be actively supported. Residential car parking within defined town centres will not be required to have regard to the minimum provision set out in this policy but instead will be assessed on an individual basis."*

## **Policy SP5: Responding to Climate Change**

We support the ambitions set out in Policy SP5

We do however note that the minimum parking standards set out in Policy DM44 entirely conflicts with this policy which requires that:

*The principles of climate change mitigation and adaptation will be required to be embedded into new development, improving the resilience of land, buildings and existing and future communities to the opportunities and impacts arising from climate change. All development should contribute to West Berkshire becoming and staying carbon neutral by 2030.*

Requiring minimum parking standard even in highly sustainable locations clearly conflicts with the above statement, and particularly bullet point f which seeks to reduce car usage.

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## Policy SP9: Historic Environment

We have the following comments and concerns in relation to Policy SP9. Generally, the policy should be divided into designated and non-designated heritage assets. They are dealt with collectively in parts of the policy, which is confusing, and would have the effect of artificially elevating the status of NDHAs beyond what is intended by statute or the NPPF. This is illustrated by 5.45 of the supporting text which gives great weight to all assets.

The policy contains a section on substantial harm which states:

*Development which would lead to substantial harm to, or loss of, the significance of a designated heritage asset or its setting will not be permitted, unless...*

This statement is incorrect as it refers to harm to the setting of an asset. The setting of a LB or CA is not a designated heritage asset in itself and so harm to setting is not a test in the NPPF and one cannot substantially harm 'setting'. Harm arising from development in a setting needs to be understood as harm to the significance of that asset, where setting contributes to that significance.

Similarly, the bullet points h-l comprise the re-wording of bullet points a-d of para 201 of the NPPF. For example, the following NPPF wording:

*conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible;*

has been changed to:

*Conservation by grant funding or some other form of charitable or public ownership is demonstrably not possible;*

The wording of para 201 of the NPPF should be used, there is no point in altering it and it means that the wording in the local plan is not entirely sound.

Similarly, with regards to less than substantial harm, the local plan states:

*Development which would lead to less than substantial harm to the significance of a designated heritage asset or its setting will not be permitted, unless this harm is outweighed by the public benefits of the proposal, including securing its optimum viable use.*

This should be reworded so that it copies the wording of paragraph 202 of the NPPF, otherwise this is unsound.

Again, and for the same reasons, the following paragraph:

*Development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to maximise opportunities to preserve, enhance, or better reveal the asset's significance **(including that contribution to its significance by its setting)**, and make a positive contribution to local character and distinctiveness through high standards of design in accordance with Policy SP7.*

Should be amended to read:

*Development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to maximise opportunities to preserve, enhance, or better reveal the asset's significance and/or setting, and make a positive contribution to local character and distinctiveness through high standards of design in accordance with Policy SP7.*

The following paragraph is superfluous, internally inconsistent and conflicts with the NPPF:

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*Weight will be given to the conservation of the District's heritage assets in a manner according to their importance. Any harm to the significance of a designated or non-designated heritage asset must be justified. Proposals will be weighed against the public benefits of the proposal: whether it has been demonstrated that all reasonable efforts have been made to sustain the existing use, find new uses, or mitigate the extent of the harm to the significance of the asset; and whether the works proposed are the minimum required to secure the long term use of the asset.*

This should be deleted for the following reasons:

- i. It refers to the justification of harm to designated and non-designated assets in the same sentence. This is liable to confuse as statute and the NPPF treat DHAs and NDHAs differently. While para 200 of the NPPF states that harm to a DHA should require clear and convincing justification, this is no more than demonstrating the requirements of paras 201 or 202. In contrast, para 203 requires that:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

This distinction is blurred by the policy wording.

- ii. ‘Proposals will be weighed against the public benefits of the proposal’. When one is dealing with DHAs it is not a simple balance, but one that accords great weight to the conservation of DHAs (see para 199 of the NPPF). This paragraph therefore does not reflect the provision of the NPPF and needs to be amended.
- iii. The proposed policy wording introduces additional tests for the assessment of development affecting DHAs and NDHAs (*whether it has been demonstrated that all reasonable efforts have been made to sustain the existing use, find new uses, or mitigate the extent of the harm to the significance of the asset; and whether the works proposed are the minimum required to secure the long term use of the asset*) These are unnecessary – development proposals for DHAs should be considered in accordance with the suite of NPPF policies in paras 199-202 of the NPPF, and NDHAs in accordance with para 203.
- iv. The tests are themselves problematic. How does one comply with the limbs of the policy referring to ‘use’ when dealing with development proposals that affect a CA?
- v. The tests cloud and add complexity to the approach set out in the latter part of the policy (which as above should be amended to accurately reflect the NPPF).

The section on enabling needs to be re-written in accordance with the guidance set out in HEAN4 (Enabling Development and Heritage Assets). For example (i) should refer to the balance of benefits (as enabling development may itself create some harmful effects that might on balance be outweighed by benefits elsewhere).

## **Policy DM9: Conservation Areas**

There should be a general cross reference to Policy SP9 to ensure that the public benefits approach in Conservation Areas is carried through.

Bullet point g should be deleted. It sets out:

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*g. to ensure it does not generate levels of traffic, parking or other environmental problems which would result in substantial harm to the character, appearance or significance of the area; and*

The use of the term substantial harm is confusing, as these factors would be unlikely to result in a level of harm of that nature.

The section on demolition of positive contributors should have another bullet point added to be consistent with the general approach in the NPPF:

***iii. OR The proposed development generates planning benefits that outweigh the harm arising from its loss in accordance with paras 201 or 202 of the NPPF as appropriate***

Paragraph 10.82 is incorrect. The loss of a building that does not make a positive contribution to the CA cannot, by definition, be considered harmful to it.

## **DM10: Listed Buildings**

The following wording (in bold) should be added to Policy DM10:

*Development will not be permitted if applicants fail to provide adequate or accurate detailed information to show the effect on the significance and architectural and historic interest of the Listed Building and/or the contribution made by its setting and any curtilage listed features*

The following policy text conflicts with the approach set out in SP9 and the NPPF:

*Development will not be permitted if it would:*

*i. Adversely affect the character, scale, proportion, design, detailing, or materials used in the Listed Building;*

*or*

*ii. Result in the loss of/or irreversible change to original features or other features of importance or interest;*

*or*

*iii. Harm the setting of the Listed Building.*

This is because it does not allow for the application of paras 201 or 202 of the NPPF or the approach in SP9. It simply says 'will not be permitted'. This requires a binary assessment and does not allow a balanced judgement, as required by the NPPF and SP9.

Similarly, the paragraphs that follow set out a series of tests under which the council will permit development:

*Unless justified to the satisfaction of the Council, that the proposed changes, loss or irreversible damage, and/or addition of new features to the Listed Building and its setting are:*

- Less than substantial in terms of impact/harm on the character and significance of the Listed Building and its setting; and*
- Is off-set by the public benefit from making the changes, including enabling optimal viable use, and net enhancement to the Listed Building and its setting. Clear justification for this harm should be set out in full in the Statement of Heritage Significance accompanying the proposals.*

This element of the policy conflicts with the NPPF, relevant NPPGs and all heritage guidance. The reference to public benefits is superfluous as SP9 and the NPPF already set this out, and here it introduces yet more tests. It is not necessary according to the NPPF or statutory provision to result in

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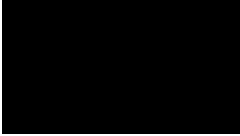
a net enhancement, and this too is a direct conflict with SP9 and the NPPF - if the impact needs to be net beneficial, then there would not be any harm, and this limb of the policy would not be engaged.

If, on the other hand, what this part of the policy is trying to say is that harm to a LB (including by its setting) can be offset by net enhancements, then this is a confusing way of setting this out, and should be worded a clearer fashion.

## **Summary**

We would welcome the opportunity to discuss the contents of this representation with the Local Planning Authority, and wish to be kept updated as to the progress of the Local Plan review.

Yours sincerely



**Sarah Ballantyne-Way MRTPI**  
**Planning Director**



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## Appendix 1- Benefits of Redeveloping the Kennet Centre, Newbury

### Economic benefits

- The Kennet Centre is no longer fit for purpose and its comprehensive regeneration will provide a catalyst with wider regeneration benefits to the town centre.
- The rejuvenation and regeneration of Newbury Town Centre creating an expanded retail offer to attract more visitors to the town centre increasing footfall benefiting the wider town centre.
- The creation of a new mixed use quarter that will enhance the attractiveness of Newbury Town Centre as a destination, with new spaces for local, independent and artisan businesses that will help enhance Newbury's unique and special identity as a market town.
- New bespoke commercial units targeted to local, independent and artisan businesses offered on flexible size, terms and uses that will invigorate the retail and leisure offering in this part of the town centre, without prejudicing the viability of other retail offerings such as that at Parkway.
- A new headquarters office building – which would only be built on a pre-let basis with a single occupier – would provide a golden opportunity for an existing major employer to relocate to a modern purpose built offices in the town centre.
- The introduction of sustainable new homes in the town centre that will increase the population of the town centre and footfall increasing the vitality and viability of the town centre and the patronage of existing shops, services and businesses.
- The provision of new housing, tech-hub and workspace, health centre and retail floorspace for local and independent retailers.
- The provision of flexible workspaces.
- Retention and improvement of the Vue cinema and leisure facilities.
- The creation of circa 360 FTE jobs during the construction process and circa 563 net additional FTE jobs once the development is operational.
- Additional expenditure arising from new households amounting to circa £6.47m per annum.
- £340.8m of indirect and induced economic impacts resulting from the construction process and circa £43.2m in additional tax receipts
- New Homes Bonus to the Council and S106 and CIL payments to WBC.

### Environmental benefits

- A reduction in carbon emissions when compared to the existing Kennet Centre by circa 90%.
- The redevelopment of the site and provision of new homes, retail units and office space in a highly sustainable location.
- The effective and optimal use of a brownfield site.
- Design of the highest quality, reflecting the historic centre of Newbury as well as creating a contemporary heart to the scheme.
- The provision of new public squares and spaces.

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- A significant enhancement to the setting of the listed buildings adjacent to and in the vicinity of the site.
- A significant enhancement to the character of the Newbury Town Conservation Area.
- Enhanced landscaping through the provision of new trees and shrubs assisting with the greening of the town centre.
- Biodiversity enhancements and gain.
- The provision of renewable energy through ground source heat pumps to provide hot water, heating and cooling without the use of any on-site fossil fuels, and photovoltaic panels to the roof of the multi-storey car park and proposed office building to power the proposed electric vehicle charging points.
- The re-use and enhancement of the existing Multi-Storey Car Park on site including incorporating EVCPs.
- An on-site car club that will provide flexible transport options to complement the scheme's close proximity to Newbury's railway station and bus station.
- On site cycle hire and workshop to encourage residents to cycle.
- Traffic free routes and spaces creating new links for the surrounding area.
- A new direct pedestrian route from the town centre and bus station to the railway station through the site making sustainable modes more attractive.
- A Library of Things to enable the re-use of everyday items.

## **Social benefits**

- The creation of a new mixed-use community.
- The provision of new high-quality Build-to-Rent residential units providing long term secure tenancies and high quality residents facilities and amenities in this sustainable location.
- Increase in jobs in the town centre
- Purposely designed accommodation opportunities for new local start ups and social enterprises.
- New public open space, performing areas, outdoor seating and regenerated environment.
- An enhanced leisure offering.
- New GP health centre.
- Payments for local infrastructure through the Community Infrastructure Levy and S106.