

## South Oxfordshire Local Plan 2033

<b>Event Name</b>	South Oxfordshire Local Plan 2033
<b>Comment by</b>	Chilterns Conservation Board (Dr Lucy Murfett - 982031)
<b>Comment ID</b>	741
<b>Response Date</b>	29/11/17 18:46
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.1

**Q1 To which part of the Local Plan does this representation relate? Please state the paragraph or policy number or the policies map.** H5: Land to the west of Priests Close, Nettlebed

**Q2 Do you consider the Local Plan is Legally Compliant?** No

**Q3 Do you consider the Local Plan is Sound?** No

**Q4 Do you consider the Local Plan complies with the Duty to Cooperate?** Yes

**Q5 Please provide details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to cooperate, please also use this box to set out your comments.**

This is a greenfield site on the edge of a rural village in the Chilterns AONB, within the wooded dip slope in an area with a sense of unspoilt ancient countryside.

The site is not well located to the village, being beyond Priests Close, a former council estate which is itself a separate wing detached from the main part of the medieval settlement. Infill or brownfield sites within the village would generally be a better approach than allocating sites beyond the edge of the village than encroach into the countryside.

The site has an access problem. The land between the site and the B431 road is common land, part of Nettlebed Common. Any new access across the common would require the completion of a separate legal process under Section 38 of the Commons Act 2006. This requires common land consent for restricted works from the Planning Inspectorate on behalf of the Secretary of State for Environment, Food and Rural Affairs. Details on the process here

<https://www.gov.uk/guidance/carrying-out-works-on-common-land>. Applications are determined against criteria set out in Section 39 of the Act including nature conservation and the conservation of the landscape. There is no certainty that consent would be forthcoming.

Looking at alternative accesses, Bushes Lane on the southern boundary of the site is an attractive winding holloway with an earth bank and hedgerow on top, it would be entirely unsuitable to upgrade this to provide vehicular access. It is a restricted byway so a right of way for walkers, horse riders, cyclists and non-mechanically propelled vehicles. The only acceptable access option from an AONB point of view would be to acquire and demolish a house on the western side of Priest's Close to provide access. In the absence of such an agreement, this allocation is not effective, and the site should not be assessed as available or achievable.

The suitability of the site is also in question. There is also a need for ecological assessment for this site. The land is pastureland in the AONB next to Common, and within the impact zone for Priests Hill geological SSSI. On a site visit we noted habitats including a thick hedgerow with mature coppiced hazel (potentially suitable for mammals such as dormice), and a historic looking pond (which could be suitable for amphibians including newts) within the site at the north eastern corner. The Common Land between the site and the B431 road is Woodpasture and Parkland BAP Priority Habitat.

The site does not feature in the detailed settlement reports in the Council's *Landscape Capacity Assessment: Sites on the Edge of the Larger Villages of South Oxfordshire: Main Report 2015 Prepared on behalf of South Oxfordshire District Council by: Kirkham Landscape Planning Ltd and Terra Firma Consultancy*. This is because the site (known as NET1) failed at the first stage; because it had "potential for harm to landscape setting of Nettlebed and AONB as a result of settlement expansion into wider landscape". The report recommended that the site did not proceed to Phase 2. There is therefore no detailed landscape capacity assessment or layout advice for this site.

There appears to be gaps in the evidence base regarding landscape and biodiversity which make this allocation not properly explored or justified. Para 115 of the NPPF requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs. Proceeding with an allocation against the advice of the Council's own landscape capacity assessment does not demonstrate that great weight has been applied.

The HELAA 2016 incorrectly identifies the site as 0% AONB (should state 100%), and answers the question 'Within/adjoining common land' with "No". The SHELAA by Arup (Oct 2017) again incorrectly identifies the site as 0% AONB and comments "Access required across Common Land but expected to deliver in first five years owing to small size of site". Both HELAA and SHELAA conclude that this site is suitable, available and achievable. If the AONB and Common Land status had been correctly recorded, this may have changed the suitability to "No".

There are gaps in the evidence base, errors in the site assessment, and too much uncertainty about the suitability and availability of this site (especially given the access over Common Land issue) to proceed with this allocation.

**Q6. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the matter you have identified at 5 above. (NB Please note that any non-compliance with the duty to cooperate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

Delete allocation

*Please note the Inspector will determine the most appropriate procedure to hear those who have indicated that they wish to participate at the oral part of the examination.*

**Q7 If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:**

I would like to participate in order to explain the special qualities of the AONB, the weight given to the AONB in national policy and responsibilities towards it when establishing policies that affect the AONB.

The Chilterns Conservation Board is a statutory independent body set up by Parliamentary Order under the provisions of Section 86 of the Countryside and Rights of Way (CRoW) Act 2000. Section 87 of the CRoW Act sets out the purposes of a conservation board as:

a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and

b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty

But if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a).

Furthermore “A conservation board, while having regard to the purposes mentioned in subsection (1) [of Section 87], shall seek to foster the economic and social well-being of local communities within the area of outstanding natural beauty, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of outstanding natural beauty.”

Section 85 of the CRow Act states under “General duty of public bodies etc”

“(1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

**Would you like to hear from us in the future?**

- . I would like to be kept informed about the progress of the Local Plan
- . I would like to be added to the database to receive general planning updates