

**LEGAL AND PROCESS COMPLIANCE SUBMISSION TO THE PUBLIC
INSPECTOR
ON BEHALF OF CULHAM PARISH COUNCIL**

**SOUTH OXFORDSHIRE DISTRICT COUNCIL LOCAL PLAN 2011-2034
FINAL PUBLICATION VERSION 2ND**

**OBJECTION TO SODC LOCAL PLAN INCLUDING STRAT 8 & STRAT 9 - THE
PROPOSITION TO DEVELOP ON GREEN BELT IN CULHAM
(PROPOSED REMOVAL OF GREEN BELT STATUS)**

11 February 2019

SUBMISSION FROM

**Pamela Chesterman
Senior Associate, Planning Law**

&

**Siri Siriwardene
Head of Commercial Advisory
Berryman's Lace Mawer (BLM)
Plantation Place
30 Fenchurch Street
London
&
Resident**

**[REDACTED]
[REDACTED]
[REDACTED]**

CONTENTS

1. INTRODUCTION 3

2. NATIONAL POLICY, LEGISLATION AND COMPLIANCE 3

2.1 Relevant Extracts from NPPF 3

2.2 Assessment..... 4

2.3 Green Belt 4

2.4 Exceptional Circumstances (General)..... 5

2.5 Exceptional Circumstances (site specific to Culham (Strat 8 & Strat 9))..... 5

3. PLANNING LAW: LEGAL COMPLIANCE, SOUNDNESS AND COMPLIANCE WITH DUTY TO COOPERATE..... 6

3.1 Legal Compliance..... 6

3.2 Soundness 7

3.3 Compliance with Duty to Cooperate 8

4. CONSULTATION AND DUTY TO COOPERATE..... 11

4.1 Statement of Complaint from Culham Parish Council 11

4.2 Inadequate Consultation with Culham Residents 14

5. INCONSISTENCIES IN THE PLAN / PLANNING..... 14

5.1 Inconsistencies in Earlier Versions of the SODC Plan 15

5.2 Information in SODC Documents that is Misleading or a Misrepresentation of Facts..... 15

6. EXAMPLES OF HISTORIC SITES AFFECTED BY STRAT 8 & STRAT 9 LOCAL PLAN FROM SOUTH OXFORDSHIRE DISTRICT COUNCIL (SODC)..... 17

1. Introduction

This submission outlines the following with regard to the South Oxfordshire District Council (SODC) Local Plan 2011-2034, dated January 2019 (hereafter 'the SODC Plan'), specifically STRATS 1, 2, 4, 6, 8, 9.

The conclusion on analysis of the SODC local plan is that there is an insurmountable failure in fulfilling the required Legal Compliance, inclusive of an inadequate Exceptional Circumstances for the use of Greenbelt land for building, that this plan is unsound and that SODC's Duty to Cooperate has not been met. This submission, alongside the other documents provided by Culham Parish Council, details the reasoning for drawing to this unequivocal conclusion.

- The lack of legal compliance of the exceptional circumstances cited in the SODC Plan for removal of Green Belt status and development of 301 Hectares in Culham due to the lack of adherence to the National Planning Policy Framework (NPPF), legislation, policy and recent case law.
 - it is not possible to convert unexceptional circumstances into exceptional circumstances simply by labelling them as such.
- The lack of integrity in the analysis, conclusions and therefore the rationale in the SODC Plan.
- The lack of adequate consultation and changes to information during the consultation period affecting SODC's "Duty to Cooperate".
- The lack of "Soundness" of the SODC Plan including inconsistencies, lack of analysis and lack of quantitative substantiation of qualitative statements delivered as definitive.
- Information that is inconsistent, incorrect, misleading and/or might be construed as a misrepresentation of fact.
- Examples of historic sites, notably Scheduled Monuments, sites affected by the plan that are not addressed as required by the NPPF.
- The overarching conclusion that the exceptional circumstances cited do not comply with requirements and that the process, integrity and decision making are flawed as they are without evidence or adequate consultation.

This SODC Plan in its current form is lacking in detail, scant in information it does provide and littered with speculative (or aspirational) and qualitative language that – without proper justification or evidence basis – cannot bring forward or direct good town and country planning in SODC, or contribute to the wider aspirations for Oxford.

2. National Policy, Legislation and Compliance

2.1 Relevant Extracts from NPPF

Relevant extracts from the National Planning Policy Framework July 2018, Chapter 13 'Protecting Green Belt land' are set out below:

133. *The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; **the essential characteristics of Green Belts are their openness and their permanence.***

136. *Once established, Green Belt boundaries should only be altered **where exceptional circumstances are fully evidenced and justified**, through the preparation or updating of plans.*

137. *Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has **examined fully all other reasonable options** for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:*

*a) **makes as much use as possible of suitable brownfield sites and underutilised land;***

SUBMISSION TO THE PUBLIC INSPECTOR

b) **optimises the density of development in line with the policies in chapter 11 of this Framework**, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and

c) **has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development**, as demonstrated through the statement of common ground.

138. When drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account. Strategic policy-making authorities should consider the consequences for **sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary**. Where it has been concluded that it is necessary to release Green Belt land for development, plans should **give first consideration to land which has been previously-developed and/or is well-served by public transport**. They should also set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.

2.2 Assessment

The SODC Local Plan 2011-2034 can be shown to be deficient in complying to all of these policy guidelines, for example:

- It has chosen Green Belt land for six out of its seven Strategic Sites.
- The circumstances it cites as 'exceptional' are manifestly not exceptional and, at best, only positive, are based on economic gain rather than housing need and most importantly are unsubstantiated – there is no quantitative analysis to underpin sweeping statements in the local plan.
- The reasons given for selection of the Strategic Sites are unsubstantiated.
- There is no justification for the release of Oxford Green Belt and statements are unsubstantiated: the Strategic Site Selection Background Paper (p. 118) states that the Culham site 'is principally intended to serve Culham Science Centre and the strategy to support growth in Science Vale'. It is not to resolve housing need and nor is there any analytical evidence for these statements.
- Little or no regard has been taken of the Green Belt Assessment of Strategic Sites which shows a 'High' Harm Rating for the majority of sites including Culham.
- A brownfield first policy has not been adopted.

2.3 Green Belt

- The Oxford Green Belt Study Oct 2015, commissioned by all the Oxfordshire councils is not included in the evidence base. This is a fundamental failing of transparency in the Local Plan.
- The Local Green Belt Study for South Oxfordshire District Council, Sept 2015 is included in the evidence base and confirms that the land allocation (parcels 02 & 03, Table 5) make an important contribution to three of the four relevant purposes of Green Belt.
- The newly commissioned Green Belt Assessment of Strategic Sites in South Oxfordshire, December 2018 was not made available to the public in the scrutiny/cabinet/council meeting stage and was only available to councillors themselves if they travelled to the council's Milton Park offices to view the 86-page document in person. The Council therefore failed to provide councillors with proper access to key information on Green Belt harm prior to their vote.
- It is clear that the 'harm rating' for the majority of Green Belt parcels, including those in Culham, is 'High'. In Culham the only parcel to drop to 'Low Moderate' is the area on which the Culham Science Centre is based, the brownfield site adjacent (Culham No 1 site) and the land on which the Grade II* listed Europa School is located. The Assessment states (p.70) '*There would be some impact upon the historic setting of Oxford..... as the River Thames which runs along the northern edge of the site is important to its setting, particularly for those approaching by boat or along the Thames path.*'

2.4 Exceptional Circumstances (General)

The Strategic Site Selection Background Paper (SSSBP) (p.8) states that *'That there are two key exceptional circumstances to release Green Belt sites within South Oxfordshire. Firstly, the unprecedented need for housing and the housing requirement that the Council has established within South Oxfordshire. Secondly, the existence of sustainability and deliverability issues at all the non-Green Belt potential strategic allocation alternatives'*

- The housing need and the housing requirement that SODC have established lead to two very different numbers of houses for the District. SODC does not use the Government 'standard method' for calculating housing need but instead elects to use the now discredited 2014 SHMA (Strategic Housing Market Assessment) which suggests a significantly higher need figure.
- In addition to this, there is considerable excess with land allocations giving up a total of 28,465 houses in the Plan period (which would equate to 1,237 houses built per year), and a further 4,025 to follow outside the 2011 – 2034 Plan period.

The SODC Plan documents state: *'It should be noted that the supply figure proposed within the emerging Local Plan far exceeds the need figure, to allow for flexibility and choice....In South Oxfordshire, the evidence considers that the provision of 775 dwellings a year would support economic growth and provide towards affordable housing need'* (emphasis added). Source: Sustainability Appraisal Dec 2018, p.148.

- It is important to note that there is no analytical assessment with qualified reasoning that underpins the housing numbers that this plan proposes to build. The fact that outdated methodology for calculating housing requirement with unsubstantiated uplifts have been applied to the SODC Plan suggests a catastrophic lack of integrity in the proposition.
- In support, SODC's own documents state:
 - a) *'It is recognised that there is significant uncertainty regarding the precise level of unmet need which Oxford City may find on the conclusion and adoption of their own Local Plan'* (Local Plan 2011-34, p.33)
 - b) *'The environmental effects of taking this additional housing on top of that required to meet the district's own needs are a mixture of uncertain and negative effects'* (Sustainability Appraisal Dec 2018, p 10)

2.5 Exceptional Circumstances (site specific to Culham (Strat 8 & Strat 9))

Further *'site specific exceptional circumstances_for Green Belt release'* cite the following reasons for Culham (Local Plan p. 50):

1. *'The additional land provides an opportunity to deliver housing adjacent to one of the major employers in southern Oxfordshire'.*
2. *'Development in this location is at the heart of Science Vale and supports the delivery of much needed significant strategic infrastructure'.*

Taking these in order:

- At the core of the plan is the ability to provide employment at Culham Science Centre (CSC). The analysis has no proof of contracts or commitment from employers to increase employment at the site. This is therefore mere speculation and wholly lacking in quantitative analysis with sound and robust forecasting.
- When presenting to the Culham Parish Council on 12 November 2018 the Property Manager of CSC stated a maximum of 600 new jobs.

SUBMISSION TO THE PUBLIC INSPECTOR

-
- UK funding for JET currently ceases in 2020 and the project is near the end of its life. When it closes there will be job losses of c. 700. Source: Department for Exiting the European Union “Collaboration on Science & Innovation, A FUTURE PARTNERSHIP PAPER (6 September 2017).
 - This leaves a likely net position of 100 fewer jobs than current at the major employer adjacent to the proposed site.
 - 70% of the funding for UK fusion is from Euratom. The UK is set to leave Euratom. Source: EPSRC Website.
 - For further detail please reference submission by Dr Peter Kirby (Briefing Document on Employment at Culham Science Centre, updated February 2019).
 - “Science Vale” is not a specific area, it does not exist and therefore it is simply an aspirational marketing concept. The Strategic Site Selection Background Paper explains as follows regarding STRAT 9: ‘The site is principally intended to serve CSC and the strategy to support growth in Science Vale’ (p. 118). However,
 - this statement has no analytical assessment or forecasting the probability of success (how will SODC convert this marketing concept into reality?).
 - and as importantly there is no link whatsoever, analytical or otherwise, to housing need.

In addition, we must also consider the following:

- that the Green Belt land in Culham serves buffer preventing the merging of towns. Development here would in create a very large conurbation made up of Didcot Garden Town, the villages of Culham and Clifton Hampden and the historic market town of Abingdon.
- It is suggested that a new bridge between Didcot and the Culham Science Centre will be built to assist the traffic congestion. This statement is made is without coherent analysis, assessment of impacts or robust substantiation and as a result lacks integrity.
 - A new river crossing between Culham and Didcot is being planned by Oxfordshire County Council (OCC) because current traffic levels on A415 and the ancient bridges at Culham and Clifton Hampden are over capacity. This bridge is being funded by monies outside of any housing/development contributions. OCC applied for Housing Infrastructure Funding (HIF) from Government in early 2019 for this road/bridge.
- The same argument applies to statements regarding the expansion of Culham railway station which is currently a two-line track. The latest information regarding the four-track proposal of the line between Oxford and Didcot that passes Culham station cited by Jason Sherwood, Growth Manager OCC is that the Non-Disclosure Agreement (NDA) between OCC and Network Rail does not allow specific details of the plans to be shared. The statements regarding the expansion of Culham Railway station and the four-tracking of the route is one of many in the SODC Plan which lacks integrity, and which the evidence contradicts.

3. Planning Law: Legal Compliance, Soundness and Compliance with Duty to Cooperate

The SODC Local Plan and Supporting Documents is so lacking in information and governance that our view is that it does not comply with Planning Law and it is therefore

- 1) Not Legally Compliant
- 2) Not Sound
- 3) Compliant with the Duty to Cooperate

Each of these elements is taken separately and with a focus on Planning Law is set out as below.

3.1 Legal Compliance

Legal compliance is set out in Regulation 17 and 18 of the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012. Section 19(5) and Regulations 12 and 13 of the Environmental Assessment of Plans and Programmes Regulations 2004 require consultations to

SUBMISSION TO THE PUBLIC INSPECTOR

contribute to the development and sustainability appraisal of alternatives. Whilst the SODC supporting documents mention the consideration of alternatives, it is demonstrably absent in illustrating those alternatives or consulting upon those alternatives, in particular the large-scale release of statutorily-protected Green Belt.

The SODC supporting document entitled Habitats Regulations Assessment Report, December 2018 page 11 suggests the plan will accommodate “new development at seven strategic locations: Grenoble Road, Culham, Berinsfield, Wheatley, Chalgrove, Northfields and North of Bayswater Brook” in order to provide “access to high quality leisure, retail and cultural facilities which will also attract visitors”. However, the Local Plan has identified these strategic areas for predominantly residential development, despite a vast proportion of these existing areas lying within the Oxford Green Belt and arguably being more capable by their nature of accommodating high quality recreational (leisure) facilities/attractions that could meet the overall aim of the Report’s assessment. Furthermore, the SODC Plan itself suggests that Wheatley NP will bring forward the details relevant to its area. The SODC Plan fails to set the parameter that is required of a statutory document and instead seeks to rely upon a daughter-document that is still in the plan-making process, furthermore demonstrating the prematurity of this draft.

Whilst the SODC Plan says it takes into account climate change, the text used within its policies is not positively worded to encourage development and designs that help to contribute towards reducing greenhouse gas emissions in line with obligations in the Climate Change Act 2008. There appears to be no attempt to encourage or promote development that contributes to the UK obligations under the Paris Agreement 2015; to reduce global temperature by 2degrees Celsius (or 1.5degrees if the Government accepts the IPCC Report 2018).

Furthermore, in respect of environmental protection one might argue that the release of Green Belt for the purpose of strategic development contributes to climate change and is counterproductive to the purposes identified in the Climate Change Act and Paris Agreement – reducing the earth’s natural biodiversity and barriers between built and natural infrastructure.

3.2 Soundness

Soundness is set out in NPPF 2012, paragraph 182 and more recently NPPF 2018 paragraph 35 that require Local Plans to be:

- a) Positively prepared
- b) Justified
- c) Effective
- d) Consistent with national policy

The SODC Plan policies are worded in a positive manner but lack the detail that would make them truly positive in operation.

The justification for the policies, in particular those relating to the strategic release of Green Belt, are lacking in demonstrable justification that meets the tests set out in NPPF when plan-makers are considering the release of Green Belt.

The absence and failure mentioned directly above means that the policies must be considered deficient and therefore less than effective in being capable of promoting or defining proper town and country planning.

The SODC Plan is demonstrably in conflict with NPPF which includes policies that seek to protect and preserve Green Belt. The SODC Plan considers that there is a large supply of Green Belt within its area, which results in there being less brownfield. Altogether there seems to be an absence or failure to give due regard to the potential for previously-developed land within or on the edge of Green Belt, or within existing settlements.

Despite the Government’s promotion of growth within the wider area, recent appeal decisions have still been found wanting in terms of being able to weigh against the inherent harm to greenfield locations (Appeal Ref: APP/Q3115/W/17/3185997, Land off Peppard Road, Emmer Green

SUBMISSION TO THE PUBLIC INSPECTOR

<https://cornerstonebarristers.com/cmsAdmin/uploads/appeal-decision-3185997.pdf>), noting that even when there is a growth initiative and housing need the protection of green landscape is still a paramount concern and something which will weight against the benefits of housing, even when there is such a “relaxed” approach to Housing Land Supply like in the case in Oxfordshire.

Note: The 'relaxed' approach refers to the government's willingness to accept reduced housing land supply in Oxfordshire; which means the authorities only have to demonstrate 3 years supply, rather than 5 years.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-09-12/HCWS955/>

NPPF 2018 requires plan-makers to be able to demonstrate that they have examined fully all other reasonable options for meeting its identified need for development (paragraph 137) by making use of suitable brownfield sites and underutilised land, optimising density of development in locations served by public transport and having discussions with neighbouring authorities about whether they could accommodate some need, demonstrated by a Statement of Common Ground between authorities.

The SODC Plan fails in several important elements of demonstrating a need to release Green Belt:

- Absence of reasons in concluding it is necessary to release Green Belt for development
- Acknowledgement that most of the strategic sites are not well served by public transport
- Absence of compensatory measures to be put in place if the Green Belt land is released, in relation to environmental quality and accessibility of remaining Green Belt (paragraph 138)

There is no Statement of Common Ground between the six authorities identified in the Growth Deal, but there seems to be a common understanding that SODC will provide the bulk of the residential growth expected outside of Oxford City Centre.

The apportionment for each Council of Oxford City's unmet need is set out in the papers supporting the Local Plan <http://mycouncil.oxfordshire.gov.uk/ieListDocuments.aspx?CId=970&MId=5060&Ver=4> (item 45):

	Proportion of unmet need apportioned
Cherwell DC	4400
Oxford City Council	550
South Oxfordshire DC	4950
Vale of White Horse DC	2200
West Oxfordshire DC	2750
Total	14850

3.3 Compliance with Duty to Cooperate

The SODC Plan is premature and conflicts with the duties to cooperate with six neighbouring authorities in line with Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) (introduced by the Localism Act 2011). The Oxfordshire Growth Board states that as part of the Oxfordshire Housing and Growth Deal agreement with the Government, the six Oxfordshire authorities have committed to producing a joint statutory spatial plan (JSSP), known as the Oxfordshire Plan 2050 (whose progress can be seen following the attached link <http://www.southoxon.gov.uk/services-and-advice/planning-and-building/planning-policy/oxfordshire-growth-board>).

The SODC Plan, in particular the 'strategic site allocations' (which would constitute strategic matters under Section 33A (4) of the Act) depends largely on the aspirational aims yet to be finalised in a joint-strategy, still to be subject to full and proper consultation. Furthermore, there is a real absence of justification and failure to demonstrate the need for SODC to cooperate with the six authorities in the manner chosen, namely the release of Green Belt without comprehensive understanding of the scope of the JSSP.

SUBMISSION TO THE PUBLIC INSPECTOR

The Growth Board 'apportionment process' states that it provides a framework but the SODC has chosen a different approach within the plan. It supports the view that *the unmet needs of Oxford should be met in a manner which complements the growth of Oxford, not in accordance with the spatial strategy for South Oxfordshire*. Public respondents generally considered that the needs of Oxford should be met closer to the city, ideally to the north city in consideration of the proposed strategic infrastructure investment supporting the Oxford to Cambridge Expressway. [South Oxfordshire Local Plan 2011 to 2033 Consultation report Final Publication Local Plan (1st) January 2019 (extracts) italic; author's emphasis (page 2)].

The SODC Plan is uncertain in its wording and its scope; relying on the Growth Deal to demonstrate a need to bring forward significant numbers of houses, with a need to release Green Belt in order to accommodate that growth but suggesting that this exercise should 'complement' the growth. This fails to properly plan for development in SODC area supposedly identified by the Growth Deal, with funding already ring-fenced by Government, whilst still wishing to use that development-promotion to suggest the SODC Plan and growth aspirations will nevertheless be capable of contributing to it. This seems in contradiction to the Growth Board statement which suggests SODC will bring forward the bulk of development in the short-term, until the joint strategy can be finalised.

Proposals to release Green Belt are fundamentally flawed due to being unsustainable and promises of bringing forward infrastructure necessary in order to make them sustainable, whilst also promising that such infrastructure will be capable of contributing to wider network enhancement, is ambitious at best, but unlikely to be achieved in the plan period or soon thereafter.

The Local Plan is so lacking in detail that it is impossible to make it legally compliant or sound.

The SODC Plan is fundamentally flawed on the basis of prematurity and reliance on supporting documents that themselves are still being nurtured or do not exist. This makes the SODC Plan in its current form, with its existing evidence base, incapable of being legally compliant or sound.

In particular, the SODC Plan fails to properly take account of various legal requirements to provide full and robust evidence basis for its release of Green Belt and becomes unsound by its failure to positively plan and justify its policies in its text and policies map.

Policy STRAT 8: Culham Science Centre

Site area: 73 hectares

1. Proposals for the redevelopment and intensification of the Culham Science Centre will be supported where this does not have an unacceptable visual impact, particularly on the openness of the surrounding Green Belt and the Registered Parkland associated with Nuneham House.

This policy is difficult to understand. The use of terms 'redevelopment' suggests the science centre might be capable of some other form of use, or development, but the use of the term 'intensification' suggests that the current use is to be further supported. Again, the policy suggests consideration of 'visual impact' whilst then, this time, recognising the need to address impact on openness of the surrounding Green Belt. No detail of how something will be acceptable or not it given, to give developers guidance in meeting this policy.

2. In combination with the adjacent strategic allocation (Policy STRAT9) this site will deliver at least a net increase in employment land of 7.3 hectares (with the existing 10 hectares of the No.1 site retained but redistributed across the two strategic allocations). The exact siting and phasing of the employment development must be agreed through the master planning and subsequent planning application process.

This policy suggests a Master Plan approach, but this is vague with little or no certainty to when, how and whether or not this will ever come to fruition. SODC has no standard Master Plan format and there seems to be no current draft Master Plan that a developer might wish to progress with the SODC. Failure to properly identify the locations of employment makes this policy too vague.

SUBMISSION TO THE PUBLIC INSPECTOR

3. Opportunities that support job growth and appropriate diversification or enterprise “clustering” will be supported to complement the wider development proposed in the area. Working proactively with the UK Atomic Energy Authority and development partners a masterplan for the site that facilitates this growth must be prepared and agreed with the Local Planning Authority.

Similar comments to above, in absence of any Master Plan standard format, or identification of what must come forward as part of any Master Plan, this policy is too vague and provides no guidance to any desirable developer.

4. The Culham Science Centre is to be removed from the Green Belt and inset as shown on the Green Belt Inset Plan (Appendix 4) to enable this development to be brought forward.

This policy is either repetitive if it seeks to further set out what is mentioned in Policy STRAT6.3., or as illustrated in the policies map. Alternatively, it is not a policy in terms of addressing any development proposals, other than confirming the intention to remove the science centre from the Green Belt. It also fails to give any explanation for the decision to remove it.

Policy STRAT 9: Land Adjacent to Culham Science Centre

Site Area: 220 hectares

1. Land within the strategic allocation adjacent to Culham Science Centre, will be developed to deliver approximately 3,500 new homes, with approximately 1,850 homes within the plan period, a net increase of 7.3 hectares of employment land in combination with the adjacent Science Centre, 3 pitches for Gypsies and Travellers and supporting services and facilities.

This policy is vague and without proper consideration of the allocations it seeks to make. A positively worded, effective plan should set achievable housing delivery figures, which are then reviewed during the plan period. To start from a point where figures are approximate and then seek to cover a period longer than the plan period, but without identifying how long that period might be, suggest that the figures are either too ambitious or based upon flawed data.

The policy also lacks detail in terms of what is meant by ‘supporting services and facilities’ in respect of Gypsies and Travellers.

2. The proposed development at Culham will deliver a scheme in accordance with an agreed comprehensive masterplan, taking into consideration this policy’s concept plan. The masterplan must be prepared in collaboration with and agreed with the Local Planning Authority.

Comments on Master Planning as above. Also, the comments about the proposal to accommodate development that is linked to the JSSP in part premature in development, suggests this policy is at best premature, at worst lacking clarity or any genuine justification.

3. Proposals to develop Culham will be expected to deliver:

- i) in combination with the adjacent Science Centre a net increase of employment land of at least 7.3 hectares (with the existing 10 hectares of the No.1 site retained but redistributed across the two strategic allocations). The exact siting and phasing of the employment development will be agreed through the planning application process;
- ii) affordable housing provision and mix in accordance with Policy H9;
- iii) development densities in accordance with Policy STRAT5;
- iv) sufficient additional education capacity, likely to be a total of two new 2 form entry primary schools and one new 8 form entry secondary school with sixth form on site and appropriate contributions towards Special Education Needs (SEN);
- v) sufficient health care capacity, likely to be a total of one new GP surgery on site to serve existing and future demand in this area in accordance with the Infrastructure Delivery Plan;
- vi) provision of convenience floor space that meets the day-to-day needs of the local community only without impacting on the vitality and viability of existing centres in accordance with

Conclusion

In conclusion, the SODC Plan is not fit for purpose and we recommend that it is withdrawn.

- The Local Plan fails the test of legal compliance. This includes a wholly lacking set of exceptional circumstances for Strat 9 when one considers both the NPPF and recent case law – these are simply not exceptional circumstances and so should be challenged.
- The Local Plan uses speculative language using sweeping statements without adequate research or established quantitative analysis to underpin the plan inclusive of site selection.
- A lack of proper justification or an evidence based approach in this Local Plan contravenes planning guidelines and law, therefore this should be challenged.

Below some examples of case law that support the arguments against the Exceptional Circumstances cited in Strat 8/9 of the SODC Plan:

- Basildon DC v First Secretary of State
- Chelmsford Borough Council v First Secretary of State and another [2003] EWHC 2978 (Admin), [2003] All ER (D) 343 (Nov)
- R (Khan) v LB Sutton [2014] EWHC 3663 (Admin)
- Gallagher Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283
- Fordent Holdings Ltd v Secretary of State for Communities and Local Government
- Hunston Properties Ltd [2013] EWCA Civ 1610; [2014] JPL 599, Kay and Ryder LJJ, Sir David Keane
- R (Boot) v Elmbridge Borough Council [2017] EWHC 12 (Admin)
- Goodman Logistics Developments (UK) Ltd v SSCLG [2017] EWHC 947 (Admin)
- Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government and others

4. Consultation and Duty to Cooperate

4.1 Statement of Complaint from Culham Parish Council

The level of consultation with both the Culham Parish Council and the Culham Community has been inadequate and does not comply with the Statement of Community Involvement.

The Culham Parish Council is the elected body that represents the people of Culham who state that they have not had adequate consultation. Please see their formal statement as below.

Statement from Culham Parish Council regarding the inadequate Consultation and Co-operation by SODC regarding the Local Plan

Culham Parish Council (CPC) regards the consultation that South Oxfordshire District Council (SODC) undertook for 7 weeks from 29th March to 17th May 2017 (covering the Easter holiday period) in relation to the Local Plan Second Preferred Options, as wholly inadequate in relation to the parish and village of Culham.

SODC refer to their consultation on the Local Plan as 'extensive'. In relation to Culham, it cannot be said to be anything other than almost non-existent.

The proposal to remove land from the Green Belt in Culham to provide the single largest strategic development site in the Plan, for 3,500 houses - in effect a new town – was inserted into the Second Preferred Options Plan and released for consultation in March 2017. There was neither an indication of this number of houses nor a plan to remove any land from Green Belt at Culham in the Preferred Options iteration in 2016 – in fact there had only been suggestion of development of brownfield land at Culham [NOTE, although No 1 site is brownfield, I believe it is still Green Belt – this wording needs careful review] No. 1 Site: 'the re-development of the Culham No.1 site for a mixed use scheme including about 500 new homes.'¹ and a specific undertaking to NOT take land out of Green Belt: 'protecting and enhancing the countryside and particularly those areas within

SUBMISSION TO THE PUBLIC INSPECTOR

the Areas of Outstanding natural Beauty and Oxford Green Belt by ensuring that outside towns and villages any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment'², but in the First Preferred Options even this had been ruled out because Culham is 'located within the Oxford Green Belt and therefore do[es] not meet with our preferred criteria.'³

However, in spite of the massive impact of this surprise U-turn on Culham and its neighbours, businesses and surrounds, SODC did not:

- Make available a paper copy of the plan to the village or CPC (the nearest one was available at Culham Science Centre, more than 2.5 miles from the centre of Culham village (where most of the residents live), along a very busy 'A' road. Any person going into the Science Centre needs to go through a security check at the entrance). There were 16 other villages and towns around the District where either Public Exhibitions were held or a paper copy of the Plan was deposited in a public place (libraries for example). Organise a meeting with CPC of this version of the Local Plan.
- Ensure the nearest exhibition was advertised to CPC and the residents and businesses of Culham in a timely manner. A mass email was sent to the Clerk of CPC on 28th March and the exhibition was held on 5th April 2017. A general notice was given in the District newsletter 'Outlook' on 14th March 2017. We have no record of when these newsletters were posted to residents in Culham but it must have been after 14th March 2017. The other exhibitions were in towns at least 8 miles away and with no public transport links with Culham.
- Contact CPC to ask whether a meeting in the village and/or an exhibition should take place and the best location for this.
- Contact smaller land holders in Culham parish whose land fell within the proposed new town development site.
- Contact Abingdon Town Council to arrange an exhibition/meeting considering its impact on the town, and as the neighbouring town to Culham (approximately 1 mile from the centre of Culham village and bordering the Parish) because that town is out of the District
- Ask the District Councillor for Culham (Cllr Sue Lawson) where and when a meeting/exhibition should be held for Culham residents and businesses.

CPC themselves were forced into a position of hastily arranging & publicising a meeting with SODC for the village, with the leader of SODC and Cabinet member for this 2017 version of the SODC Plan. CPC were not offered a paper copy of the Plan. CPC were given a paper copy only after they requested one.

Furthermore, in the consultation for Didcot Garden Town Delivery Plan, in summer 2017, SODC delivered a leaflet to all households in Culham. No such leaflet was sent regarding Local Plan Second Preferred Options.

The District Councillor independently arranged an open meeting for the parish with two principal planning officers on 17 August. There were no visual aids brought by the officers for this meeting and many residents were away from the village on holiday with their families.

For the Reg 19 consultation in October 2017 an exhibition was held in the village only after complaints about the lack of consultation from CPC and residents to the District Council. Culham Primary School was booked for this one evening and a notice posted in the parish magazine. CPC were not informed directly of this in advance.

Obviously very unhappy about this failure to consult properly, CPC and the PC committee, Save Culham Green Belt, arranged a meeting with the two lead Planning Officers on 12 July 2018 to offer our local expertise and explain how unhappy we were with the previous approach SODC had taken to consultation and the inaccuracies in the 2017 version of the SODC Plan, and to make helpful suggestions as to what SODC needed to do to improve consultation for the revised SODC Plan.

SUBMISSION TO THE PUBLIC INSPECTOR

CPC also requested that the revised SODC Plan, when published, should show clearly where it had changed from the previous version. When the revised SODC Plan was published, no such indication was shown. When this was queried with the Head of Planning, Adrian Duffield, he replied that this was not possible because the revised SODC Plan published in January 2019 was, in effect, a whole new Plan.

A second exhibition for the SODC Plan was held in the village in January 2019, again for the Reg 19 consultation. This is the only one that has been advertised in advance, although it should be noted that none of the businesses in the Culham No 1 site were aware of the exhibition.

Regarding the statutory meetings of the Council for the revised version of SODC Plan, published in draft in December 2018, CPC points out that:

- The draft revised SODC Plan went to Scrutiny, Cabinet and Full Council meetings in the space of **one week**, directly before Christmas (13,18 & 20 December 2018). No Parish Councillor from Culham was available to speak at Cabinet due to lack of notice given of the meeting dates.
- Two key and lengthy documents (the Site Selection Background Paper (498 pages) and Green Belt Assessment of Strategic Sites (Dec 2018) (86 pages) were not available to the public before these meetings. They were not even available even to District Councillors unless they travelled to SODC offices at Milton Park to view them in person in hard copy. Councillors at Full Council complained that they had insufficient time to consult all the documents and had not had adequate access to these aforementioned documents.
- A Conservative whip was in place and six of the Conservative Councillors who voted against the plan were consequently suspended from the Conservative group.
- The Cabinet of SODC who approved the SODC Plan comprises Councillors whose wards do not have any development proposed in the SODC Plan.
- The exhibition slides produced for all the eleven exhibitions around the district are inconsistent, incorrect in part and misleading. For example, the poster with the plan for Culham states: 'This allocation will be expected to deliver approximately 1,850 new homes within the plan period'. No-where on this poster does it reveal that the full number, building out after the plan period, is 3,500, the largest strategic site in the whole district. On the other hand, the poster for the Grenoble Road site states: 'This allocation will be expected to deliver approximately 3,000 homes within the plan period' even though other documents reveal that the number to be built there in the plan period is actually 1,700.
- The revised SODC Plan published in its final form in January 2019 is, for Culham, almost identical to the previous version, apart from some numbering of Strategies and the numbers suggested to be built in the Plan period. However, CPC's submissions to the consultation for the previous version are not valid for this revised Version. We therefore needed to commission a whole new set of specialist Planning, Employment, Environment, Traffic and Legal reports, at considerable effort and expense.

This is wholly unsatisfactory and Culham Parish Council firmly believe that this did not give residents and businesses in the parish sufficient time, opportunity for scrutiny and clarification to enable them to meaningfully comment on either version of the plan. The sharing of the rationale behind the decisions, and the changes of mind/decision to include the Green Belt land has also been inadequate. SODC have shown a woeful lack of consultation and co-operation with Culham village and parish and have not attempted 'to bring the community with them' in any way; the approach SODC have taken has indicated that they set out to avoid contact with the area that was going to feel the impact of this largest strategic site the most.

Footnotes:

1. **SODC LP2032 Preferred Options -**

<http://www.southoxon.gov.uk/sites/default/files/SODC%20LP2032%20preferred%20options%20low-res.pdf> (accessed 18 Nov 2017)): Paragraph 9.14:

'Proposed Policy – Culham Science centre and no.1 site

SUBMISSION TO THE PUBLIC INSPECTOR

Proposals for the redevelopment and intensification of the Culham Science Centre with the creation of about 1,000 new jobs will be supported, together with the re-development of the no.1 site for a mixed-use scheme including about 500 new homes. In order to deliver any potential proposal, we will work proactively with the UK Atomic energy Authority and development partners to create an agreed masterplan that facilitates this growth.'

2. Ibid; p. 24 'Proposed Policy – The Overall Strategy'

3. Ibid. p.32 'Strategic Allocation' 5.17

4.2 Inadequate Consultation with Culham Residents

The Statement of Community Involvement has been further disregarded by SODC.

- See above re Parish Council's statement.
- Any consultation and raising awareness of the SODC Plan with local residents has been kept to a minimum, deliberate or not, this has significant consequences in allowing residents adequate time to digest a very large volume of information, reflect and comment.
- As set out in the CPC statement, the Scrutiny, Cabinet and Full Council meetings to discuss the revised draft Local Plan 2011-34 were convened and voting on the plan pushed in the space of one week immediately prior to Christmas 2018 (13, 18, 20 December in Crowmarsh Gifford, Didcot and Crowmarsh Gifford again respectively) with public consultation opening on January 7th for six weeks. The allocation of a week to those making a decision on a Local Plan that has wide ranging and catastrophic impacts on the Greenbelt is wholly inadequate. Were SODC Councillors voting on papers and plans that they had not read in their entirety and / or properly digested? Unequivocally, yes.
- The lack of consultation, the need to re submit submissions from the previous plan and the speed at which the SODC Plan is being pushed through will of course make it extremely hard for the local residents and the wider community to comment from a position of understanding.

NOTE: We have identified that SODC have added and or changed a number of important documents in the SODC Plan within this consultation period without specifically drawing attention to these changes, for example, changes to the Housing Topic Paper. Local residents simply cannot keep up with this.

5. Inconsistencies in the Plan / Planning

There is a significant amount of opinion, including inconsistencies, rather than substantiated facts in the supporting documents provided by SODC in the SODC Plan. This leads to a conclusion that the SODC Plan is unsound and at the least requires significant and robust further analysis before any conclusions can be drawn and consent for the SODC plan to be considered as a viable option.

- The review and conclusions around other non-Green Belt options to build the necessary houses has been inconsistent and unsound. Examples are:

The Duty to Cooperate suggests that the plan has been prepared in cooperation with other local authorities and prescribed bodies. However, both Central Government and Oxford City Council, the two key stakeholders outside SODC that affect housing requirements in the area) are reviewing their plans until further analysis is done.

Note: It is even stated in the SODC Plan text (p.33) that **'it is recognised that there is significant uncertainty regarding the precise level of unmet need which Oxford City may find on the conclusion of their own Local Plan.'**

- It is manifestly clear that SODC cannot reach a conclusion where a significant portion of the housing suggested in Green Belt is for the overflow of Oxford's requirement. There has been no genuine consultation, analysis and establishment of a requirement based on the new analysis currently being carried. This is therefore unsound

The plan also ignores detailed impact assessment and commentary on other major considerations. An example of this is that is a lack of consideration for the plans for 'A Bypass for Southern Abingdon' which is simply not covered in any detail in the SODC Plan and yet is proposed for Safeguarding and will cross south of the A415 to connect the Burycroft. This is another example of the SODC Plan's failure for the soundness test.

5.1 Inconsistencies in Earlier Versions of the SODC Plan

As the earlier versions of the Local Plan supply much of the content to this latest version, it is important to consider these.

The inconsistencies in the documents presented and ongoing changes suggest susceptibility to "political lobbying" and / or a significant lack of analysis and rationale in the decision-making process. Either way the result is a lack of integrity in the output which is the Local Plan. It is the same team that has delivered each of the examples below, these are direct quotes:

- In 2015 'Refined Options' stated:
 - "Around Culham railway station there is major high-tech employment at Culham Science Centre, an industrial estate and pub & hotel. We could plan for a significant number of new homes at Culham **near the station and/or on brownfield land at the Culham No 1 employment site'** (p.23)
 - CSC 'has further [employment] capacity, with the existing site, **but further road improvements would be necessary to expand employment there'** (p.45)

That is all that the Refined Options text says about Culham.

- The 2016 "First Preferred Options" stated:
 - Our preferred housing distribution includes the provision of a "Strategic Allocation" of at least 3,500 dwellings' ... 'We prefer that this single location be outside the Oxford Green Belt. **The need to supply more housing is not considered to be an exceptional circumstance for a review of the Green Belt and this is particularly the case as we have options which are not within the Green Belt.**" (p.31)
 - 'Option 3 to 7' [of which Culham Science Village is No 3] '**are located within the Oxford Green Belt and therefore do not meet with our preferred criteria'**. (p.32)
 - Yet, in Chapter 9 'Didcot & Science Vale' it stated: '**Our preferred approach is to allocate the 'No 1' site for new homes** and relocate the businesses there to another appropriate location. We are in the process of identifying such a site and will consult on this at the next stage' (p.70)

The first mention of 3,500 houses on the Green Belt in Culham is in the 2017 version of the document. This conclusion is not underpinned by proper analysis including substantiating why other brownfield sites have been discounted. This lack of substantiation flows through into the current version.

5.2 Information in SODC Documents that is Misleading or a Misrepresentation of Facts

Analysis of statements made by the SODC suggests a lack of consistency in approach as well as the provision of misleading information or misrepresentation of facts when they have been published via documents and consultation. This once again brings into question the integrity of the process and rationale for choosing the large Green Belt site at Culham as the proposed site for a massive housing development with 3,500 houses.

SODC have used disjointed, contradictory and factually incorrect information such as those listed below:

- 2016 First Preferred Options – Quotes from SODC Documents

'Our preferred housing distribution includes the provision of a "Strategic Allocation" of at least 3,500 dwellings' ... 'We prefer that this single location be outside the Oxford Green Belt. **The**

need to supply more housing is not considered to be an exceptional circumstance for a review of the Green Belt and this is particularly the case as we have options which are not within the Green Belt. (p.31)

And that 'Option 3 to 7' of which Culham Science Village on Culham No 1 site is No 3 **'are located within the Oxford Green Belt and therefore do not meet with our preferred criteria'**. (p.32)

However, in Chapter 9 'Didcot & Science Vale' the document states:

'Our preferred approach is to allocate the 'No 1' site for new homes and relocate the businesses there to another appropriate location. We are in the process of identifying such a site and will consult on this at the next stage' (p.70)

This is wholly contradictory and supports the argument that the analysis, rationale and decision-making process has been both inadequate and lacking in integrity.

- **Policy STRAT 1: Overall Strategy states that:**
 - "major new development in Science Vale including Didcot Garden Town and Culham so that this area can play an enhanced role in providing homes, jobs and services with improved transport connectivity"
 - However, this is contradictory to statements later in the same strategy that states:
 - "Protecting and enhancing the countryside and particularly those within the two AONB and Oxford Green Belt by ensuring that outside of the towns and villages any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment.' 'our vision and objectives for South Oxfordshire recognizes the rural nature of our District and the importance of our rural settlements in contributing to what makes South Oxfordshire such a beautiful and prosperous place to live."
- The March 2017 HELAA in which non-Green Belt areas were identified by independent consultants ARUP to be fully suitable was amended in the October 2017 SHELAA to be classified as unsuitable – however no rationale has been provided for this change.
- One would also question the reasoning behind inserting into the 2016 Sustainability Appraisal that the Council is considering four options on land to the west of CSC (a bland statement without evidence or analysis) as this is inconsistent with the statements made in the main document. One would also question why this statement was included in this part of the document and not made more obvious and accessible to the untrained eye of the public.
- Both the 2016 Sustainability Appraisal, and the MARCH 2017 Sustainability Appraisal listed significantly inaccurate distances between the proposed housing and key receptors, for example]:
 - Culham village stating 2.5 miles vs 0.3 miles (actual) = **exaggeration of >8x**
 - Clifton Hampden stating 1.9 miles vs 0.9 miles (actual) = **exaggeration of >2x**
 - Abingdon: stating 3.5 miles vs 1.5 miles (actual) = **exaggeration of >2x**

Note: It is only in the Sustainability Appraisal December 2018 (p. 168) that for Culham this has been amended to refer more correctly to the proximity of the housing 'The site is situated ... 750m to the north-east of the village of Culham'. However, this is not made clear in the SODC Plan document itself.

These distance-related errors are significant as they affect the perspective of local residents and Councillors who vote on the SODC Plan and their view of proximity of local villages and towns to the development.

Additionally, it is worth noting that the layout for map in the SODC Plan documents is such that the proposed development's proximity Culham village cannot be seen, although it is only 750 metres from the site. One might suggest that this was done deliberately to make it appear that there were no settlements nearby.

- The Property Developer's (CEG) 'Vision Document' which was included in their response to the March 2017 SODC consultation shows that an agricultural soil survey was carried out and

SUBMISSION TO THE PUBLIC INSPECTOR

that the vast majority of the land is Grade 3a with several areas of Grade 2 (Note: 1,2 & 3a are considered Best and Most Versatile Agricultural Land (BMV). However, the SODC's Sustainability Appraisal Sept 2017 said *'it is not known whether this is Grade 3a or 3b'*. The current SODC SSSBP (December 2018, Page 122) states, in contradiction to the Developer's Report of 2017, "that most of the site is of low value." This contradiction brings into question where the evidence is being sourced from and suggests that the agricultural soil survey of 2017 is being ignored as its evidence doesn't support Strat 9 of the current Local Plan.

The NPPF (July 2018) Section 15 para 170b) states the importance of: *'recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'*.

With plenty of time to have corrected the error ahead of publishing the SODC Plan in January 2019 it should be noted that Appendix 1a of the Sustainability Appraisal states: *'site would result in development on greenfield or would create conflicts in land-use and/or Site would result in the loss of agricultural land (Grade 3b or below) (p. 171)*

- An Exceptional circumstance that was cited in October 2017 was that the land surrounding the sites at STRAT 6 & 7 (now STRAT 8 & 9) was 'suburban in nature'. This is not factual.
- To wholly ignore the proximity of Abingdon because it is across the district boundary is misleading, it is a significant settlement 1 mile from Culham village and borders Culham Parish directly at the Thames Bridge. Only Thame, Didcot, Henley and Wallingford are listed as the towns nearby. This is a ridiculous omission that significantly undermines the integrity of the research or the presentation of that research and evidence that underpins Culham as a proposed Strategic Site.

6. Examples of Historic Sites Affected by Strat 8 & Strat 9 Local Plan from South Oxfordshire District Council (SODC).

Please refer to the National Planning Policy Framework, which outlines the requirements of conserving and enhancing the historic environment of any relevant site.

The detail in this section has been provided by Leslie Goldblatt from Historic England.

The sites listed below are of significance and likely to be affected by the plan. There is no analysis or recommendation in the SODC Plan for Green Belt detailing how this would be addressed.

- There are two scheduled monuments (found around the proposed eastern access route to the development).
- In Culham station there is a ticket office which is a Grade II* listed building and as such cannot be demolished or altered, and the setting it is located in must be preserved.
- The Culham station overbridge is Grade II listed and as such cannot be destroyed or altered.
- The main building of the Europa School (formerly Culham College founded in 1852) which is at the front of the school and adjacent to the proposed site is Grade II listed.
- The area around the Bridge farm, an area very close to and at times overlapping with the proposed western access road, has a number of Grade II listed buildings that cannot be demolished or altered.
- Located south east of Round Barrow cemetery (a known Scheduled Monument to the east), is the south east of church settlement which is classed as an ancient monument. While the settlement is not afforded the same protection as a scheduled monument, it is still of historical significance.

Other relevant historical site related information:

- The OCC options appraisal for the Didcot to Culham new road and bridge in the first, most western option includes parts of an area that was previously an Iron Age or Roman settlement site near the river. Ceramics and human burials dating back to the 4th-century were found at Manor Farm, which is directly beside the proposed development. It is likely that there are

SUBMISSION TO THE PUBLIC INSPECTOR

undiscovered settlements and artefacts in the surrounding areas and any development could cause serious damage to any such ruins and artefacts.

- The second, eastern, route for this proposed crossing would cross two Scheduled Monuments'. The Round Barrow cemetery at Fullamoor Plantation, where evidence of Bronze Age burials has been found, and the site of a Roman town near Long Wittenham. Again, development will likely cause serious damage, and in severe cases negatively impact the historical integrity of the site. It is known that any development on a Scheduled Monument requires Scheduled Monument consent and it is often the case that development disturbing the ground within the vicinity of that monument is discouraged.