

## South Oxfordshire Local Plan Proposed Main Modifications Consultation Comment Form

**Please return by midnight on Monday 2 November 2020** via email [planning.policy@southoxon.gov.uk](mailto:planning.policy@southoxon.gov.uk) or post to Freepost SOUTH AND VALE CONSULTATIONS (no stamp is needed and no further address is needed)

This form has two parts:  
**Part A** – contact details  
**Part B** – your comments

### Part A

Are you responding as an: (please tick)

Individual
  Business or organisation
  Agent

A name and contact details are required for your comments to be considered.

	1. Personal Details	2. Agent Details (if applicable)
Title	<input type="text" value="MR"/>	<input type="text"/>
Full Name	<input type="text" value="R J Kirkham"/>	<input type="text"/>
Organisation (if relevant)	<input type="text" value="Not applicable"/>	<input type="text"/>
Job Title (if relevant)	<input type="text" value="Not applicable"/>	<input type="text"/>
Address Line 1		<input type="text"/>
Address Line 2		<input type="text"/>
Address Line 3		<input type="text"/>
Postal Town		<input type="text"/>
Postcode		<input type="text"/>
Telephone Number		<input type="text"/>
Email Address		<input type="text"/>

### Sharing your personal details

Your name, contact details and comments will be shared with the Planning Inspector and a Programme Officer, who acts as a point of contact between the Council, Inspector and respondents.

This means that you may be contacted by the Programme Officer or the Council with updates and in relation to any necessary consultations on the Local Plan. This is in accordance with Regulation 19 and 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 and Regulation 102 of The Conservation of Habitats and Species Regulations 2017.

We have received assurance that the data passed to the Planning Inspector and Programme Officer will be kept securely and not used for any other purpose. The Inspector and Programme Officer will retain the data up to six months after the plan has been adopted.

Comments submitted by individuals will be published on our website, alongside their name. No other contact details will be published. Comments submitted by businesses and/or organisations will be published, including contact details.

Please refer to our Privacy Notice regarding how your personal data is used for this consultation, available on our website [southoxon.gov.uk/newlocalplan](https://southoxon.gov.uk/newlocalplan). If you would like to know more about the councils data protection registration or to find out about your personal data, please visit: [southoxon.gov.uk/dataprotection](https://southoxon.gov.uk/dataprotection)

### Future contact preferences

As explained above, in line with statutory regulations, you will be contacted by the Programme Officer (and where necessary the Council) with relevant updates on the Local Plan. South Oxfordshire and Vale of White Horse District Councils have a shared planning policy consultation database. If you would like to be added to our database to receive updates on other planning policy consultations, please tick the relevant district box(es):

- I would like to be added to the database to receive planning policy updates for South Oxfordshire
- I would also like to be added to the database to receive planning policy updates for Vale of White Horse

## Part B – Please use a separate sheet for commenting on each proposed main modification or consultation document

You can provide your comments on the Emerging South Oxfordshire Local Plan Proposed Main Modifications in this section.

The list of documents you can comment on are:

- Schedule of Proposed Main Modifications
- Schedule of Policies Map Changes
- Sustainability Appraisal Report Addendum
- Habitats Regulations Assessment Addendum

**Please note we are inviting comments on the Proposed Main Modifications and documents listed above only - this is not an opportunity to make comments on any other part of the Plan.**

If you are commenting on the Main Modification document, please provide the main modification number (for example MM1) in the box below.

If you are unsure of the 'modification number', please refer to the Schedule of Proposed Main Modifications.

If you are commenting on any of the other consultation documents (for example the Sustainability Appraisal Addendum), please provide the relevant section, paragraph or page number in the box below:

Modification Number or Document, section, paragraph or page number

DES11

Please provide your comments below:

If your comments are over 500 words it would be really helpful if you could also provide a summary of your comments using the text box in the next question.

If you wish to include any supporting documents, please attach them to this comment form.

See attached sheet

(Continue on page 5 if necessary)

If your comments cover more than the boxes provided, please use the space below to provide a summary. You are not required to summarise your comments, but a summary would help us in our reporting.

Please provide your summary below:

**Thank you for your comments.**

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## Consultation Response to Main Modifications to the South Oxfordshire Local Plan

1. Thank you for your notification of this further consultation stage about the Main Modifications to the South Oxfordshire Local Plan. I have noted the preliminary findings letter from the Planning Inspector who conducted the examination in public. I did participate in the Virtual Hearing session on Climate Action.
2. This is the first opportunity to comment after the publication of the Planning Inspector's Preliminary Findings. I am therefore taking the opportunity to make some general comments whilst seeking changes to the Policy DES 11 contained in your main modifications document. I have set out the additional requirements considered necessary( in Paragraph 6 to 19).
3. The Preliminary Findings letter from the Planning Inspector intimates that the Local Plan is in conformity with the Growth Plan. Importance is being given to this because it underpins the Local Plan and , conversely, the significance of the statutory Local Plan for helping to deliver the Growth Plan required of South Oxfordshire. Yet I am not aware of any past examination in public of the Growth Plan taking place although it is acknowledged that no formal statutory requirement may exist, instead there only being a requirement to consult. Arguably there is far less public scrutiny of the Growth Plan where this affect residents . The Growth Plan is devised by Government and the Local Economic Partnership Board with involvement from the local authorities. Yet there is a duty upon the Local Plan to reach decisions based upon assessing the land implications of the Growth Plan. It should be expected that the Local Plan and its public examination identifies what elements of the Growth Plan are being assessed at the time of the examination and confirm there is a dual purpose to the examination. We should be given clarity about this because of the importance to the Local Plan complying with the Growth Plan. What reassurances do the public be given about the robustness of the Local Plan on matters affected by the Growth Plan without separate public scrutiny or left out of the Local Plan's Examination in Public.
4. Many participants did raise questions about the quality of the evidence on topics under discussion in the virtual hearings. I accept that resources are mostly devoted towards evidence often prescribed elsewhere for devising its spatial strategy, scale of housing and density of housing. When a large part of the District is however open country, then where less evidence available for those areas might cause an imbalance , albeit that development pressures can be far less for those areas where protective policies are in place. I acknowledge that a large amount of resources have been committed to policy making for areas likely to be earmarked for housing . Yet the Local Plan should be broad based and credible. It should be evidence-based. Gaps in evidence should have been filled to allow the full interplay between evidence and policy in the discussion during the examination.
5. Two other participants (residents) spoke of their support about concerns over our acoustic environment during this Climate Action session. The inclusion in the Inspector's letter expressing concern about traffic numbers along smaller roads does reflect concerns about the traffic levels and might be also be taken to refer to noise concerns in places that

enjoyed not only for their attractive physical characteristics but for their natural soundscapes, the value of these being enjoyed during the pandemic.

6. The Planning Inspector did invite the Local Planning Authority to respond on the particular question of acoustic privacy within a residential amenity setting during the Climate Action hearing session. The Local Planning Authority witness did not engage much during the debate itself and left their response to the summing up session, their answer being that noise and vibration are now part of an 'outdoor residential amenity' policy and the rewording of the new noise pollution policy addresses these matters. Neither witness nor the Inspector took this further. It was a lost opportunity to engage the public. The immediate request to cross-examine was not permitted because of the response came during the Summing Up session and it should remain a consideration by the Planning Inspector when preparing the Final Report. It was not expected to be addressed in the Preliminary Findings letter because of the emphasis on the main matters but it would have helped if this had been the case.
7. I need to reflect back on the significance of the 2010 Noise Policy Statement for England and its move away from Noise Limit Values, its emphasis given to assessing background sound levels across the day and nighttimes and the introducing LOALs and SOALs, most pertinent for the switch from indoor domestic heating units to ones needing sites outside the dwelling which was given impetus by the 2011 Statutory Instrument.
8. It is known there are potential adverse acoustic implications. It can be treated as development requiring express planning permission and be differentiated from those which are exempt by reason of the deemed conditional planning permission 'at a dwelling' under the relevant Statutory Instrument (i.e. requires an existing dwelling). There is relevant case law disallowing developers implementing PDR prior to the occupation of the new dwelling.
9. My previous evidence and that of my acoustic consultant drew attention to characteristics of fan equipment, some of which generates larger amounts of low sound frequencies for equipment now generating 20kW or more (see Appendix 1).
10. I remain adamant that the decision by South Oxfordshire District Council to grant retrospective permission for the particular design and location of the air source heat pump was wrong. After a period of two and half years, it became apparent to the house owners that they were suffering from a common flaw of these products, that of not delivering the right amount of heating. There were intermittent breaches of planning condition by part removal of acoustic cladding during this period until the problem pump and its supplementary acoustic enclosure were replaced by a heat pump of different design. It would remove the twin fans so that the driven air no longer entered the most affected part of our enclosed area. Some better acoustic readings were recorded although assessing the situation during very cold spells still needs to take place.

11. All of this should be seen as a 'composite' problem. Each different element needed attention and this is best achieved through the planning process. Actions by the Local Planning Authority should not be creating a 'neighbour conflict' situation.
12. Indeed the Planning Inspector would express an opinion that attempts to resolve these matters are always best achieved by 'single action's during the Climate Action session.
13. It really calls into questions the formulation of the legislation and the Minister exercising discretion to use executive powers to grant deemed conditional planning permission when the lack of consensus was known by the Minister and the decision to press ahead with a set of planning conditions, including the use of a single noise planning standard across the whole country albeit with a requirement to review this. It was not reassessed against the 2010 new noise guidance introduced prior to its enactment.
14. On other more recent permitted development rights(PDR) schemes that have come forward, there have been recent calls to discourage Ministers to press forward with significant PDR planning changes by way of negative resolution and for better scrutiny by a full Parliamentary debate. There may be implications when handing over regulatory powers to a company where the profits of the partner companies can only come from sales growth and with no desire for adverse publicity. This is likely to mean that product defects are known but possibly not declared, albeit that it informs technological innovation capable of lessening these problems in the future. There has been a considerable amount of bad publicity about other housing defects in recent years. It has led to the establishment of the New Homes Ombudsman. The separation of responsibilities of those dealing with defects arising from complaints from the customers and the private company and those defects that the local council are responsible for covering neighbours complaints is unhelpful and reduces the chances of swift remedies.
15. There is nothing in the Statutory Instrument to imply its planning regime and the associated Microgeneration Certification Scheme's Planning Scheme apply to new dwellings. This leaves open opportunities for individual Local Planning Authorities to devise and publish their own schemes. Individual Local Planning Authorities should surely state what way that it intends to operate. The conditional planning permission approach is clearly expressed by the Government.
16. In the main modifications to the SODC Local Plan, the wording of Policy DES 11 has been expanded. It has only in our recent history that the decentralised domestic heating has been included and now expanded to cover the Climate Emergency. Any decision to include these new policies should be in conformity with Article 4(f) of the UN Framework Convention on Climate Change which states: 'Take climate change considerations into account , to the extent feasible, in their relevant social, economic and environmental policies and actions and employ appropriate methods ..... with a view to minimising adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change'

There is enough evidence to warrant caution. This evidence covers plant with heating capacity over 20kW when placed located in outdoor locations.

17. The development constraints are different for new dwellings. The local planning authority can exercise its discretionary powers when it sees fit. This surely does not mean greater relaxations than those which enjoy deemed planning consent and evidence reveals a strong case for expanding any standard conditions and the prospect of devising conditions for particular circumstances. Action by the Local Planning Authority should not be provoking a 'neighbour conflict' situation.
18. Even though some from Central Government might hint at Local Planning Authorities should automatically apply the same criteria found in the Microgeneration Certification Scheme and the Statutory Instrument, practical measures should taken by the Local Planning authority to avoid this arising. When bearing this in mind, some text should be added either in the accompanying explanatory or in the policy itself. It should not be forgotten that the Local Plan is as importance to the public as the Council.
19. Government legislation states their measures are for existing dwellings. It is proving problematic because of a 'pick and mix' approach by developers to optimise their development value. By selecting plant with high sound emissions at the same time as applying minimal spatial distancing, overlooking the requirement for background sound being greater than 40dBA set out in the Microgeneration Certification Scheme, then the likelihood of adverse impacts upon neighbours from larger plant is greater. without regard to the reconfiguring of noise guidance. Its interpretation is somewhat confusing by the difference between the Planning Portal Inter reactive house illustration and those parameters set by the Statutory Instrument. It is however capable of challenge. It would be best for the Local Planning Authority to identify the measures it intends to follow and these be included in the Local Plan document or other associated documents.

R J Kirkham MRTPI(Ret), DipTp, DipMgmt

November 2020

## APPENDIX 1

### Greater London Authority – Low Carbon Heat , Heat Pumps in London September 2018 -extract

#### 7.4.1 Noise and Vibration

The Microgeneration Certification Scheme requires planning permission for air source heat pumps if noise pollution experienced by a neighbouring property could exceed 42dB(A), with calculations based on a background noise level of 40dB(A).

Small air source heat pumps typically produce around 40-55 dB(A) at a distance of 1m, with noise falling as distance increases. It is therefore unlikely that properly sited and installed heat pumps of this size will create a significant audible disturbance. **Medium sized air source heat pumps produce more noise, typically around 60-90 dB(A), therefore their location must be considered more carefully.**

A study on the acoustic noise of air source heat pumps (2011) highlights that there is little data available on in-situ noise emissions from operational heat pumps. The report based on 9 sites concludes that noise measurements are generally within the range of predictions derived from manufacturer's information, but product data sheets do not specify significant acoustic tones (i.e. low frequencies), which may contribute more to the acceptability of the noise pollution.

The survey results revealed a consensus that appropriate planning and acoustic treatment were required to manage impact. It was pointed out that poor maintenance, or potentially time shifting demand to night time will adversely affect noise pollution.

It should finally be noted that studies into the noise impact of chillers and VRF units are common practice, particularly for large commercial buildings. Noise from heat pumps would be addressed in a similar way.

### ETSU –R- 97 The Alternative by Bowdier.co.uk

At another site out in quiet rural area the background noise might be 28 dBA and the margin of 15dB.

With reference to BS4142 we can construct a table to describe the basic means of objective significance. All noise levels are dBLA90.

- A difference of 1 dB or less -insignificance
- A difference of 2 to 4 dB -marginal loss of amenity
- A difference of 5-7 dB significant loss of amenity
- A difference of 8dB or more major loss of amenity

### BS 4142 on Low Frequency Noise

The A weighting frequency network applies the highest attenuation to low frequencies and when noise has a high content of low frequency energy. A weighting gives non

representative results. The recent trend is to use non-linear noise levels (i.e. no frequency weighting at all) when quantifying low frequency nuisance.

## Integrated Pollution Prevention and Control-Horizontal Guidance Part 2 – Noise assessment and Control- Environment Agency Version 3, 2004

Fan noise is a commonly occurring environmental noise problem; tonal, whining or beating noises can be produced and these may be particularly noticeable at night. Noise is produced primarily as a result of the turbulence produced by the fan blades and is a function of the number of blades and the fan-tip speed. This can be confined to quite a narrow frequency spectrum, and hence can be tonal in nature, but random frequency aerodynamic noise may obscure the prominence of tones

A range of fans is available, depending upon the operational requirements. Five main fan types are:

**Table 3.2 - Outline information on fan types**

Fan type	Noise	Description
Centrifugal	Lower frequencies	Air enters axially and is discharged radially
Axial	Mid-range frequencies	Air enters and leaves the fan in a straight-through configuration
Mixed flow	Lower frequencies	The air path is intermediate between axial and centrifugal
Cross flow	Varied	Long cylindrical impeller with a large number of shallow blades discharging via a long slot
Propeller	Tonal peaks	Similar to an axial fan, but mounted in a ring Permitting both radial and axial discharge, higher volume and lower pressure

Nearly all fans produce tonal peaks, which can sometimes be reduced or changed very easily by altering the speed. In many cases, simple engineering solutions can be identified following investigations.