

EXAMINATION INTO THE PARTIAL REVIEW OF CHERWELL LOCAL PLAN

RESPONSE TO INSPECTORS QUESTIONS ON BEHALF OF KIDLINGTON PARISH COUNCIL

[FOR DISCUSSION AT PRE-INQUIRY MEETING 28TH SEPTEMBER 2018]

1.00 GENERAL

1.01 The Parish Council welcomes the Inspectors interest in these fundamental issues before proceeding to more detailed matters in the Local Plan. The release of Green Belt land for development as proposed would permanently and adversely change the character of the area and have widespread implications for infrastructure and life in the Kidlington area, and is not a course of action to be embarked on without absolute certainty that it is necessary.

1.02 The Parish Council disputes that the available evidence demonstrates that this situation exists. We urge the Inspector to halt the progress of the Plan, and to return it to Cherwell District Council for reconsideration.

2.00 QUESTION 1

1. Working through the 'working assumption' that Oxford has an unmet need of 15,000 homes (which became 14,850), based on an overall housing requirement for the city to 2031 of 28,000, is the apportionment of 4,400 homes of Oxford's overall unmet need to Cherwell soundly based?

2.01 The decision to proceed on the basis of the 'working assumption' of unmet need has radical implications for the Partial Review Local Plan and for Kidlington in particular. It is used to justify the release of Green Belt land and its subsequent development - land which has been designated to protect areas which should remain undeveloped to reflect NPPF objectives set out in both the 2012 and 2018 versions of the NPPF.

2.02 It is appreciated that in the current absence of a Spatial Plan which covers Oxfordshire that individual LPAs continue to need to plan ahead – but the Draft Partial Review Cherwell Local Plan is proposing irreversible large-scale change by

treating Kidlington as a dormitory for people who work in the Oxford, rather than as a freestanding settlement as has always been the case in past planning policies, and as confirmed as the adopted strategy in the 2015 Local Plan [which states on page 29 'There will be no strategic housing growth at Kidlington'.]

- 2.03 The working assumption of 14,850 unmet Oxford need is based on studies which will be updated and subsequently tested in the Oxford Local Plan. It is not possible for this Inspector to anticipate the outcome of the Oxford Local Plan, but it is reasonable to take account of the general direction of change.
- 2.04 The 2015 Adopted Part 1 Cherwell Local Plan includes Paragraph B.95, added after a recommendation by the then Inspector. That paragraph includes the phrase '*The urban capacity of Oxford is as yet unconfirmed.*' That remains the position today, pending the examination and adoption of the Oxford Local Plan.
- 2.05 The published timetable for the progression of the Oxford Local Plan is that it will be submitted for Examination in March 2019, meaning that it will be subject to the 2018 NPPF, OAN methodology and associated PPG. The plan period has been extended to 2036, requiring a review/update to the current 2014 SHLAA, OAN and the overall housing requirement, in accordance with the new NPPF.
- 2.06 The available dataset provided by MHLG in September 2017 ('Application of proposed formula for assessing housing need') indicates that the future housing requirement for consideration in the emerging Local Plan for Oxford is likely to be significantly less (possibly only 50%) than the current calculation of 28,000, while it can be assumed that the capacity for Oxford to meet at least some of its own needs remains constant. The level of unmet need will therefore reduce, and apportionment to other Districts will be a subject for reconsideration as early as the end of 2019. Potentially this might all be incorporated in the new Spatial Plan for Oxfordshire, with new Local and Neighbourhood Plans to follow.
- 2.07 The share of 4,400 allocated to Cherwell therefore may be proven to be unnecessary/unjustified within a relatively short timeframe.

- 2.08 The Parish Council considers that the provisional allocation of 4,400 was based on very basic arithmetic and political acceptability, ignoring the settlement geography of the area and the sensitivity of proposing development on Green Belt land. Combined with a presumption that ‘meeting Oxfords needs’ requires close proximity to the city, the outcome is that the land which most deserves protection from development is the land which is most likely to be developed. The administrative boundaries of Cherwell Council mean that only a small area is proximate to Oxford, while other LPAs around the City have much longer interfaces. Effectively, in Cherwell, large scale development is being funnelled into a narrow area – an administrative rather than a spatial solution.
- 2.09 Looking around the boundaries of the City, it is the gap between Kidlington and Oxford which is the most sensitive to change, with minimal space for development which will not lead to coalescence and a loss of local identity. In combination, what is currently proposed around Kidlington and in adjoining Parishes will lead to creation of a large urban extension and a Greater Oxford, destroying the long established and natural scale of a City set within a ring of protected open Green Belt.
- 2.10 The apportionment of 4,400 new homes to Cherwell was a matter managed by the Oxfordshire Growth Board, and was not the subject of public consultation. Parish Councils and the general public have only had the opportunity to express a view that it is unacceptable as part of the current Local Plan Review. Submissions have been made previously during earlier stages of the Review criticising the early dismissal of other Options to accommodate the 4,400, but no public consultation has taken place on the overall apportionment to the District, as confirmed in the Submission version of the PR.

‘1.32 The Growth Board work programme enabled a countywide, cooperative decision to be made on how the unmet housing need should be accommodated at a district level. It has informed the Partial Review plan making process but as a non-statutory planning process it does not bind the Council to a prescribed approach as to how the Council should provide for Oxford’s unmet housing need. The Partial Review process does this on a statutory plan making basis.’

- 2.11 The figure of 4,400 appears to have become accepted as a requirement by repetition, despite having been adopted only as a benchmark for assessing options, and later studies have been adjusted to fit this 'target'. In the original studies considering the share out of unmet need, Green Belt land was considered to be unsuitable in principle for new development, and one would have expected Cherwell District Council to have identified sites for allocation outside this area – as has been done in other Oxford Districts. Subsequently, the issue of proximity has apparently assumed greater importance in the development of the Partial Review of the Cherwell Local Plan, and the protection of the Green Belt has been given significantly less weight.
- 2.12 This does not reflect NPPF advice – a matter addressed in the response to Inspectors question 2 below.
- 2.13 With regard to a wider Spatial strategy and LEP growth aspirations, government has recently recognised that the Oxford-Cambridge growth corridor requires consideration of a string of new settlements, acknowledging that continued expansion of existing settlements will be insufficient and also damaging to their future. The Growth Corridor concept is for a linked necklace of growth points cumulatively driving economic health, and can be seen as a new vision, moving away from the former 'county towns' strategy for accommodating growth.
- 2.14 The Oxford Growth Board has also started work on a Joint Statutory Spatial Plan (JSSP) with draft project and programme documents approved on 31st July 2018. This countywide Statutory Plan will be subject to full community consultation. On adoption it will carry full weight in the planning process and provide the higher level strategic planning policy framework under which decisions will be taken and the planning policies of partner authorities will be developed.
- 2.15 A coordinated strategic approach to local growth in the future is therefore secured and will replace the piecemeal approach that has existed following the abandonment of Regional strategies and Structure Plans. The Parish Council considers that there is no need to grow Oxford beyond its existing boundaries at

the same time as developing these new strategic visions (JSSP and Oxford-Cambridge Corridor), especially when this would adversely affect Green Belt land, which every previous planning strategy has confirmed is essential to both maintaining the quality of life within the city (by constraining overdevelopment) and to protect its rural setting.

2.16 For clarity, as the Partial Review deals with the overall strategy for the pattern and scale of new development, it is also concerned with strategic policies. It deals with claimed changed strategic circumstances post the 2015 adoption of the Cherwell Local Plan – circumstances which the Parish Council believes will change again in the near future. It is fundamentally incompatible with the Adopted Local Plan. Such a radical change should fall within the purview of a wider strategic strategy. The Parish Council considers that the commitment to review the Local Plan within 2 years of adoption was unfortunate, as this has resulted in a lack of coordination with the Oxford Local Plan, which looks forward to 2036 and is slightly less advanced. This target date has in any event now been missed.

2.16 In conclusion, the apportionment of 4,400 additional homes to Cherwell as a working assumption is not currently soundly based. As part of the joint/partnership working which the Council says it has adopted, there should be agreement on a sequential submission of Local Plans with the plan for Oxford agreed before the plan for Cherwell. Planning to accommodate Oxford's unmet needs when these are unknown, while they will be known by the end of 2019, is putting the cart before the horse.

3.00 QUESTION 2

2. Assuming that figure of 4400 is soundly based, and bearing in mind paragraph 83 of the (previous version of the) NPPF, can Oxford's unmet housing be an 'exceptional circumstance' that justifies an alteration to Green Belt boundaries?

3.01 The Parish Council recognises that this Local Plan falls within the transitional arrangements set out in Appendix 1 to the July 2018 NPPF.

NPPF 2018 P.214. The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.

3.02 Consideration has been given to the 'old' and 'new' NPPF by the Parish Council, to examine whether there are significant changes in approach likely in the event that the current Examination process is halted, as the Parish Council recommends in 1.02 above.

2012 NPPF:

83. Local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.

2018 NPPF:

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;

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.

- 3.03 There has been no definition of ‘exceptional circumstances’ via case law, and both 2012 and 2018 NPPFs avoid providing one in the glossary. In the case of *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin) 99 Jay J. held (at [20]) that: *“Exceptional circumstances” remains undefined. The Department has made a deliberate policy decision to do this, entrusting decisionmakers with the obligation of reaching sound planning judgments on whether exceptionality exists in the circumstances of the individual case.*”
- 3.04 While the 2018 NPPF now provides guidance on how to go about meeting this obligation, the requirement to only alter Green Belt boundaries in exceptional circumstances is unchanged. The Parish Council considers that a competent Authority would have followed the process now set out in the 2018 NPPF in order to satisfy the 2012 NPPF requirement. The preparation of a Local Plan does not in itself justify release of land from the Green Belt – there still needs to be a sequential approach to fully investigate other alternatives before reaching this stage.
- 3.05 Under the transitional arrangements, Planning Policy Guidance relevant to the 2012 NPPF also remains extant. Paragraph: 034 Reference ID: 3-034-20141006 addresses the issue of unmet housing need on Green Belt land in the context of preparing a SHLAA/HEELA:

In decision taking, can unmet need for housing outweigh Green Belt protection?

Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the “very special circumstances” justifying inappropriate development on a site within the Green Belt.

- 3.06 It is appreciated that in this case the intention is to remove the land from the Green Belt rather than allow development to take place on it while it remains in the Green Belt, but the intention of the PPG is clear – unmet housing need does not amount

to very special circumstances (allowing development whilst maintaining Green Belt designation), let alone exceptional circumstances, which in this case means the permanent removal of the designation. What professionals take from the new NPPF is the direction of travel, which has not 'relaxed' green belt policy in this respect but has instead re-affirmed the importance and permanence of established Green Belts.

- 3.07 It is noteworthy that the Oxfordshire Housing and Growth Deal Agreement confirms that due planning processes continue, and are not overridden by the arrangement:

Extract from OH&GDA: Interface with the planning system

This deal, and any distribution of funds via it, does not constitute HMG weight or approval for any scheme which is subject to the planning system. In addition, it does not alter any of the statutory functions, duties and rights of HMG or Local Planning Authorities, and in particular the functions of the Secretary of State in relation to plan-making or decision-taking. Nor does it imply any favourable treatment for any specific scheme or plan.

- 3.08 Returning to the main issue of NPPF advice on 'exceptional circumstances', it is important to bear in mind that these can only exist if identified needs cannot be met elsewhere. The 2015 LUC Green Belt Study commissioned by the Oxford Growth Board did not make recommendations on Green Belt releases but instead analysed the relative importance to the Green Belt of parcels of land and wider areas. Much of the land now identified for release was rated as being of high importance on one or more of the salient assessment criteria.

Extract from 2015 LUC Green Belt Study:

5.3 As noted in Chapter 2, the NPPF requires any changes to the Green Belt to be made through the Local Plan process. Any such proposals should include:

- i. demonstration of exceptional circumstances, such as unmet housing or employment land needs, that cannot be met elsewhere; and
- ii. consideration of the need to promote sustainable patterns of development, considering a range of local, regional and national issues such as economic growth, health and wellbeing, accessibility and biodiversity, cultural

heritage and climate change resilience, as well as an assessment against Green Belt purposes.

5.4 A common interpretation of the policy position is that, where necessitated by development requirements, plans should identify the most sustainable locations, unless outweighed by adverse effects on the overall integrity of the Green Belt according to an assessment of the whole of the Green Belt based around the five purposes. In other words, the relatively poor performance of the land against Green Belt purposes is not, of itself, an exceptional circumstance that would justify release of the land from the Green Belt. We therefore recommend that the Growth Board considers points i) and ii) above in developing the spatial strategy.

3.09 The Inspector is now representing the decision maker with regard to considering the adoption of the Local Plan and needs to consider the balance between these two issues. If proximity to a city is accepted as adequate justification for large scale development on land designated as Green Belt despite other options being available elsewhere within a District, then we must expect to see the demise of Green Belts around most cities, contrary to the national policy. A Local Plan Review is not the place to change the direction of National policy.

3.10 Paragraphs 214-215 in the Partial Review purport to explain that other Options are not as good as developing in the Green Belt around Kidlington. The Parish Council does not find these compelling arguments, especially when a new Spatial plan is in development for Oxfordshire, together with a strategy for the Oxford -Cambridge Corridor, predicated on a significant improvement in access to new sustainable movement infrastructure. Physical proximity to Oxford should not be used as an overriding consideration. The alternative approach of 'Can non-Green Belt options be made accessible and sustainable?' is more reasonable, bearing in mind the importance of Green Belt permanence. Protecting the integrity of the Green Belt as a whole means that boundaries should not be under repetitive review and change.

3.11 In conclusion on Inspectors Question 2, the Parish Council believes that development in the Green Belt should be a last resort, when

- The genuine housing need has been proven to exist and its scale confirmed, and

- Other options (such as those described in the 2018 NPPF) have been exhausted.
- An assessment of the sensitivity of local impacts will then finally test whether specific areas within the Green Belt are suitable for development, and whether increases elsewhere in Green Belt designation provide adequate mitigation and secure the permanence of a satisfactory Green Belt around Oxford.

That position has not yet been reached.

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