South Oxfordshire District Council

Listening Learning Leading

Record of individual Cabinet member decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Decision made by	Cllr. Anne-Marie Simpson
Key decision?	No
Date of decision (same as date form signed)	10 November 2023
Name and job title of officer requesting the decision	Emma Wright Senior Planning Policy Officer (Neighbourhood)
Officer contact details	Tel: 07717274696 Email: emma.wright@southandvale.gov.uk
Decision	**To recommend to Council:** 1. To make the Chinnor Neighbourhood Development Plan Review II with the modifications specified in the Examiner's report. 2. To delegate to the Head of Policy and Programmes, in consultation with the appropriate Cabinet Member and in agreement with the Qualifying Body, Chinnor Parish Council, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.
Reasons for decision	1. The Neighbourhood Planning Act 2017 identifies the circumstances that might arise as parish councils seek to review 'made' neighbourhood plans. It introduces a proportionate process for the modification of neighbourhood plans where a neighbourhood development plan has already been made in relation to that area. 2. There are three types of modification which can be made to a neighbourhood plan. The process will depend on the degree of change which the modification involves, as follows: • **minor (non-material) modifications** to a neighbourhood plan which would not materially affect the policies in the plan; • **material modifications which do not change the nature of the plan** and which would require examination but not a

	referendum; or • **material modifications which do change the nature of the plan** would require examination and a referendum. 3. Whether modifications change the nature of the plan is a decision for the independent examiner. The examiner will consider the nature of the existing plan, alongside representations and the statements on the matter made by the qualifying body and the local planning authority. 4. Chinnor Parish Council has considered this issue. It took the view that the proposed changes to the 'made' Plan Review II fall into the second category – material modifications which do not change the nature of the plan. 5. South Oxfordshire District Council undertook a separate assessment and concluded that the proposed modifications materially affect the policies in the plan. However, although material, the modifications were not considered to be so significant or so substantial as to change the nature of the plan. The Vision, Objectives and Action Points of the plan were expanded and updated to provide further clarity and context. 6. With the consent of Chinnor Parish Council, the council appointed Mr. Timothy Jones to examine the Plan. The Independent Examiner considered this issue and concluded that the review of the Plan included material modifications which did not change the nature of the Plan, and which required examination but not a referendum. 7. In these circumstances, proposals for the modification of made neighbourhood development plans are examined in line with the procedures set out in Schedule A2 of the Planning and Compulsory Purchase Act 2004 (as Amended). 8. Paragraph 13 of Schedule A2 of the 2004 Act sets out that after considering a draft plan, the examiner must make a report on the draft plan containing one of the following recommendations: • that the council should make the draft plan; or • that the council should make the draft plan with the modifications specified in the report; or • that the council should not make the draft plan. 9. The Examiner's Report is available in **Appendix 1**. The Examiner's Report assesses the policies in the plan and identifies any modifications required to ensure that they meet the basic conditions. The Examiner concluded that the Plan meets the basic conditions subject to a number of recommended modifications. The recommended modifications refine the policies, supporting text and

	maps concerned. Nevertheless, the submitted Plan Review II remains fundamentally unchanged in its role and purpose. The Examiner's Report recommends that the council should make the Plan Review II with the modifications specified in the Report. A list of the Examiner's recommendations, exactly as they are shown in his Report, is available in **Appendix 2**. 10. Paragraph 14 of Schedule A2 of the 2004 Act sets out that if the Examiner's Report recommends that the council should make the draft plan with the modifications specified in the report, the council must make the draft plan with those modifications. The only circumstance where the council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). 11. The making of the Chinnor Neighbourhood Development Plan Review II (the Plan) would not breach, or otherwise be incompatible with, any EU or human rights obligations, including the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). In addition, no issues arise in respect of equality under general principles of EU law or any EU equality directive. In order to comply with the basic condition on the European Union legislation, the council produced a Strategic Environmental Assessment Screening Report in September 2023. The report concludes that the implementation of Plan Review II would not result in likely significant effects on the environment. 12. The reviewed Plan would not give rise to significant environmental effects on European sites. The council screened the Plan's potential impact on EU Special Areas of Conservation (SACs) in September 2023. The Habitats Regulations Assessment Screening Report concluded that the Plan would not have any likely significant effects on the integrity of European sites in or around South Oxfordshire, either alone or in combination with other plans or programmes and that an Appropriate Assessment is therefore not required. 13. The council is satisfied that the Plan is in all respects fully compatible with Convention Rights contained in the Human Rights Act 1988. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. 14. The modifications set out in the Examiner's Report individually or

	combined are not considered to produce likely significant environmental affects and are unlikely to have any significant effects on the integrity of European Designated Sites. 15. As the Examiner's Report recommends that the council should make the Plan with the modifications specified in the Report and the council is satisfied that the making of the Plan would not breach, or otherwise be incompatible with, any EU or human rights obligations as incorporated into UK law, the council must make the Chinnor Neighbourhood Development Plan Review II.
Alternative options rejected	The council's options are limited by statute. Paragraph 14 of Schedule A2 of the Planning and Compulsory Purchase Act 2004 sets out that if the Examiner's Report recommends that the council should make the draft plan with the modifications specified in the report, the council must make the draft plan with those modifications. The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). In this case, the Examiner's Report has recommended that the council should make the Plan with the modifications specified in the Report. For the reasons set out in paragraphs 11 to 14, the council is satisfied that the Chinnor Neighbourhood Development Plan Review II would not breach or be incompatible with EU obligations or human rights legislation.
Climate and ecological implications	The Plan contributes to the achievement of sustainable development. Sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are clear overlaps between national policy and the contribution that the Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. The policies in the plan provide the necessary degree of protection of valuable assets and, where appropriate, mitigation. There are policies in the plan addressing Sustainable Homes, Local Green Spaces and the Protection of Habitats of Significance. The Plan Review made in 2021 has exceeded the minimum levels of housing growth required by the Local Plan. The Plan Review II retains this approach. Overall, the Plan has set out to achieve sustainable development in the neighbourhood area in a balanced and mutually supportive way.
Legal implications	The legal implications are set out elsewhere in the report on the basis of which it is considered that the council should now proceed to make the

	Chinnor Neighbourhood Plan Review II. The process undertaken and proposed accords with planning legislation.
Financial implications	The Government makes funding available to local authorities to help them meet the cost of their responsibilities around neighbourhood planning. In the case of neighbourhood plan reviews which require an examination but no new referendum, a total of £10,000 can be claimed for each neighbourhood planning area. The council becomes eligible to apply for this additional grant after the revised plan comes into force following examination. Once such a claim is made, claims for further updates to that specific neighbourhood plan will be restricted to one every 5 years. Any costs incurred in the formal stages in excess of Government grants are borne by the council. Staffing costs associated with supporting community groups and progressing neighbourhood plans through the formal stages are funded by the council. It is expected that costs associated with progressing this neighbourhood plan can be met from within the existing neighbourhood planning budget.
Other implications	The council is required to comply with the statutory requirements (to consider whether the Chinnor Neighbourhood Development Plan Review II should be made following the issuing of the Examiner's Report, which this recommendation seeks to achieve. In view of the considerations referred to elsewhere in this report, a decision not to make the plan would place the council at risk of a legal challenge.
Background papers considered	1. Chinnor Neighbourhood Plan Review II and supporting documents 2. National Planning Policy Framework (2023) 3. National Planning Policy Guidance (2014 and subsequent updates) 4. South Oxfordshire Local Plan 2035 5. South Oxfordshire Strategic Environmental Assessment Screening Statement September 2023 6. Representations submitted in response to the Chinnor Neighbourhood Plan Review II 7. Relevant Ministerial Statements
Declarations/ conflict of interest? Declaration of other councillor/ officer consulted by the Cabinet member?	None

List consultees		Name	Outcome	Date
	Ward councillors	Ali Gordon-Creed Ed Sadler	Agreed No comments	6/11/23 9/11/23
	Legal legal@southandvale.gov.uk	Patrick Arran	Agreed	9/11/23
	Finance Finance@southandvale.gov.uk	Roger McLeod	Agreed	3/11/23
	Human resources hradminandpayroll@southandvale.gov.uk	Trina Mayling	No comments	9/11/23
	Strategic property Property@southandvale.gov.uk	Christopher Mobbs	No comments	3/11/23
	Climate and biodiversity climateaction@southandvale.gov.uk	Jessie Fieth	Agreed	8/11/23
	Diversity and equality equalities@southandvale.gov.uk	Lynne Mitchell	No comments	9/11/23
	Health and safety healthandsafety@southandvale.gov.uk	Debbie Porter	No comments	9/11/23
	Risk and insurance risk@southandvale.gov.uk	Yvonne Cutler Greaves	No comments	9/11/23
	Communications communications@southandvale.gov.uk	Andrea Busiko	No comments	9/11/23
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	N/A			
Has this been discussed by Cabinet members?				
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature: Councillor Anne-Marie Simpson Date: 10 November 2023			

ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.

For Democratic Services office use only		
Form received	Date:	Time:
Date published to all councillors	Date:	
Call-in deadline	Date:	Time:

Appendix 1 – Examiner's Report

THE CHINNOR NEIGHBOURHOOD PLAN 2011 - 2035

(2023 SODC Review Consultation Version, September 2023)

Report of the Examination into the Chinnor Neighbourhood Plan 2011 – 2035 (2023 SODC Review Consultation Version)

Timothy Jones, Barrister, FCIArb,

Independent Examiner

No 5 Chambers,

Birmingham - London - Bristol

To South Oxfordshire District Council

And to Chinnor Parish Council

8th November 2023.

Contents **Page(s)**

Report of the Examination into the

Chinnor Neighbourhood Plan 2011 – 2035 (2023 SODC Review Consultation Version)

1. Introduction

Neighbourhood planning

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority (as has happened here) such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

2. This report concerns the Chinnor Neighbourhood Plan 2011-2035 (2023 SODC Review Consultation Version) ("the Draft Plan"), a proposed modification to the made Chinnor Neighbourhood Plan (2nd edition, May 2021). The neighbourhood area for this plan is the parish of Chinnor. Planning and Compulsory Purchase Act 2004 ("PCPA") Schedule A2 provides the statutory framework for such modifications.

Appointment and role

3. South Oxfordshire District Council ("SODC"), with the agreement of qualifying body Chinnor Parish Council ("CPC"), has appointed me to undertake the independent examination of the Draft Plan in accordance with PCPA Schedule A2 paragraph 9(4). I am a member of the planning bar and am independent of SODC, CPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service and trained others who wish to be examiners. I have extensive experience both as a planning barrister and as a neighbourhood planning examiner. I do not have an interest in any land that is, or may be, affected by the Draft Plan.

4. My examination has involved considering written submissions and a detailed site visit on Monday 6th November 2023. I have read and considered all the documents with which I have been provided.

SODC's determinations

5. The proposal is a modification proposal as defined in the PCPA Sch A2, paragraph 1. Before referring the matter to me, PCPA 2004 Sch A2 paragraph 8 required SODC to consider

whether the draft plan complies with the provision made by or under PCPA sections 38A and 38B and to be satisfied:

(a) that CPC is authorised for the purposes of a neighbourhood development plan to act in relation to the neighbourhood area concerned as a result of TCPA s 61F (as applied by PCPA section 38C(2)(a));

(b) that the proposed modification complies with provision made by or under s61F;

(c) that the proposal and the documents and information accompanying it (including the Draft Plan) comply with provision made by or under paragraph 1 of the Schedule; and

(d) that CPC has complied with the requirements of regulations made under paragraph 4 of the Schedule imposed on it in relation to the proposal.

6. SODC was satisfied with these. It was right to be so satisfied. All formal requirements in respect of modification proposals have been met. I am satisfied with the Screening Statement on the determination of the need for a Strategic Environmental Assessment and with the Consultation Statement.

2. My preliminary determination

7. I must first determine whether the modifications contained in the Draft Plan are so significant or substantial as to change the nature of the neighbourhood development plan which the Draft Plan would replace.[1] I have considered the nature of the existing plan, alongside representations and the statements on the matter; and I am satisfied that the proposed modification is neither so significant nor so substantial as to change the nature of the made NDP which the draft plan would replace.

3. My role

8. Having reached that determination, I must consider:

(a) whether the draft plan meets the basic conditions;

(b) whether the draft plan complies with the provision made by or under sections 38A and 38B;

(c) such other matters as may be prescribed.

9. I am satisfied with (b) and (c) and consider (a) below.

10. My role is limited and may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, and to recommend which of the three options specified in paragraph 17 below applies. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive with costs being proportionate.

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[1] PCPA Sch A2 para 10(1).

4. Other Preliminary Matters

Public consultation

11. Consultation and community involvement are important parts of neighbourhood planning. I am satisfied that CPC took public consultation seriously and that the Consultation Statement is accurate. Consultation has been sufficient and meets the requirements of the Neighbourhood Planning (General) Regulations 2012 ("the General Regulations") and the human rights of occupiers of homes and of property owners.

Other statutory requirements

12. I am also satisfied of the following matters:

(1) The neighbourhood area is the parish of Chinnor. SODC designated this on 17th June 2015.[2] CPC is authorised to act in respect of this area (Town and Country Planning Act 1990 ("TCPA") s61F (1) as read with the Planning and Compulsory Purchase Act 2004 ("PCPA") s38C (2)(a));

(2) The Draft NDP does not include provision about development that is excluded development as defined in TCPA s61K (PCPA s38B (6)), and does not relate to more than one neighbourhood area (PCPA s38B (1)(c));

(3) No neighbourhood development plan other than the other proposed to be modified has been made for the neighbourhood area (PCPA s38B (2));

(4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and

(5) The Draft NDP specifies the period for which it is to have effect, namely to 2035, as required by PCPA s38B(1).

5. The Extent and Limits of an Examiner's Role

13. I am required to consider whether the Draft NDP meets the basic conditions specified in PCPA Sch A2 para 11(2), namely:

(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;
(b) the making of the Plan contributes to the achievement of sustainable development;
(c) the making of the Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
(d) the making of the Plan does not breach, and is otherwise compatible with, retained EU obligations; and

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2 This is shown on page 10 of the Draft NDP.

(e) prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

14. There is one relevant prescribed basic condition:[3] *"The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017."* Chapter 8 comprises regulations 105 to 111.

15. TCPA Sch 4B para 8(6) and para 10(3)(b) and the Human Rights Act 1998 mean that I must consider whether the Draft NDP is compatible with Convention rights. *'Convention rights'* are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights ("the Convention"), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention's Article 6(1), 8 and 14 and under its First Protocol Article 1.

16. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified above.[4] In particular, I may not consider whether any other test, such as the soundness test provided for in respect of independent examinations under PCPA s20, is met.[5] Rather, Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is important to avoid unduly onerous demands on qualifying bodies. It is not my role to rewrite a neighbourhood development plan to create the plan that I would have written for the area. It is not my role to impose a different vision on the community.

17. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. I must recommend:

(a) that the local planning authority should make the draft plan,

(b) that the local planning authority should make the draft plan with the modifications specified in the report, or

(c) that the local planning authority should not make the draft plan.[6]

18. My power to recommend modifications is limited by statute in the following terms:

The only modifications that may be recommended are—

(a) modifications that the examiner considers need to be made to secure that the draft plan meets the basic conditions mentioned in paragraph 11(2),

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3 Sch 2 para 1 of the General Regulations prescribes this. PPG Reference ID: 41-079-20190509.

4 PCPA Sch A2 para 11(3).

5 Woodcock Holdings Ltd *v.* Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin), 1st May 2015, Holgate J., para 57; *R.* (Crownhall Estates Limited) *v.* Chichester District Council [2016] EWHC 73 (Admin) 21st January 2016, Holgate J., para 29; PPG Reference ID: 41-055-2018022.

6 PCPA Sch A2 para 13(2).

(b) modifications that the examiner considers need to be made to secure that the draft plan is compatible with the Convention rights,

(c) modifications that the examiner considers need to be made to secure that the draft plan complies with the provision made by or under sections 38A and 38B, and

(d) modifications for the purpose of correcting errors.[7]

19. The word *"only"* prevents me recommending any other modifications. The fact that a modification would be of benefit is not a sufficient ground in itself to recommend it. So, for example, the fact that a policy could be strengthened or added to does not justify a modification unless this is necessary for the reasons given above. I must not take an excessively restrictive view of the power to recommend modifications, but must bear in mind Lindblom LJ's explanation of its extent in his judgment in Kebbell Developments Ltd *v.* Leeds City Council.[8] I may not recommend a modification that would put the Draft NDP in breach of a basic condition or of human rights. When I conclude that a modification is necessary, I must, in deciding its wording, bear in mind material considerations including government advice. This includes the importance of localism. Where I properly can, my recommended modifications seek to limit the extent to which the substance of the Draft NDP is changed.

20. It is not my role to consider matters that are solely for the determination of other bodies such as Oxfordshire County Council, SODC in a non-planning capacity, or the Environment Agency. Nor is it my role to consider matters that an NDP could consider, but which are not considered in the Draft NDP, unless this is necessary for my role as explained above. It is not my role to consider aspirations that are not policies.

6. Consideration of Representations

21. I have read each representation and given it careful consideration, but have not felt it necessary to respond to all of them. Rather in accordance with the statutory requirement[9] and bearing in mind the judgment of Lang J in *R.* (Bewley Homes Plc) *v.* Waverley Borough Council,[10] I have mainly concentrated on giving reasons for each of my recommendations.[11] Where I am required to consider the effect of the whole Draft NDP, I have borne it all in mind.

7. Public Hearing and Site Visit

22. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations.[12] However, an examiner must cause a

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7 PCPA Sch A2 para 13(3).

8 [2018] EWCA Civ 450, 14th March 2018, paras 34 and 35.

9 PCPA Sch A2 para 13(5)(a).

10 [2017] EWHC 1776 (Admin), Lang J, 18th July 2017.

11 TCPA Sch 4B, para 10(6).

12 PCPA Sch A2 para 12(1); PPG Reference ID: 41-056-20180222.

hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that there are exceptional reasons for doing so, or in such other cases as may be prescribed.[13] Neither applies. I therefore did not hold a public hearing.

23. I decided that an unaccompanied site visit was necessary and held one on Monday 6th November 2023. The weather was good, there were no impediments to the visit and I was able to see all that I wished to see. The site visit helped me to gain a sufficient impression of the nature of the area for the purpose of my role.

8. Basic Conditions and Human Rights

Regard to national policies and advice

24. The first basic condition requires that I consider whether it is appropriate that the NDP should be made *"having regard to national policies and advice contained in guidance issued by the Secretary of State"*. A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but they should only be departed from if there are clear reasons, which should be explained, for doing so.[14]

25. The main document in which national planning policy is contained is the National Planning Policy Framework 5th September 2023 ("NPPF") and I have borne that in mind. This superseded National Planning Policy Framework 20th July 2021 after most of the work on the Draft NDP had been completed, but the differences are limited. Other policy and advice that I have borne in mind includes national Planning Practice Guidance ("PPG").

26. The NPPF provides that neighbourhood plans should support the delivery of strategic policies contained in local plans and should shape and direct development that is outside of these strategic policies.[15] Its paragraphs 28 and 29 state:

> *28. Non-strategic policies should be used by… communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.*
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> *29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development*

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13 PCPA Sch A2 para 12 (2).

14 *R.* (Lochailort Investments Limited) *v.* Mendip District Council [2020] EWCA Civ 1259, Lewison LJ, 2nd October 2020, paras 6, 31 and 33.

15 NPPF para 13.

plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

27. NPPF paragraphs 60 and 62 state:

60. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

62. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).

28. Paragraphs 60 and 62 mean that a Local Plan should meet all those needs. They do not mean that every parish (or even every relatively sustainable parish) should meet all of them.

29. Among other things the PPG states:

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.[16]

Contributing to the achievement of sustainable development

30. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot be made. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require me to consider whether constraints might prevent sustainable development and, if they might, whether the evidence justifies them. That involves consideration of site-specific constraints, both existing and those proposed in the Draft NDP. The total effect of the constraints in the Draft NDP when read with existing constraints must not prevent the achievement of sustainable development.

General conformity with the development plan's strategic policies

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[16] Reference ID: 41-041-20140306.

31. The third basic condition means that I must consider whether the Draft NDP as a whole is in general conformity with the strategic policies contained in the development plan for the area of the authority. The development plan for the purpose of my examination does not include the made NDP.[17] It includes the South Oxfordshire Local Plan 2035 ("SOLP"), which was adopted on 10th December 2020.[18] This contains a 0 'outstanding requirement' for the NDP,[19] Chinnor having already achieved *"the minimum 15% growth level"*. The examination for this relatively recent Local Plan must have concluded that it was sound and that a zero requirement for Chinnor did not prevent the achievement of sustainable development. Of course, situations can change in a few years, but I have no reason to consider that a local plan examination that was conducted now would reach a different conclusion. The NPPF paragraph 66 deals with this situation and concludes, *"Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement."* I am satisfied that there has not been such a change. There is no breach of a basic condition or of human rights in failing to allocate further land for housing. Also, if achieving a target in the early years of a local plan were to become a ground for allocating land for housing in addition to that provided for in that local plan, this would risk causing communities to seek to delay provision of allocated land that would otherwise be developed promptly.

32. The adjective *'general'* allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. The Draft NDP *"need not slavishly adopt every detail"*.[20] This condition only applies to strategic policies - there is no conformity requirement under this basic condition in respect of non-strategic policies in the development plan, or in respect of other local authority documents that do not form part of the adopted development plan, although such documents may be relevant to other matters. In assessing general conformity and whether a policy is strategic, I have borne in mind helpful PPG advice.[21] I have also born in mind the relevant part of the judgment in *R.* (Swan Quay LLP) *v.* Swale District Council.[22]

Retained EU obligations

33. The fourth basic condition requires me to consider whether the Draft NDP breaches, or is otherwise incompatible with, retained EU obligations. I have in particular considered the following, together with the UK statutory instruments implementing them in England: the

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17 PCPA Sch A2 para 16.

18 It also includes Oxfordshire's Minerals and Waste Local Plan: Part 1: Core Strategy (2017).

19 South Oxfordshire Local Plan 2035, pages 87 and 95-96.

20 Wiltshire Council *v.* Cooper Estates Strategic Land Ltd [2019] EWCA Civ 840, para 3, 16th May 2019.

21 PPG Reference IDs: 41-074-20140306; 41-075-20190509; 41-076-20190509; and 41-077-20190509.

22 [2017] EWHC 420 (Admin), para 29, Dove J, 27th January 2017.

Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation (2016/679/EU). I have also considered the judgment of the European Court of Justice in People Over Wind *v.* Coillte Teoranta.[23] I have borne in mind that proportionality is a concept of and underlies EU law and must be wary of requirements that would be disproportionate to the Draft NDP.

34. I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive.

Conservation of Habitats and Species Regulations 2017

35. I am satisfied that the making of the NDP would not be incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

Human Rights

36. The planning law of England and Wales in general complies with the Convention. This matter can be dealt with briefly in advance of further consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular, I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. Article 6(1) and First Protocol Article 1 reinforce the common-law principle that private property rights should not be removed without proper justification and without given property owners an opportunity to be heard, and I have borne that in mind.

9. The Nature of the Neighbourhood Area

37. In considering the contents of the Draft NDP I must consider the nature of the neighbourhood area. Its gist is well described in the Draft NDP. Chinnor Parish is in South Oxfordshire district and consists of the village of Chinnor, the communities of Emmington to the north of the village, Henton to its northeast, Wainhill to its east, Chinnor Hill to its southeast, and countryside. In the 2011 census, the population of the parish was 5,924. ONS Census data for 2021 shows an increase to 7,600. This is likely to have increased further as a result of occupation of housing completed since the 2021 Census.

38. The village of Chinnor is one of 12 settlements identified as a larger village in the SOLP, the overall strategy of which stated in its policy STRAT1 includes supporting and enhancing the roles of these larger villages. The SOLP also identifies the village of Chinnor as a local centre in its policy TC2 Town Centre Hierarchy.

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[23] Case C-323/17, 12th April 2018.

39. The parish includes the whole of two Conservation Areas ("CAs"): Chinnor CA around the High Street; and Oakley CA at the entrance to what was originally the hamlet of Oakley. There are Listed Buildings located in Chinnor and Oakley, as well as Henton and Emmington. St Andrew's Church, Chinnor is a Grade I Listed Building dating back to the 13th Century and St Nicholas' Church Emmington is a Grade II* Listed Building. There is also a Scheduled Monument: three bowl barrows on Chinnor Hill, two 150m and one 600m SW of Highlands.

40. The part of the parish that lies to the southeast of the Ridgeway is in the Chilterns Area of Outstanding Natural Beauty. This includes two sites of special scientific interest ("SSSI"), Chinnor Hill reserve and Oakley Hill reserve. A third SSSI, Chinnor Chalk Pits is at the base of the slopes of the Chiltern Hills. The plan area is within a proposed area of search which Natural England is considering as a possible boundary variation to the Chilterns Area of Outstanding Natural Beauty (AONB).

41. A 20mph speed limit has been applied to all arterial and interior roads within the Chinnor village.

10. The contents of the Draft NDP

Introduction

Page 5

42. As SODC has pointed out the map on this page is blurred. As a result, the Draft Plan lacks clarity. SODC provided a replacement plan in Appendix 1 to its regulation 16 representations which gives the necessary detail.

Recommended modification 1

Page 5, map

Replace the map with the map in Appendix 1 to SODC's representations.

Page 6

43. There is a small error on page 6. Since 2011 there have been 1,002 (not 1,003) dwellings approved with planning permission within the Parish of Chinnor.

Recommended modification 2

Page 6, paragraph 1.6

Replace "1003" with "1002".

Page 7

44. There are small errors in the quotation from the NPPF.

Recommended modification 3

Page 7, lines 3-6

Replace " the local planning authority 'has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer' as set out in paragraph 74); and the local planning authority's 'housing delivery"

With

" 'the local planning authority has at least a three-year supply of deliverable housing sites (against its five-year housing supply requirement, including the appropriate buffer as set out in paragraph 74)'; and 'the local planning authority's housing delivery".

Page 9

45. Paragraph 1.17 is inaccurate and should be corrected.

Recommended modification 4

Page 9, paragraph 1.17

Replace "a 15-year period" with "the period".

The Chinnor Context

Page 12

46. There is a small error on the penultimate line of the page.

Recommended modification 5

Page 12, paragraph 2.6

Replace "the Oxfordshire County Council" with "Oxfordshire County Council".

Page 14

47. The second sentence of paragraph 2.9 is now out of date as paragraph 2.10 makes clear.

Recommended modification 6

Page 14, paragraph 2.9

Delete the second sentence.

Page 17

48. As mentioned in paragraph 43 above, the figure of 1003 is an error and should be 1002 and consequently the figure of 131 is an error and should be 130.

Recommended modification 7

Page 17, paragraph 2.16

Replace "1003" with "1002" and "131" with "130".

Page 19

49. Paragraph 2.21 and the figure below it deal with the penultimate census not the last census, which in the context if confusing. It no longer serves a purpose and should be deleted. This would necessitate renumbering of subsequent paragraphs. I shall however use current numbering in this report.

Recommended modification 8

Page 19

Delete paragraph 2.21 and the figure below it.

Pages 19 – 26

Renumber the present paragraph 2.22 and the following paragraphs appropriately.

Page 20

50. The final sentence on this page is somewhat clumsy, which does not aid clarity.

Recommended modification 9

Page 20, paragraph 2.27

Replace "is 50.7% of the population of 7644 residents which is drastic reduction as a percentage from the 72% of 2011.

With

"was 50.7% of the population of 7644 residents which is a drastic percentage reduction from the 72% of 2011."

Page 21

51. The penultimate sentence on this page is somewhat clumsy, which does not aid clarity. The unnecessary words should be deleted without replacement.

Recommended modification 10

Page 21, paragraph 2.30, penultimate sentence

Delete ", however those above and at 3 are unknown".

Page 24

52. Minor errors in paragraphs 2.40 and 2.44 need correcting.

Recommended modification 11

Page 24, paragraph 2.40

Insert a comma on either side of "a popular sport".

Page 24, paragraph 2.44

Replace the lines 3 and 4 with:

"50) based at St Andrew's School; Jack and Jill Pre-School (roll is between 40 and 45) also based at Mill Lane School site; and Windmill Community".

Vision and Objective

Page 27

53. The strikethrough is the first line of paragraph 3.1 is clumsy and unnecessary. It should be removed.

Recommended modification 12

Page 27, paragraph 3.1 first sentence

Delete "~~has~~".

Page 29

54. In the interests of clarity, the full name of the policy should be stated alongside its number in the table

Recommended modification 13

Page 29, table beneath paragraph 3.3

State the full name of each policy immediately after its number.

Housing Policies

Page 37

55. Paragraph 4.5 requires correcting.

Recommended modification 14

Page 37, paragraph 4.5

Replace "2034" with "2035" and "1003" with "1002".

Page 39

56. Paragraph 4.11 is clumsy and needs tidying.

Recommended modification 15

Page 39, paragraph 4.11

Replace "and as set out in paragraph 4.8 of this Plan" with "as set out in paragraph 4.8 above".

57. The fourth indent should be in the negative.

Recommended modification 16

Page 39, policy CH H1, 4th indent

Replace "Cause" with "Does not cause".

Page 42

58. The figure is out of date and could cause confusion. It should be deleted. It would not be appropriate to replace this without further consultation of at least 6 weeks and, since the figure is not necessary, I do not recommend this. The second sentence of paragraph 4.17 is also out of date and should be brought up to date.

Recommended modification 17

Page 42 figure and text in italics beneath it

Delete this entirely.

Paragraph 4.17, second sentence

Replace this with "The 2021 Census showed that 20.5% of Chinnor's residents are now aged 65 and over."

Page 44

59. Paragraph 4.22 should be corrected and footnote 4 should be brought up to date.

Recommended modification 18

Page 44

In paragraph 4.22 replace "137" with "136"

Replace the whole of footnote 4 with "South Oxfordshire Housing Land Supply figures 2023".

Page 45

60. The final sentence of paragraph 4.24 contains a minor error which should be corrected.

Recommended modification 19

Page 45, paragraph 4.24

Replace the final sentence with "In addition, as stated above, they have already been consented as housing development sites and were therefore considered deliverable."

Page 46

61. Policy CH H6 required updating to reflect the number of dwellings proposed for the site in reserved matters planning application P19/S4178/RM.

Recommended modification 20

Page 46, Policy CH H6, final column

Replace "140" with "116".

62. I share SODC's view that, to provide clarity and precision, Figures 1 and 2 should be updated, with a new key, showing 'allocations complete' in blue and 'housing allocation' recoloured purple. I also share Turley's concern (on behalf of Gleeson Land) about the text beneath Figure 1.

Recommended modification 21

Page 46, Figure 1

Replace Figure 1 with the figure in SODC's Regulation 16 representation Appendix 2a. Do not include any text below the figure.

Pages 47 and 48

63. The references to the NPPF should contain the current (2023) paragraph numbering, not that of its predecessor. There is a minor error in the 5th line of paragraph 4.29.

Recommended modification 22

Pages 47 and 48, footnotes 5, 6 and 7

Replace 77 with 79, 79 with 80 and 84 with 85.

Page 48, paragraph 4.29, 5th line

Replace "an" with "for".

Page 50

64. For the reasons given in paragraph 62 above respect of Figure 1, Figure 2 should be replaced. I note SODC's concern that the red line of the settlement boundary is drawn broadly and, in some instances, does not follow the built-up area. I do not consider that this breaks a

basic condition. If I had done, further consultation of at least 6 weeks in respect of redrawing of this boundary would have been necessary to ensure that the Convention rights of owners of land whose status was changed were not breached.

Recommended modification 23

Page 46, Figure 2

Replace Figure 2 with the figure in SODC's Regulation 16 representation Appendix 2b.

Conservation Heritage and Design Policies

Page 53

65. A minor error in paragraph 5.4 needs to be corrected.

Recommended modification 24

Page 53, paragraph, lines 5 and 6

"properties" should follow "newer" without a line break.

Environment, Open Space and Recreation

Page 56 - 75

66. These pages consider Open Space and Recreation, particularly existing and proposed local green spaces ("LGSs"). The 16 LGSs are described as follows:

1) Chinnor allotments, off Station Road;
2) Playing fields to the east of Station Road;
3) Hill Road Recreation area, registered as the Village Green;
4) Old Kiln Lakes Open Space and play area;
5) White's Field, off Mill Lane;
6) St. Andrew's Road play area;
7) Two open spaces within Van Diemens Close;
8) Hayley Croft;
9) Estover Way open green;
10) Estover Way balancing pond and wildlife area;
11) Land behind Greenwood Avenue;
12) Henton Village Green (within the Parish of Chinnor);
13) Old Orchard at the junction of Donkey Lane and the railway line;
14) Greenwood Meadow open greens;
15) Memorial Garden (Keens Lane where it meets The Avenue); and
16) Mill Lane Community Garden.

67. The explanation for the selection of these LGSs is in Appendix 1.

68. I share the view of Turley on behalf of Gleeson land that I should review previous LGS designations in addition to the proposed new ones and have done so bearing in mind the following guidance.

69. The NPPF provides for Local Green Spaces in its chapter 8, which is headed "Promoting healthy and safe communities". Under the sub-heading "Open Spaces and Recreation", its paragraphs 101 to 103 state:

> *101. The designation of land as Local Green Space through … neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*
>
> *102. The Local Green Space designation should only be used where the green space is:*
>
> *a) in reasonably close proximity to the community it serves;*
>
> *b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
>
> *c) local in character and is not an extensive tract of land.*
>
> *103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.*

70. PPG chapter 37 also provides guidance on LGSs. Among other things it states:

> *<u>How does Local Green Space designation relate to development?</u>*
>
> *Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.*[24]
>
> *<u>What about public access?</u>*
>
> *Some areas that may be considered for designation as Local Green Space may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is no public access (eg green areas which are valued because of their wildlife, historic significance and/or beauty).*

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[24] PPG Reference ID: 37-007-20140306.

Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.[25]

Does land need to be in public ownership?

A Local Green Space does not need to be in public ownership. However… the qualifying body… should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.[26]

71. These paragraphs are central to any consideration of whether land should be designated as an LGS. They should be followed unless there is a sufficiently good reason not to do so and none is apparent to me. In considering the proposed LGS designations, I have borne in mind the judgment Court of Appeal in *R.* (Lochailort Investments Ltd) *v* Mendip District Council.[27] The phrase in paragraph 101 *"capable of enduring beyond the end of the plan period"* was given specific consideration. While this is a less demanding policy than applies to Green Belt designation where the stronger *"permanently"* is used, it is still important.

72. A local green space designation does not prevent works that are not development or works that are permitted development, nor does it authorise works without the permission of the landowner (including the owner of the subsoil).

Page 56

73. If the Draft Plan is made, none of the LGSs will be "proposed". Paragraph 6.3 should therefore be corrected. The paragraph's sixth and seventh sentences should be corrected to correspond with the description of the LGSs already given.

Recommended modification 25

Page 56, paragraph 6.3, 1st sentence

Delete "proposed".

Page 56, paragraph 6.3, 6th and 7th sentences

Replace these with "The second comprises the Playing Fields to the east of Station Road. These are extensively used as formal playing fields".

Page 57

74. Paragraph 6.4 includes descriptions that do not correspond with the previous descriptions and with Appendix 1. It should be modified in the interests of clarity.

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25 PPG Reference ID: 37-017-20140306.

26 PPG Reference ID: 37-019-20140306.

27 [2020] EWCA Civ 1259, 2nd October 2020.

Recommended modification 26

Page 57, paragraph 6.4, indent's first sentence

Replace this with "St Andrew's Road play area, two open spaces within Van Diemens Close (covered by one designation), Hayley Croft open green, Estover Way open green, Estover Way balancing pond and wildlife area, land behind Greenwood Avenue, Greenwood Meadow Open Greens, Old Orchard at the junction of Donkey Lane and the railway line, Memorial Garden (at Keens Lane where it meets The Avenue) and Mill Lane Community Garden.

Page 73

75. The plan for LGS 14 would include part of two private gardens in the LGS. While, as is clear from paragraph 70 above, the PPG allows private land to which there is no public access to be designed as an LGS, this has to be properly justified. This has not been done in this case and I have no reason to suspect that it could be done. The plan should therefore be altered to exclude these gardens. Also, the plan unnecessarily includes the number 14 twice and this could cause confusion.

Recommended modification 27

Page 73, plan of LGS 14

Replace this with the plan in SODC's Regulation 16 representation Appendix 3.

Page 75 LGS 16

76. The plan for LGS 16 appears to include an electricity substation. The site visit confirmed that this is the case. An electricity substation and associated fenced-off land is included in the area shown on the plan. This does not meet the criteria for an LGS.

Recommended modification 28

Page 75, plan of LGS 16

Replace this with a plan that excludes the electricity substation and its associated fenced-off land.

77. I have considered each proposed LGS and the rationale for their designation in the papers that I have seen.

78. Subject to the modifications recommended above in respect of LGS14 and LGS16, they satisfy the requirements for inclusion in an NDP as an LGS for the reasons given in the Draft Plan's Appendix 1.

Page 78

79. The second indent of policy CH GP2 - Protection of Habitats of Significance begins "All development proposals should result in a net biodiversity gain of at least 10% for the Parish, measured by a recognised biodiversity accounting metric against a baseline ecological survey detailing wildlife habitats, including trees and hedgerows, and their condition." This is more demanding and more absolute than SOLP's policy ENV3 Plan which requires that "All development should provide a net gain in biodiversity where possible." I bear in mind: that the basic condition requires general, not absolute, conformity; the soon to commence statutory requirement; and the very wide range of the phrase "all development". Having done this, I recommend a modification to add the words "where possible" to the indent.

80. The third indent begins "Ensuring that there will be no loss to existing trees and hedgerows". That is impracticable and excessive and is at odds with the sentence that follows.

Recommended modification 29

Page 78, policy CH GP2, second indent

In the second indent, replace "All" with "Where possible all".

Replace the third indent's first sentence with "Minimising the loss of existing trees and hedgerows".

Community Facilities

Pages 81 to 84

81. These pages deal with community facilities. Policy CH CF1 - The Protection of Community Facilities identifies the following 41 key community facilities:

1 Village Hall;
2 Reading Room;
3 Band Room (Silver Band ownership);
4 Church Hall;
5 Village Centre and Pound;
6 Community Building and Changing/Storage Hut on White's Field including CYFC facilities, storage facilities, and Windmill Cafe at White's Field;
7 Chinnor Windmill on White's Field;
8 Community Pavilion on Station Road Playing Field
9 Shooting Range Hut on Playing Field;
10 Village Green (Hill Road) Pavilion
11 Scout Hut on Station Road;
12 Retail outlets around the Village Square and Post Office (only banking facility in village, has ATM);

13 Co-op Supermarket and Petrol Station (has ATM);
14 The Red Lion;
15 The Crown;
16 Wheatsheaf public houses in Chinnor;
17 The Charles Napier restaurant on Chinnor Hill;
18 Cob Cottage Cafe on Station Road;
19 The Library off Station Road;
20 Chiltern Conservation Board;
21 Millennium Jubilee Garden;
22 Chinnor Allotments Shop and Equipment Hut Building;
23 Chinnor and Princes Risborough Railway Station;
24 Lime Kiln at Old Kiln Lakes;
25 Dentist on Station Road;
26 Opticians on the High Street;
27 Cross Keys Doctors Surgery, Church Road;
28 Unity Health, Station Road;
29 Jack and Jill Pre-school;
30 Ladybird Pre-school;
31 Windmill Nursery;
32 Mill Lane School and Community Sports Hall;
33 St Andrew's Church of England School and Community Swimming Pool;
34 St Andrew's Church;
35 Chinnor Community Church;
36 Methodist Church;
37 The Peacock hotel/restaurant in Henton;
38 Millie's Deli, Coffee Shop, Lower Road;
39 Pound Garden & War Memorial;
40 Buds that Blossom Nursery - Lower Road; and
41 Parade of Shops on Middle Way.

82. The policy needs to be tidied with 14, 15 and 16 in separate lines and 19 with Station Road with initial capital letters.

Recommended modification 30

Page 83

Place "14 The Red Lion; 15 The Crown; 16 Wheatsheaf public houses in Chinnor;" in separate lines and give Station Road in 19 initial capital letters.

Employment Promotion and Protection

Pages 87-88

83. Paragraph 8.12 begins "For clarity, "retail use" includes all the following use designations: A1 Shops, A2 Financial and professional services, A3 Restaurants and cafés, A4 Drinking establishments and A5 Hot food takeaways". Footnote 8 states "It is noted that these designations may have changed since this was last updated … and the above can now be covered by E(a), E(b), E(c) and certain aspects of "Sui generis"." An NDP should be accurate using the correct current terminology.

Recommended modification 31

Pages 87-88, paragraph 8.12

Replace: "following use designations: A1 Shops, A2 Financial and professional services, A3 Restaurants and cafés, A4 Drinking establishments and A5 Hot food takeaways" with "following use designations: E(a) Shops (display or retail sale of goods), E(b) and *Sui Generis* Restaurants and cafés, E(ci and cii) Financial and professional services, *Sui Generis* Drinking establishments and Hot food takeaways".

Replace footnote 8 with "Please see https://www.planningportal.co.uk/permission/common-projects/change-of- use/use-classes for more information regarding current Use Classes. The uses mentioned above are covered by E(a), E(b), E(c) and certain aspects of *Sui generis*".

Page 88

84. As SODC has pointed out the map on this page is blurred. As a result, the Draft Plan lacks clarity. SODC has provided a replacement plan in Appendix 4 to its regulation 16 representations which gives the necessary detail.

Recommended modification 32

Page 88, map

Replace the map with the map in Appendix 4 to SODC's regulation 16 representations.

Page 93

85. The number 9 appears outside and to the right of the box containing the policy. It serves no purpose and should be deleted.

Recommended modification 33

Page 93, to the right of the box containing the policy

Delete "9".

Education and Young People

Page 94

86. The final sentence of paragraph 9.3 is, "The county council have committed to a capital project to replace the temporary classrooms with permanent accommodation with no increase to capacity". This could be read as a commitment to no increase to capacity, which would be wrong.

Recommended modification 34

Page 94, paragraph 9.3, last sentence

Add at the end of the sentence, "at present".

87. Paragraph 9.4 overstates the position with respect to the hall at St Andrew's School.

Recommended modification 35

Page 94, paragraph 9.4, third sentence

Replace this with "St Andrew's two halls are below the Department for Education's recommended size."

Action Points for Chinnor Parish Council

Pages 97 to 111

88. These contain action points for Chinnor Parish Council, which are outside the scope of a neighbourhood planning examination. This should not prevent their alteration as proposed in regulation 16 representations if this is considered appropriate.

Appendices

Pages 114

89. There is a minor error in the brackets that follow "MUGA".

Recommended modification 36

Page 114, row relating to White's Field, off Mill Lane

Replace "games are" with "games area".

Page 119

90. The map should be modified to bring it up to date. This involves altering the area of LGS 14 to reflect the modification recommended. The recommended modification to LGS16 is so small that it does not result in a need to modify this plan.

Recommended modification 37

Page 119, map

Replace the map with the map in Appendix 5 to SODC's regulation 16 representations.

Page 123

91. The map is blurred. It should be replaced in the interests of clarity and precision.

Recommended modification 38

Page 123

Replace the map with the map in Appendix 6 to SODC's regulation 16 representations.

Page 125

92. The section on scale and density begins "New buildings should respect the scale, density, style, and building line." NPPF paragraphs 124 and 125 discourage inefficient use of land and low-density development. Since encouragement of low-density development can increase the cost of open-market and affordable housing and increase pressure for development of greenfield land, it needs robust justification. If an NDP seeks to impose restrictions on density beyond those that already arise from existing law and national and district policy, this should be properly justified. Further as Rectory Homes Ltd has pointed out, there is a need for appropriately sized or priced houses for younger buyers[28] and for two-bedroom dwellings, mainly single storey, with modest gardens.[29] These are likely to be higher density than larger dwellings.

93. There is also a minor error that should be corrected.

Recommended modification 39

Page 125, Scale and Density

Replace "Scale and Density" with "Scale"

Delete "density," in the following line.

Replace "with the Chinnor Village setting" with "within the Chinnor Village setting".

Page 126

94. Parking is covered in policy CH H1, CH CF2, CH B2, CH T1 and CH E1. The Design principles apply "to all new development within the Village of Chinnor and the settlements of Emmington and Henton". A requirement that "Off-street car parking shall be provided for a minimum of two cars" for all new development is excessive and has not been justified. Also,

[28] Draft NDP, page 38, para 4.7, last sentence.

[29] Draft NDP, page 42, para 4.17, 1st indent.

it does not accord with the recently adopted Oxfordshire County Council parking standards. This was produced by people with appropriate expertise. No reason has been given for Chinnor having different standards to elsewhere in Oxfordshire.

Recommended modification 40

Page 125

Replace "Off-street car parking shall be provided for a minimum of two cars" with "Parking shall be provided in accordance with Oxfordshire County Council parking standards".

Page 134

95. The entry in the first column of the second row is clumsy and will make reading more difficult for some.

Recommended modification 41

Page 134

Alter the entry in the first column of the second row so that 'heritage' is written as one word and in a separate line to 'Conservation'.

Page 136 Attendance statistics

96. It should be made clear to readers of the Draft Plan that Wainhill and Chinnor Hill are separate.

Recommended modification 42

Page 164

Insert a comma between Wainhill and Chinnor Hill.

11. Typographical errors

97. I have not dealt with the most minor typographical errors or all minor formatting that does not affect meaning. Nothing in this report should deter the correction of unquestionably uncontroversial matters.

12. Summary of Main Findings

98. I commend the Draft Plan for being clear, intelligible and well written, and for the thought and effort that has gone into its creation. It has struck the right balance between intelligibility to a lay person and the use of technical words that ensure precision.

99. I also commend SODC for the exceptional care that they have taken to help the Draft Plan attain a high standard of accuracy and precision.

100. I recommend that the Draft Plan be modified in the terms specified in Appendix A to this report to meet basic conditions and to correct errors. I am satisfied with all parts of the Draft Plan to which I am not recommending modifications.

101. With those modifications, the Draft Plan will meet all the basic conditions and human rights obligations. Specifically:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it will be appropriate to make the Plan;
- The making of the Plan will contribute to the achievement of sustainable development;
- The making of the Plan will be in general conformity with the strategic policies contained in the development plan for the neighbourhood area;
- The making of the Plan will not breach, and will not otherwise be incompatible with, retained EU obligations;
- The making of the Plan will not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- The Plan will in all respects be fully compatible with Convention rights contained in the Human Rights Act 1998.

102. I recommend that SODC should make the Draft Plan with the modifications specified in Appendix A to this report.

Timothy Jones, Barrister, FCIArb,

Independent Examiner,

No 5 Chambers

8th November 2023.

Appendix A: Recommended Modifications

Recommended modification 1

Page 5, map

Replace the map with the map in Appendix 1 to SODC's representations.

Recommended modification 2

Page 6, paragraph 1.6

Replace "1003" with "1002".

Recommended modification 3

Page 7, lines 3-6

Replace " the local planning authority 'has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer' as set out in paragraph 74); and the local planning authority's 'housing delivery" With
" 'the local planning authority has at least a three-year supply of deliverable housing sites (against its five-year housing supply requirement, including the appropriate buffer as set out in paragraph 74)'; and 'the local planning authority's housing delivery".

Recommended modification 4

Page 9, paragraph 1.17

Replace "a 15-year period" with "the period".

Recommended modification 5

Page 12, paragraph 2.6

Replace "the Oxfordshire County Council" with "Oxfordshire County Council".

Recommended modification 6

Page 14, paragraph 2.9

Delete the second sentence.

Recommended modification 7

Page 17, paragraph 2.16

Replace "1003" with "1002" and "131" with "130".

Recommended modification 8

Page 19

Delete paragraph 2.21 and the figure below it.

Pages 19 – 26

Renumber the present paragraph 2.22 and the following paragraphs appropriately.

Recommended modification 9

Page 20, paragraph 2.27

Replace "is 50.7% of the population of 7644 residents which is drastic reduction as a percentage from the 72% of 2011.
With
"was 50.7% of the population of 7644 residents which is a drastic percentage reduction from the 72% of 2011."

Recommended modification 10

Page 21, paragraph 2.30, penultimate sentence

Delete ", however those above and at 3 are unknown".

Recommended modification 11

Page 24, paragraph 2.40

Insert a comma on either side of "a popular sport".

Page 24, paragraph 2.44

Replace the lines 3 and 4 with:

"50) based at St Andrew's School; Jack and Jill Pre-School (roll is between 40 and 45) also based at Mill Lane School site; and Windmill Community".

Recommended modification 12

Page 27, paragraph 3.1 first sentence

Delete "~~has~~".

Recommended modification 13

Page 29, table beneath paragraph 3.3

State the full name of each policy immediately after its number.

Recommended modification 14

Page 37, paragraph 4.5

Replace "2034" with "2035" and "1003" with "1002".

Recommended modification 15

Page 39, paragraph 4.11

Replace "and as set out in paragraph 4.8 of this Plan" with "as set out in paragraph 4.8 above".

Recommended modification 16

Page 39, policy CH H1, 4th indent

Replace "Cause" with "Does not cause".

Recommended modification 17

Page 42 figure and text in italics beneath it

Delete this entirely.

Paragraph 4.17, second sentence

Replace this with "The 2021 Census showed that 20.5% of Chinnor's residents are now aged 65 and over."

Recommended modification 18

Page 44

In paragraph 4.22 replace "137" with "136"

Replace the whole of footnote 4 with "South Oxfordshire Housing Land Supply figures 2023".

Recommended modification 19

Page 45, paragraph 4.24

Replace the final sentence with "In addition, as stated above, they have already been consented as housing development sites and were therefore considered deliverable."

Recommended modification 20

Page 46, Policy CH H6, final column

Replace "140" with "116".

Recommended modification 21

Page 46, Figure 1

Replace Figure 1 with the figure in SODC's Regulation 16 representation Appendix 2a. Do not include any text below the figure.

Recommended modification 22

Pages 47 and 48, footnotes 5, 6 and 7

Replace 77 with 79, 79 with 80 and 84 with 85.

Page 48, paragraph 4.29, 5th line

Replace "an" with "for".

Recommended modification 23

Page 46, Figure 2

Replace Figure 2 with the figure in SODC's Regulation 16 representation Appendix 2b.

Recommended modification 24

Page 53, paragraph, lines 5 and 6

"properties" should follow "newer" without a line break.

Recommended modification 25

Page 56, paragraph 6.3, 1st sentence

Delete "proposed".

Page 56, paragraph 6.3, 6th and 7th sentences

Replace these with "The second comprises the Playing Fields to the east of Station Road. These are extensively used as formal playing fields".

Recommended modification 26

Page 57 paragraph 6.4, indent's first sentence

Replace this with "St Andrew's Road play area, two open spaces within Van Diemens Close (covered by one designation), Hayley Croft open green, Estover Way open green, Estover Way balancing pond and wildlife area, land behind Greenwood Avenue, Greenwood Meadow Open Greens, Old Orchard at the junction of Donkey Lane and the railway line, Memorial Garden (at Keens Lane where it meets The Avenue) and Mill Lane Community Garden.

Recommended modification 27

Page 73, plan of LGS 14

Replace this with the plan in SODC's Regulation 16 representation Appendix 3.

Recommended modification 28

Page 75, plan of LGS 16

Replace this with a plan that excludes the electricity substation and its associated fenced-off land.

Recommended modification 29

Page 78, policy CH GP2, second indent

In the second indent, replace "All" with "Where possible all".

Replace the third indent's first sentence with "Minimising the loss of existing trees and hedgerows".

Recommended modification 30

Page 83

Place "14 The Red Lion; 15 The Crown; 16 Wheatsheaf public houses in Chinnor;" in separate lines and give Station Road in 19 initial capital letters.

Recommended modification 31

Pages 87-88, paragraph 8.12

Replace: "following use designations: A1 Shops, A2 Financial and professional services, A3 Restaurants and cafés, A4 Drinking establishments and A5 Hot food takeaways" with "following use designations: E(a) Shops (display or retail sale of goods), E(b) and *Sui Generis* Restaurants and cafés, E(ci and cii) Financial and professional services, *Sui Generis* Drinking establishments and Hot food takeaways".

Replace footnote 8 with "Please see https://www.planningportal.co.uk/permission/common-projects/change-of- use/use-classes for more information regarding current Use Classes. The uses mentioned above are covered by E(a), E(b), E(c) and certain aspects of *Sui generis*".

Recommended modification 32

Page 88, map

Replace the map with the map in Appendix 4 to SODC's regulation 16 representations.

Recommended modification 33

Page 93, to the right of the box containing the policy

Delete "9".

Recommended modification 34

Page 94, paragraph 9.3, last sentence

Add at the end of the sentence, "at present".

Recommended modification 35

Page 94, paragraph 9.4, third sentence

Replace this with "St Andrew's two halls are below the Department for Education's recommended size."

Recommended modification 36

Page 114, row relating to White's Field, off Mill Lane

Replace "games are" with "games area".

Recommended modification 37

Page 119, map

Replace the map with the map in Appendix 5 to SODC's regulation 16 representations.

Recommended modification 38

Page 123

Replace the map with the map in Appendix 6 to SODC's regulation 16 representations.

Recommended modification 39

Page 125, Scale and Density

Replace "Scale and Density" with "Scale"

Delete "density," in the following line.

Replace "with the Chinnor Village setting" with "within the Chinnor Village setting".

Recommended modification 40

Page 125

Replace "Off-street car parking shall be provided for a minimum of two cars" with "Parking shall be provided in accordance with Oxfordshire County Council parking standards".

Recommended modification 40

Page 134

Alter the entry in the first column of the second row so that 'heritage' is written as one word and in a separate line to 'Conservation'.

Recommended modification 41

Page 164

Insert a comma between Wainhill and Chinnor Hill

Appendix B: Abbreviations

The following abbreviations are used in this report:

Convention	European Convention on Human Rights
CA	Conservation Area
CPC	Chinnor Parish Council
Draft NDP	Chinnor Neighbourhood Plan 2011 – 2035 (2023 SODC Review Consultation Version)
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
LGS	local green space
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (September 2023)
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PPG	national Planning Practice Guidance
s	section
Sch	Schedule
SODC	South Oxfordshire District Council
SOLP	South Oxfordshire Local Plan 2035
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb *'include'*, I am not using it to mean *'comprise'*. The words that follow are not necessarily exclusive.

Appendix 2 – Listing of the Examiner's recommendations exactly as they are shown in his Report

Appendix A: Recommended Modifications

Recommended modification 1

Page 5, map

Replace the map with the map in Appendix 1 to SODC's representations.

Recommended modification 2

Page 6, paragraph 1.6

Replace "1003" with "1002".

Recommended modification 3

Page 7, lines 3-6

Replace " the local planning authority 'has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer' as set out in paragraph 74); and the local planning authority's 'housing delivery"
With
" 'the local planning authority has at least a three-year supply of deliverable housing sites (against its five-year housing supply requirement, including the appropriate buffer as set out in paragraph 74)'; and 'the local planning authority's housing delivery".

Recommended modification 4

Page 9, paragraph 1.17

Replace "a 15-year period" with "the period".

Recommended modification 5

Page 12, paragraph 2.6

Replace "the Oxfordshire County Council" with "Oxfordshire County Council".

Recommended modification 6

Page 14, paragraph 2.9

Delete the second sentence.

Recommended modification 7

Page 17, paragraph 2.16

Replace "1003" with "1002" and "131" with "130".

Recommended modification 8

Page 19

Delete paragraph 2.21 and the figure below it.

Pages 19 – 26

Renumber the present paragraph 2.22 and the following paragraphs appropriately.

Recommended modification 9

Page 20, paragraph 2.27

Replace "is 50.7% of the population of 7644 residents which is drastic reduction as a percentage from the 72% of 2011.
With
"was 50.7% of the population of 7644 residents which is a drastic percentage reduction from the 72% of 2011."

Recommended modification 10

Page 21, paragraph 2.30, penultimate sentence

Delete ", however those above and at 3 are unknown".

Recommended modification 11

Page 24, paragraph 2.40

Insert a comma on either side of "a popular sport".

Page 24, paragraph 2.44

Replace the lines 3 and 4 with:

"50) based at St Andrew's School; Jack and Jill Pre-School (roll is between 40 and 45) also based at Mill Lane School site; and Windmill Community".

Recommended modification 12

Page 27, paragraph 3.1 first sentence

Delete "~~has~~".

Recommended modification 13

Page 29, table beneath paragraph 3.3

State the full name of each policy immediately after its number.

Recommended modification 14

Page 37, paragraph 4.5

Replace "2034" with "2035" and "1003" with "1002".

Recommended modification 15

Page 39, paragraph 4.11

Replace "and as set out in paragraph 4.8 of this Plan" with "as set out in paragraph 4.8 above".

Recommended modification 16

Page 39, policy CH H1, 4th indent

Replace "Cause" with "Does not cause".

Recommended modification 17

Page 42 figure and text in italics beneath it

Delete this entirely.

Paragraph 4.17, second sentence

Replace this with "The 2021 Census showed that 20.5% of Chinnor's residents are now aged 65 and over."

Recommended modification 18

Page 44

In paragraph 4.22 replace "137" with "136"

Replace the whole of footnote 4 with "South Oxfordshire Housing Land Supply figures 2023".

Recommended modification 19

Page 45, paragraph 4.24

Replace the final sentence with "In addition, as stated above, they have already been consented as housing development sites and were therefore considered deliverable."

Recommended modification 20

Page 46, Policy CH H6, final column

Replace "140" with "116".

Recommended modification 21

Page 46, Figure 1

Replace Figure 1 with the figure in SODC's Regulation 16 representation Appendix 2a. Do not include any text below the figure.

Recommended modification 22

Pages 47 and 48, footnotes 5, 6 and 7

Replace 77 with 79, 79 with 80 and 84 with 85.

Page 48, paragraph 4.29, 5th line

Replace "an" with "for".

Recommended modification 23

Page 46, Figure 2

Replace Figure 2 with the figure in SODC's Regulation 16 representation Appendix 2b.

Recommended modification 24

Page 53, paragraph, lines 5 and 6

"properties" should follow "newer" without a line break.

Recommended modification 25

Page 56, paragraph 6.3, 1st sentence

Delete "proposed".

Page 56, paragraph 6.3, 6th and 7th sentences

Replace these with "The second comprises the Playing Fields to the east of Station Road. These are extensively used as formal playing fields".

Recommended modification 26

Page 57 paragraph 6.4, indent's first sentence

Replace this with "St Andrew's Road play area, two open spaces within Van Diemens Close (covered by one designation), Hayley Croft open green, Estover Way open green, Estover Way balancing pond and wildlife area, land behind Greenwood Avenue, Greenwood Meadow Open Greens, Old Orchard at the junction of Donkey Lane and the railway line, Memorial Garden (at Keens Lane where it meets The Avenue) and Mill Lane Community Garden.

Recommended modification 27

Page 73, plan of LGS 14

Replace this with the plan in SODC's Regulation 16 representation Appendix 3.

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