

**VALE OF WHITE HORSE DISTRICT COUNCIL**

**LOCAL PLAN 2031**

*Comments by G H Lambrick MA FSA MIFA*

**OBJECTION 1**

**THE PLAN IS UNSOUND BECAUSE CONTRARY TO NPPF IT HAS FAILED TO EXCLUDE FROM DEVELOPMENT AREAS OF HERITAGE SENSITIVITY**

In the section on plan-making the National Planning Policy Framework para 152 states that

*“Local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued”.*

Para 7 defines the environmental dimension of sustainable development as *“an environmental role – contributing to protecting and enhancing our natural, built and historic environment;...”* While para 152 goes on to indicate what should happen if adverse impacts are unavoidable, the clear implication is that such effects should as far as possible be eliminated at the plan-making stage, not by application of policies later on.

Indeed, paragraph 157 makes this abundantly clear stating:

*Crucially, Local Plans should:..... identify land where development would be inappropriate, for instance because of its environmental or historic significance.*

As explained in more detail below – Objection 4 – the failure to apply the SEA Regulations correctly may have led to or perhaps reflects a failure of the draft plan to apply this policy correctly to many of the sites proposed for housing development. It is not clear that any sites or strategies less harmful to the built heritage have been considered.

In addition, NPPF makes the general historic character of urban and rural areas a material consideration and little or no attempt has been made to consider or fit in with existing character and patterns of settlement. No consideration appears to have been given to the historic form of settlements or where the historic (eg pre 1930) boundary between the settlement and surrounding countryside is relatively well-preserved; no consideration has been given to the historic form of settlement and too little regard is paid to avoiding rather than reinforcing early 20<sup>th</sup> sprawl that was a key reason for the introduction of planning legislation in the 1940s.

The Site allocations should be reviewed to ensure that the statutory duty to have special regard to preserving listed buildings and their settings and preserving or enhancing the character or appearance of conservation areas will not be compromised. A particular example is Monks Farm Grove where isolated groups of listed farms will have their

setting utterly changed from fields to suburbia. This is a fundamental change of character and would be likely to rank as substantial harm where the presumption would be against development. The assumption in the Site allocation report

*"Submit a Heritage Statement to show how the listed buildings on Monks Farm and Grove Wick Farm together with their setting, have been sensitively considered."*

Shows that this has not been done and that when any development proposals come forward the presumption in favour of preserving the setting of these buildings will already have been severely compromised when as an issue that statutorily requires 'considerable importance' should come very clearly within the category of "*land where development would be inappropriate, for instance because of its environmental or historic significance*"

## **OBJECTION 2**

**THE PLAN IS UNSOUND BECAUSE IT PROPOSES ALTERATIONS TO THE OXFORD GREEN BELT WITHOUT PRESENTING SPECIFIC EVIDENCE WHY**

- i) AREAS TO BE TAKEN OUT OF THE GREEN BELT DO NOT MAKE A POSITIVE CONTRIBUTION TO IT**
- ii) WHAT AREAS ARE TO BE SUBSTITUTED AND WHY THESE WOULD MAKE A BETTER CONTRIBUTION**
- iii) THE ORIGINAL ANALYSIS OF HOUSING ASSESSMENT HAS BEEN LEFT AS PART OF THE OVERALL PLAN DOCUMENTATION IDENTIFYING SITES AS BEING DEVELOPABLE IN PRINCIPLE ALTHOUGH THEY ARE NOT BEEN TAKEN FORWARD, THEREBY REDUCING THE EFFECTIVENESS OF GREEN BELT PROTECTION.**

As an example I objected strongly to the "East Wotton" site because s by its nature it is entirely contrary to the site-specific landscape objectives to

- *Ensure that development does not result in harm to the open character and openness of the Greenbelt.*
- *Maintain the separate identity and individual character of the settlements at Wootton and Whitecross.*
- *... Allow views to Boars Hill from Lamborough Hill.*

While I am pleased that this and some other sites are not being taken forward, this is not the same as following what the last two points in NPPF para 157 recommends which is that

*Crucially, Local Plans should:*

*..... identify land where development would be inappropriate, for instance because of its environmental or historic significance.*

*contain a clear strategy for enhancing the natural, built and historic environment, and supporting Nature Improvement Areas where they have been identified.*

Virtually all the potential Green Belt sites identified in the initial search have been left as possible areas for future development whereas they should have been identified as **not**

being suitable because of the strong policy to protect Green Belts for inappropriate development in the section entitled: *Achieving sustainable development*:

*87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.*

*89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:*

- buildings for agriculture and forestry;*
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;*
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or*
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

Suggested amendment – explicitly identify land in the green belt but not taken forward as *'inappropriate for development'* in accordance with NPPF para 157.

### **OBJECTION 3**

**THE PLAN IS UNSOUND BECAUSE IT HAS NOT APPLIED HERITAGE POLICY CORRECTLY AND IN PARTICULAR HAS NOT GIVEN DUE WEIGHT TO THE LPAs' SPECIAL STATUTORY DUTY - UNDER THE 1990 PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT - TO GIVE "CONSIDERABLE WEIGHT" TO THE DESIRABILITY OF PRESERVING OR ENHANCING THE SETTING, CHARACTER AND APPEARANCE OF LISTED BUILDINGS AND CONSERVATION AREAS SITUATED IN AND ADJACENT TO THE SITES SELECTED**

This is further explained under Objection 4, but amongst others the Sites at East Challow, East Hanney, South Drayton, South Marcham and probably Sutton Courtenay Shrevenham and Milton would appear fall within this objection as explained below.

## **OBJECTION 4**

### **THE PLAN IS UNSOUND BECAUSE THE SEA REGULATIONS HAVE NOT BEEN CORRECTLY OR ADEQUATELY APPLIED TO AVOID SIGNIFICANT EFFECTS ON THE ARCHITECTURAL AND ARCHAEOLOGICAL HERITAGE, LANDSCAPE, OR THE INTERACTION BETWEEN THESE AND WITH OTHER ENVIRONMENTAL FACTORS**

The SA/SEA has not followed EH Guidance (2011, 2013) on coverage of heritage in SAs and SEAs.

#### ***Objectives***

The rolling together of landscape and heritage objectives as one – instead of treating them where appropriate as separate considerations with different public values – has led to a complete failure to consider interactions between different aspects of the environment. In effect visual appearance has been rolled together with physical historic fabric providing irreplaceable evidence of the past. In several cases a failure to distinguish probable negative effects from potential positive ones – or to weigh up their relative pros and cons.

#### ***Baseline Information***

*6.2.10 Heritage assets should be recognised as an ‘irreplaceable resource’ that should be conserved in a ‘manner appropriate to their significance’, taking account of ‘the wider social, cultural, economic and environmental benefits’ of conservation, whilst also recognising the positive contribution new development can make to local character and distinctiveness.*

However, the report nowhere describes or maps the actual heritage content of the sites earmarked for development or their surroundings in which important heritage assets or surviving character may survive. It is thus not possible from the information provided to appreciate the significance of heritage assets or the degree to which they would be affected except in very broad terms.

#### ***Appraisal Criteria***

The heritage and landscape appraisal criteria that have informed the selection of sites for housing development are listed as follows:

- Is the site within a designated Historic Park and Garden?*
- Does the site contain a Scheduled Ancient Monument?*
- Is the site within a Conservation Area?*
- Does the site contain a Listed Building?*
- Would development at the site affect the Green Belt or its setting?*
- Would development at the site affect the AONB or its setting?*
- Does the site cross the historic or proposed alignment of the Wilts and Berks Canal?*
- What is the landscape capacity of the site to accommodate development?*

These criteria are wholly inadequate with regard to heritage assets. They do not reflect a proper understanding of the statutory concept of “setting” or the need to take it into

account in strategic planning as indicated by EH Guidance (2010) to which special considerations apply. Nor do they allow for areas that may be of national importance but not so designated.

- a) They do NOT adequately reflect the LPAs' special statutory duty - under the 1990 Planning (Listed Buildings and Conservation Areas) Act - to give "*considerable weight*" to the desirability of preserving or enhancing the setting, character and appearance of Listed Buildings and Conservation Areas that may be situated adjacent to the sites selected
- b) They do not the special requirement for notifying to EH cases affecting the setting of a Scheduled monument or an RPG
- c) They do not cover sites known or suspected as being of regional or national archaeological importance.

### **Assessment of effects**

The assessment of effects as indicated by *Table 12.1: Sustainability Appraisal Scoring* shows that this has been made in terms of effects on policy objectives NOT actual effects on the environment of the sites earmarked for development. There is no basis for assessing cumulative effects of housing in these areas in conjunction with other development or with past or foreseeable development (eg in creating precedents).

The rolling together of landscape and heritage objectives as one has led to a complete failure to consider impact interactions between them: to take just one example: the very positive score of the effect of redevelopment in central Abingdon not only pre-supposes an improved townscape over the present one (which is not guaranteed – let alone whether it last any better than the present) but completely ignores the much more identifiable major impact on Abingdon's archaeological heritage.

For example South Drayton 21 is scored neutral, though the text says

*A small part of the site is located within the Drayton Conservation Area. The site contains 1 Listed Building and has 4 others within 25m of the site. Development at the site has the potential to lead to negative effects given the number of heritage assets within and surrounding the site; however Core Policies 37 (Design) and 38 (Historic Environment) would likely prevent any significant negative effects.*

The assessment thus pre-supposes the effectiveness of core policies to avoid any harmful effects instead of excluding the areas where they would arise. The actual effects to which the LPA must by law give '*considerable weight*' have not been assessed at even the most cursory level, and far from taking a precautionary approach by recording this as a potentially high negative effect reflecting the inevitable statutory position the assessment downgrades the concern to being non-significant without any consideration of how much of the site could in fact be developed if the setting of the Listed Buildings and Conservation Area were fully respected as required.

This is a recurrent problem for many of the proposed development sites: the assessment is very formulaic with no mention of the grades of listed buildings or their topographic or visual relationship to the site or its historic character in relation to them. In a few cases

(eg N Drayton) mitigation is suggested in another formulaic phrase: *“Only part of the site should be taken forward in order to avoid adverse landscape and visual effects. This could prevent negative effects.”* But even then, the Plan as proposed appears NOT to have taken the most sensitive areas out of consideration as recommended.

### **Alternatives**

Alternative options should clearly be considered where planning issues of substantial weight are likely to arise. The courts (most recently by the Court of Appeal in relation to Lieveden New Bield) have ruled that *“considerable weight”* must be given to the statutory requirement to consider the desirability of preserving or enhancing the setting, character and appearance of Listed Buildings and Conservation Areas as well as their physical fabric, noting that less than substantial harm does not mean a less than substantial objection. Such weight must be applied to all effects on the setting of listed buildings (whatever their grade) and conservation areas, not just their physical fabric.

It is not clear that any alternative sites or options have been considered to avoid heritage constraints that trigger this statutory consideration, and as it stands the proposed site allocations in effect prejudice the weight that can be given to such decisions if some harm would arise.

### **Monitoring**

*Table 17.1: Measures envisaged concerning monitoring.*

*Number and % of Listed Buildings at Risk (all grades)*

*Number and % of Scheduled Monuments at Risk*

*Number of conservation areas and % of local authority area covered by designation*

*Number and % of Conservation Areas at Risk*

*% of applications granted against the advice of the AONB planning officer*

These are almost wholly inadequate – almost designed to ensure that no apparent problems would be encountered

- a) The “At Risk” criterion is highly unsuited to monitoring since it only comes into play if a site contains or is adjacent to such an asset (thereby potentially enabling positive impact) or the impact of new development is so bad that it makes a formerly at risk property worse
- b) The AONB criterion only affects sites within the AONB (of which there appear to be none) and monitors the relative performance of the LPA and AONB officers, not the actual effect on the landscape
- c) The number and area of Conservation Areas is a measure of LPA conservation resources and policy, NOT the effects of the plan on the environment
- d) The monitoring framework provides NO means of monitoring effects on archaeology.

Better measures would be

- the number of cases requiring special publicity under the 1990 Planning (Listed Buildings and Conservation Areas) Act

- the number of such cases where the reason is because of or includes improvements to heritage assets or their setting
- the number of cases affecting a Registered Park and Garden or its setting
- the number of cases requiring archaeological excavation of an area of more than 200sqm
- the number of cases where the historic (pre 1930) edge of settlement and open countryside is obscured or lost.

## **OBJECTION 5**

### **5A THE DRAFT PLAN DOES NOT CARRY FORWARD HERITAGE POLICIES HE1, HE2 AND HE3 WHICH GIVE VALUABLE GUIDANCE ABOUT HOW STATUTORY HERITAGE DUTIES WILL BE APPLIED**

**Remedy: Carry forward heritage policies HE1, HE2 and HE3 as saved policies**

*Reason:* The wording of these policies is helpful because

- They are in conformity with and do not compromise statutory obligations and national policy as represented in NPPF
- They helpfully reflect the wording of the statutory requirements in a way that NPPF does not
- They help to align statutory and NPPF requirements (eg not only the character or appearance of a conservation area but also their settings)
- They help to indicate ways in which statutory requirements such as 'preserve a listed building mean in practice
- They help to indicate the sort of issues that need to be taken into account to ensure that designated manner proportionate with their character

These key characteristics linking policy to statutory requirements as well as more general national policy complements both, is compatible and adds advice and guidance not covered in Core Policy 39, NPPF or the 1990 Act.

**On this basis I believe these policies should be saved.**

The District wide policies in the new Plan also need some amendment:

### **5B THE PROPOSED DISTRICT-WIDE POLICIES NEED STRENGTHENING BROADENING AND CLARIFYING TO ENSURE THEY MEET THE PRESSURE OF NEW DEVELOPMENT.**

**CORE POLICY 37:** at end of ii add "and respects the historic character of the landscape"

*Reason:* historic landscape character is a consideration in NPPF and Oxfordshire is developing a study that if used well could greatly assist achieving some of the core objectives of this policy.

#### **CORE POLICY 39 HISTORIC ENVIRONMENT:**

Alter or Add as follows:

i. ensure that new development conserves, and where possible enhances, heritage assets and their setting in accordance with national guidance **and statutory duties**

*[Reason: to ensure the policy is tied into statutory duties that the Council must follow]*

iv. encourage better understanding of the significance of scheduled monuments on the and to aid in their protection, **especially those on the "Heritage at Risk" Register**

*[Reason: understanding ancient monuments should not be confined to those at risk.]*

**viii in partnership with others contribute to the development and maintenance of heritage services and resources**

*[Reason: Museums, Libraries HER Archive arte under much pressure: enhanced collaboration with others will be need to sustain such services for public benefit, especially in the face of the scale of development pressure envisaged in the plan]*

**ix in partnership with others develop a District-wide Heritage Plan DPD within the first five years of plan adoption**

*[Reason: To conform with NPPF Para 157 last bullet point that Plans should: contain a clear strategy for enhancing the natural, built and historic environment, and supporting Nature Improvement Areas where they have been identified – This is especially needed in the face of the scale of development pressure envisaged in the plan]*

#### **CORE POLICY 44: LANDSCAPE**

Add

**ix** Procure (eg through LEP, Growth Board or other sources) a landscape-led master plan for the LEZ especially the area in and adjacent to the North Wessex Downs AONB

*[Reason: to ensure that AONB character and management plan is respected]*