

# **Clifton Hampden Neighbourhood Development Order**

## **A report to South Oxfordshire District Council on the Clifton Hampden Neighbourhood Development Order**

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## **Executive Summary**

- 1 I was appointed by South Oxfordshire District Council in April 2023 to carry out the independent examination of the Clifton Hampden Neighbourhood Development Order.
- 2 The examination was undertaken by written representations. I visited the neighbourhood area and the two sites affected by the Order on 8 August 2023.
- 3 The Order proposes a package of residential and community development. It also has a clear focus on safeguarding the local character of Clifton Hampden. The two sites included in the Order are within the Oxford Green Belt.
- 4 The Order has generated a high degree of community engagement and debate. It has divided the community during the consultation process and during the examination.
- 5 I have concluded that the Clifton Hampden Neighbourhood Order does not meet all the necessary legal requirements and should be refused.

**Andrew Ashcroft**  
**Independent Examiner**  
**28 January 2025**

## **1 Introduction**

- 1.1 This report sets out the findings of the independent examination of the Clifton Hampden Neighbourhood Development Order (the 'Order').
- 1.2 The Order was submitted to South Oxfordshire District Council (SODC) by Burcot and Clifton Hampden Parish Council (BCHPC) in its capacity as the qualifying body responsible for preparing the Order.
- 1.3 Neighbourhood plans and Orders were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) 2012 and its subsequent updates. The NPPF continues to be the principal element of national planning policy.
- 1.4 A Neighbourhood Development Order (NDO) is prepared with a view to granting planning permission (in relation to a particular neighbourhood area specified in the Order) for development specified in the Order or for development of any class specified in the Order. A NDO may grant planning permission unconditionally or subject to conditions and limitations specified in the Order. Conditions can include obtaining the approval of the local planning authority, and specifying the period within which applications must be made to the local planning authority for any such approval. Whilst the process followed by a NDO is different to that more usually associated with a planning application, the outcome is very similar.
- 1.5 Should a NDO be made, development that is permitted under the Order concerned can take place without having to apply for planning permission. However, if the Order is subject to conditions or limitations, then an 'approvals application' may have to be made to SODC to confirm that each development proposal satisfies the relevant conditions or limitations. Proposed development that does not fit the description, plans, conditions, and limitations of an Order would need to be amended to fit, or would need to be submitted using the conventional planning application process.
- 1.6 A NDO can be narrow or broad in scope. The submitted Order has been designed to be distinctive in general terms, and to bring forward community facilities in association with new residential development. It has a clear focus on maintaining the character and appearance of the conservation area and updating and extending its community facilities and delivering new market and affordable housing.
- 1.7 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether the submitted Order meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative Order, or a potentially more sustainable Order, except where this arises because of my recommended modifications to ensure that the Order meets the basic conditions and the other relevant requirements.
- 1.8 Within the context set out above, this report assesses whether the Order is legally compliant and meets the basic conditions that apply to such proposals.

## **2 The Role of the Independent Examiner**

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan or Order meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by SODC, with the consent of BCHPC, to conduct the examination of the Order and to prepare this report. I am independent of both SODC and BCHPC. I do not have any interest in any land that may be affected by the Order.
- 2.3 I examined the Burcot and Clifton Hampden Neighbourhood Development Plan in 2024. It was submitted in parallel with the Order. SODC and BCHPC were content that the examination of the submitted Plan should be concluded before the examination of the Order had finished. In process terms, I am satisfied that the outcome of the examination of the Plan had no direct or indirect bearing on the outcome of the examination of the Order. I note that the Plan has now been made, and as such is part of the development plan.
- 2.4 I have the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have 42 years' experience in various local authorities at either Head of Planning or Service Director level and more recently as an independent examiner. I have significant experience of undertaking other neighbourhood plan and neighbourhood development order examinations. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

### *Examination Outcomes*

- 2.5 In my role as the independent examiner of the Order I am required to recommend one of the following outcomes of the examination:
  - (a) that the draft Order is submitted to a referendum; or
  - (b) that the draft Order should proceed to referendum as modified (based on my recommendations); or
  - (c) that the proposal for the Order is refused.
- 2.6 The outcome of the examination is set out in Sections 6 and 7 of this report.

### 3 Procedural Matters

#### *Documents*

- 3.1 In undertaking this examination I have considered the following documents:
- the submitted Order;
  - the supporting documents including the Basic Conditions Statement, the Consultation Statement; and the SODC HRA screening report;
  - BCHPC's responses to the Clarification Note;
  - the representations made to the Order;
  - the two examiner notes to BCHPC (September and November 2024);
  - the adopted South Oxfordshire Local Plan 2035;
  - the emerging South Oxfordshire and Vale of White Horse Joint Local Plan 2041;
  - the National Planning Policy Framework (December 2023);
  - Planning Practice Guidance; and
  - relevant Ministerial Statements.
- 3.2 The various documents are available on the District Council's website. ([Clifton Hampden Neighbourhood Development Order - South Oxfordshire District Council](#))
- 3.3 I will not repeat their contents in this report other than to summarise key elements of the relevant information. In general terms, the package of information provided in relation to the Order at the time of its submission was both thorough and comprehensive.
- 3.4 I visited the neighbourhood area and the land affected by the Order on 8 August 2023. I paid particular attention to the extent of the Green Belt and to the parts of the parish which are directly affected by the Order.

#### *The Way in which the Order was examined*

- 3.5 It is a general rule that neighbourhood plan and neighbourhood development order examinations should be held by written representations only. Given the comprehensive nature of the Order, the range of representations, and the way in which the provisions of the Order impacted on national policy on the Green Belt, I decided to hold a hearing in October 2024. The hearing was subsequently cancelled as BCHPC sought changes to its Order. That process is described further in Section 4 of this report. Having considered all the information before me, including the representations made to the submitted Order and BCHPC's responses to the examiner's note of September and November 2024, I am now satisfied that the Order can be examined without the need for a public hearing.

*The December 2024 update of national planning policy*

- 3.6 The NPPF was updated in September 2023, December 2023 and in December 2024 whilst the Order was being examined.
- 3.7 Paragraph 231 of the NPPF 2024 sets out transitional arrangements for decision making. It advises that the policies in the Framework are material considerations which should be taken into account in dealing with applications from the day of its publication.
- 3.8 On this basis, the examination of the Order against the basic condition that it should have regard to national policies and advice contained in guidance issued by the Secretary of State is based on the 2024 version of the NPPF.
- 3.9 Paragraph 4.22 of this report sets out the full extent of the basic conditions against which a neighbourhood development order is examined. Section 6 then assesses the way in which the Order meets the basic conditions.

*Other prescribed requirements*

- 3.10 In examining the Order I am required to check whether:
- the NDO area is wholly within a designated neighbourhood area. In this case the Order area is within the parish of Burcot and Clifton Hampden, a neighbourhood area designated by SODC and BCHPC is a qualifying body and authorised to act in respect of this area;
  - the NDO makes provision in relation to all land in the neighbourhood area, any part of that land or a site in that area specified in the order. In this case, the Order is for two sites in the designated neighbourhood area specified and identified on a map in the draft order. It does not relate to more than one neighbourhood area;
  - the NDO does not grant planning permission for any development that is excluded development. Excluded development is defined in section 61K of the Town and Country Planning Act 1990 (and covers matters such as waste and minerals and nationally significant infrastructure projects) The Order does not relate to any category of excluded development;
  - the NDO does not grant planning permission for any development where planning permission has already been granted. The Order complies with this requirement.
- 3.11 Having addressed the matters identified in the previous paragraph I am satisfied that the submitted Order complies with the requirements.

## 4 The Order, the Development Plan Context, and the Basic Conditions

### *The Local Context*

- 4.1 Clifton Hampden sits on the north bank of the River Thames, around four miles east of Abingdon in Oxfordshire. Burcot sits along the north bank of the River Thames to the east of Clifton Hampden. Many of the buildings in the village were erected in the nineteenth century by the Gibbs family to designs prepared by George Gilbert Scott. Much of this character remains.
- 4.2 The other settlement in the parish is Burcot. The remainder of the parish is largely rural and is in agricultural use. It is heavily influenced by the River Thames.
- 4.3 The Clifton Hampden and Burcot Neighbourhood Area is located within the Oxford Green Belt, which covers the area between Oxford and the River Thames on the southern edge of the Neighbourhood Area.

### *Development Plan Context*

- 4.4 The South Oxfordshire Local Plan was adopted in December 2020. It sets out the basis for future development in the District up to 2035. The following policies are particularly relevant to the Clifton Hampden NDO:

Policy STRAT 1	The Overall Strategy
Policy STRAT 6	Green Belt
Policy H8	Housing in the Smaller Villages
Policy H16	Infill Development
Policy EMP10	Development in Rural Areas
Policy ENV1	Landscape and Countryside
Policy ENV3	Biodiversity
Policy ENV4	Watercourses
Policy ENV6	Historic Environment
Policy ENV7	Listed Buildings
Policy ENV8	Conservation Areas
Policy DES1	Delivering High Quality Development
Policy CF4	Existing Open Space, Sport, and Recreation Facilities

- 4.5 Clifton Hampden is identified as a Smaller Village in the adopted Local Plan (Appendix 7). Policies H8 and H16 of the Local Plan comments about development in the Smaller Villages. In this context, paragraph 4.37 of the Local Plan advises that:

*Smaller Villages, as defined in the settlement hierarchy (Appendix 7), have no defined requirement to contribute towards delivering additional housing (beyond windfall and infill development) to meet the overall housing requirement of South Oxfordshire. There is a sufficient supply of housing from strategic allocations and from existing planning permissions, which means that the less sustainable settlements will not be required to offset the housing requirement. However some parishes may still wish to proceed with preparing a Neighbourhood Development Plan for example to achieve*

*the protection afforded by allocating housing to fund projects they want to deliver or they would like to identify a specific type of housing bespoke to their village's needs. The Council's strategy therefore allows them to do so, provided that the levels of growth are commensurate to the size of the village.'*

- 4.6 In process terms the timings involved have allowed the submitted Order directly to take account of the up-to-date local planning context. Indeed, the submitted Order has been prepared within its wider development plan context. In doing so it has relied on up-to-date information and research that has underpinned previous and existing planning policy documents in the District. This is good practice and reflects key elements in Planning Practice Guidance on this matter. The Joint Local Plan was submitted for its own examination in December 2024. Plainly the Order was submitted well before this date. However, I am satisfied that an assessment of the Order against the adopted Local Plan and the emerging Local Plan would result in the same outcomes.

#### *The Order*

- 4.7 The Order proposes the development of a new GP surgery building, seventeen new houses, an extension to the village hall, additional parking, and a new burial ground, located on two sites near the centre of the village of Clifton Hampden. Four of the new houses will be affordable housing.
- 4.8 The Order affects two sites. The northern site (the Allotment Site) is proposed to include the new surgery building, fourteen smaller houses made up of four 1-bedroom apartments, eight 2-bedroom cottages or bungalows, and two 3-bedroom cottages, an extended village hall, and new parking facilities. New allotments will be provided in the field immediately to the north of the site. The southern site (the Paddock Site) is proposed to include three larger houses (two 4-bedroom and one 5-bed), the new burial ground, and a new orchard.
- 4.9 The Order comments that its proposals will have the following direct benefits:
- a new GP surgery will replace the existing facility located in a pair of cottages which were converted in 1978;
  - seventeen new homes to meet local demand, including four affordable homes.
  - an extension to and refurbishment of the Village Hall;
  - a new burial ground;
  - new allotments;
  - improved public access to community land, creation of new footpaths and a new orchard;
  - the building housing the village shop and post office building will pass into community ownership;
  - the undeveloped land on both sites will pass into community ownership, together with a £10,000 grant;
  - improved village parking; and
  - Capital Projects Grants.



4.10 The Order advises about other benefits as follows

- land for a new footpath and cycle path between Clifton Hampden and Long Wittenham; and
- the intention to use its proportion of CIL funds generated by the development for safety Improvements on the bridge improving access to the Barley Mow and the car park (acknowledging that any decision on this matter will take place outside of the NDO process).

*The Oxford Green Belt*

- 4.11 One of the supporting documents submitted with the Order is a Green Belt Assessment. It advises that Clifton Hampden and Burcot neighbourhood area is located within the Oxford Green Belt, which covers the area between Oxford and the River Thames on the southern edge of the neighbourhood area. Figure 1 of the Assessment shows the extent of the Green Belt and its relationship to the neighbourhood area. In effect the Green Belt wraps around the built-up area (which largely overlaps with the Conservation Area) of Clifton Hampden.
- 4.12 The report comments that at the local level, the South Oxfordshire Local Plan 2035 includes Policy STRAT6 Green Belt. It conforms with the NPPF and protects the Green Belt from harmful development. Development is restricted as stated in the NPPF unless very special circumstances can be demonstrated. It does however identify where the Green Belt boundary has been altered to accommodate strategic allocations.
- 4.13 In this context the Assessment explores the potential for small-scale development within the parish and reviews potential development plots against Green Belt policy.
- 4.14 The Order is also supported by a legal opinion which advises on the extent to which the Order would meet the test of Very Special Circumstances (VSC) in Section 13 of the NPPF. The opinion advises that there are five matters which are likely to meet the VSC test as follows:
- the Order will provide new housing within the Parish to meet its housing needs, given the extent of Green Belt coverage;
  - the Order will deliver a much-needed new doctor's surgery, which will result in significant improvements in healthcare provision locally;
  - there are no alternative sites available to deliver these benefits;
  - the nature of the proposal ensures that the scheme is community-led and will deliver significant social and economic benefits, in line with the Localism legislation and national planning policy; and
  - the proposal has very strong community support, as demonstrated by the consultation work undertaken to date
- 4.15 In summary, the opinion advises that:
- the proposal is an exemplar of what the Government intended for NDOs through the Localism Act 2011 (and consequent amendments to the TCPA

1990). It reflects the extensive work undertaken by the Parish Council's Steering Group and the helpful support offered by the District Council; and

- there would be very special circumstances for the Order – the potential harm to the Green Belt by reason of inappropriateness (and all other harm resulting from the Order) are clearly outweighed by other considerations.

4.16 A different opinion was included in the representation from one of the objectors to the Order.

4.17 It is common ground that the extent to which VSC exist is a matter of planning judgement. For reasons set out later in this report I have been unable to consider whether VSC exist in relation to the Order given the lack of any clarity over the details of the package proposed.

#### *Viability*

4.18 Key elements of the project is that it is community-led and that the landowners are not seeking the usual commercial returns associated with the development of land.

4.19 A Viability Assessment was submitted with the Order. Work on viability, and the extent to which the Order was able to deliver the range of community benefits and affordable housing continued after the Order had been submitted. SODC commissioned its own consultant to appraise the Assessment.

4.20 In the absence of agreement between BCHPC and the Order's Steering Group as the examination progressed (as set out in Section 5 of this report), the viability work was not concluded.

#### *The Basic Conditions*

4.21 As part of the examination process, I must consider whether the submitted Order meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. The basic conditions which apply to a Neighbourhood Development Order are as follows:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Order;
- Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest it possesses it is appropriate to make the Order;
- Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the Order;
- The making of the Order contributes to the achievement of sustainable development;
- The making of the Order 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);
- The making of the order does not breach, and is otherwise compatible with, EU obligations; and

- Any other prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.
- 4.22 In relation to a conservation area, the basic condition applies only in so far as the order grants planning permission for development in relation to buildings or land in the area. In relation to any listed building, the basic condition applies only in so far as the order grants planning permission for development that affects the building or its setting. Both the basic conditions are triggered by the Order.
- 4.23 I assess the Order against the basic conditions in Section 6 of this report.

## **5 Consultation with the community, and BCHPC's commentary on the Order during the examination**

### *Consultation Process*

- 5.1 A NDO largely replicates a development control decision. As such the regulations require Orders to be supported and underpinned by public consultation.
- 5.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 BCHPC has prepared a Consultation Statement. It sets out the mechanisms used to engage all concerned in the plan-making process (for the associated neighbourhood plan) and on the Order. It also provides specific details about the consultation process that took place on the pre-submission version of the Order. It captures the key issues in a proportionate way and is then underpinned by more detailed appendices. It is a good example of a Consultation Statement.
- 5.3 The Statement sets out details of the comprehensive range of consultation events that were carried out in relation to the initial stages of the Order. It provides advice on specific phases of work on the Order.
- 5.4 The Statement also provides details of the way in which BCHPC engaged with statutory bodies. I am satisfied that the process has been both proportionate and robust.
- 5.5 Section 5 of the Statement (and Appendices 3 and 4) provide details on the comments received during the consultation process associated with the pre-submission version of the Order. They identify the principal changes that worked their way through into the submission version. This process helps to describe the evolution of the Order.
- 5.6 I am satisfied that consultation has been an important element of the Order's production. Advice on the neighbourhood planning and NDO process has been made available to the community in a positive, open, and direct way by those responsible for the Order's preparation.
- 5.7 From all the evidence provided to me as part of the examination, I am satisfied that the Order has promoted an inclusive approach to seeking the opinions of all concerned throughout the process. SODC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

### *Representations Received*

- 5.8 Consultation on the submitted Order was undertaken by SODC and ended in April 2023. The consultation process ran in parallel with that associated with the Neighbourhood Development Plan. In several cases, the representations also commented on the parallel Neighbourhood Development Plan process.

- 5.9 The Consultation report is available on SODC's website. The Order generated a significant level of comment and 96 representations were received. They included detailed comments from SODC, the County Council and several statutory bodies.
- 5.10 The representations included comments from parishioners supporting the overall package of development proposed in the Order. In many cases, particular support was offered to the proposal for a replacement GP surgery.
- 5.11 The representations also included detailed comments from other residents objecting to the Order. In many cases such representations addressed the issue of the impact of the Order on the Green Belt. The Green Belt was also addressed in the representation from The Campaign to Protect Rural England (Oxfordshire).
- 5.12 I have taken account of the various representations in examining the Order.

*BCHPC's commentary on the Order during the examination*

- 5.13 This section of the report comments about the way in which BCHPC has provided further updates and commentary on the details of the Order as the examination proceeded. Such exchanges are part of the usual way in which neighbourhood plans and NDOs are examined. In this case, the commentary overlapped with the changing composition of the Parish Council after the elections in May 2023
- 5.14 BCHPC responded to a series of questions that I raised on the Order in its three-part response to the clarification note.
- 5.15 In September 2024 BCHPC provided an update on its position on the Order. Amongst other things, the note advised that:

*'The Parish Council has a statutory power to review and to provide input on all planning matters, whether big or small, that may impact the local area, its environment, and its residents. The proposed Neighbourhood Development Order (NDO) for the village of Clifton Hampden is no exception.*

*Scrutiny of the NDO is very important because, unusually, it provides an alternative route to planning permission by allowing certain developments to proceed without the need for individual applications. Although the NDO is supposed to be a community-led project, opinions within the community are deeply divided. This division is the reason why the Examiner specifically asked the Parish Council to give consideration to the various concerns raised by the objectors.*

*It is important to acknowledge that current Parish Councillors, as individuals, are among those who have concerns about the proposals, which were promoted by the previous Parish Council. However, we have conducted a thorough and objective analysis of the community's concerns, as requested by the Examiner. We have tried to find balanced solutions to progress the NDO in a way that benefits the entire community.*

*We have had numerous meetings with the NDO Steering Group and interested parties promoting the NDO. However, in the view of the Parish Council, none of our concerns have been addressed. Specifically:*

*Housing - The Parish Council questions the validity of the NDO's assumptions and decisions because they do not align with SODC Local Plan H9 policy relating to Affordable Homes, nor with the community's survey responses, nor the Housing Needs Assessment.*

*Surgery freehold - We find a proposed recent change of the status of the freehold, as set out in a letter dated 28th February 2024 by the Developer, very difficult to justify.*

*Parking - Any proposal that increases parking stress and congestion, must be approached with great care and responsibility - especially as the surgery plans to increase its patient base from 3,500 to 7,000. Furthermore, the GP practice requires exclusive use of the parking spaces during working hours, potentially from 08:00 to 18:00, thus reducing the current 22 spaces shared with the village hall to just 9 dedicated spaces.*

*Flood risk - The community is understandably concerned about any potential flood risks that this development may pose to an already fragile situation. Five homes had to be evacuated in January 2024 due to flooding caused by surface runoff, on a scale not experienced before. The regular Thames' floods have been compounded by sewage discharge into the High Street.*

*Post Office and shop - The failure of the NDO proposers to reveal the basic terms of the post office lease puts the whole parish in an inappropriate position.*

*Overall, the detailed examination we have conducted over the past few months has led us to believe that there are serious weaknesses in the NDO as it is being presented and that major changes are required before the proposals proceed to referendum.'*

5.16 Based on these comments from BCHPC I prepared the first of two examiner notes for BCHPC. It commented as follows:

- the Parish Council's note highlights the uncertainty which currently exists about its views on the matter, and the way in which it is working with the other relevant parties on the contents of the Order. In all the circumstances, I am not satisfied that there is sufficient clarity to allow a meaningful debate on the Order to take place at the hearing scheduled for 15 October 2024;
- a key element of the scheduled hearing would have been to bring the various outstanding issues to a head. It would also have assisted me in reaching a view about the extent to which the Order meets the basic conditions (and any recommended modifications which may be required to ensure that the Order met the basic conditions). As the hearing has been cancelled, I suspended the overall examination of the Order. I also advised that no further action will be taken until an update has been received from the Parish Council; and
- I invited the Parish Council to undertake further discussions with the other parties involved in the Order and to advise on whether it wishes the Order to

be examined as submitted, or whether it wishes to make revisions and/or updates to the Order.

- 5.17 The first examiner's note generated responses both from BCHPC and the Order's Steering Group.

- 5.18 BCHPC advised that:

*'On 5 October the Parish Council wrote to the NDO Steering Group key parties asking them if they wished to reconsider their previous response, as presented at a public meeting on 2nd September. We asked for a response by 14th October latest, and received it on that day. Unfortunately, the response from the NDO Steering Group parties fails to address - or even be open to addressing - any of the PC's key concerns. Therefore... we wish to point out that whilst the Parish Council is open to a revised plan, the Steering Group key parties demonstrably are not. Therefore, we are unable to provide the Examiner with a timescale as requested*

- 5.19 The Steering Group advised that:

*'The PC's representation (the 30 September update) is misleading and unfair, and is in contravention of their obligations as councillors to be objective and approach decisions on matters where the community is divided with an open mind, and without the appearance of a closed mind. They do not balance their concerns against the considerable benefits of the scheme. They have never proposed alternatives for how they would deliver the benefits if the scheme does not go ahead. They have negotiated in poor faith, only ever repeating their concerns, never offering or exploring potential solutions, and refusing to accept commercial and financial realities. They have consistently presented the land owner and development partner, i.e. the investor, as intransigent. It is unreasonable to expect a development partner, who is here by invitation, to suffer a financial loss. This is unfair not only to those who have contributed so much, but more importantly the whole community who look to them to act in the community's best interests.*

*The level of engagement and strength of support for community led planning in general, and the NDO in particular, will be apparent to you from the Consultation Statement, as will the lengths that the previous Parish Council went to address concerns by radically redesigning the scheme. 184 residents turned out to vote in the Neighbourhood Plan referendum; 83% voted yes. 100 residents signed a petition demanding their right to a referendum on the NDO. In contrast, the current Parish Council have not consulted the community since taking office and are acting on their own prejudices and opinions as set out in their responses to the consultations, which pre-date their election. They have no community mandate to prevent the NDO from proceeding to referendum.*

*All of the issues the Parish Council raise have been carefully considered as the NDO took shape— housing location, numbers and mix, the surgery, parking, flooding, the Community Land Trust. We have shown flexibility after submission as circumstances change, for example over surgery ownership whereby the development partner agreed*



*to deliver the whole NDO and its benefits at cost, offsetting the financial loss related to the surgery with his profit from housing.'*

- 5.20 The two responses highlighted the very different views on the composition of the Order. In this context I concluded that there are significant differences between BCHPC and the Steering Group. As such there is no local clarity on the package of measures which are to be included in the Order. I also concluded that the differences are fundamental and need to be resolved separately rather than within the examination process. This highlights that my role is to examine the extent to which the Order meets the basic conditions rather than to resolve tensions between BCHPC, the Order's Steering Group, landowners, and other interested parties.
- 5.21 In this broader context, I am left with no other option than to conclude that there is insufficient clarity on the details of the Order to allow me to determine whether the Order meets each of the basic conditions. Critically, the lack of detail does not allow me to consider whether VSC exist to justify the elements of the Order which are inappropriate development within the Green Belt. This has particular significance for the following basic conditions:
- having regard to national policies;
  - contributing to sustainable development; and
  - being in general conformity with the strategic policies in the development plan.
- 5.22 Section 6 of this report summarises the impact of this lack of clarity on these basic conditions.
- 5.23 On the one hand, this conclusion is unfortunate given the amount of time and energy which has been spent on promoting the Order and assembling the supporting information. However, on the other hand, the conclusion was inevitable given the tension which now exists between BCHPC and the Order's Steering Group.
- 5.24 In these circumstances, I have not addressed the details in the following Supporting Documents of the Order:
- the Air Quality Assessment;
  - the Acoustics Assessment;
  - the Archaeological Report;
  - the Biodiversity Net Gain Assessment;
  - the Design and Access Statement;
  - the draft Section 106 Agreement;
  - the Energy Statement;
  - the Flood Risk and Surface Water Drainage Strategy;
  - the Housing Needs Assessment (Summary Report);
  - the Landscape and Visual Assessment;
  - the Soil Investigation;
  - the draft planning conditions;
  - the Transport Statement; and
  - the Tree Survey.



- 5.25 Having reached this conclusion, I produced a second examiner's note. It invited BCHPC to withdraw the Order. In its response to that note, it advised that:

*'The NDO has clearly generated significant interest and polarized opinions within the parish. The Council recognizes its responsibility to serve as an impartial and fair representative body, ensuring that all views are considered while striving to secure the widest possible support for decisions that promote the long-term interests of the community. Since taking office, this Council has sought clarification on several key aspects of the proposed NDO, including assurances regarding community benefits and the viability of the scheme as submitted by the previous Parish Council, especially in light of changes and major development announcements since submission. Over the past 18 months, despite ongoing efforts, critical gaps in information remain, particularly concerning long-term sustainability of the now proposed arrangements for key community assets, such as the surgery and post office.*

*It is also recognised that the NDO not only needs updating to reflect changes made since submission, but also to take account of the recent approval of the HIF1 scheme which in turn will bring forward the Culham scheme to include 3,500 homes and a new medical centre.*

*Considering the outstanding uncertainties, the Parish Council maintains the position previously communicated to the examiner, emphasizing that there is a lack of clarity and surety in the proposal sufficient to provide confidence in the long-term community benefit of the scheme. However, the events at this meeting prevented the Parish Council from holding meaningful discussion on the examiner's invitation to withdraw.*

*In consideration of these challenges, the Parish Council requests the Examiner to proceed with an independent determination of the most appropriate course of action.'*

- 5.26 Plainly this report sets out my findings on the Order and ends the examination process.

## 6 An Assessment of the Order against the Basic Conditions

6.1 This section of the report deals with the submitted Order as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is a well-presented and informative document. It is also proportionate to the Order itself. The basic conditions which apply to a NDO are set out in paragraph 4.22 of this report.

6.2 Section 5 of this report has already commented that I have concluded that there was insufficient clarity on the details of the Order to allow a full assessment of the extent to which it meets the basic conditions. However, for completeness, I provide a summary below of the way in which the Order performs against the basic conditions.

*Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Order*

6.3 For the purposes of this examination, the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in December 2024.

6.4 The NPPF sets out a range of core land-use planning issues to underpin both plan-making and decision-taking. The following are of relevance to the Order:

- a plan led system – in this case the relationship between the neighbourhood plan and the adopted South Oxfordshire Local Plan;
- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
- taking account of the different roles and characters of different areas;
- protecting the Green Belt;
- highlighting the importance of high-quality design and good standards of amenity for all future occupants of land and buildings; and
- conserving heritage assets in a manner appropriate to their significance.

6.5 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and ministerial statements.

6.6 On the one hand, having considered all the evidence and representations available as part of the examination, I have concluded that elements of the submitted Order have regard to national planning policies and guidance. The Order promotes new residential development which would underpin the development of a package of social and community facilities and the delivery of affordable homes. In general terms, the overall package of development will assist in the delivery of Sections 5, 8, 12 and 14-16 of the NPPF.

6.7 However, on the other hand, I have concluded that elements of the submitted Order do not have regard to national planning policies and guidance. The Order promotes

inappropriate residential development in the Green Belt (contrary to Section 13 of the NPPF). In the absence of any recent clarity from BCHPC on the size and type of houses to be developed, and the broader package of community-related facilities, I have been unable to address the extent to which the Order presents the VSC which are necessary to support inappropriate development in the Green Belt (paragraphs 152 and 153 of the NPPF).

6.8 In all the circumstances I am not satisfied that the Order meets this basic condition.

*Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest it possesses it is appropriate to make the Order*

*Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the Order*

6.9 I comment on these two basic conditions together given the overlaps between the issues. They are addressed in the submitted Statement of Significance and Heritage Impact Assessment ('the Assessment'). That document advises that it has two purposes:

- to provide an overview of the heritage significance of two adjoining parcels of land on the north and south sides of Abingdon Road which the Order proposes to develop for housing in the Order. Both sites are in the Clifton Hampden Conservation Area, with listed buildings situated close by; and
- to consider how the proposals in the Order take account of the heritage significance of the two sites, and how they can successfully and appropriately be developed without causing undue harm to the character and appearance of the conservation area or to the settings of the nearby listed buildings.

6.10 The Assessment takes an appropriate and professional approach to these matters. It makes the following conclusions:

- *'both sites can accommodate appropriate schemes of residential development that would not be harmful to the significance of the settings of any nearby listed buildings;*
- *it is however conceivable that, given both sites are currently free of any built development, concerns might be raised about the impact that the proposals would have on the character and appearance of the Clifton Hampden Conservation Area, albeit, in my opinion, the level of heritage harm that might be caused falls very much at the lower end of 'less than substantial harm' as that term is defined and used in the NPPF and the accompanying Planning practice guidance); and*
- *in such a scenario, paragraph 202 of the NPPF comes into play and, while it is for others to set out where the 'public benefits' which would directly flow from the development schemes lie, it seems to me that this is a case where the decision maker might very fairly conclude that these benefits would outweigh the degree of 'heritage harm' caused.'*

- 6.11 I have considered the findings of the Assessment very carefully. In addition, I looked carefully at the likely impact of the implementation of the Order on the Conservation Area and listed buildings in the village. I also note that the Design and Access Statement includes an extensive commentary on how the layout and design of the scheme has evolved to minimize the impact of heritage assets and enhance the Conservation Area, in response to pre-statutory consultation and pre-application advice.
- 6.12 I am satisfied that the implementation of the Order will not impact on listed buildings in the parish or their settings.
- 6.13 I am also satisfied that the implementation of the Order will safeguard the character or appearance of the Conservation Area. Indeed, the Clifton Hampden Conservation Area is in a fortunate position in that it has not been surrounded by more modern development over time. Whilst this situation would alter if the Order was implemented, the proposed development would be sympathetic to the Conservation Area in terms of its scale, location, layout, and design.
- 6.14 In this context I am satisfied that the Order meets both these basic conditions.

*The making of the Order contributes to the achievement of sustainable development*

- 6.15 There are clear overlaps between national policy and the contribution that the submitted Order would make to sustainable development in the parish. Sustainable development has three principal dimensions – economic, social, and environmental. In general terms, I am satisfied that the submitted Order has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Order incorporates the development of thirteen market houses. In the social dimension, it includes new and upgraded community facilities and the delivery of affordable homes. In the environmental dimension, the Order seeks to protect the natural, built, and historic environment of the village. It addresses the design of the proposed buildings and proposes new allotments.
- 6.16 Nevertheless, for identical reasons to those set on the basic condition on national policy, I am not satisfied that the Order has sufficient clarity to allow me to conclude that it would contribute to the delivery of the environmental dimension of sustainable development insofar as the impact of its development proposals on the Green Belt is concerned.

*The making of the Order 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)*

- 6.17 I have already commented in detail on the development plan context in South Oxfordshire in paragraphs 4.4 to 4.6 of this report.
- 6.18 In general terms I consider that the submitted Order responds in a locally specific way to this strategic context. The level of development proposed is consistent with Clifton Hampden's position in the local settlement hierarchy, and the package of community benefits are consistent with Policies H8, ENV1, ENV6-8 and DES1 of the Local Plan.

- 6.19 Nevertheless, for identical reasons to those set in relation to the national policy and the sustainable development basic conditions, I am not satisfied that the Order has sufficient clarity to allow me to conclude that it would be in general conformity with Policy STRAT6 on the Green Belt. In addition, the Order does not comply with Policy H9 (Affordable Housing). This was a matter which was being addressed through the viability work.

*The making of the order does not breach, and is otherwise compatible with, EU obligations*

- 6.20 This basic condition continues to apply to the assimilated obligations of EU legislation (as consolidated in the Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2022 and the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 6.21 The Order was accompanied by an Ecological Appraisal (August 2022). It comments about protected sites within 10km of the two sites in the Order. It also advises about the current land uses for the two Order sites. It advises that the Order is unlikely to have significant environmental effects on nearby designated sites.
- 6.22 SODC undertook a Habitats Regulations Assessment (HRA) of the Order in February 2023. The report is both thorough and comprehensive. It takes appropriate account of the significance of three protected sites. It concludes that the Order is not likely to have significant environmental effects on a European nature conservation site or undermine their conservation objectives alone or in combination taking account of the precautionary principle. As such, it concludes that Appropriate Assessment is not required.
- 6.23 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. It provides assurance to all concerned that the submitted Order takes appropriate account of important ecological and biodiversity matters. In the absence of any evidence to the contrary, I am entirely satisfied that the Order is compatible with the appropriate regulations.
- 6.24 In November 2022, SODC issued a screening opinion in relation to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It advises that the Order proposal constitutes Schedule 2 development (category 10(b) urban development projects). It also advises that the area covered by the Order is below the indicative threshold criteria of 150 dwellings or 5 hectares and is not within a sensitive area. The opinion concludes by advising that the submission of an Environmental Statement is not required.
- 6.25 Finally, I am required to confirm that the submitted Order has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. I am satisfied that it has done so. There is no evidence that has been submitted to me to suggest otherwise. Furthermore, there has been full and adequate opportunity for all interested parties to take part in the preparation of the Order and to make their comments known.

- 6.26 Plainly the matter has generated a range of comments and has caused divisions in the community. This is not unusual in the planning process. Nevertheless, based on all the evidence available to me, I conclude that the submitted Order does not breach, nor is in any way incompatible with the ECHR.

*Any other prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.*

- 6.27 These matters have been addressed in paragraph 3.10 of this report.

## 7 Summary and Conclusions

### *Summary*

- 7.1 The Order proposes a comprehensive package of development in Clifton Hampden. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 7.2 Following my independent examination of the Order, I have concluded that the differences between BCHPC, the Steering Group and relevant landowners/potential developers are both fundamental and deep-rooted. As such the Clifton Hampden Neighbourhood Development Order does not have sufficient clarity to allow me to produce a full assessment of the extent to which it meets the basic conditions for the preparation of a neighbourhood development order. This particularly applies to the basic conditions relating to national policy, the contribution to sustainable development, and the extent to which the Order is in general conformity with the strategic policies in the development plan.

### *Conclusion*

- 7.3 Following the independent examination, I have concluded that the Clifton Hampden Neighbourhood Development Order does not meet the basic conditions for the preparation of a neighbourhood development order. In these circumstances, I recommend that the Order should be refused.
- 7.4 In these circumstances there is no need for me to determine the appropriate referendum area.

### *Final Comments*

- 7.5 The work involved in the preparation of any NDO is significant. Furthermore, the examination of this Order has been challenging for all parties both generally, and following the change in the composition of BCHPC. In this context I am grateful to everyone who has contributed to what has been a lengthy examination process. I offer particular thanks to the District Council for the way in which it has liaised with BCHPC, the Steering Group, landowners, interested parties and residents.

**Andrew Ashcroft**  
**Independent Examiner**  
**28 January 2025**