

## **SOUTH OXFORDSHIRE DISTRICT COUNCIL**

### **BURCOT AND CLIFTON HAMPDEN NEIGHBOURHOOD DEVELOPMENT ORDER: FINAL DECISION STATEMENT**

**DATE OF PUBLICATION – 14/02/2025**

#### **1. Decision**

1.1. Following an Independent Examination, South Oxfordshire District Council decided at the Council meeting on 13 February 2025:

1. To determine that the Burcot and Clifton Hampden Neighbourhood Development Order does not meet three of the relevant seven basic conditions, specifically:
  - Having regard to national policies and advice containing guidance issued by the Secretary of State 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.
2. To accept the Examiner's recommendation and resolve that the Burcot and Clifton Hampden Neighbourhood Development Order be refused.

#### **2. Background**

- 2.1 Neighbourhood Orders empower local communities to shape development in their areas. A Neighbourhood Development Order (NDO) allows specified types of development within a defined neighbourhood area to proceed without the need for a conventional planning application. An NDO can grant planning permission either unconditionally or subject to conditions and limitations.
- 2.2 If an NDO is made, development permitted by it can proceed without additional planning permission. However, any conditions or limitations set by the Order must still be met, often requiring an 'approvals application' to the district council.
- 2.3 The Burcot and Clifton Hampden Neighbourhood Development Order (the Order) was submitted to South Oxfordshire District Council by Clifton

Hampden Parish Council (CHPC) in its capacity as the qualifying body responsible for preparing the Order in December 2022.

- 2.4 The Order proposes the development of a new GP surgery building, seventeen new homes, 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 homes would be affordable housing.
- 2.5 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.
- 2.6 The council published the Order on the 21 February 2023 and invited comments from the public and statutory consultees during a seven-week period.
- 2.7 The Order generated a significant level of comment, and 96 representations were received. They included detailed comments from the council, the County Council and several statutory bodies. 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. 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).
- 2.8 With the consent of CHPC, the council appointed an independent examiner to examine the Order.
- 2.9 The composition of CHPC changed after the elections in May 2023. The new parish council asked the independent examiner to pause the examination while they evaluated their position in relation to the order. CHPC asked for the examination process to resume on 25 July 2023.
- 2.10 The Independent Examination concluded with the issuing of the Examiner's Report on 28 January 2025. The examiner's Report is available in Appendix 1.

- 2.11 As noted on section 5 of the Examiner's Report, the examination process exposed significant differences between CHPC, the parish council's NDO Steering Group, landowners and developers – the parties responsible for preparing, promoting and delivering the scheme. In this context it became clear that there is no local clarity on the package of measures which are to be included in the Order.
- 2.12 In this broader context, the examiner concluded that there is insufficient clarity on the details of the Order to allow him to determine whether the Order meets each of the basic conditions. Critically, the lack of detail did not allow him to consider whether very special circumstances 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 and advice containing guidance issued by the Secretary of State 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.
- 2.13 The examiner concluded that the Order does not meet these basic conditions and should be refused by the council.

### **3. Reason for Decision**

- 3.1 Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Order.
- 3.2 The key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in December 2024. 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 Order and relevant Policies in the Development 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.

- 3.3 In addition to the NPPF the council should also take account of other elements of national planning policy including Planning Practice Guidance and ministerial statements.
- 3.4 Having considered all the evidence and representations, it is considered 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.
- 3.5 However, on the other hand, 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 CHPC on the size and type of houses to be developed, and the broader package of community-related facilities, it is not possible for the council to address the extent to which the Order presents the very special circumstances which are necessary to support inappropriate development in the Green Belt (paragraphs 152 and 153 of the NPPF).
- 3.6 Therefore, in all the circumstances, the council is not satisfied that the Order meets this basic condition.
- 3.7 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.
- 3.8 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.
- 3.9 These two basic conditions are considered together due to overlapping issues. They are addressed in the Statement of Significance and Heritage Impact Assessment (the Assessment) accompanying the Order. The

Assessment takes an appropriate and professional approach to these matters and made 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.”*

- 3.10 The Council has had regard to all representations and carefully reviewed the findings of the Assessment, including its conclusions regarding the likely impact of the Order's implementation on the Clifton Hampden Conservation Area and nearby listed buildings. The Council acknowledges that the Design and Access Statement outlines how the proposed layout and design were refined to minimise the impact on heritage assets and enhance the Conservation Area, informed by pre-statutory consultation and pre-application advice.
- 3.11 The Council is satisfied that:
- The implementation of the Order will not adversely affect listed buildings within the parish or their settings.
  - The Order will preserve the character and appearance of the Conservation Area. While the development would represent a change, the proposed design is sympathetic to the Conservation Area in terms of its scale, location, layout, and design.
- 3.12 In this context, the Council is satisfied that the Order meets both of these basic conditions.
- 3.13 The making of the Order contributes to the achievement of sustainable development.

- 3.14 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, the council is 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.
- 3.15 However, for the same reasons outlined regarding the basic condition on national policy, the Council is not satisfied that the Order provides sufficient clarity to conclude that it would contribute to the delivery of the environmental dimension of sustainable development, particularly in relation to the impact of its development proposals on the Green Belt.
- 3.16 Therefore, in all the circumstances, the council is not satisfied that the Order meets this basic condition.
- 3.17 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).
- 3.18 The South Oxfordshire Local Plan sets out the basis for future development in the District up to 2035. The following policies are particularly relevant to the Order:
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|----------------|---|
| 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 |

- 3.19 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.”*

- 3.20 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. The Order was submitted well before this date. However, the council is satisfied that an assessment of the Order against the adopted Local Plan and the emerging Local Plan would result in the same outcomes.
- 3.21 In general terms the submitted Order responds in a locally specific way to the 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.
- 3.22 Nevertheless, for the same reasons outlined regarding the basic condition on national policy, the Council is not satisfied that the Order provides sufficient clarity 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.

- 3.23 The making of the order does not breach, and is otherwise compatible with, EU obligations.
- 3.24 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.
- 3.25 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.
- 3.26 The council undertook a Habitats Regulations Assessment (HRA) Screening of the Order in February 2023. The report 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.
- 3.27 In November 2022, the council 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.
- 3.28 The 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. 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. Whilst 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, the council concludes that the submitted Order does not breach, nor is in any way incompatible with the ECHR.



- 3.29 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.
- 3.30 The Order area is wholly within a designated neighbourhood area. In this case the Order area is within the parish of Clifton Hampden, a neighbourhood area designated by the council and CHPC is the qualifying body authorised to act in respect of this area.
- 3.31 The Order makes provision in relation to land in the neighbourhood area. 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.
- 3.32 The Order does not seek to 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.
- 3.33 The Order does not grant planning permission for any development where planning permission has already been granted.
- 3.34 The Council has taken account of all the representations received

#### 4. Other Information

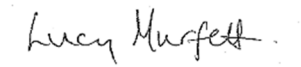
- 4.1 In accordance with Regulations 26 of the Neighbourhood Planning (General) Regulations 2012, this Decision Document can be viewed on the Council's website: <https://www.southoxon.gov.uk/south-oxfordshire-district-council/planning-and-development/local-plan-and-planning-policies/neighbourhood-plans/neighbourhood-development-orders-and-community-led-plans/clifton-hampden-neighbourhood-development-order/>
- 4.2 This Decision Document can be inspected at:

<p>Reception  <b>South Oxfordshire District Council</b>          Abbey House, Abbey Close,          Abingdon, OX14 3JE</p>	<p>If you would like to view these documents at the Council offices, please contact us on 01235 422600 or email: <a href="mailto:planning.policy@southandvale.gov.uk">planning.policy@southandvale.gov.uk</a> to book an appointment.</p>
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4.3 In accordance with Regulation 19(b) and Regulation 30 of the Neighbourhood Planning (General) Regulations 2012, a copy of this Decision Statement has been sent to:

- The qualifying body, namely Thame Town Council
- The persons who asked to be notified of the decision

Signed:

A handwritten signature in black ink that reads "Lucy Murfett". The signature is written in a cursive style and is positioned above the printed name and title.

Date: 14/02/2025

**Lucy Murfett**  
Policy Manager