

South Oxfordshire Local Plan Proposed Main Modifications Consultation Comment Form

Please return by midnight on Monday 2 November 2020 via email planning.policy@southoxon.gov.uk or post to Freepost SOUTH AND VALE CONSULTATIONS (no stamp is needed and no further address is needed)

This form has two parts:
Part A – contact details
Part B – your comments

Part A

Are you responding as an: (please tick)

Individual

 Business or organisation

 Agent

A name and contact details are required for your comments to be considered.

	1. Personal Details	2. Agent Details (if applicable)
Title	<input type="text" value="Dr"/>	<input type="text"/>
Full Name	<input type="text" value="Matt Thomson"/>	<input type="text"/>
Organisation (if relevant)	<input type="text" value="Chilterns Conservation Board"/>	<input type="text"/>
Job Title (if relevant)	<input type="text" value="Planner"/>	<input type="text"/>
Address Line 1	<input type="text" value="The Lodge"/>	<input type="text"/>
Address Line 2	<input type="text" value="90 Station Road"/>	<input type="text"/>
Address Line 3	<input type="text"/>	<input type="text"/>
Postal Town	<input type="text" value="Chinnor"/>	<input type="text"/>
Postcode	<input type="text" value="OX39 4HA"/>	<input type="text"/>
Telephone Number	<input type="text" value="07748 920067"/>	<input type="text"/>
Email Address	<input type="text" value="mthomson@chilternsaonb.org"/>	<input type="text"/>

Sharing your personal details

Your name, contact details and comments will be shared with the Planning Inspector and a Programme Officer, who acts as a point of contact between the Council, Inspector and respondents.

This means that you may be contacted by the Programme Officer or the Council with updates and in relation to any necessary consultations on the Local Plan. This is in accordance with Regulation 19 and 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 and Regulation 102 of The Conservation of Habitats and Species Regulations 2017.

We have received assurance that the data passed to the Planning Inspector and Programme Officer will be kept securely and not used for any other purpose. The Inspector and Programme Officer will retain the data up to six months after the plan has been adopted.

Comments submitted by individuals will be published on our website, alongside their name. No other contact details will be published. Comments submitted by businesses and/or organisations will be published, including contact details.

Please refer to our Privacy Notice regarding how your personal data is used for this consultation, available on our website southoxon.gov.uk/newlocalplan. If you would like to know more about the councils data protection registration or to find out about your personal data, please visit: southoxon.gov.uk/dataprotection

Future contact preferences

As explained above, in line with statutory regulations, you will be contacted by the Programme Officer (and where necessary the Council) with relevant updates on the Local Plan. South Oxfordshire and Vale of White Horse District Councils have a shared planning policy consultation database. If you would like to be added to our database to receive updates on other planning policy consultations, please tick the relevant district box(es):

- I would like to be added to the database to receive planning policy updates for South Oxfordshire
- I would also like to be added to the database to receive planning policy updates for Vale of White Horse

Part B – Please use a separate sheet for commenting on each proposed main modification or consultation document

You can provide your comments on the Emerging South Oxfordshire Local Plan Proposed Main Modifications in this section.

The list of documents you can comment on are:

- Schedule of Proposed Main Modifications
- Schedule of Policies Map Changes
- Sustainability Appraisal Report Addendum
- Habitats Regulations Assessment Addendum

Please note we are inviting comments on the Proposed Main Modifications and documents listed above only - this is not an opportunity to make comments on any other part of the Plan.

If you are commenting on the Main Modification document, please provide the main modification number (for example MM1) in the box below.

If you are unsure of the 'modification number', please refer to the Schedule of Proposed Main Modifications.

If you are commenting on any of the other consultation documents (for example the Sustainability Appraisal Addendum), please provide the relevant section, paragraph or page number in the box below:

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Document, section, paragraph or page
number

MM4

Please provide your comments below:

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The principle of the modification is strongly supported, but the new paragraph 4.11 appears to prioritise reducing the need to travel (which is itself only one part, albeit a significant one, of actions needed to address the climate emergency), and particularly the policy solution of concentrating development near to employment/service centres and in existing towns and villages, over other solutions that achieve the same objective, and over other objectives. From the perspective of the Chilterns AONB, this might suggest that locating development at a town or village in or on the edge of the Chilterns might be supported even if it causes harm to the AONB just because the development might contribute to reducing the need to travel, when the same contribution to tackling climate change might be achieved elsewhere.

To remedy this, we suggest adding, after the first sentence (“...adjacent to the City of Oxford”), the following: “, **where this is compatible with other objectives of the plan**”, or words to that effect.

This would better reflect the basis on which the STRAT1 spatial strategy and other individual policies of the plan have in fact been developed.

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n/a

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MM8

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While it is recognised that the original form of policy STRAT5 (Residential densities) could be seen as too prescriptive, and the Chilterns Conservation Board recognises and in principle supports the attention paid in the revised policy to taking account of local character in considering appropriate densities for new residential developments, there is a risk that the policy will result in the replication of low density 20th/21st century patterns of development, where these are (perhaps regrettably) the dominant residential forms, which includes the edges of villages, suburban areas and ribbon development often prevalent in the Chilterns AONB. In rural areas, it might be more appropriate to seek to replicate densities found in the centres of market towns and villages as they were developed from mediaeval times to the late 19th century.

A possible solution to this might be to replace the introductory clause to paragraph 2 of STRAT5 (“The density of development should be informed by:”) with **“Developments will be expected to be designed to the optimum/maximum density that is compatible with:”**

Increasing residential densities is an essential component of tackling climate change: it assists with reducing the need to travel, increasing opportunities for active travel modes, making public transport and local services more viable, and reducing the need for more and larger development sites that put pressure on greenfield land that already contributes naturally to carbon sequestration, biodiversity and space for recreation and the appreciation of natural beauty, among other objectives of sustainable development.

If all development met the revised minimum aspiration of 45 dph, this would of course be an improvement on recent experiences in many parts of the district and across the country, but even 45 dph is a modest aspiration when attractive village-like developments of homes with gardens (appropriate in a post-Covid ‘new normal’) can be designed at around 70 dph with a little imagination, even in a protected landscape.

The overall feel of the revised policy, particularly with the addition of new para 4.56, appears to be designed to provide as much latitude as possible to support lower density development, and this is diametrically opposed to the language used in paragraphs 122 and 123 of the NPPF. The application of para 123 should be particularly important, given that the Inspector has clearly concluded (as evidenced by the modifications that reject a “cap” on development in Henley and Wallingford and prevent their neighbourhood plans from reducing the aspiration for development in those towns) that the plan as drafted was at risk of under-delivery of new housing. Seeking higher densities, including revising expectations on existing and proposed sites (especially the strategic sites which generally aim for an average density of 35-50 dph, which will result in distinctly suburban schemes), should be a priority before releasing more greenfield sites including those in locations that risk harm to the natural beauty of the Chilterns AONB.

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MM23

Please provide your comments below:

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The proposed re-wording of what is now criterion (vii) of policy H1 (“It would bring redundant or disused buildings into residential use and would enhance its immediate surroundings”) is problematic and may prevent the conversion of some redundant buildings to residential use if it was argued that the outcome did not “enhance its immediate surroundings”.

It may be that the focus of the original wording (“it is a proposal involving the sensitive, adaptive re-use of vacant or redundant building(s)”) was seen as problematic because there was an assumption that the redundant buildings in question were themselves attractive and worthy of conversion that was “sensitive”. As worded, this might arguably allow the conversion of a building that was an eyesore, which it might be preferable to demolish and replace. An alternative view is that the word “sensitive” would prevent this.

The currently proposed wording requires the conversion to “enhance” its surroundings. While this is a reasonable requirement in an AONB (where s.85 of the Countryside and Rights of Way Act 2000 places a duty on public bodies to take into account the desire to both protect and enhance the natural beauty of the AONB) it is unreasonable anywhere else. It also appears to require a stronger test for the conversion of a single redundant building anywhere in the district than is required for any development, including major new greenfield development, in or in the setting of the AONBs (e.g. under policy ENV1(1), which still, despite the observations of the Chilterns Conservation Board on the lawfulness of this wording, states “Development in an AONB or affecting the setting of an AONB will only be permitted where it conserves, and where possible, enhances the character and natural beauty of the AONB.”)

For clarity, it might be better if the criterion was rephrased as **“It would bring redundant or disused buildings into residential use in a way that is sensitive to the original building and to its immediate surroundings.”**

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n/a

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MM25

Please provide your comments below:

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The Chilterns Conservation Board is deeply concerned with the proposed modifications made with regard to Policy H3, and considers that the changes made conflict with the policies expressed in NPPF paragraphs 11(b) and 172. We consider that in his reasoning for making these modifications the Inspector has erred in the application of his duty under s.85 of the Countryside and Rights of Way Act 2000, and that if the plan would be unsound if adopted in the form in which it is proposed to be modified.

The starting point for these concerns is found in the Inspector's preliminary letter at paragraph 34 where he states that Policy H3, as then drafted, "could be seen as a cap on development": this implies that putting a limit on the amount of development considered appropriate in any area is necessarily proscribed in planning law or policy, which it emphatically is not, especially within and on the edge of AONBs.

The NPPF's flagship policy, the "presumption in favour of sustainable development" (para 11), says that plans should "as a minimum, provide for objectively assessed needs for housing ... unless ... the application of policies ... that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area". Footnote 6 explains that the NPPF policies that provide the required "strong reason" include those relating to AONBs. Paragraph 172 states that "The scale and extent of development within these designated areas should be limited". The existing built-up areas of Henley and Wallingford may not be entirely "within" the AONB, but NPPF para 11(b) does not apply only within footnote 6 areas, but to areas where the relevant policies apply. The importance of the setting of AONBs is recognised in the online planning practice guidance at paragraph 042 (reference ID: 8-042-20190721). In addition, the sites needed to allow for any growth in these settlements – even under the 15% aspiration – may extend into the AONB, even if the settlements themselves currently do not.

The NPPF clearly allows for (and indeed requires) development to be restricted where AONB policies apply, and no means of securing such a restriction, including a policy that sets a "cap" on the quantum of development in a particular area, is ruled out. Even if, subsequently, an opportunity were to be identified for development to take place in excess of any policy cap (without harm to the AONB, e.g. on a brownfield site within the town), then section 38(6) of the Planning and Compulsory Purchase Act 2004 would provide sufficient flexibility for the council to grant permission.

Nor would restricting development in one part of a plan's area prevent the authority from meeting its overall housing targets, so long as that authority has identified sufficient land (or otherwise made provision) elsewhere in its area, as South Oxfordshire District Council expertly have done (and may be able to do so even more effectively, and sustainably, within the plan's strategic allocations if they were encouraged to set more ambitious density standards there). Furthermore, given the finite capacity of the construction industry, restricting development in one sensitive but highly profitable part of the district could assist with promoting more financially marginal, but more sustainable or otherwise desirable, developments elsewhere, including not only the plan's strategic allocation sites, but preferable sites already identified in the relevant settlements.

The principle of applying a cap to the amount of development allowed in or around towns that are closely bounded by the district's AONBs such as Henley and Wallingford is consistent with NPPF policy and with maintaining the overall spatial strategy of the local plan. Allowing for unrestricted growth in areas affected by NPPF policies that seek to protect areas or assets of particular importance is conflicts with the NPPF and with the duty of regard to the protection and enhancement of AONBs.

A second area of concern also applies to the Inspector's rationale behind taking a more permissive approach to growth in Henley and Wallingford, and to overturning the local plan's support for subsequent neighbourhood plans to reduce the housing aspirations set out in policy H3 on the basis of evidence emerging through the neighbourhood plan process.

We maintain that the submission draft plan's approach was already risky to the AONBs in setting the same challenging 15% growth aspiration in policy H3 to the towns on the edge of the AONBs as to those outside it (the same applies to villages in policy H4). The policy did at least give the potential for neighbourhood plans, with more detailed evidence available to them, to properly identify a sustainable level of growth, and then for subsequent iterations of the local plan to reflect this evidence, although there were still concerns about how the presumption in favour of sustainable development might be applied if the neighbourhood plans did not emerge quickly enough.

The Chilterns Conservation Board was already concerned with that policy context, but the modifications proposed by the examination Inspector not only upheld the 15% growth figure and turned this into a local target that must be met and preferably exceeded, with no upper limit, they also removed the opportunity for neighbourhood plans to modify that target downwards (in para 5.16), regardless of the evidence that might be uncovered regarding the capacity of those towns, and their surrounding areas, to accommodate new development.

The Inspector's justification for this includes the assertion that "there is no convincing evidence that [allowing neighbourhood plans to set a lower housing requirement] is necessary to avoid harm to any of the towns, the surrounding landscape, the AONB or any other designations."

We submit that the Chilterns Conservation Board, the statutory body tasked with promoting the protection and enhancement of the AONB, raised concerns about the potential for harm to the AONB, and this should have been taken more seriously by the Inspector as evidence in itself.

We also submit that specific evidence of potential harm to the AONB could not have been prepared or submitted to the examination without having gone through a much more rigorous process of site selection and/or landscape capacity than had been anticipated as part of developing the strategic policies of the local plan; this was an exercise that South Oxfordshire District Council did not have the resources to undertake (other than for the policy H4 village of Nettlebed), and it is certainly not something that the CCB could have undertaken. Nor was there any apparent need for such evidence to have been gathered, since, at the time of the examination, the plan's strategic policy approach was that the aspiration of 15% growth in the towns (and villages) was the maximum likely housing requirement for the towns (and villages) and that the precise figure would be determined by neighbourhood plans (in the context of detailed evidence) and not by the local plan. In addition, the estimates of the quantum of housing required in each settlement under this policy approach were tangible, and readers of the plan could envisage how these figures might be met without necessary harm to the AONB, or modified through a neighbourhood plan in order to prevent harm.

Removing the ability for neighbourhood plans to reduce the housing requirement, combined with making that requirement a target that must be met and preferably exceeded, changes all that and, while the Inspector may consider that there was no "convincing" evidence that such a policy approach would necessarily lead to harm to the AONB, there was certainly no evidence provided to the examination that it would definitely not lead to harm.

The outcome of this is a policy context that has the potential to result in development that harms the AONB, particularly in the context of the apparently infinite demand for housing in the area and the application of the “tilted balance” when housing targets are not met. The proposed policy approach means that in each settlement, there is both the district’s and the settlement’s housing requirement that must demonstrably be met and exceeded. If delivery on either falls short, then the plan policies relevant to the supply of housing risk being ruled as out-of-date. (Enlightened decision-makers may recognise that the tilted balance is not meant to overrule the reasonable protection of AONBs, but experience suggests that other pressures can result in sub-optimal outcomes for areas that are meant to be protected by the NPPF.)

The modification also includes a requirement for neighbourhood plans to “seek” to meet particular local needs for specialist and/or affordable housing even if this would result in housing provision (further) exceeding the growth target. While the Chilterns Conservation Board strongly supports a policy framework that facilitates the provision of housing (and other developments) that meet the needs of communities within the AONB, we have considerable concerns about the bluntness of this new paragraph to be included in policy H3. We consider that, where opportunities for development are limited as the result of the presence of assets that the NPPF seeks to protect such as an AONB, then the priority of development plans (both local and neighbourhood) should be to plan to meet those needs first (where this is compatible with the purpose of protecting and enhancing the natural beauty of the AONB, or as a carefully considered exception to that general rule), and not to add those needs on top of an already arbitrary target for meeting housing demand. One of the principles of strategic planning is that needs for development (however pressing or specific) may be balanced with other considerations, with developments sometimes having to be located remotely from the source of the need. It may not be possible to force Henley or Wallingford’s neighbourhood plans to meet all of their development needs within or on the edge of either town’s built-up area, any more than it has proved possible to meet all of Oxford’s development needs within the city’s administrative boundaries.

With this in mind, the whole of policy H3 as proposed to be amended is now far too prescriptive, and may not be deliverable at all, let alone without harm to the AONBs and other interests of similar importance. Reverting to representing the 15% growth of each town as an aspiration, to be tested through neighbourhood plans and (implicitly) later reviews of the local plan, and putting the focus for the district’s future development (correctly) onto the strategic allocations in the short term, would resolve all of the above, the more so if the growth aspirations in Henley and Wallingford were (correctly) reduced to reflect their relationship with the AONBs.

The additional text proposed for para 5.16, relating to infrastructure, underlines the issue, in that the provision of infrastructure needs to be informed by growth estimates that are known and quantifiable. Removing the planned limit on growth in Henley and Wallingford would mean that either (a) insufficient infrastructure may be provided, or (b) an increased need for infrastructure might be identified without the opportunity to plan for it strategically. This could lead to further harm to the AONBs. If this text in para 5.16 is retained, it needs to make reference to the compatibility of infrastructure proposals with the need to protect and enhance the AONB.

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The modifications result in a plan that conflicts with the policies expressed in NPPF paragraphs 11(b) and 172, and the reasoning behind these changes demonstrates a failure to apply the duty under s.85 of the Countryside and Rights of Way Act 2000. The plan would be unsound if adopted in the form in which it is proposed to be modified.

It is legitimate for the plan to seek to limit (or “cap”) development in towns, like Henley and Wallingford, that are bounded by NPPF footnote 6 assets such as AONBs, and to delegate the activity of identifying a sustainable level of growth for each town to the relevant neighbourhood plans. Applying the blanket growth rate of 15% to Henley and Wallingford as a target that must be met and preferably exceeded without any evidence that this could happen without harm to the AONBs (rather than just that the Inspector has not seen evidence convincing him that development would definitely harm the AONBs) would be a significant risk to the protection and enhancement of the AONBs if neighbourhood plans were not progressed (under the presumption in favour of sustainable development). Removing the opportunity for the neighbourhood plans to determine a sustainable level of growth that is compatible with protecting and enhancing the AONBs simply consolidates the potential for harm.

The anticipated levels of development at Henley and Wallingford (let alone exceeding that growth) are already unnecessary in order to meet the identified development needs of the district as a whole, the more so if more ambitious density guidelines were to be applied to the strategic allocations. There is therefore no harm to the achievement of the plan’s objectives if the NPPF’s actual policy of limiting growth in footnote 6 policy areas (such as AONBs and their settings) was correctly applied.

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MM26

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The Chilterns Conservation Board notes that policy H4 has not been modified following the same (flawed) logic as was applied to policy H3. We support this.

We maintain our position that the 15% growth aspiration for larger villages should not have been applied as a blanket across the whole district, and should have been reduced for those villages in and on the edge of the AONBs. Nonetheless, we recognise that paragraphs 5.29-30 retain the option for neighbourhood plans to identify a more sustainable level of growth, and support the retention of that option, which is compatible with the NPPF.

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n/a