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PLANNING APPLICATION REF. NO. R3.0138/21 - HIF1.

NEIGHBOURING PARISH COUNCILS -JOINT COMMITTEE (NPC-JC) COMMENTS ON OFFICER'S REPORT TO PLANNING & REGULATORY COMMITTEE.

Introduction

1. We write to set out a number of serious concerns regarding the Officer's Report (OR) to the P&R Committee which was released to the public on 7th July 2023.
2. ORs are required to provide impartial, objective, reasoned advice to Planning Committees and avoid even the impression of bias. It is even more important that in circumstances where Local Planning Authorities (LPAs) are determining their own applications, as is the case here (see OR paras 3-5), that ORs exhibit these qualities. Regrettably, in this instance, the OR fails to meet these requirements.
3. This note sets out our concerns in summary form, and it is trusted that we will be afforded the opportunity of expanding fully on these matters at the Committee meeting.
4. From the outset the OR is defective. Members' attention is drawn to the fact that the proposed scheme is to be part-funded to the tune of circa £240m by central government (Homes England). (OR para.1)
5. In para 2 of the OR Members are advised that the availability of this funding *"provides a unique opportunity to secure the delivery of strategic infrastructure.....essential to mitigate the impacts of planned housing growth..."*.
6. In the same para however, Members are (quite properly) advised that financial considerations are not material considerations to be taken into account in the

determination of planning applications, and that Members should not take account of the availability of funds in their decision making.

7. The use of such terms as “unique opportunity” and “essential” are hardly appropriate to an OR, and cannot be remotely characterised as impartial, objective or reasoned. Furthermore, having drawn Members’ attention to an immaterial financial consideration they are then immediately advised to ignore such a fact.
8. Due to time constraints it has not been possible to fully address all of the key issues identified in the OR. It should not be inferred from that that we agree with the OR in respect of those key issues.

Referral to Secretary of State

9. Para 7 of the OR recommends approval of the scheme, subject to referral to the Secretary of State for consideration as to whether the application should be called-in for his own determination, without any explanation at all as to why this application requires referral to the Secretary of State. Members should have been advised at this stage that, from the time of the application being lodged it was regarded as a Departure application by the then Case Officer who concluded that it should be advertised as such due to part of the proposed development to the North of the Thames falling within the Oxford Green Belt where development is restricted and regarded as “inappropriate”.
10. The OR does not address Green Belt matters until para 275, treating the Green Belt on a par with other “key issues”, rather than as a matter of national significance and importance, which is the reason for a referral to the Secretary of State in the event of the application being approved. As the NPPF states at para 137 – *“The Government attaches great importance to Green Belts”*, so much so as to disapply the presumption in favour of sustainable development in Green Belts (see NPPF para 11 footnote 7)

Green Belt

11. The OR advice to Members on the Green Belt is confusing, contradictory and misleading.
12. The advice in the NPPF on the issue of Green Belts is perfectly clear: -" 147. *Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

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

13. The OR has concluded that the HIF1 application proposal constitutes inappropriate development in the Green Belt (para 284). As stated in para 9 above, the presumption in favour of sustainable development no longer applies and instead the applicant must show that very special circumstances exist which outweigh the harm due to inappropriateness and any other harm which may exist, if there is to be a grant of permission (NPPF para 148).
14. However, the OR in its Part 4 – Assessment and Conclusions section commences at Para 79 by quoting from the NPPF on "the presumption in favour of sustainable development" and continues throughout this Part by repeating this presumption. This is quite simply wrong in law. As stated above, the NPPF in fact confirms, at para 11d) i, footnote 7, that, amongst other designated areas, Green Belts are an asset of particular importance where the application of NPPF policies provide a clear reason for refusing development proposals.
15. The OR concedes at paras 293 and 284 that the proposed development constitutes inappropriate development in the Green Belt due to its harm to openness, its failure to assist in safeguarding the countryside from encroachment and its failure to preserve the setting and special character of historic towns. Consequently, it seeks to rely on the "very special circumstances" exemption required by para 147 of the NPPF.
16. These are set out in para 285 of the OR. Firstly, reliance on the "critical" need to address congestion. Although the term "critical" is referred to in inverted commas, there is no reference as to the source of this term.
17. In our submission there is nothing "very special" about congestion in extra-urban areas. It is in fact commonplace, especially during peak periods. As the LTCP points out (see pages 105-107), OCC recognises that new road schemes are not a sustainable long-term solution as evidence shows that they often generate new demand and quickly reach capacity again. As our expert evidence has shown in previous consultation responses, even with the shortcomings of OCC's traffic modelling, and

even with the scheme operational, by 2034 a number of major junctions across the network will be operating at overcapacity (i.e. they will be congested).

18. Further, the LTCP recognises that when road capacity is reduced or congested traffic can also be reduced through a range of behavioural changes, such as trip reassignment and modal shifts to more sustainable modes of transport.
19. The second very special circumstance relied on in the OR is that the land has been safeguarded for development in the SOLP and VOHWLP. We have addressed this point in previous consultation responses, but suffice it to say, there is nothing very special in land being safeguarded in Local Plans. It is commonplace in Local Plans.
20. The third very special circumstance referred to in para 285 covers a range of issues including unlocking the delivery of homes, the encouragement of modal shifts and the reduction of congestion. There is nothing very special about the fact that all LPAs have housing targets to meet set out in Local Plans, and that, as stated above, some local transport networks are congested.
21. The final very special circumstance relied on is that any new river crossing would have to encroach on the Green Belt. i.e. there is no alternative to the proposed scheme. We do not accept that there are no alternatives to the current proposal, and have stated so in previous consultation responses.
22. In summary, the scheme constitutes inappropriate development in the Green Belt, conflicts with the advice in the NPPF, Core Policy 13 of the VOWH P1 and SOLP Policy STRAT6.

The Principle of Development

23. The OR at para 94 states that as the land is safeguarded in both relevant Local Plans “strong support” should be afforded to the proposal as a matter of principle. Whilst the weight to be afforded is a matter of the exercise of planning judgement, that judgement should be exercised objectively, impartially and reasonably. We have already commented on these matters above and they are not repeated here.
24. Suffice to say, that although the land is safeguarded, there is no specific policy support for this particular scheme, given the numerous conflicts with adopted Local Plan Policies and the NPPF (particularly with respect to the Green Belt). Safeguarded land should be regarded and afforded the same weight as land identified for housing or employment uses in up-to-date plans. The VoWHL Part 1 was adopted as long ago as December 2016 and the SOLP although adopted in December 2020, and both are

post-dated by the latest iteration of the NPPF 2021 and the LTCP adopted in July 2022.

25. The proposal does not benefit from the presumption in favour of sustainable development due to the operation of NPPF para 11 d) i. footnote 7 as discussed above.
26. Accordingly, any principle of development should be afforded only very limited weight in consideration of this application.

Design and Layout

27. The section of the OR headed Design and Layout includes consideration of the Didcot Garden Town, the alignment of the Didcot to Culham component, Appleford sidings, the new river crossing, Culham Science Centre, noise barriers and lighting.
28. The OR acknowledges in para 106, in respect of the vision for the Garden Town, the new Science Bridge design is contrary to the NPPF, the Didcot Garden Town Delivery Plan (DGTDP) and Policy 16b of the VoWH Part 2.
29. Notwithstanding the consultation responses of SODC and VoWHDC officers on matters considered in this section of the OR, the OR appears to fail to report to Members the full extent of the District Councils' concerns on these matters. Their consultation responses are to be found in Annex 4 of the OR, commencing at page 125 and we would recommend that Members acquaint themselves with these responses.
30. In addition to that which is set out in the OR, the VoWHDC regards the design of the bridges (both Science Bridge and Thames crossing) as being contrary to paras 126, 130 and 131 of the NPPF, Core Policies 37 and 44 of the VoWHL P1 and the DGTDP (see OR page 125).
31. SODC's Officer describes the design of the bridges variously as "mediocre, uninspiring...disappointing...incongruous and intrusive" (para 67 page 138 OR)
32. Despite the views of the DCs professional officers however, on design matters the OR concludes that the scheme "is considered to be in accordance with development plan and national policies and guidance that seek to ensure high quality design." (OR para 133).

Access, Travel & Movement

33. We have had sight of Cllr Hicks' comments on the OR, dated 8th July 2023 with which we concur. He has particular concerns that the OR omits any reference to LTCP

Policy 36 (Road Schemes), misrepresents the LTCP's position on the requirement of road schemes and omits any reference to the headline targets of the LTCP to reduce private car trips by 1 in 4 by 2030. These are, in the context of a scheme for a new road, very surprising omissions, and lend further weight to our view that the OR, taken as a whole, fails to meet the requisite standards of objectivity, impartiality and reasonableness.

34. In addition to Cllr Hicks' comments we also set out below the comments of our expert traffic modeller on the OR. He states:

- Re Cycle and Pedestrian access – the design does seek to deliver segregation along the length of the scheme, notwithstanding this as noted in paragraph 102, the scheme notes that pedestrians and cyclists will be required to give way to vehicles. This could be a barrier to encouraging active travel and it is recommended that the scheme considers at junctions etc that priority is reversed.
- Didcot Garden Town has standing principles of delivering a quality environment that reduces car use, improves the environment and promotes green infrastructure. The scheme is not delivering infrastructure that promotes sustainable travel for buses. The County Council believe that the design reduces congestion therefore negates the need for bus priority. That said junctions around the route demonstrate that in 2034, traffic volumes will grow substantially as such the need for bus priority may need to be monitored over time to ensure delays are mitigated.
- Moreover, the Committee may need to consider if the scheme is doing enough to ensure that the principles of the Garden Town are being adhered to in respect of encouraging new sustainable development as noted in paragraph 110.
- The LTCP, as noted in paragraph 136, explains that Oxfordshire is seeking to achieve a net zero transport and travel system in the County. The justification for this scheme is to enable growth to take place. The key scheme objective should be that the options assessment is targeted to ensure all other options have been exhausted first;
- Current car dependence in Didcot sits at 66%, the Officer believes the scheme with mitigation measures could seek to reduce this, however this needs to be balanced against the results of the modelling and criticism of the District Councils and the Parish Councils concerned that the scheme does not facilitate public and active travel;

- It should be referenced around bus service and infrastructure improvements that are potentially delivered as a result of the works as noted in in paragraph 146, but as above, this should be squared against the results of the modelling.
 - The OR does not go into detail for the TDC’s decision as to why they consider that the modelling is robust, and as such it is recommended that the original arguments around induced demand and the network at certain junctions being oversaturated in 2034 remain valid;
 - The OR states that this is one part of wider strategy to mitigate the impact of development. This is not a material consideration as there is no funding or commitments to deliver these improvements;
 - Journey times will worsen in 2034 as a result of increased demand, this is justified in paragraph 153 as a result of facilitating new development;
 - Abingdon has not been modelled and it is noted that limited investment will take place here, save for traffic strategies around signal controls, this will make queuing more of a problem on the approaches to the town.
35. Our traffic expert emphasises that these comments are additional to those previously submitted by him by way of consultation responses by the NPC-JC, to which we would draw Members’ attention.
36. Even without factoring in the phenomenon of induced demand it is clear from the Paramics model that the proposed scheme will result in very substantial increases (approx. 42%) in travel by private car across the network. (See, for example, Appendix F of the Transport Assessment Part 4 page 63 – Tables 30-32).
37. The facilitation and enabling of such increases by the provision of new road capacity is wholly contrary to the NPPF and the newly adopted LTCP.

Air Quality

38. We have responded previously on this matter in consultation responses, We would draw Members’ attention to our submission dated 17th January 2023. Our concerns expressed there remain unaddressed.

Noise and Vibration

39. The OR acknowledges that the proposed development is contrary to Policies ENV11 and ENV12 of the SOLP, together with Policies 23, 24 and 25 of the VoWHLP Part 2. The OR concludes that these harms should be weighed in the planning balance together with any other harms identified and set against any purported benefits of the scheme. However, the OR fails to report that the accuracy of the noise assessment has been challenged, by evidence that the severity and extent of the noise impacts is much larger than the assessment acknowledges. We would draw Members' attention to our submission dated 17th January 2023, on noise and the Environmental Statement.

Landscape and Trees

40. The OR acknowledges that the proposed development would be contrary to Policies ENV1 and ENV2 of the SOLP, Core Policy 44 of the VoWHLP and the County Tree Policy for Oxfordshire in that the development would result in the loss of substantial numbers of trees, hedgerows and tree canopy (OR para 197). Such harm should be afforded very substantial weight in the planning balance.

41. Our landscape consultant has the following comments:

- The OR constantly seeks to downplay large significant impacts at Year 1 to minor/localised impacts in Y15, as tree planting matures. There is no meaningful explanation of why any given impact reduces or the extent to which the impact of tree planting can mitigate a very large engineering structure.
- In its assessment of impact on the Green Belt, the applicant now agrees (OR 282-284) that the landscape impact cannot be adequately mitigated to avoid significant harm to the openness of the Thames corridor and the landscape character around Clifton Hampden. This directly contradicts the assertion that harm reduces from significant to minor/localised, at least for the half of the route within the Green Belt.
- The OR generally lumps the Thames Path National Trail in with a number of other areas of significant adverse impact, when it should be treated individually as a major very large adverse impact on an asset of designated national importance. This puts it in the highest possible category of environmental impact other than 'international importance', which creates a very high bar against which to assess the balance of benefit versus harm.
- The OR makes very little mention of the impact of the squat viaduct over the gravel lakes just south of the Thames crossing. The impact was not considered in assessments

prior to 2018 as the gravel extraction was still operating. The retrospective assessments are totally unconvincing, since there was inevitable pressure to avoid contradicting previous assessments. The main lake has considerable value as a tranquil haven for biodiversity and quiet recreation in a wider area under considerable development pressure, the loss of which would be very regrettable and anything but visionary planning.

- The Appleford Sidings route and design are flatly unacceptable for their impact on local residents, and could have been avoidable with better route planning. Whilst the scheme has to be judged on its merits rather than the availability of preferable alternatives, the question has to be asked whether this was the only practicable option, since only then might it be concluded that it is unavoidable in spite of its high level of harm, because the road had to be where it is. The scheme is not acceptable on its merits because one of its greatest areas of impact was avoidable.

42. Additionally, significant weight should be afforded to the consultation responses of the Landscape Officers of SODC and the VoWHDC.(OR pages 126-127 para 11) It is reported:

“The submitted response to landscape comments shows a lack of willingness to include even otherwise unusable areas of land for planting to help with mitigation. This approach to landscape mitigation is reflected throughout the proposals, resulting in a scheme where the extent of mitigation appears to have been predominantly limited to the operational land take, rather than defined by an assessment of landscape and visual mitigation requirements.”

43. As stated, the OR seeks to downplay the various harms identified by suggesting that the development “would protect and enhance the landscape as far as is reasonably practicable” (OR para 204). Members are not advised that the greatest loss of trees and harm to landscape occurs within the Green Belt between Culham and Clifton Hampden.

44. Neither ENV1, ENV2 of the SOLP nor Core Policy 44 of the VoWHLP make any reference whatsoever to a “reasonably practicable” qualification of harm. It is perfectly clear that the proposal would fail to protect or enhance the landscape. This is a further example of the OR failing to advise Members fully on very important matters of policy and is highly misleading.

Biodiversity

45. As with its treatment of Landscape and Trees, the OR seeks to downplay the adverse impacts that the scheme will have on biodiversity. OCC produced in November 2022 an Oxfordshire Climate and Natural Environment Policy Statement, which seeks to achieve a 20% Biodiversity Net Gain (BNG) in respect of development proposals. (OR para 208). This should be regarded as a material consideration in consideration of this proposal.
46. Further, when the Environment Act 2021 comes into force a minimum 10% BNG will be required. Para 174 of the NPPF requires measurable BNG. The Wildlife Trust continues to maintain an objection to this scheme.
47. The OR recognises “some impacts on biodiversity” (OR para218), without advising that these impacts will be adverse, but suggests that these could (not would) be avoided or reduced or mitigated by way of planning conditions. Whilst the use of planning conditions are a perfectly acceptable means of mitigating adverse impacts, in this instance Members do not have the benefit of being able to consider draft conditions, as none have been submitted in the OR for consideration.
48. The OR further advises that prior to the first operational use of the new road that an updated BNG Assessment be submitted demonstrating a minimum 10% BNG. (OR para 218). This is wholly unacceptable. It is quite inconceivable that in circumstances where a new road has been built out, that its use would be effectively stopped in the event of a 10% BNG not having been achieved.
49. Para 56 of the NPPF advises that planning conditions should be enforceable and precise, and that where they are to be used they should be agreed early in the planning process. Pre-commencement conditions should be avoided without clear justification. Annex 1 to the OR sets out proposed conditions, the greater part of which appear to be pre-commencement conditions.
50. Members do not have the benefit of fully drafted or agreed conditions, simply an outline of conditions proposed. The OR’s treatment and approach to planning conditions represents a further conflict with the requirements of the NPPF.

Climate Change

51. In respect of concerns in relation to Climate Change Members are referred to our previous consultation responses, together with those of Oxford FoE.

52. The OR (paras 231-232) makes reference to the Climate Change Commission (CCC) Report which was published in June 2023 which was after our last consultation response and this Report warrants comment.
53. The OR fails to report to Members significant findings of the CCC which are highly relevant to this proposal. The CCC Report notes “Surface transport remains the UK’s highest emitting sector, contributing 23% (105MtCO₂e) of total emissions in the UK. It expresses concerns that carbon savings from plug-in hybrid vehicles (PHEVs) are three to five times lower in the real world than previously assumed and also questions the commitment to achieving modal shifts (page 108). It further states that road transport demand in 2022 is around 5% below pre-pandemic levels and could represent a new “steady state” (page 113). This new base level has, of course, not been taken into account in the traffic model.
54. The CCC also states that “measures to limit growth in road traffic are also crucial for decarbonising transport (page 113), and that “without policy action to embed a reduction in the need to travel by car or grow the availability and attractiveness of alternative lower-carbon modes, traffic is likely to increase beyond the CCC’s pathway.” (page 113) In stark terms, carbon reduction targets will not be achieved unless travel by private car is significantly reduced.
55. The analysis in the OR is severely flawed for the following reasons.
- i. The most important flaw, which invalidates the OR’s conclusions on climate change, is that the OR’s assessment assumes that there will be as much traffic if the HIF1 scheme was built compared to if it was not built. This flaw has been confirmed by Professor Phil Goodwin, emeritus Professor of Transport Policy at UCL. If, instead of assuming, without evidence, (as the OR does) that no additional traffic would be generated, and that carbon emissions for HIF1 would be comparable to actual emissions from historically delivered road schemes, operational emissions for the HIF1 would be much higher than admitted at around 359ktCO₂e.
 - ii. The OR fails to report CCCs conclusion that the passive provision of active travel infrastructure is insufficient to encourage a reduction in car travel and a shift towards active travel. Research shows that the most effective interventions include congestion charges, limiting access by car to certain areas, and parking control, i.e. measures that increase the cost and reduce the convenience of car travel. The Climate Change Committee recognises this, and recommends measures to reduce

car demand. Instead of these, the HIF1 scheme makes it more convenient to get around by car.

56. The OR fails to advise Members on specific policies in the LTCP to which significant weight should be afforded. These include the headline target of replacing or removing 1 out of every 4 current car trips in Oxfordshire by 2030 and delivering a net-zero transport network with 1 out of every 3 car trips reduced or removed by 2040. LTCP Policy 36 is of particular relevance, and as Cllr Hicks has pointed out, the OR fails to refer to it, misrepresents LTCP policy and omits any reference to car reduction targets.
57. The OR summary on Climate Change (para 243) makes no mention of the LTCP whatsoever, and the assertion that this scheme would lead to an overall carbon saving is wholly unsupported by the evidence. As such, this proposal conflicts with the LTCP, the NPPF, DES7 and DES8 of the SOLP and Core Policies 37, 40 and 43 of the VoWHLP Part 1.

Water Quality & Pollution

58. The proposed scheme can only be made policy compliant through the adoption of a tranche of planning conditions. Our comments on the OR's suggested use of conditions are set out above, and not repeated here.

Historic Environment

59. The OR acknowledges that the scheme will cause harm to a number of cultural heritage assets, and advises that these harms need to be balanced against any public benefits that flow from the proposed development. These assets include a Scheduled Monument, Grade I Nuneham Courtenay Registered Park and Garden and Conservation Area and Clifton Hampden's Conservation Area.

Impact on Agricultural Land

60. There is a general policy requirement to avoid the loss of Best and Most Versatile (BMV) agricultural land, reflected in the NPPF, Policy DES7 of the SOLP and Core Policy 43 of the VoWHLP Part 1. The OR (para 302) states that this development will

result in the permanent loss of 39.4ha of BMV land, and that this loss is both “significant and harmful” (OR para 304).

61. Significant weight should be applied to this loss, yet the OR advises that it would be acceptable due to the fact that OCC has sought to avoid such loss, albeit unsuccessfully, and that there are no alternative options available. (OR para 305)

Other Matters

62. The OR paras 323 and 324 addresses our previous response that no Health Impact Assessment (HIA) has been submitted by OCC as explicitly required by LTCP Policy 9, stating that the ES provides sufficient information for such an assessment to be made.
63. Policy 9 of the LTCP refers to the requirement for an HIA to be submitted for “larger-scale infrastructure proposals”. Given that most, if not all, larger scale infrastructure proposals will be regarded as EIA development, an ES would need to be submitted in any event. The only reasonable interpretation of Policy 9 is that an HIA is required in addition to an ES, and that an ES cannot be regarded as a substitute for an HIA. The policy requirement of Policy 9 of the LTCP remains unmet.
64. The OR at para 325, misunderstands our previous response referring to a recent CPO Inspector’s Report. We are fully aware that the CPO process is separate from the planning process, but the findings of the Inspector in respect of viability and deliverability are equally relevant to the planning process. Our previous comment is not that there is a risk of CPOs not being confirmed (although that is the case), but that the proposed scheme as detailed in this full application runs the risk of not being fully delivered due to economic uncertainties at a local and national level.

Overall Conclusion & Planning Balance

65. The concluding section of the OR is highly unsatisfactory. The only policy conflicts recognised are in respect of noise (see OR para 336), despite the numerous policy conflicts identified by the professional officers of SODC and the VoWHDC, other statutory and non-statutory consultees and those conflicts set out above and in our previous consultation responses.

66. Members are not advised on the weight and significance to be afforded to those conflicts, and mis-advised as to the operation of para 11 of the NPPF. The concluding section makes no mention at all of the recently adopted LTCP.

67. The reasons for refusing this application are overwhelming and for all the reasons set out above and previously submitted this application should be refused.

Submitted on behalf of the NPC-JC

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Solicitor (non-practicing)

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12 July 2023