View Response

Response #1230860

From [redacted]

Agent [redacted]

Date Started: 17 Sep 2024 16:00. Last modified: 18 Sep 2024 11:54

Status Complete

Introduction

This form has two parts:

Part A – Personal Details

Part B – Your representation(s). (Please be aware that this together with your name will be made publicly available)

Please fill in a separate form for each representation you wish to make.

To view Surrey Heath Borough Council's Privacy Statement, please visit our website.

Please read the separate guidance notes found under "supporting documents" before completing and submitting this form.

Part A - Personal Details

Part A - Personal Details

1

First name

You must provide an answer to this question.

Karen

2

Last name

You must provide an answer to this question.

Jones

3

Job title (where relevant)

Partner

4

Organisation (where relevant)

Blandy & Blandy

5

Do you wish to be notified when the Pre-Submission Local Plan has been submitted to the Secretary of State for independent examination?

You must provide an answer to this question.

- [x] Yes
- [ ] No

6

Do you wish to be notified when the independent examiner's recommendations are published?

You must provide an answer to this question.

- [x] Yes
- [ ] No

7

Do you wish to be notified when the Local Plan has been adopted?

You must provide an answer to this question.

- [x] Yes
- [ ] No

Please note

After completing Part A of this Online Response Form, please click "Save answers" below to ensure your information is submitted correctly.

Please note that your formal comments (known as representations) and your name will be made available on the Council's website. All other details in Part A of this form containing your personal details will not be shown.

The Council cannot accept confidential comments as all representations must be publicly available.

Part B - Representation

Your representation should cover all the evidence and supporting information necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations following this publication stage.

After this stage, further submission will only be at the request of the Inspector, based on the matters and issues he/she identifies for examination.

8

What paragraph does your representation relate to? (E.g., "2.14")

5.62 -5.71

9

What policy does your representation relate to? (E.g., "SS1")

You must provide an answer to this question.

IN6

10

What else does your representation relate to? (E.g., any other detail, such as "policies map", "table", "appendix", etc.)

To which part of the Pre-Submission Local Plan does this representation relate? You must include: (1) the paragraph number; (2) the policy; or, (3) any other detail, e.g., policies map, table, appendix, etc.

IN6 Green Space, Policies Map 4.5, Policies Map 4.6

11

Do you consider the Pre-Submission Local Plan to be legally compliant? (please refer to guidance notes)

You must provide an answer to this question.

- ○ Yes
- ◉ No
- ○ Don't know

12

Do you consider the Pre-Submission Local Plan to be sound? (please refer to guidance notes)

You must provide an answer to this question.

- ○ Yes
- ◉ No
- ○ Don't know

13

Do you consider that the Pre-Submission Local Plan complies with the Duty to Co-operate? (please refer to guidance notes)

You must provide an answer to this question.

- ○ Yes
- ○ No
- ◉ Don't know

14

Please give details of why you consider the Pre-Submission Local Plan to be legally compliant. Please be as precise as possible.

You must provide an answer to this question.

«No response»

15

Please give details of why you consider the Pre-Submission Local Plan is **not** legally compliant. Please be as precise as possible.

You must provide an answer to this question.

Two pieces of Charity owned land are designated as allotment green space based on the Greenspace Background Assessment 2023 and the Surrey Heath Borough Council Open Space Assessment of September 2016. The Policies Map is inaccurate in its depiction of the land currently being used as allotments, justification for inclusion of Broom Lane and Red Lion Road in Chobham is not justified within the Chobham area. Although provision may be in shorter supply in the wider area there is no demand for any supply of allotment sites in Chobham, no waiting list as is suggested, and there are surplus plots.

16

Please give details of why you consider the Pre-Submission Local Plan to be sound. Please be as precise as possible.

You must provide an answer to this question.

«No response»

17

Please give details of why you consider the Pre-Submission Local Plan to be **not** sound. Please be as precise as possible.

You must provide an answer to this question.

The inclusion of this private land is not deliverable as green space as the landowner is not willing to ensure the land is managed in a way that maintains consistency with the designation proposed and has no charitable remit to do so. The Charity cannot adhere to the designation which means it is not capable of being delivered and consequently cannot deliver the overall objectives of the plan.

18

Please give details of why you consider the Pre-Submission Local Plan to be compliant with the Duty to Co-operate. Please be as precise as possible.

You must provide an answer to this question.

«No response»

19

Please give details of why you consider the Pre-Submission Local Plan to **not** be compliant with the Duty to Co-operate. Please be as precise as possible.

You must provide an answer to this question.

«No response»

20

Please set out what modification(s) you consider necessary to make the Pre-Submission Local Plan legally compliant, having regard to the matters you have identified.

(Please note that non-compliance with the Duty to Co-operate is incapable of modification at examination)

You will need to say why each modification will make the Pre-Submission Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

You must provide an answer to this question.

Removal of Policies Map 4.5 and 4.6 allocations is required. The Charity did not consider specific proposals for its land ownership would be included within the consultation draft without formal notification by way of stakeholder consultation. Such stakeholder consultation did not occur, and the Charity does not appear in the list of Specific and General Consultees at Appendix 1 of the Consultation Statement 2024 (or in earlier consultations March to May 2022 at appendix 4). The Charity would have expected specific notification to allow it to avoid these representations.

21

Please set out what modification(s) you consider necessary to make the Pre-Submission Local Plan sound, having regard to the matters you have identified.

(Please note that non-compliance with the Duty to Co-operate is incapable of modification at examination)

You will need to say why each modification will make the Pre-Submission Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

You must provide an answer to this question.

Removal of Policies Map 4.5 and 4.6. The Charity should not, as a matter of public policy, have additional restraints imposed on its being able to further its charitable objectives which will arise if the designation within the Policies Map remains. The objects of the Charity are specific and as a charity which was “allotted” land in 1861, the lands designated use is for the benefit of the poor inhabitants of the ancient parish of Chobham. It is not a Charity whose remit is to provide allotment plots. The charitable aims and objectives of the Charity are undermined by the plan policy.

22

If your representation is seeking a modification to the Pre-Submission Local Plan, do you consider it necessary to participate at the oral part of the examination?

You must provide an answer to this question.

- (●) Yes, I wish to participate at the oral examination.
- ( ) No, I do not wish to participate at the oral examination.

23

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary.

(Please note, *the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.)*

You must provide an answer to this question.

The Charity as a legal entity with specific objectives it must fulfil respectfully asks that the broader impact on it as a Charity serving the community is recognised. It should be permitted to contribute to the discussions concerning IN6 so that the

implications of land designation in its ownership, which has a charitable purpose and may be impeded by the designation can be considered in full.

End of representation

Thank you for answering the above questions and completing this representation.

You should receive a confirmation email once you have submitted your representation.

	Surrey Heath Borough Council **Pre-Submission Surrey Heath Local Plan (2019 – 2038) : (Regulation 19)** Representation Form	**Ref:** **(For official use only)**

Please return to: planning.consultation@surreyheath.gov.uk
OR
Planning Policy and Conservation, Surrey Heath Borough Council,
Surrey Heath House, Knoll Road, Camberley, Surrey GU15 3HD.

By **12.00 noon 20th September 2024** NO LATE REPRESENTATIONS WILL BE ACCEPTED

This form has two parts:
Part A – Personal Details
Part B – Your representation(s). (Please be aware that this together with your name will be made publicly available)
Please fill in a separate sheet for each representation you wish to make.

Surrey Heath Borough Council's Privacy Statement is **here**.

Please read the separate guidance notes before completing this form.

Part A

1. Personal Details*		2. Agent's Details (if applicable)
**If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.*		
Title	Ms	Ms
First Name	Libby	Karen
Last Name	Thody	Jones
Job Title (where relevant)	Clerk to Charity	Partner
Organisation (where relevant)	Chobham Poor Allotment Society	Blandy & Blandy LLP
Address Line 1	[redacted]	One
Line 2	[redacted]	Friar Street
Line 3	[redacted]	Reading
Post Code	[redacted]	RG1 1DA

Telephone Number		[redacted]
E-mail Address	[redacted]	[redacted]

Do you wish to be notified of when any of the following occurs? (place an X in the box to indicate which applies)

	Yes	No
• The Pre-Submission Local Plan has been submitted to the Secretary of State for independent examination?	x	
• The independent examiner's recommendations are published?	x	
• The Local Plan has been adopted?	x	

Please note that your formal comments (known as representations) and your name will be made available on the Council's website. All other details in Part A of this form containing your personal details will not be shown.

The Council cannot accept confidential comments as all representations must be publicly available.

Part B – Please use a separate sheet for each representation

Your representation should cover all the evidence and supporting information necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations following this publication stage.

After this stage, further submission will only be at the request of the Inspector, based on the matters and issues he/she identifies for examination.

Name or Organisation :	Chobham Poor Allotment Charity

3. To which part of the Pre-Submission Local Plan does this representation relate?

Paragraph	5.54-5.71	Policy	IN6	Other, e.g. policies map, table, appendix	Policies Map 4.5 & 4.6

4. Do you consider the Pre-Submission Local Plan is? (place an X in the box to indicate which applies)

	Yes		No	
4.(1) Legally compliant (please refer to guidance notes)				x
4.(2) Sound (please refer to guidance notes)				x
4.(3) Complies with the Duty to Co-operate (please refer to guidance notes)				x

5. Please give details of why you consider the Pre-Submission Local Plan is not legally compliant or does not meet the tests of soundness or fails to comply with the duty to co-operate. Please be as precise as possible.
If you wish to support the legal compliance or soundness of the Pre-Submission Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments. You are advised to read our Representations Guidance note for more information on legal compliance and soundness.

These representations are made in addition to online response #1230860 on behalf of the Chobham Poor Allotment Charity, ("the Charity") Charity number 200154 in respect of Policy IN6 and identified sites on the Policies Map in the care and control and ownership of the Charity. The Charity finds itself in a position where its land is allocated for designation under the Regulation 19 Local Plan and the charity cannot acceded to this designation, which it submits is not based on sound and robust evidence, is not deliverable and renders the draft policy IN6, without amendment, unsound. The Charity respectfully requests that the Inspector amends the Policies Map to remove the land under the Charity's care and control and to amend the Policy wording as set out for the reasons articulated in this representation.

The Chobham Poor Allotment Charity, is a charity which was "allotted" land in 1861, the lands designated use is for the benefit of the poor inhabitants of the ancient parish of Chobham. It is not a Charity whose remit is to provide allotment plots.

The constitution of the Charity as a registered charity makes specific provision for the area of benefit to extend only to the Ancient Parish of Chobham and the objects of the Charity as constituted in the year 1861.

The objects of the Charity are to further all or any of the following purposes:

1) The relief of poverty, age or sickness amongst the inhabitants of the area of benefit.
2) The provision and support (with the object of improving the conditions of life for the said inhabitants in the interests of social welfare) of facilities for recreation or other leisure time occupation of the said inhabitants.
3) The provision and support of educational facilities for the said inhabitants; and
4) Such other charitable purposes for the benefit of the said inhabitants as the trustees from time to time think fit.

It is of note that there is no object to provide allotment space. There is only a requirement that the Charity uses its land for any purpose within the objects of the Charity as set out above. The body of trustees currently consists of six appointed trustees with 3 nominative trustees and 3 cooperative trustees. The scheme of constitution of the Charity was updated on 6 September 1978 and 15 March 1990 and provides that the qualification of residents for the benefit that the Charities aims shall be poor persons who are inhabitants of the area of benefit of the Charity. The charitable aims and objectives of the Chobham Poor Allotment Charity as outlined above are central to this representation in respect of the Surrey Heath Borough Council pre submission Local Plan (2019-2038) and are fundamental to its reasons for advancing a case that the local plan proposals cannot be found to be sound in relation to the land in the Charity's ownership.

The Charity does not have any charitable objective of providing allotments. its remit is for the management and letting of its land within the Charity constitution is far wider so as to benefit the poor of the Parish. It is currently using some small areas of land for allotment space at present, but this is not a commitment for it to continue to do so. The Charity constitution does not require the provision of any allotment space whatsoever. The Charity's name is historic, from its inception in 1861, and it is not an allotment association, nor is it required to provide allotment space. The name may be misleading in modern language but there is no imperative for the Charity to administer allotment space to fulfil its charitable objectives.

The sites labelled on the Policies Map as Map 4.5 and Map 4.6 (Broom Lane and Red Lion Road) are currently subject to proposals as new allocations of Green Spaces within policy IN6. This new designation has been in parallel incorporated into the recent Chobham Neighbourhood Plan as Local Green Space and appears in Figure 19 of that Neighbourhood Plan as a consequence. The Charity has vociferously objected to the inclusion of the same sites as Local Green Space and the Charity will, following that initial objection continue to make representations during the adoption process of that neighbourhood plan.

The Policies Map is inaccurate in its depiction of the land currently being used as allotments in any event as it shows much larger areas than are in fact in use for that purpose within the proposed designation on the Policies Map. In fact, it covers areas in private ownership and in use as garden at the Broom Lane Site, and only an approximate 50% portion of the lower part of the Red Lion Road depiction is in use as allotment land.

The decision to designate these two pieces of Charity owned land as allotment green space in the Local Plan appears to have been based on the Greenspace Background Assessment 2023 containing the proposed green space additional sites and the earlier Surrey Heath Borough Council Open Space Assessment of September 2016. The inclusion of this private land is not deliverable as green space as the landowner is not willing to ensure the land is managed in a way that maintains consistency with the designation proposed and has no charitable remit to do so. The Charity remit under its objectives is a much stronger driver of the Charities behaviour for land management. The Charity cannot adhere to the designation, which means it is not capable of being delivered and consequently cannot deliver the overall objectives of the plan in seeking to designate this land.

The Charity should not, as a matter of public policy, have additional restraints imposed on its being able to further its charitable objectives which will inevitably arise if the designation within the Policies Map remains.

The borough wide generic evidence of the allotment provisions asserted as justification for inclusion of Broom Lane and Red Lion Road in Chobham is not justified within the Chobham area where residents generally have large gardens and no need nor time for allotment tending. Although provision may be in shorter supply in the wider area there is no demand for any supply of allotment sites in Chobham, no waiting list as is suggested, and there are surplus plots currently available to the Charity at these facilities. Uptake is poor and there is often need for the Charity to terminate allotment holder licences where there is uptake due to failure to maintain the allotment plot in any acceptable condition as is required. As is alluded to in the Open Space Assessment, the Charity own and manage eight sites but it is not correct to suggest that these were ever used as allotments and the Charity do not expect to use in that manner any more of its land due to lack of demand. Suggestions these sites could be “brought back into use” as allotment space are without foundation in evidence and based on misunderstandings of the land, its status and the Charity objectives in owning that land.

In any event the Charity considers that the proposal to allocate its land at Broom Lane and Red Lion Road, although these are currently used as allotment sites, is not founded on sufficiently sound evidence to justify their inclusion as allotment green space.

The Charity have examined the documentation submitted in support of the regulation 19 submission plan. As a preliminary matter, the Charity as landowner was not notified specifically of the intention to include land of the Charity within the IN6 Green Space designation. Although it is accepted that there was widespread publicity for the formative stages of the local plan consultation, the Charity did not consider specific proposals for its land ownership would be included within the consultation draft without formal notification by way of stakeholder consultation. Such stakeholder consultation did not occur, and the Charity does not appear in the list of Specific and General Consultees at Appendix 1 of the Consultation Statement 2024 (or in earlier consultations March to May 2022 at appendix 4). This is disappointing and the Charity would have expected specific notification to allow it to avoid the inconvenience and expense of formal representations on the regulation 19 Plan. This omission has resulted in the charitable aims and interests of the Charity not being properly accounted for in the Policies Map proposed allocations.

It is noted that the Greenspace Background Assessment 2023 references considerations of visual amenity, recreation and ecology. It widened the remit of allocation to include green space outside of settlement areas and that is specifically referred to in the proposals for allocation for these two areas of land. This land is not properly described as amenity land. It is not publicly accessible land, being clearly marked as private property and only those who have formal arrangements to rent the allotment plots have any right to access.

The additional land designation proposed to be delivered by these two areas of Charity land is also not justified on grounds of recreational value (as referred to in paragraph 2.1.10 of the 2023 Green Space Assessment) as no demand for any such recreation provision by use as allotments exists in Chobham. The Charity is utilising other areas of land in its ownership for alternative uses, something that is very necessary to allow it to reflect changing habits and demands for its land to meet its charitable objectives.

Designation within this Local Plan process would subsequently require engagement with a forthcoming site allocations DPD to review the allocations, which further dilutes the focus of the Charity from where it should be in fulfilling its charitable objectives.

In consideration of the evidence, the Charity submits that the Surrey Heath Borough Council Open Space Assessment dated September 2016, and Greenspace Assessment 2023, are not sufficient justification for inclusion of their land within site specific designation on the Proposal Map for IN6.

The Charity notes that in any event that proposed policy would resist the loss or fragmentation of small open amenity areas not designated where this would result in adverse impacts on the attractiveness and quality of the built environment. The Charity submits that this protection alone is sufficient to give the Borough Council the comfort it requires in respect of any land owned by the Charity. To further restrict its charitable purposes and utilisation of its land by specific designation as a Green Space in the Policies Map undermines the Charity's charitable objectives and aims and acts as a block against legitimate diversification of uses that may be required to properly fulfil its charitable purposes. Any such restriction and formal land designation is not appropriate for the Charity.

The purposes of the policy, expressed as retention and continued protection of these areas as "vital to ensuring healthy communities" is misguided in the case of the Broom Lane and Red Lion Road allotment sites in any event which are not in demand. These sites have had the size of allotment plots reduced to attempt to increase attractiveness but voids in take up still remain at each of the sites. There is no real visual amenity of value to the community in these sites. The dwindling number of individuals requiring allotments can be adequately demonstrated by the Charity who struggle to manage the sites that are in use as allotment plots. The size of a traditional allotment is in any event too large for many individuals to maintain in today's lifestyle environment. Unworked and untidy allotments lead to abandonment and the Charity must have the ability to utilise its land for the best aims and purposes connected with its charitable status.

These sites do not have any special visually attractive features and in the case of Red Lion Road there is no view as trees surround it. That site is in an inaccessible location for users of it with no parking, no pedestrian pavement and being next to a busy road. This site belonging to the Charity was previously a garden of a

now demolished property. Some of the land at Broom Lane is now used for grazing and the Policies Map is inaccurate in its depiction of the size of the allotment land as it is in fact considerably less than the designated area shown.

In any event the policy wording resisting the fragmentation of the small open amenity sites referred to could be directly adverse to the Charity's interests, when it may be required to diversify uses of its land to adhere to its charitable purposes. The Charity does need to continue to function to its best advantage to derive income from its assets to meet its legal requirements for redistribution to the poor of the parish. Recreational value of these sites is extremely limited with only 8 individuals paying annual rent in respect of the Broom Lane site and 12 individuals taking up the Red Lion Road allotment allocations. The land at Broom Lane is currently used for grazing with only a very small number of allotments (the size and number of which is declining).

The costs of maintenance for the few allotments the Charity currently has, (hedge cutting, clearing overgrown and neglected areas due to lack of uptake and maintenance of boundaries) is already in excess of any income received and the Charity will diversify if the opportunity for other "flat land use" arises. The other uses the Charity utilises covers diverse activities such as keeping of livestock, dog agility and exercise and grazing. The Charity does not wish the two sites in question to be designated as green space to further restrict its flexibility of use, whether or not that involves engagement with the planning system. The Charity respectfully requests that the Council reconsider these intended designations and put forward to the inspector the deletions as proposed changes to the Local Plan

The Charity contends that its land has been considered in a generic fashion with other allotment sites within the area, where there is in fact a completely different threat and a need for inclusion as Green Space as a protection for the land. To consider the Charity's land with other current allotment provision land, is entirely inappropriate given their charitable status, charitable objectives and the aims by which they are bound under the Constitution governing the Charity's actions since its inception in 1861.

To include the Charity's land within the allocations proposed misunderstands the nature of their activities, and the purposes for which the Charity utilises its land. The Charity is obliged to derive income from its land in order to further its objectives. In addition, the evidence base for the assertion that there is a demand for continuing provision of allotment sites and plots across the area, which is referred to in the Surrey Health Borough Council Open Space Assessment, is not the position in Chobham borne out by the Charity's experience.

It has been necessary for the Charity to repurpose land, for example as grazing land, for the keeping of livestock and for dog agility, all uses which do not require a specific consent, but which nevertheless are undermining of the objectives of policy IN6. Its charitable aims and purposes require it to maintain maximum flexibility on use of land for appropriate purposes as the Charity sees fit. If the Charity chooses a purpose consistent with its charitable objectives that requires it to engage with the planning system for a consent it should not be subject to additional limitations when the community is adequately protected from undesirable proposals by both the generality of policy IN6 where it applies, and the charitable aims and objectives of the Charity being pursued in any proposed uses of the land.

The new allocation of these 2 additional sites is resisted and as can be demonstrated the proposals in respect of these areas of land owned by the Charity cannot be justified and are not deliverable as is required to meet the test of soundness. If the Council does not agree the changes should be advanced the inspector is respectfully requested to remove these allocations from the Policies Map to allow the Charity to continue to operate within its restricted remit to serve the community in accordance with its charitable status. Designation as Green Space land will inevitably prevent diversification, and these plots are not appropriate for that designation in any event for the reasons outlined above.

(Continue on a separate sheet / expand box if necessary)

6. Please set out what modification(s) you consider necessary to make the Pre-Submission Local Plan legally compliant and sound, having regard to the matters you have identified at 5 above.
(Please note that non-compliance with the duty to co-operate is incapable of modification at examination)
You will need to say why each modification will make the Pre-Submission Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

If the sites are not removed from designation the Charity wishes to propose the following amendments to the wording of the policy IN6

In paragraph (b) the insertion of the words "or alternative uses for the site" between the words "loss" and "will" and the deletion of the words after "character" so that paragraph (b) reads;

"For sites designated for their visual amenity, it can be clearly demonstrated that the loss, *or alternative uses for the site* will not have a negative impact upon residential amenity and local character."

In paragraph 3 of Policy IN6 the inclusion of the words "where they are publicly accessible sites" after the word "should" and before the word "be" so that Paragraph 3 reads

"Development proposals that include existing areas of ancillary green open space that are not designated, but none the less contribute to an areas character, should, *where they are publicly accessible sites* be assessed in accordance with Green Infrastructure Policy IN5 of this Plan."

(Continue on a separate sheet / expand box if necessary)

Please note *your representation should cover succinctly all the evidence and supporting information necessary to support/justify your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.*
After this stage, further submissions will be only at the request of the Planning Inspector, based on the matters and issues he/she identifies for examination.

7. If your representation is seeking a modification to the Pre-Submission Local Plan, do you consider it necessary to participate at the oral part of the examination?

	No, I do not wish to participate at the oral examination	x	**Yes**, I wish to participate at the oral examination

Please note - whilst this will provide an initial indication of your wish to participate in the examination, you may be asked at a later point to confirm your request to participate.

8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

The Charity as a legal entity with specific objectives it must fulfil respectfully asks that the broader impact on it as a Charity serving the community is recognised. It should be permitted to contribute to the discussions concerning IN6 so that the implications of land designation in its ownership, which has a charitable purpose and may be impeded by the designation can be considered in full.

Please note *- the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.*