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BY EMAIL ONLY:

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Our Ref: RJA/CHO116/6

Your Ref:

Date: 05 September 2025

Dear Sir / Madam

Objection to Chobham Neighbourhood Plan 2024-2038

- 1.1 We are instructed by the Chobham Poor Allotment Charity ("the Charity") to object to the allocation of the Charity's land within proposed Policy CH11: Local Green Space ("Policy CH11") of the Chobham Neighbourhood Plan 2024-2038 ("the Neighbourhood Plan").

Background

- 1.2 The Charity owns two sites which have been identified in the Neighbourhood Plan for allocation as Local Green Space under Policy CH11, being:

- 1.2.1 Broom Lane site being the land marked allocation 5 on the plan at Figure 21 of the Neighbourhood Plan ("Broom Lane Site"); and
- 1.2.2 Red Lion Road site being the land marked allocation 6 on the plan at Figure 21 of the Neighbourhood Plan ("Red Lion Road Site").

- 1.3 The Charity objects to the proposed allocation of the above sites as Local Green Space. The Charity previously made representations to the Regulation 14 Neighbourhood Plan consultation on 18th June 2024 which are attached to this letter at Appendix 1.

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Charitable Status

- 1.4 The charitable aims and objectives of the Chobham Poor Allotment Charity are central to this representation in respect of the Neighbourhood Plan and are fundamental to its reasons for advancing a case that the Neighbourhood Plan proposals cannot be found to be sound in relation to the land in the Charity's ownership.
- 1.5 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.
- 1.6 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.
- 1.7 The objects of the Charity are to further all or any of the following purposes:
 - 1.7.1 The relief of poverty, age or sickness amongst the inhabitants of the area of benefit.
 - 1.7.2 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.
 - 1.7.3 The provision and support of educational facilities for the said inhabitants; and
 - 1.7.4 Such other charitable purposes for the benefit of the said inhabitants as the trustees from time to time think fit.
- 1.8 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.
- 1.9 The Charity's trustees are under a legal obligation to comply with the Charity's purposes in accordance with charity law, and a failure to do so would be a serious matter, with potential consequences to them personally. It is therefore vitally important, in line with guidance from the Government and the Charity Commission that charities remain independent of government, which includes the local planning authority and Chobham Parish Council.

- 1.10 The Charities Commission Guidance document: “Charities and public service delivery: an introduction and overview” (1 March 2012), states:

“Legal independence: in order to be a charity, an organisation must exist solely for charitable purposes, not for the purpose of carrying out the policies or instructions of a public authority. ...

Interests of the charity: trustees have an overriding duty to act in the interests of the charity and its beneficiaries. This means:

- ***they must never allow their personal interests, or the interests of another organisation or body, to sway their judgement;***
- ***they must never place restrictions on themselves, or allow restrictions to be placed on them, that would limit their ability to make decisions in the interests of the charity.”***

- 1.11 The allocation of the Charity’s land in the Local Plan would represent a clear restriction upon the ability of the Charity to make independent decisions on how the land should be used for the advancement of its charitable purposes. Independence is the bedrock of charitable status and any interference by a public body requiring the Charity to implement the policies of a governmental authority as a prior requirement would constitute an unlawful fetter.
- 1.12 This would also mean that the Council was acting unlawfully and could be challenged under public law principles by way of judicial review.
- 1.13 The Charity Commission for England and Wales wrote to local authorities on 8 August 2024, to remind them not to interfere with charitable land. Although the letter primarily related to local authorities as trustees of charities, the letter made the point that a common problem seen by the Charity Commission was one of local authorities attempting to change the use or status of charitable land in a way that is not compatible with its charitable purpose. This commonly happens because local authorities are not familiar with the charitable status of the land or the significance of that status, or the legal responsibilities of the charity concerned. It is unlawful to attempt to limit, restrict or divert charitable purposes to something different.
- 1.14 The inclusion of the Charity’s privately owned land is not deliverable as green space as the landowner is not able nor 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.

- 1.15 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 Neighbourhood Plan remains.

Policy CH11

- 1.16 Policy CH11 provides a simple list of sites proposed to be designated as Local Green Space, which is defined under the National Planning Policy Framework (December 2024) (“the NPPF”).
- 1.17 The justification for allocating the Broom Lane Site as a Local Green Space is provided in Appendix E to the Neighbourhood Plan (Page 119), and the justification for the Red Lion Road Site at Page 121.
- 1.18 The justifications are identical for both sites and include:
- 1.18.1 The allotments are identified as ‘Green Space’ by Surrey Heath Borough Council (“the Borough Council”);
 - 1.18.2 The allotments are ‘demonstrably special’ as they have recreational benefit as they are:
 - a) *“well-used;”*
 - b) *“an important part of maintaining the agricultural heritage and rural nature of the village character”; and*
 - c) *“provide opportunities for self-sufficiency, and access to fresh air. They also provide for socialising and exercise”.*
 - 1.18.3 The allotments are ‘demonstrable special’ on the basis of their wildlife, as *“the space provides an important habitat for a range of flora and fauna”.*
- 1.19 These justifications are considered in turn below.

Interaction with draft Surrey Heath Local Plan and ‘Green Space’ designation

- 1.20 The Neighbourhood Plan notes at paragraph 7.36 that there are new proposed ‘Green Space’ designations for both the Broom Lane Site and Red Lion Road Site within the emerging Surrey Heath Local Plan (“the Local Plan”), for which the examinations in public are commencing in September 2025.
- 1.21 It also notes that the ‘Green Space’ designation proposed by Surrey Heath Borough Council (“the Borough Council”), is not as high a protection as the ‘Local Green Space’ designation proposed in the Neighbourhood Plan, and so the Neighbourhood Plan wishes to designate the higher protection.

- 1.22 Firstly, the area proposed by Chobham Parish Council to be designated for both the Charity's sites within the Neighbourhood Plan is much larger than the 'Green Space' allocations proposed by the Borough Council within the Local Plan.
- 1.23 The Local Plan designations can be seen hatched in green on the extract of the Local Plan policies map below at Figure 1.

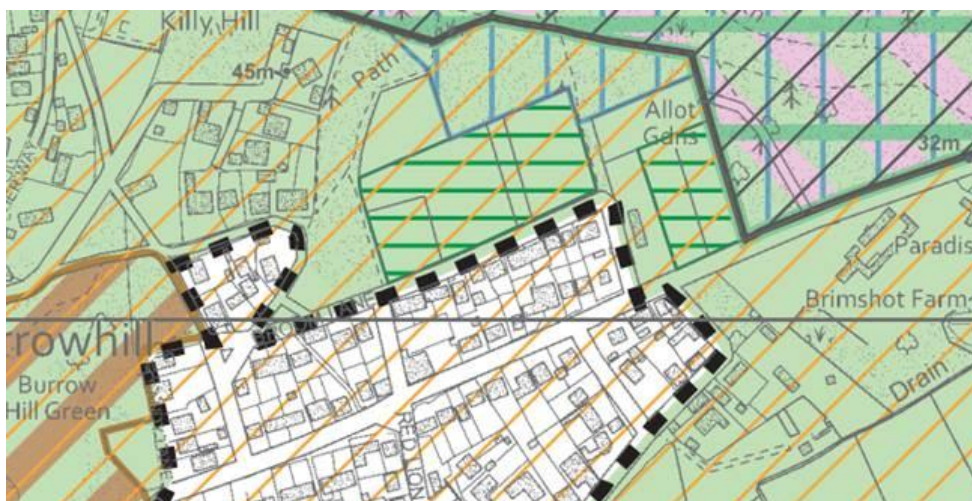


Figure 1

- 1.24 The proposed designations in the Neighbourhood Plan can be seen shaded in green in the Neighbourhood Plan policies map in Figure 2 below.



Figure 2

- 1.25 The Neighbourhood Plan provides no explanation as to why a wider area of land has been identified than in the Local Plan. Additionally, for both the proposed allocations within the Neighbourhood Plan and Local Plan only a small part of the proposed allocations are actually in use as allotments.

- 1.26 Within both the Broom Lane Site and Red Lion Road Site, part of the proposed allocation is a private residential garden not occupied by the Charity (and in the case of the Broom Lane Site, the residential garden is not owned by the Charity). Additionally, the majority of the land designated within the Broom Lane Site is currently being grazed under licence. For the Red Lion Road Site, part of the proposed allocation is simply not in use as allotments.
- 1.27 The approximate split between the uses is indicated on the extract of the Neighbourhood Plan Policies Map below at Figure 3, with the private garden land edged in red, grazing land edged in purple, and land not in allotment use edged in blue:



Figure 3

- 1.28 The justification given in the Neighbourhood Plan that the proposed allocations have been designated as Green Space within the Local Plan and so should be allocated as Local Green Space within the Neighbourhood Plan is therefore flawed on many levels as:
- 1.28.1 The designation of Green Space proposed in the Local Plan is a much smaller area of land;
 - 1.28.2 The Green Space designation proposed in the Local Plan is on the basis of a completely different policy test, and has different implications for the sites; and
 - 1.28.3 The Green Space designation is currently proposed by the Borough Council, but the Local Plan has not yet been adopted, and the Inspector has raised questions as to whether the allocations are justified, which are to be discussed at the examination hearing. The reliance on the Green Space designation in the Local Plan to justify the Local Green Space designation in the Neighbourhood Plan is therefore premature and speculative.

'Demonstrably special' - NPPF Policy Test for designation as Local Green Space

1.29 Paragraph 107 of the NPPF, confirms that the 'Local Green Space' designation should only be used where the green space is:

(a) in reasonably close proximity to the community it serves;

(b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and

(c) local in character and is not an extensive tract of land.

1.30 The justifications for allocating the Broom Lane Site and Red Lion Road Site as a Local Green Space is provided in Appendix E to the Neighbourhood Plan is not reasoned nor sufficiently justified to meet the above policy requirements.

1.31 It is notable in particular, that the justifications given in Appendix E to the Neighbourhood Plan all refer to the 'allotment' use of both the Broom Lane Site and Red Lion Road Site, whereas no justification whatsoever is given for the majority of land proposed for allocation which is not in allotment use (being the land shown edged purple, land edged red, and land edged blue on the plan above at Figure 3).

1.32 The NPPF Local Green Space assessment can be applied to the two sites as set out in the table below:

BROOM LANE SITE		
NPPF Test	Meets Test?	Comments
Reasonably close proximity to the community it serves	Yes	Reasonably close, although site is on the outskirts of the settlement area of Chobham, and the allocated land includes private gardens in addition to the Charity owned land.
Demonstrably special to a local community and holds particular local significance, for example, because of its beauty, historic significance, recreational value (including as a playing	No	No convincing evidence has been provided that neither the allotment part of the site nor the non-allotment part of the site is 'demonstrably special'. It is clear that the site does not meet the test for beauty, historical significance, or richness of wildlife.

<p>field), tranquillity or richness of its wildlife</p>	<p>Whilst the site will provide a habitat for a range of flora and fauna in a general sense, no specific qualities have been identified to justify the site being considered 'demonstrably special'. This is the case especially given the site is in a rural area on the edge of Chobham, and adjacent to Chobham Common.</p> <p>The village having an annual horticultural show is not sufficient evidence of the historic significance of this site.</p> <p>Whilst the part of the site in use as allotments affords recreational value to six members of the local community (out of an estimated population of 4,100 in the Parish of Chobham – 2021 census) who have allotments, there is no right of public access, and it is not unique or 'demonstrably special'. There are no on-site facilities, other than a water supply. The part of the site in use as allotments is not "well-used", and the rest of the site has no public use nor access at all.</p> <p>The site is behind a hedge on an unmade up track / lane, with no public footpaths across the site, and so provides limited public views. There are also regular complaints by residents regarding parking by allotment users, as there is no on-site parking.</p> <p>The site is also adjacent to the extensive Chobham Common, which unlike the allotments, is publicly accessible and is likely to be a greater source of tranquillity for the local community following the definitions in the Campaign for Protection of Rural England's (CPRE) definition of tranquillity: <i>'the quality of calm</i></p>
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		<i>experienced in places with mainly natural features and activities, free from disturbance from manmade ones' (CPRE 2006).</i>
Local in character and not an extensive tract of land	Yes	

RED LION ROAD SITE		
NPPF Test	Meets Test?	Comments
Reasonably close proximity to the community it serves	Yes	Reasonably close, although site is on the outskirts of the settlement area of Chobham.
Demonstrably special to a local community and holds particular local significance, for example, because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife	No	<p>No evidence has been provided that neither the allotment part of the site nor the non-allotment part of the site is 'demonstrably special'.</p> <p>It is clear that the site does not meet the test for beauty, historical significance, or richness of wildlife.</p> <p>Whilst the site will provide a habitat for a range of flora and fauna in a general sense, no specific qualities have been identified to justify the site being considered 'demonstrably special'. This is the case especially given the site is in a rural area on the edge of Chobham, and adjacent to Chobham Common.</p> <p>The village having an annual horticultural show is not sufficient evidence of the historic significance of this site.</p> <p>Whilst the part of the site in use as allotments affords recreational value to ten members of the local community who have allotments</p>

		<p>(out of an estimated population of 4,100 in the Parish of Chobham – 2021 census), there is no right of public access, and it is not unique or ‘demonstrably special’. There are no on-site facilities, other than a water supply, and no on-site parking. The part of the site in use as allotments is not “well-used”, and the rest of the site has no public use nor access at all. The site is behind a hedge adjacent to one of the main roads through Chobham, with no footpath access, and so provides limited public views.</p> <p>The site is also adjacent to the extensive Chobham Common, which unlike the allotments, is publicly accessible and is likely to be a greater source of tranquillity for the local community following the definitions in the Campaign for Protection of Rural England’s (CPRE) definition of tranquillity: <i>‘the quality of calm experienced in places with mainly natural features and activities, free from disturbance from manmade ones’</i> (CPRE 2006).</p>
Local in character and not an extensive tract of land	Yes	

- 1.33 The above assessments indicate that neither site would meet the criteria for a Local Green Space designation.
- 1.34 Additionally, allowing the Neighbourhood Plan to allocate and designate land that cannot and will not deliver the policy purposes unreasonably relieves the Neighbourhood Plan Steering Group from its responsibility to identify land that could deliver the policy purposes.

Conclusion

- 1.35 In conclusion, the Charity considers that insufficient justification has been provided for the allocation of either the Broom Lane Site or Red Lion Road Site as Local Green Space.

- 1.36 The Neighbourhood Plan's proposed interference with the charitable purpose of the Charity in allocating the land is unlawful and ultra vires, and so susceptible to legal challenge.
- 1.37 The Charity wishes to make clear that:
- 1.37.1 There is limited and diminishing demand for allotments in this area;
 - 1.37.2 The Charity is governed by objectives set out in its constitution, and there is no obligation or commitment for the Charity to provide nor to continue to provide allotments. The Charity has a wider remit for supporting those in poverty in the area;
 - 1.37.3 The allocations are inaccurate and misleading in relation to the area of land which is actually in use as allotments, as the vast majority of the proposed allocations is not in use as allotments (and includes grazing land, and also includes privately owned gardens outside of the Charity's ownership); and
 - 1.37.4 Absolutely no justification has been provided for how the areas of land which are not in allotment use are considered to meet the required planning policy tests of being 'demonstrably special' to the local community. This land has no public access and serves no recreational purpose.
- 1.38 The Charity cannot accede to the designation of its land under Policy CH11 of the Neighbourhood Plan, which it submits is not based on sound and robust evidence, is not deliverable and renders the draft policy CH11, without amendment, unsound. The Charity respectfully requests that the Examiner amends the Neighbourhood Plan 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.
- 1.39 For completeness, it is confirmed that similar representations have been made to the Local Plan Inspector, and the Charity will be represented in person by a barrister at the Local Plan Examination hearing session relating to the 'Green Space' allocation.

Yours faithfully

Blandy & Blandy

Blandy & Blandy LLP

Appendix 1

Letter of Objection dated 18th June 2024

CHOBHAM POOR ALLOTMENT CHARITY

Registered Charity Number 200154

The Pavilion
Benner Lane
West End
Surrey
GU24 9JP

email: [REDACTED]

Tel: [REDACTED]

The Parish Office
Chobham Parish Council
Station Road
Chobham
Woking
Surrey
GU24 8AJ

18/06/2024

Dear Sir/Madam

Notification to designate a Local Green Space

Further to your email dated 3 May 2024 regarding the above, outlining the intention of Chobham Parish Council to include the land owned by Chobham Poor Allotment Charity as Local Green Space.

The Trustees would like it formally noted that they consider that the Charity's land does not meet the criteria to be included as Local Green Space. The Charity land is private land and has a constitutional defined purpose, which doesn't reconcile with the proposal by the Parish Council to include it in the Local Green Space.

The Trustees of the Charity, therefore request that the Charity's land is removed from the proposed plan.

Yours faithfully

[REDACTED]

David Elliott
Chairman