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By email only to: [neighbourhood.planning@surreyheath.gov.uk](mailto:neighbourhood.planning@surreyheath.gov.uk)

Dear Planning Policy,

## **JMS Planning and Development Representation to the Draft Chobham Neighbourhood Plan Consultation (Regulation 16)**

### **Introduction**

JMS Planning welcomes the opportunity to comment on the Regulation 16 Submission Version Draft Neighbourhood Plan for Chobham. JMS Planning have been instructed by Mr Peter Fitzsimons to author representations on his behalf. Mr Fitzsimons is a long-term resident of the Chobham Parish, and we are therefore pleased to submit representations on his behalf.

We welcome the opportunity to provide constructive comments that align the Plan with the Basic Conditions as set out by Schedule 4B of the Town and Country Planning Act (1990), the contents of which will be discussed below. Our comments are intended to assist Chobham Parish Council in ensuring the Neighbourhood Plan facilitates sustainable development, is consistent with national policy and is cognisant of emerging policy. As the Chobham Neighbourhood Plan progresses, JMS Planning would like to be kept informed of any updates and consultations. The representations below are divided into six parts:

- 1) Basic Conditions (Schedule 4B, TCPA 1990);
- 2) Policy CH1 – Location of Development;
- 3) Policy CH2 – Affordable Housing and Self-Build;
- 4) Policy CH5 – Drainage, Flood Risk and Infrastructure;
- 5) Policy CH10 – Biodiversity Net Gain;
- 6) Conclusions.

## 1. Basic Conditions (Schedule 4B, TCPA 1990) and Local Policy Context

The Neighbourhood Plan must meet the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. Whilst this is comprehensively set out within the Basic Conditions Statement, JMS Planning wishes to supply these to aid in the reading of this representation. The Basic Conditions are as follows:

**Basic Condition A:** Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Neighbourhood Plan;

**Basic Condition B:** having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order;

**Basic Condition C:** having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order;

**Basic Condition D:** the making of the order contributes to the achievement of sustainable development;

**Basic Condition E:** the making of the order is in general conformity with the strategic policies contained in the Development Plan for the area of the Authority (or any part of that area);

**Basic Condition F:** the making of the order does not breach, and is otherwise compatible with, EU obligations.

Condition A, the requirement to have '*regard to national policies and advice*' means that the Neighbourhood Plan must be consistent with the NPPF (Dec 24) (transitional arrangements do not apply) and PPG. It should be noted that the submission draft should not be dated 'February 2025' since the draft and evidence base were submitted in June 2025.

The NPPF, at paragraphs 11 and 16a, reinforces the requirement that plans should promote sustainable development (Basic Condition D), and be prepared positively, in a way that is aspirational but deliverable (16b). Both the NPPF (paragraph 30) and PPG (paragraph 74) reinforce the requirement that the emerging Neighbourhood Plan needs to be in general conformity with the strategic policies of the Development Plan (Basic Condition E above).

In this instance, the Development Plan should conform to:

- The Core Strategy and Development Management Policies Development Plan Document 2012 and the Policies Map 2012;
- The 2000 Local Plan (extant saved policies);
- Camberley Town Centre Area Action Plan (2011-2018) and Policies Map.

Given that the Development Plan for the LPA is ‘*out of date*’ (p. 11d and 232), it is recommended that in preparation of the Chobham Neighbourhood Plan (CNP), that the emerging Local Plan is taken into consideration. Specifically, the PPG sets out in Paragraph: 009 Reference ID: 41-009-20190509, that,

*‘Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- the emerging neighbourhood plan*
- the emerging local plan (or spatial development strategy)*
- the adopted development plan*

*with appropriate regard to national policy and guidance.’*

Accordingly, the draft Surrey Heath Local Plan (2019-2038) was submitted in late 2024 and is expected to be adopted in autumn 2025. It sets a Borough-wide housing requirement of 5,578 net new homes. It proposes around 91 new homes at the Chobham Rugby Club site (Policy HA1/O6). Meeting this target will be challenging as nearly half of the Borough is in the Green Belt and a large proportion is covered by the Thames Basin Heath SPA. As of March 2023, only 3,491 homes have been delivered or are committed. The Plan also notes that these environmental and Green Belt designations ‘*limit the amount of land available for residential development*’ and make housing targets ‘*challenging to achieve*’.

It is therefore recommended that, to be positively prepared and support sustainable development, the Neighbourhood Plan make housing allocations and, in relation to Policy CHI, reflect the potential that Grey Belt land could have to provide housing and other required development.

## 2. Policy CHI – Location of Development

This policy focuses upon development within the defined settlement boundary, with limited exceptions. We support the Plan’s intent to concentrate growth in the village and protect the wider countryside. We particularly welcome that the policy gives ‘*substantial weight... to using suitable brownfield land within the settlement boundary*’ (justification paragraph 4.2.4(f)) as the NPPF emphasises prioritising previously developed land (brownfield).

Local evidence from the Chobham Local Housing Need Assessment shows a significant shortfall of smaller and more affordable homes for downsizing and first-time buyers. If these needs exceed the current allocations, the Neighbourhood Plan must allow further sustainable housing provision. In practical terms, this means CHI and related policies should not unduly restrict new housing, and therefore, sufficient land should be identified so that housing need can be met.

We suggest that CHI explicitly incorporates the new ‘*Grey Belt*’ guidance in the NPPF. The 2024 NPPF defines Grey Belt land as Green Belt land, including previously

developed land and land that does not strongly serve Green Belt purposes and requires plans to treat it as a second priority for development after other brownfield land. In particular, NPPF p.148 makes clear that when considering Green Belt release *'plans should give priority to previously developed land, then consider grey belt which is not previously developed, and then other Green Belt locations'*.

The PPG also states that plans will *'identify grey belt land to inform'*, Green Belt reviews and apply NPPF p.155 to any Grey Belt areas. If land in Chobham is assessed as Grey Belt, CH1 should treat it as eligible for development (subject to meeting the NPPF's p.155 criteria ahead of other Green Belt and the remainder of the policies within the Development Plan).

Paragraph 155 of the NPPF states that:

*'The development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where all of the following apply:*

*a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*

*b) There is a demonstrable unmet need for the type of development proposed (Which, in the case of applications involving the provision of housing, means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Tests was below 75% of the housing requirement over the previous three years...)*

*c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and*

*d) Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.'*

The Green Belt section of the PPG has been updated to explain how to assess Green Belt, to identify Grey Belt land and how to assess proposals on Grey Belt land.

With regard to proposals on Grey Belt land, the updated PPG states:

*'An assessment of Green Belt will (alongside other considerations) inform the determination of applications which involve reaching a judgement as to whether proposals utilise grey belt land and whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area.'*

It adds that *'Where grey belt sites are not identified in existing plans or Green Belt assessments, it is expected that authorities should consider evidence, in light of this guidance, on whether the site strongly contributes to the Green Belt purposes a, b or d, whether the application of policies to areas and assets of particular importance*

*identified in footnote 7 to the NPPF (other than Green Belt) provide a strong reason to restrict development, and whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area, as set out in national policy and this guidance.'*

To satisfy Basic Condition A, Policy CH1 must be reworded to align with the Grey Belt criteria set out in the NPPF (2024) and guidance. We recommend the following wording be inserted into CH1:

*'...land identified as grey belt under the new NPPF definition 2024 should be considered ahead of other Green Belt land for development, subject to compliance with other relevant Development Plan policies'*

The Chobham Neighbourhood Plan, as it stands, does not have regard to national policies and advice on Grey Belt land and therefore does not comply with Basic Condition A.

### 3. Policy CH2 – Meeting Local Housing Needs

Policy CH2 sets out requirements for affordable housing provision. We note the desire to secure community benefits; however, the policy, as drafted, is very prescriptive, which may conflict with viability and housing supply objectives. National guidance is clear that affordable housing targets must be realistic and achievable. Paragraph 66 of the NPPF expects that large sites provide a mix of affordable tenures and sizes based on local need. At the same time, paragraph 67 ('the Golden Rules') allows higher affordability rates only where justified and viable. The PPG on viability states that '*policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs..., without the need for further viability assessment at the decision making stage.*' Overly rigid affordable quotas, therefore, can make otherwise deliverable schemes unviable. Where figures are provided, these should be in accord with the Local Plan and be based on robust evidence.

We therefore suggest that CH2 be simplified and made less prescriptive by using more flexible language or viability caveats rather than fixed high percentages on all sites, aligning with the PPG expectation that affordable housing targets be evidence-based and realistic.

The NPPF encourages self-build and custom build housebuilding to meet local demand. Paragraph 28 states that Local Authorities '*must give enough suitable development permissions to meet the identified demand*' for self-build plots. Policy CH2 currently does not mention self-build. We therefore recommend the addition of wording to CH2 for self-build schemes, for example, allowing standalone self-build plots and also units on major sites to be self or custom-built in line with NPPF paragraph 28. This addition would help meet a recognised local need while supporting overall housing delivery in Chobham.

Including wording to the effect of the aforementioned would allow for the policy to have due regard for affordable housing and self-build housing delivery, key parts of national policies and guidance. In turn, such a modification would enable the CNP to be more able to conform with Basic Condition A.

#### 4. Policy CH5 – Drainage, Flood Risk and Infrastructure

We acknowledge the importance of protecting Chobham from flooding. We recommend, therefore, that the Neighbourhood Plan policy should be updated to state that applicants must take account of the latest guidance and data as released by the relevant body (for instance, the Environment Agency datasets and national drainage guidance by DEFRA).

The policy could be reframed to have more flexible wording, making it more outcome-based rather than prohibitive. This would allow schemes to proceed if they can incorporate modern drainage solutions or resilience measures. This approach aligns with sustainable development and would safeguard Chobham from the Neighbourhood Plan's goal of mitigating flooding while not hindering deliverable housing or infrastructure projects that can proportionately manage risk.

#### 5. Policy CH10 – Biodiversity Net Gain

We support the principle of improving local biodiversity; however, the policy must align with the statutory minimum net gain requirement. Under the Environmental Act 2021 (as implemented in February 2024), all new developments must achieve a minimum 10% biodiversity net gain. This is reflected in national policy: the PPG makes clear that '*under the statutory framework... the objective is for development to deliver at least a 10% increase in biodiversity value*'. In some cases, policies that demand well above 10% risk may conflict with legislation.

CH10 should also acknowledge the statutory exemptions to avoid conflict with legislation. The policy should signpost to The Biodiversity Gain Requirements (Exemptions) Regulations 2024, inclusive of the *de minimis*, householder and self-build exemptions.

As such, we recommend the amendment to CH10 to require at least 10% net gain rather than a higher target. Any local ambitions above 10% should be framed as targets or '*where feasible*' goals, not as a compulsory minimum for all schemes. CH10 should therefore ensure consistency with the Environment Act and NPPF.

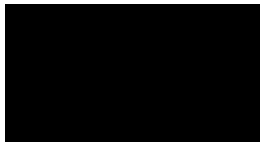
By not following the national minimum BNG target of 10% nor referencing the Exemptions, the Policy does not have regard to national policy and therefore does not conform with Basic Condition A.

## Conclusions

JMS Planning supports the overarching goals of the Chobham Neighbourhood Plan but suggests amendments to ensure compliance with the Basic Conditions set out in Schedule 4B of the TCPA 1990. Notably, the consultation draft CNP does not duly reflect national policy or advice, specifically with regard to '*Grey Belt*' land. In addition, there are inconsistencies between the draft Chobham Neighbourhood Plan and national policies/advice (Basic Condition A) and consequently achieving sustainable development (Basic Condition D).

Should Surrey Heath Council or Chobham Parish Council have any queries about the above, please contact us using the details provided at the header of this letter. JMS Planning wishes to be informed as the Neighbourhood Plan progresses.

Yours faithfully



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