

**Ockham Parish Council  
And  
Wisley Action Group**

c/o Ockham Parish Council  
Ockham Parish Rooms  
Ockham Lane  
Ockham  
GU23 6NP

Rt Hon James Brokenshire MP  
Secretary of State for Housing, Communities and Local Government  
House of Commons  
London SW1A 0AA

18<sup>th</sup> April 2019

Dear Secretary of State

The Secretary of State is asked to call in the Guildford Local Plan or direct its modification to cut back the massive over-allocation of Green Belt land for development and in particular to delete the proposed new settlement on the Former Wisley Airfield in the Green Belt. Guildford Borough Council are due to consider whether to adopt the plan at a full Council meeting on 25<sup>th</sup> April. **The Minister is therefore requested, as a matter of urgency, to make a holding direction to prevent the Council from adopting the plan until the Minister has been able to decide whether to exercise these powers.**

This letter has been written by our planning counsel, Richard Harwood QC.

*Summary*

The reasons for the Secretary of State intervening in the Guildford Local Plan are, in summary:

- (i) The Local Plan proposes to take land out of the Green Belt for 4,000 houses and associated employment, retail, services, schools and infrastructure in excess of the objectively assessed need and the proposed housing requirement for the district. That is an unprecedented *unnecessary* destruction of the Green Belt. The Government's determination to protect the Green Belt, and reliance on exceptional circumstances before changes are made to it, is wholly undermined by such incursions;
- (ii) The Secretary of State comprehensively rejected the planning appeal for the proposed Wisley settlement in June 2018 for reasons including the harm to openness and Green Belt purposes, to the character and appearance of the area, the unsustainable location and other harm which arose. The Local Plan reverses the Secretary of State's key findings and does so without acknowledging this or giving any reason for disagreeing with the Minister;

- (iii) The approach of the Local Plan to the effect of vehicle emissions on European Protected Sites is wrong. Increased emissions from development projects cannot be excused on the basis that emissions from existing traffic will reduce at a faster rate in circumstances where critical loads are being exceeded.

References are made to paragraphs in the Local Plan Inspector's Report (LPIR), the Secretary of State's Decision Letter on Wisley (DL) and the Inspector's Report on Wisley (IR).

#### *Housing numbers*

The Local Plan, as recommended to be modified by the Inspector, would contain a housing requirement of a minimum of 562 dwellings per annum, or 10,678 homes during the plan period from 2015 to 2034 (LPIR para 24). The housing trajectory – in a figure adopted by the Inspector – identifies delivery of 14,602 homes in that period on the basis of the plan's allocations (LPIR para 42, 83). The oversupply is therefore 3,924 dwellings. Land is to be taken out of the Green Belt to accommodate those 3,924 homes and the related schools, community facilities, shops, employment uses and infrastructure which are required to support them.

The Inspector says that Guildford might have to meet unmet need from Woking, but he declines to include that figure in Guildford's housing requirement (LPIR, para 37, 38). He suggests that the 'headroom' in the Guildford supply can accommodate any unmet need. Logically of course, the Woking need should either be in the requirement or outside it, rather than being used in this half-hearted fashion. However, any Woking need does not remotely justify allocating Green Belt sites to produce a 4,000 dwelling surplus. Any Woking shortfall would be at most 117 dwellings per annum (LPIR, para 37), of which 83 dpa are to be covered by Waverley's Local Plan (which had assumed a 50/50 split of earlier Woking figures) (LPIR, para 36). If unmet need from Woking had been included in the Guildford requirement, it would on any view have amounted to 1,000 or less of the Guildford oversupply.

The Inspector firstly seeks to justify this massive oversupply by reference to the merits of the individual schemes contributing to an 'integrated set of proposals' (LPIR para 83). The merits of Wisley are considered below in the context of the appeal decision, but huge Green Belt developments cannot be justified by relatively minor benefits. For example, claimed cycle network improvements at Wisley are not a good reason to have a new settlement. That is the tail wagging the dog.

His second and third points are the same: flexibility to deal with events (LPIR, para 84, 85). Development may well not turn out as planned, and that includes more land becoming available than expected, but a housing oversupply of over one-third is a paper-thin excuse for building on the Green Belt. Seen as a precedent – and there must be a risk that developers, local authorities and inspectors will consider it in that light – it sanctions wholesale development in the Green Belt without any need to do so. Indeed, it undermines the Green Belt purpose of promoting urban regeneration. If unnecessary land is proposed for development in the Green Belt, it will discourage existing urban, developed sites from coming forward. The builders and the market will be looking to the countryside.

#### *The Former Wisley Airfield*

The Former Wisley Airfield is proposed under policy A35 for around 2,000 homes together with 100 sheltered/Extra Care homes, 8 gypsy and traveller pitches, employment land, retail facilities, community uses and a new primary and secondary school.

The Local Plan Inspector's conclusion that the removal from the Green Belt of land at and near the Former Wisley Airfield and its allocation for a new settlement directly contradicts findings made the Secretary of State in the Wisley appeal in 2018. The Local Plan Inspector fails to acknowledge or explain those fundamental disagreements.

The Secretary of State agreed with the Inspector's conclusions and with his recommendation (DL 4; IR 22, 23) and gave detailed reasons on main issues.

The harm found by the Minister and Inspector consisted of:

- (i) 'very considerable' harm to the Green Belt's openness and the purposes of protecting the countryside and urban regeneration (DL 18, 19; IR 20.32-38);
- (ii) a severe impact on the strategic road network (DL a 21; IR 20.52-58, 22.3, 23.5);
- (iii) The proposals would go a long way towards making the site more sustainable (DL 25; IR 20.81). Contrary to the emerging Local Plan it does not provide a cycle network to Ripley and Byfleet stations 'as the roads are not of sufficient width' (DL 25; IR 20.76). 'the fact that the new settlement needs buses so that some of its residents can reach its own village centre is indicative of its lack of sustainable credentials' (DL 25; IR 20.78). 'this is not an inherently sustainable location' (DL 25; IR 20.79). They agreed with the local education authority that 'site is not a suitable location for an all-through school to serve the wider community' and would harm provision (DL para 25, IR para 20.182).;
- (iv) 'The proposals would make only a limited contribution towards cycling in the area; significantly less than envisaged in the eLP. While this limited provision is primarily due to the nature of the roads, the failure of the scheme to meet even the minimum requirements of emerging eLP Policy A35 is a further demonstration of the unsustainable nature of the location. There would be few facilities in the area, outside the site, that would encourage walking, and there is a general lack of footways and street lighting in the area. (DL 25; IR 20.80). The proposals 'may well result in a high level of car-dependency and so fail to assist in the provision of a low carbon economy' (DL 4, IR 23.7);
- (v) substantial harm to the character and appearance of the area which carried significant weight (DL 27; IR 20.87-90, 22.4). 'By being located in the midst of a cluster of hamlets the harm caused by the new settlement would be particularly noticeable and severe. The scale of the buildings would be wholly out of keeping with its context, causing harm to both the character and the appearance of the area. A combination of its linear form, in part a consequence of the smaller site, and its location on a ridge means that there would be longer views of the proposals, including views from the AONB from where the new settlement would be seen to impose itself on the landscape without regard to the established settlement pattern or form.' (DL 4, IR 23.8);
- (vi) less than substantial harm to designated heritage assets (grade II\* Chatley Semaphore Tower, the grade II\* registered garden of RHS Wisley, grade II Yarne, Upton Farmhouse and Appstree Farmhouse) (DL 28; IR 20.101-128, 22.5). Whilst outweighed in heritage policy (NPPF para 134) by the public benefits of the scheme (DL 4, 43; IR 22.6) they had moderate weight as part of the harm in the Green Belt assessment (DL 38);
- (vii) considerable weight to 44 hectares of best and most versatile agricultural land no longer being available (DL para 31; IR 20.152);
- (viii) loss of privacy to two dwellings carried limited weight (DL 39);
- (ix) The proposals 'do not constitute sustainable development' (DL 4, IR 23.9);

(x) 'The proposals are also in conflict with the Framework' (DL 4, IR 23.10).

These findings went well beyond the narrower grounds on which the Council sought to resist the appeal. The Council's appeal case sought to resist the application but defend the allocation. The Minister's conclusions have the effect of condemning both.

The Local Plan Inspector referred to the appeal decision and said 'the principal reasons for refusal concerned Green Belt, the strategic road network and the character and appearance of the area' (LPIR, para 181).

The Inspector relies on a series of justifications or claimed benefits for the settlement which the Minister has recently rejected.

'The alterations to the Green Belt boundary having 'relatively limited impacts on openness' and not causing 'severe or widespread harm to the purposes of the Green Belt' (LPIR, para 86). The Wisley development being on a 'substantial amount of previously developed land' (LPIR, para 86). At LPIR para 182 the Inspector relied on again on the partial PDL status of the land and its connection with the surrounding countryside. He said it would be 'fairly self-contained visually', failing to deal with the Appeal conclusions on visibility from the AONB and RHS Wisley amongst other locations. It would, he said, avoid pressure on other areas of the Green Belt. However, the Local Plan Inspector fails to address the Minister's conclusion that the scheme will cause 'very considerable' harm to openness and the countryside and urban regeneration purposes of the Green Belt.

The Local Plan Inspector said largest amounts of development were going to 'the most sustainable locations, or those which can be made sustainable' (LPIR, para 95). He continued at LPIR, para 183 'Its size means that it can support a suitable range of facilities to meet the needs of the new residents, creating the character of an integrated large new village with its own employment, schools, shops and community facilities, and it can support sustainable transport modes. This would avoid putting pressure on other areas of the Green Belt of greater sensitivity, and would avoid pressure on other communities too, because alternative smaller sites would be less able to deliver such a comprehensive range of facilities to serve the development.'

However, the Secretary of State identified that the site was not in a sustainable location and was so elongated that some of its residents would need to catch a bus to reach its own village centre. The modest levels of employment proposed are likely to be even further away from many residents (at the A3 end, as the application scheme was). The proposed secondary school is in an unsustainable location, with pupils having to be bused in from other, more sustainable locations, and would harm educational provision. Bus services would have to be funded in perpetuity to reach railway stations, all of which are outside a realistic walking or cycling range given distance and the narrow nature of local roads. The shops proposed in the application did not include a superstore. WAG point out that this illustrates a fundamental problem with the scheme: it is too small to meet its own needs for employment, education and retail, and increasing provision would just draw travel and trade to an unsustainable location.

In landscape terms, 'Wisley airfield is on a plateau and is not a prominent site' (LPIR, para 109). Strangely, the Local Plan Inspector says that the Minister's conclusion that the scheme would affect the character of the countryside was in the context of the existing local plan (LPIR, para 181), when that is unaffected by policy. The Local Plan Inspector fails to acknowledge or give reasons for disagreeing with, the severe harm to character and

appearance of the local area and the harm to more distant views from the AONB and RHS Wisley which were found by the Secretary of State.

He relied as a benefit on the proposed A3 slip roads at Burnt Common (LPIR para 83). At LPIR paragraph 132 the Inspector says this is 'proposed, principally to deal with potential traffic impacts of Wisley airfield (Policy A35)'. It is essentially a mitigation measure. Whilst it will take some existing and other development site traffic off local roads (LPIR, para 132), the Inspector fails to mention that it will put all that traffic onto one of the busiest parts of the strategic road network, the A3.

The Inspector relies on bus services being provided in perpetuity (LPIR, para 83, 139, 186), but as the Secretary of State agreed, the need to do so shows it is an unsustainable location. The time taken for buses to travel through the new settlement and traverse narrow country lanes will simply encourage car use.

Improvements to the cycle network are also seen as benefits (LPIR, para 83, 186). However, the Secretary of State concluded that the appeal scheme could not meet the draft plan's expectations because of the nature of the local roads. Quite simply, they are narrow and incapable of safely accommodating cyclists, so everyday cycle use off site, for example, to the railway stations, will be minimal.

In addition, he draws attention to gypsy and traveller provision (LPIR, para 83), but a small site for caravans cannot rationally be a justification for a 2,000 dwelling new settlement. The Inspector also relied on reductions in NO<sub>x</sub> emissions from motor vehicles generally as making the effects of increased traffic generation on the Thames Basin Heaths Special Protection Area acceptable (para 113, 114). This is considered further below.

The Inspector omits from his consideration of exceptional circumstances the harm to designated heritage assets (which he notes at LPIR para 181 and does not dispute) and the loss of best and most versatile agricultural land identified by the Minister as part of reasons for refusing the scheme on Green Belt grounds.

The Local Plan Inspector's comment that the scheme would 'deliver a significant contribution towards the Borough's housing requirement, helping to meet a pressing housing need' (LPIR, para 183), has to rely on his earlier support for the massive overallocation of housing in the Plan.

The differences are not explained by the use of exceptional circumstances in the local plan process and very special circumstances in the appeal. Housing need is not normally sufficient for very special circumstances yet it might give rise to exceptional circumstances. Yet at the time of the appeal there was the 'significant shortfall' of a 2.36 year housing land supply and the Minister attached significant weight to the housing provision (DL para 40) and along with the limited other benefits of the scheme (DL para 41; IR 22.12, 22.14-15). Some, but limited, weight was given to the allocation of the site (IR 22.10). By the time of the Local Plan Inspector's Report the housing need has reversed: even without Wisley the plan provides for 2,000 homes more than the need. Given the housing supply in the borough, there is no need for housing development at Wisley and so that cannot contribute to exceptional circumstances given all the other effects of the scheme.

The Local Plan Inspector's conclusions on the Wisley allocation are contrary to the Minister's findings last year. Those contradictions are ignored and no justification is given for the

changes in position. At the very least the Secretary of State should make the final decision on these matters.

#### *Land removed from the Green Belt which is not allocated*

The changes at Wisley include the removal of land from the Green Belt to the south east of the former airfield but which are not included in the new settlement allocation. No explanation is provided in the plan for this removal, but the land is necessarily being made available for future development. The Inspector fails to address whether there are exceptional circumstances to justify this alteration.

His sole relevant finding is a general one that ‘it is not necessary to create safeguarded land which would have to be removed from the Green Belt to meet longer term development needs’ (LPIR, para 84). Consequently, he finds that there is no justification for taking additional land out of the Green Belt beyond the allocations. It necessarily follows that the wider Green Belt deletion at Wisley should not take place.

#### *Habitats*

Deposition of nitrogen oxides on the Thames Basin Heaths Special Protection Area already exceed the critical level for NO<sub>x</sub> and the critical loads for nitrogen deposition due to traffic on the A3 and the M25. The Local Plan Inspector’s approach to this issue is rely on the benefit of anticipated reductions due to improvements in vehicle emissions and government initiatives to improve air quality (LPIR, para 113). Those reductions in the impact of existing traffic will, it is suggested, offset the emissions from additional traffic generated by development.

Such an approach is obviously wrong in principle – it is not acceptable in a planning context to choose to cause harm simply because other entirely unrelated improvements will counteract it. The outcome would in that case be that the position will be worse because of the development than it would otherwise have been.

That conclusion has recently been reached by the European Court in habitats matters in *Cooperatie Mobilisation for the Environment v Vereniging Leefmilieu* C-293/17 at para 123, 124, that it is not possible to rely on conservation measures taken by government to grant authorisation for a project which is subject to appropriate assessment. The Local Plan’s approach to habitats is unlawful.

More detailed problems with the habitats approach are set out in the attached paper by WAG’s ecology consultant, Andrew Baker.

#### **Conclusion**

The huge overallocation of Green Belt land for development dramatically challenges the government’s Green Belt policy. As the Prime Minister said in her housing and planning speech on 5<sup>th</sup> March 2018:

“Planning rules already say that Green Belt boundaries should be changed only in “exceptional circumstances”. But too many local authorities and developers have been taking a lax view of what “exceptional” means. They’ve been allocating Green Belt sites for development as an easy option rather than a last resort.”

That unfortunately is what is happening here.

Leaving the Wisley settlement in the plan despite the Secretary of State's forthright rejection of the planning application will not just reverse the appeal decision but undermine the decisive role of the Secretary of State in the planning process. The Secretary of State's views will be seen as overridden by a council which has pursued a Wisley settlement in the face of the objections which the Secretary of State articulated.

Yours sincerely

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Chair, Ockham Parish Council

Helen Jefferies  
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**Enclosures**

**Links to:**

The proposed local plan

[https://www.guildford.gov.uk/newlocalplan/media/29807/Appendix-4---Adoption-Guildford-Borough-Local-Plan-2015-2034-Print-Version-Reduced/pdf/Appendix\\_4\\_-\\_Adoption\\_Guildford\\_Borough\\_Local\\_Plan\\_\(2015-2034\)\\_Print\\_Version\\_\(Reduced\).pdf](https://www.guildford.gov.uk/newlocalplan/media/29807/Appendix-4---Adoption-Guildford-Borough-Local-Plan-2015-2034-Print-Version-Reduced/pdf/Appendix_4_-_Adoption_Guildford_Borough_Local_Plan_(2015-2034)_Print_Version_(Reduced).pdf)

The Local Plan inspector's report (attached)

[https://www.guildford.gov.uk/newlocalplan/media/29804/Appendix-1---The-Inspectors-Report/pdf/Appendix\\_1\\_-\\_The\\_Inspector's\\_Report.pdf](https://www.guildford.gov.uk/newlocalplan/media/29804/Appendix-1---The-Inspectors-Report/pdf/Appendix_1_-_The_Inspector's_Report.pdf)

The Wisley appeal decision and inspector's report (attached) in one document

## **Annex**

### **The Secretary of State's powers**

The relevant powers of the Secretary of State are:

#### *Directing modifications of the plan*

If the Secretary of State thinks that a local development document (including a local plan) is unsatisfactory he may direct the local planning authority to modify the document in accordance with the direction at any time prior to adoption.<sup>1</sup> The authority then have to comply with the direction and must not adopt the document until the Secretary of State gives notice that he is satisfied that they have complied<sup>2</sup> or the direction is withdrawn.<sup>3</sup>

#### *Calling in the plan or part of it*

Prior to adoption the Secretary of State may direct that the local plan, or any part of it, is submitted to him for approval.<sup>4</sup> The local planning authority then have no power to act until the Secretary of State decides whether to approve the document, approve it subject to specified modifications or reject it in whole or in part or withdraws the direction.<sup>5</sup> If the direction is made during an examination then the Inspector must report to him.<sup>6</sup>

#### *Making a holding direction whilst considering whether to take either step*

The Secretary of State is able to make a holding direction in relation to any local development document whilst he considers whether to exercise any of his s 21 powers. Such a s 21A direction will prevent the local planning authority from taking any step in connection with the document's adoption until the direction is withdrawn or expires under any time limit in it.<sup>7</sup>

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<sup>1</sup> Planning and Compulsory Purchase Act 2004, s 21(1). Reasons must be given for making the direction: s 21(1)(a).

<sup>2</sup> Planning and Compulsory Purchase Act 2004, s 21(2).

<sup>3</sup> Planning and Compulsory Purchase Act 2004, s 21(3).

<sup>4</sup> Planning and Compulsory Purchase Act 2004, s 21(4).

<sup>5</sup> Planning and Compulsory Purchase Act 2004, s 21(5)(a),(9)(a).

<sup>6</sup> Planning and Compulsory Purchase Act 2004, s 21(5)(c).

<sup>7</sup> Planning and Compulsory Purchase Act 2004, s 21A(1).