

Lower Town Farmhouse,  
High Street,  
Clifton Hampden,  
OX14 3EQ

Mr Andrew Ashcroft, Independent Examiner  
c/o South Oxfordshire District Council  
By email: [Ricardo.Rios@southandvale.gov.uk](mailto:Ricardo.Rios@southandvale.gov.uk)

17 October 2024

Dear Mr Ashcroft

**CLIFTON HAMPDEN NEIGHBOURHOOD DEVELOPMENT ORDER EXAMINATION  
REPRESENTATION TO THE EXAMINER**

We are writing to make a representation about the ongoing examination of the Burcot and Clifton Hampden Neighbourhood Development Order. You have been very fair to the objectors, including all 5 councillors, giving them an opportunity to present their case at the Hearing. You have also been fair to those who support the NDO, by allowing the councillors to appoint others, 'the best team,' to defend the NDO at the Hearing. We now ask that you allow the Hearing to proceed, and subject to the outcome of your examination, that you allow the NDO to proceed to referendum, thus giving the whole community their voice in line with their expectations.

To get to this stage has taken 12 years. It has taken over £115,000 of public grants. It has required thousands of hours of work by the community who have contributed to the various consultations, the Steering Group with its community members, landowner, development partner and GP surgery, and the various statutory bodies. That engagement has continued despite the opposition of the current councillors, meeting on multiple occasions to try and find a viable solution to the councillors' concerns. The NDO has cost significantly more than the grants obtained. The development partner has absorbed those costs without a word of complaint, and continues to do so. And should the NDO go through, the development partner, who is an investor in our community, will only get out what has been put in. He will not make a profit. The community is unbelievably fortunate to have found someone so community minded.

All of this will go to waste if the NDO if the examination does not proceed.

In their update of 30 September, the Parish Council have re-iterated their position that unless changes which respond to their key concerns are made to the NDO, it is

unlikely that they will allow the NDO to proceed to referendum. Their update is in response to our answers to 7 questions posed by them at the public meeting of 2<sup>nd</sup> September. We attach these for your reference, as they set out very clearly our position on each issue.

Their representation to you, i.e. the 30 September update, is misleading and unfair, and is in contravention of their obligations as councillors to be objective and approach decisions on matters where the community is divided with an open mind, and without the appearance of a closed mind. They do not balance their concerns against the considerable benefits of the scheme. They have never proposed alternatives for how they would deliver the benefits if the scheme does not go ahead. They have negotiated in poor faith, only ever repeating their concerns, never offering or exploring potential solutions, and refusing to accept commercial and financial realities. They have consistently presented the land owner and development partner, i.e. the investor, as intransigent. It is unreasonable to expect a development partner, who is here by invitation, to suffer a financial loss. This is unfair not only to those who have contributed so much, but more importantly the whole community who look to them to act in the community's best interests.

The level of engagement and strength of support for community led planning in general, and the NDO in particular, will be apparent to you from the Consultation Statement, as will the lengths that the previous Parish Council went to address concerns by radically redesigning the scheme. 184 residents turned out to vote in the Neighbourhood Plan referendum; 83% voted yes. 100 residents signed a petition demanding their right to a referendum on the NDO. In contrast, the current Parish Council have not consulted the community since taking office and are acting on their own prejudices and opinions as set out in their responses to the consultations, which pre-date their election. They have no community mandate to prevent the NDO from proceeding to referendum.

All of the issues the Parish Council raise have been carefully considered as the NDO took shape– housing location, numbers and mix, the surgery, parking, flooding, the Community Land Trust. We have shown flexibility after submission as circumstances change, for example over surgery ownership whereby the development partner agreed to deliver the whole NDO and its benefits at cost, offsetting the financial loss related to the surgery with his profit from housing.

In summary, our representation to you is to ask you to do all within your powers of discretion to continue with the examination of the NDO as submitted, on grounds firstly of fairness to all concerned, and secondly to provide the opportunity for a return on the considerable investment in time and money that has already been made by community volunteers and partners alike, at the behest of both this Parish Council, and its predecessor..

Thank you

Signed

Giles Baxter, Chair NDO Steering Group

Chris Neill, Chair previous Parish Council

Chris Brotherton, Development Partner and Investor

Christopher Purvis, Trustee Gibbs Estate, Landowner

**Attachment:**

**Burcot and Clifton Hampden Parish Council  
Public Meeting 2 September 2024  
Response to the seven questions posed by the parish council**

**Giles Baxter**

I will start by thanking the Parish Council for the opportunity to meet in public. We have prepared a response which will take about 20 minutes to get through, so we ask that you keep your questions to the end.

The NDO is a parish council initiative. In this meeting Christopher Purvis and Christopher Brotherton are the Parish Council's partners, namely landowner and development partner/investor. I am attending as chairman of your steering group giving guidance on process.

My interests are recorded in the minutes of the Steering Group meeting. I would like to add one interest, namely that I am one of a number of residents who are members of chandbndo, campaigning for a positive outcome to the Neighbourhood Plan referendum this Thursday. This interest does not bring me into conflict with the subject of this meeting, which is the NDO

We should like to make some introductory comments on the notice of this meeting and the background to the seven questions you have asked us to answer. We shall then take each question in turn.

This is the seventh time we have met members of the parish council since December last year – on top of the many meetings last year. We believe that all of the seven questions that you are now asking have been raised previously - and they have been answered. We nonetheless welcome the opportunity to meet and respond formally, in public forum, on the record, to the questions you raise.

We agree with the statement you make in the notice of this meeting that it is the duty of the parish council, as the qualifying body, to ensure that the claimed benefits of the NDO outweigh the losses and that the NDO meets the basic conditions, which include the delivery of benefits. To do this, as advised by the Examiner, you must exercise judgement, balancing the pros and cons.

You say in the notice of this meeting that the responses to these questions will inform your decision-making process in determining the next steps - again requiring the parish council to exercise judgement.

We wish to formally record our concerns on Governance and Decision Making. In our opinion the current parish council is not able to consider the matter objectively, or more importantly, cannot be seen to consider the matter objectively. Put another way, we consider you are approaching the matter with a closed mind **and** the appearance of a closed mind. The Code of Conduct requires councillors to declare their interests, which, in the main, you

have done in your Register of Members' Interests forms, but never during Parish Council meetings, or in the many 'behind closed doors' sessions in which decisions have been made.

Two examples of such a 'behind closed doors decision' are the submission of your concerns document to the Examiner, and the publication on the website of your position that you are unable to support the NDO in its present form.

Declaration of interests alone are not sufficient. Unless written dispensations are in place, councillors must recuse themselves from relevant discussions and meetings. To our knowledge, no written dispensations are in place and available for public inspection, and on no occasion have councillors recused themselves.

The LGA Guidance to Councillors on bias and predetermination makes it clear that there are at least two examples in which a Parish Council cannot be objective, or seen to be objective, if:

example 1, one or more councillors live close to a potential development site under consideration by the parish council, or,

example 2, in a matter where there are opposing views amongst parties within community, a councillor is closely aligned with one of those parties.

Councillors Juffkins, Neave and Schenk live in properties adjacent or close by the two NDO sites, and all five councillors are closely associated, indeed leaders of, a group of objectors.

We have seen the transcript of the meeting between the Independent Inspector and Councillors held earlier this year, released by SODC under FOIA. The Inspector makes it clear that during the Examination, councillors cannot represent the parish council in defending the NDO, as they are themselves objectors. To do so would be unfair, and he would stop the process.

The same principle surely applies here. All councillors are objectors, and in three cases councillors have a conflict of interest due to the proximity of their properties to the development sites. Councillors should now stand aside, allow the Examination to proceed on the basis of the NDO as submitted and response to clarification questions.

### **Christopher Purvis**

Let us now turn to the background to the seven questions which you have asked us to address.

I have explained before - and do so again now for the record - that I am a Trustee; I am not a beneficiary of any Gibbs Trust nor am I paid or remunerated in any way for my role as a Trustee. The Gibbs Estate comprises three entities: DCL Gibbs Will Trust, DCL Gibbs Children's Trust and Land belonging to the Executors of Christopher Gibbs.

Following Christopher Gibbs' death in 2018 the Trustees made the decision to dispose of the remaining Estate land and property within a ten year period. The Parish Council subsequently approached the Estate about making their land available for consideration as part of the emerging Neighbourhood Plan and the Trustees agreed that the Gibbs' Estate land should be available for consideration.

The Gibbs family has had a concern to ensure that Clifton Hampden and Burcot is well catered for. In the last 20 years gifts to the village have included the recreation ground and the wharf and £200,000 towards the upkeep of the church. In this spirit the trustees welcomed the approach from the parish council five years ago and were happy to work with the parish council on the plan and to back the NDO as it was put forward in March 2023, giving as it does significant benefits to the village as well as allowing the estate to meet its objective of disposal.

You, the current members of the parish council, have made it clear that you are each opposed to the NDO. During the last four years attacks have been made on landowner, developer and members of the steering group and the previous parish council. An accusation was made that the Gibbs estate had, though a property transaction, influenced the decision of the steering group to choose the plots for building plots that were owned by the Gibbs estate. This accusation was finally dropped by you earlier this year.

In spite of these attacks, the landowner, developer and working group have attempted to meet concerns of the parish council. There has been no lack of engagement on our part. Since December 2023 we have met 7 times with the parish council – and many more times last year.

An important meeting was held on 10 June with the whole parish council. A transcript of the recording made is available but has not been published on the website. This needs to be on public record as it demonstrates our engagement in the process.

On 13 June we confirmed in writing our response to the questions which you had asked and which were discussed at the 10 June meeting.

On 26 June I wrote a detailed email discussing the possibility or not of adjusting aspects of the NDO and offering a meeting that week.

On 15 July I sent to you an illustrative spreadsheet and a pdf which we had prepared in order to show the financial effect of different scenarios.

In these communications we made it clear that we are willing to engage in discussion about possible changes to the NDO; but such changes had to be viable. You have made no suggestions of alternative plans that are in any way viable.

These seven questions have already been addressed by the developer, landowner, and working group and you have been provided with the answers on several occasions. The answers which will be given shortly are wholly in line with the information and answers already provided in writing. This is a repeat of the known position.

In answering the parish council's questions we will draw on both the financial data in the Stage 3 Viability Assessment which has been published on the SODC website, and the modelling of alternative options using the base data which I mentioned just now.

We would remind you that, because of the position of the NHS on allowable rent at around 70% below market rent, the surgery represents a fiscal deficit of more than £900,000, which

must be made up before the scheme generates profit, either for the community or the developer. The scheme is therefore only viable because the developer, who should be considered as an investor in our community, has agreed to deliver the entire scheme at cost.

This is an extraordinarily generous offer. It would be unreasonable to expect the developer to deliver the scheme at a loss. This is a red line for him.

Let us now turn to question one. Let me read it:

*1. We believe that as presently constituted, the NDO does not comply with SODC Local Plan policies concerning affordable housing. What steps do the SG believe they can make to address this issue?*

You are right: the NDO does not comply fully with SODC's policy concerning Affordable Housing. However it is in line with National Planning Policy which allows variation in specific cases.

This is one such specific case. To comply with this policy would require a significant increase in the number and size of dwellings in order to make the scheme financially viable. The delivery of smaller units is a key part of the proposal; hence the dwellings on the allotment site are all relatively small in size and scale.

We have modelled two 'compliant' options, as set out for you in our Options document:

- a. Reduce the total number of new houses to 9, avoiding the need for affordable housing, with corresponding removal of financial grants to the school and recreation ground facilities. This option results in a loss to the developer of £0.75m.
- b. Increase the total number of houses to 22 which would meet the affordable housing policy requirement, some additional parking as requested by the parish council, all other benefits unchanged. This scheme breaks even, but it would not meet your requirement to reduce the impact on the Green Belt. On the contrary, space would have to be found for 5 additional houses and 30 new car parking spaces

We have not modelled an option to convert two market houses to affordable housing; but I can tell you that this would result in a loss of approximately £500K.

So there is a trade off here – the benefits to our own community and minimising impact of the Green Belt traded off against a full affordable housing complement. It is for the Examiner to decide if the trade off which we are proposing is compliant with the basic conditions.

The benefits to the village of the NDO that has been submitted are very significant. Affordable Housing is beneficial to society as a whole. We have argued that the special circumstances of the benefits to the village are more than sufficient to outweigh the lack of a full complement of social housing. It is notable that our current parish council, which is meant to represent the people of this parish, is arguing against the provision of benefits for this parish in favour of those for society as a whole.

It is relevant that SODC have just granted planning permission for 47 new houses in Long Wittenham - with **no** Affordable Housing. This was justified on the grounds that the scheme will deliver a new community hub and a new school.

### **Chris Brotherton**

We turn to your second question – again let me read it out:

*2 We note the changes proposed since the NDO was submitted last year regarding the freehold for the proposed new doctors' surgery. As set out in the published NDO document, it was initially intended that the surgery freehold would be in community ownership with a lease clause that enabled the community to have the final say on any future usage of the surgery building if the surgery operation were to cease, for whatever reason. Under the new proposals, the surgery freehold will now remain with the developer. The parish council believes that this change puts into serious doubt the 'Very Special Circumstances' that would have pertained had the freehold stayed in the community. Can you explain your present position on this issue?*

*Furthermore, under the amended proposal relating to the surgery, the developer is proposing a rent subsidy that over 18 years will amount to £900,000. This represents a substantial risk to the scheme. To what extent can the developer mitigate the risk?*

The Viability Assessment submitted with the NDO assumed that the GP partnership would own the long lease on the building, and that the NHS would pay full market rent, i.e. that the surgery was cost neutral to the scheme. Under these conditions, it was reasonable for the community to take ownership of the Freehold as the development partner would have no need for a long term interest.

This changed when the NHS offered a significantly reduced rent and the surgery no longer wished to purchase a long lease, opting for an 18 year rental agreement – we have already explained the financial implications of this. This change required a change in the Freehold arrangements. We, Thomas Homes, were happy to subsidize the rent for a surgery; but through the new arrangement we had some possibility of recovering some of our investment in the unlikely event that the surgery fails at some point in the distant future – which we all hope will not happen!

In this discourse and in the numerous meetings of the working group, the debate has centred on the Freehold, which has a relatively small value, and not the Leasehold where the substantial asset value lies. It was never the intention, stated or otherwise, that the community would own the Leasehold interest. In the submitted NDO, the GP partnership would purchase the Long Leasehold interest, typically 125 years. Under the new arrangements, the Freehold will be retained by the Developer.

On 30 July, the practice manager wrote to me.

“I am disappointed to hear things with the Neighbourhood Development Order have slowed and could be at risk of being withdrawn. If the NDO is withdrawn, this would have a huge impact on the likely future of a surgery in Clifton Hampden village. We have less than 7 years on our existing lease in the current surgery building, but it is unlikely we will practically be able to renew the lease in this building as it is not fit for purpose. With



expanding patient numbers expected due to an increase in housing in the area, the lack of consulting room space, car parking, and general facilities to name just a few of the reasons we require a new building in order to continue having a practice in the village. The prospect of a new building has been a good talking point for GP's who are about to join our practice with a view to taking on partnership in the long term with a new, purpose built building. In my opinion, if a new surgery is not built, the current surgery will close at the end of it's existing lease period"

Marc Juffkins has spoken in the past about risk. There is a balance of risk here: the surgery moving into a new building but with a risk, however unlikely, of the practice failing at some point in the distant future and the use of the building changed to some other form of community benefit on commercial terms, versus the almost certain outcome of the surgery closing its doors in less than seven years. We are simply at a loss as to why the Parish Council would consider a course of action that would lead to the certain loss of the surgery.

My firm Thomas Homes was invited to help develop plans for this NDO five years ago. We have been happy to invest considerable time and money. The scheme is a very important one for us. We have a record of carrying out some schemes with considerable social impact; Clifton Hampden is one of them. We are therefore happy to be working on a scheme which yields us no profit. But in the event that the surgery fails we do wish to claw back some of our investment.

We do not accept your position that the new arrangements invalidate the very special circumstances. This is a commercial matter, not a planning issue. It is now for the Examiner to decide whether, in planning terms, the very special circumstances exist and whether the basic conditions are met.

### **Christopher Purvis**

Let me now take question 3:

*3 The public consultations highlighted the inadequate parking provisions of the proposed NDO. As a result, the PC asked the interested parties to reconsider the arrangements and come up with a more suitable plan. What is the current state of affairs on this question?*

The NDO provides more parking than is required on a Statutory Basis and it increases the amount of parking available in the village at present. It is therefore an improvement. During the consultation period we gave careful consideration to providing many more parking spaces than we finally put into the NDO; but we believed that on balance the village did not want to be swamped with more tarmac. It is therefore a compromise, a compromise reached after much discussion. To add more spaces would be a further adverse impact on Green Belt which we do not believe the parish wants; and it would cost more which means that other benefits would have to be cut.

We therefore believe that we have the right amount of parking.

### **Christopher Purvis**

*4 Several public consultations strongly indicated that there is no demand for the three very large houses proposed for the Paddock sites. We have asked the interested parties to*

*reconsider the need for these houses and to come up with an alternative. What is the present situation?*

*Further to this, we understand that the developer believes that the NDO might be unviable without these three very large, expensive houses. One solution to the viability problem would be for the landowner to reduce the land price. What does the viability equation look like if the land is valued at current value, without an uplift, given that this is a community project and not a profit-driven developer initiative?*

As you well know from past discussions the financial plans in the submission demonstrate that the larger houses are needed to make the plan financially viable. Reducing the land value in order to remove the three large units creates a non viable scheme.

As to the price, the scheme provides for a relatively modest increase in land value from current value, and there has never been any suggestion that the Estate should provide the land at below market value.

We have been advised that if sold today there would be a significant uplift to agricultural prices because developers would be willing to speculate on the likelihood of obtaining planning permission, particularly given the new Labour Government's policy position to loosen Green Belt protections.

We have modelled options that address these questions as follows:

- a) Removing the Paddock Site housing, but retaining the new burial ground (which we believe to be an imperative), results in a loss of £1.9m.
- b) If you do the same - remove the Paddock Site housing, but retain the new burial ground - but with the price paid to the landowner reduced to zero, i.e. gifted, there would still be a loss of £0.93m.

The viability paper which is on the website demonstrates that the pricing is generous to the village.

Therefore in conclusion the three houses on the paddock are an essential element of the whole plan and its provision of benefits for the village; and the land price being paid to the landowner is reasonable.

### **Chris Brotherton**

*5. The housing development is targeted at community needs. What assurances are in place to offer the community the best chance of benefit from this housing stock to meet their own needs, before launching on the open market?*

We have explained this many times and do not understand why the question is being asked again. People with addresses in the parish will have first option on properties but there will be no discount to the sale price.

### **Christopher Purvis**

*6 Our assessment is that the scope of the submitted flood risk assessments in the NDO does not adequately consider the potential impact on housing in Clifton Hampden. We are seeking assurances that recent flooding/sewage concerns in Clifton Hampden will not be exacerbated by the proposed NDO development. What is your response to this question?*

The Flood Risk Assessment has been provided by an expert in flood risk assessments. The SUDS design document demonstrates how surface water is directed away from the village to the west, attenuated to agricultural levels using 'leaky hose' principles. There have been no objections from OCC, the relevant statutory consultee, to this assessment. Both experts conclude there is no flood risk from the proposed housing.

### **Christopher Purvis**

*7 To date, the PC has not been shown the Post Office lease. We need to see this to satisfy ourselves of the risks and potential obligations associated with the Post Office coming into community ownership. When will we be able to see the lease?*

This is entirely up to the tenants; they have not given consent for the lease to be released to the parish council. It is not within our gift, nor that of the Community Land Trust (who were provided with a copy for the purpose of producing a Business Plan and Financial Forecast), to release it to you.

The CLT trustees, taking advice from the current landlord, are satisfied that the CLT is commercially viable, without financial risk to the PC, and that this should be sufficient for your purposes. The business plan and financial forecast have been made available to you.

This concludes our response to your seven questions.