



Proposed Main Modifications Salt Cross Area Action Plan (AAP) Consultation Response Form

REF:

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Please return to West Oxfordshire District Council by 5pm on Friday 4 November 2022

This form has three parts:

By Post: Planning Policy,

West Oxfordshire District Council,

Elmfield,

New Yatt Road,

Witney,

Oxon.

OX28 1PB

Or by Email:

planning.consultation@westoxon.gov.uk

PART A – Personal Details (note: you only need to complete Part A of the form once)

PART B – Your representation(s) on the proposed Main Modifications (MMs)

**PART C – Your representation(s) on the Sustainability Appraisal Addendum Report or the
Habitat Regulations Assessment Addendum Report**

PART A – PERSONAL DETAILS

	1. Personal Details	2. Agent's Details (If applicable)
Title	[REDACTED]	
First Name	[REDACTED]	
Last Name	[REDACTED]	
Job Title	Energy Group co-ordinator	
Organisation	GreenTEA (Transition Eynsham Area)	
Address Line 1	74 Acre End Street	
Line 2	Eynsham	
Line 3	Witney	
Line 4		
Post Code	OX29 4PD	
Telephone Number	[REDACTED]	
Email Address	[REDACTED]	



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PART B (1) – Representations on Proposed Main Modifications (please complete a separate Part B form for each representation you wish to make)

Name of Organisation: GreenTEA energy group

1. To which proposed Main Modification (MM) to the submission draft Salt Cross Area Action Plan does this representation relate?

Proposed Main Modification Reference Number (e.g. MM1) AAP as modified in general

2. Do you consider the proposed Main Modification is legally compliant and sound? (Please refer to the separate guidance note on completing this form for further explanation on these requirements)

(1)	Legally Compliant	Yes	No	X
(2)	Sound	Yes	No	X

3. Please give details of why you consider the proposed Main Modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the proposed Main Modification, please also use this box to set out your comments.

This response concentrates on climate change as the draft AAP stated ‘*With the District Council having recently declared a climate emergency, **the vision is focused on climate action, which forms a golden thread running through the whole AAP in areas such as sustainable construction and renewable energy, waste, the water environment, transport, design and biodiversity.***’ It puts climate action front and centre.¹

‘*..Salt Cross will be known for its emphasis on the environment, quality and innovation **and will tackle the challenges presented by climate change ‘head-on’ adopting a zero-carbon and natural capital based approach providing a model example of how to plan a new community for the 21st century in a logical, organic and sustainable way. The perfect setting for wildlife and people to flourish together***’¹ (my emphasis) None of these statements have been removed but the related objectives and policies have been watered down and amended, meaning these are empty ambitions without the enforceable standards required to deliver them. See detailed comments on MM2 and MM4 below.

Daily there is mounting evidence on the need to act in the face of the accelerating climate and ecological emergency. On 27.10.22 the UN *Emissions Gap Report 2022: The Closing Window – Climate crisis* calls for rapid transformation of societies and ‘finds that the international community is falling far short of the Paris goals, with no credible pathway to 1.5°C in place. Only an urgent system-wide transformation can avoid climate disaster.’¹ This report provides an in-depth exploration of how to deliver this transformation, looking at the required actions in the electricity supply, industry, transport and buildings sectors, and the food and financial systems. Further detail is provided under MM4 below.

¹ <https://www.unep.org/resources/emissions-gap-report-2022>



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The day before there was a sobering report from [the Lancet](#) on the health impacts of climate change. Delaying action will cost much more in the longer term. It therefore makes no sense to remove zero carbon measures when there is an urgent need and it is supported by local councils at all levels and actively desired by the community.

The AAP was seen as an exemplar for net zero development. The changes proposed will mean that the opportunity to do the best by the planet and inspire others have been missed, with national implications.

More generally it is unreasonable to expect a meaningful consultation when, following lengthy detailed consultation which resulted in the draft AAP, major changes have been made without any detailed justification from the Planning Inspectorate; this was despite legitimate requests from various authorities and interested bodies. Indeed the statement that Policy 2 was not justified or compliant with national policy ignores the compelling evidence submitted and also apparently pays little regard to relevant planning law and policy which establishes a planning authority's power to require higher standards: the Planning and Compulsory Purchase Act, S1. Planning and Energy Act 2008, Planning Act 2004, Climate Acts 2008 and 2019 and NPPF 2021 as set out by the Town and Country Planning Association (TCPA) who The TCPA comment that 'the decision by PINS to gut the net zero policy is plainly wrong and both irrational and unreasonable in terms of public law.'² The consultation is thereby invalid in public law until this procedural issue of absent justification in planning law and policy is resolved.

On the basis of the above, the Modifications in their entirety are **not legally compliant**.

Soundness

The **NPPF Section 3 Plan-making** sets out the criteria for preparation of plans and for establishing soundness.³

16(a) be prepared with the objective of contributing to the achievement of sustainable development

35(d) Consistent with national policy

By removing the Core Objective GV3 (MM2) and Policy 2 (MM4) from the AAP, the central pillar of an exemplar garden village has been taken away, thereby undermining the sustainable nature of the other policies, proposals and criteria of the AAP. The TCPA has noted that 'the plan's net zero objective is clearly in line with government policy, supported by the Sixth Carbon Budget which is itself enshrined in law and entirely consistent with the climate duty in the 2004 Planning Act and the powerful enabling law in the Energy Act'.⁴

16 (b) Be prepared positively, in a way that is aspirational and deliverable.

The AAP aspires to be an exemplar of sustainable development by seeking high and appropriate standards for the garden village and its environmental, economic and social outcomes. Net zero development has been practically demonstrated to be both practical and practicable in the UK. The housing market, energy prices and customer demand in Eynsham would clearly make net zero development commercially viable for developers and landowners, and economical for householders and the local authority prepared a viability report.

² <https://tcpa.org.uk/pins-assault-on-an-exemplary-net-zero-planning-policy/>

³ NPPF 2021 section 3 Plan making <https://www.gov.uk/guidance/national-planning-policy-framework/3-plan-making> accessed 29.10.22

⁴ <https://www.gov.uk/government/news/uk-enshrines-new-target-in-law-to-slash-emissions-by-78-by-2035>
<https://tcpa.org.uk/pins-assault-on-an-exemplary-net-zero-planning-policy/> accessed 29.10.22



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Preparing and reviewing plans

31. The preparation and review of all policies should be underpinned by relevant and up-to-date evidence.

At examination plans are also 'sound' if they are

35 (b) Justified: The evidence set out above and as submitted, (for instance : [Assessing the Trajectory for Net-Zero Buildings for the Oxfordshire Cotswolds Garden Village](#)) in support of the AAP shows that the policies which tackle the climate and biodiversity challenge by setting clear standards are fully justified and necessary if we are to achieve binding carbon reduction targets. The Modifications do not take account of AAP supporting evidence and AAP ambitions as detailed in MM2 and MM4 below.

16 (c) Be shaped by early, proportionate and effective engagement between plan makers.

The AAP has been prepared by a long and detailed involvement of councils, local organisations, concerned people and the commercial master planners.

We (GreenTEA) contributed in depth to the consultation which resulted in climate change and biodiversity standards for an inspiring example of zero carbon construction.

The Modifications undemocratically remove this key aspiration of involved stakeholders.

16 (d) Contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.

The changes have added vagueness and ambiguity. They include additions, deletions and changes of language throughout that have greatly weakened the original text. They have lowered standards and introduced loopholes that will allow developers to make excuses for not meeting them. It is also inconsistent as the changes to Policy wording do not reflect the detailed arguments, evidence and aspirations set out elsewhere in the Plan.

To list a few damaging modifications: introduction of general and ambiguous text: 'wherever possible' MM2; 'feasibility' MM4 (Policy 2) , 'so far as practicable' MM5 (Policy3); 'paying appropriate regard to' MM9 (Policy 6); 'around 50%' MM12 (Policy 12; green roofs and gardens should not be counted in this); 'genuine affordability' removed MM37 (Policy 23); 'at least' removed MM39 (Policy 25); 'encourage' in place of 'expect' MM40 (Policy 25) 'encourage' MM46 (Policy 26); key principles removed MM47 (Policy 27).; 'Salt Cross Garden Village Trust' removed MM55 (Policy 31). All these changes dilute the power of the AAP to require many of the positive aspects that the community supported strongly, make interpretation open ended and feed the perennial problem of viability assessments.

The Planning Inspectors' Main Modifications to the Area Action Plan represent a missed opportunity to create a genuine 'exemplar' development and establish a high benchmark for all developments around the country to meet in future. The Plan, with the Inspectors' changes, does not do nearly enough to address the climate and ecology crises. The Council had set out a Plan that would have gone some way to addressing these crises and inspired others to do the same. The fact that the Inspector has given no reasons relating to law nor policy behind what appear to be unreasonable modifications appears to amount to a legal flaw in the making of the Area Action Plan.⁵

Overall the weakening of the Policies is **not justified and not effective**. Modifications which affect the overall objectives of the AAP are therefore **unsound** and should be rejected.

⁵ <https://tcpa.org.uk/pins-assault-on-an-exemplary-net-zero-planning-policy/>



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PART B (2) – Representations on Proposed Main Modifications (please complete a separate Part B form for each representation you wish to make)

Name of Organisation:

1. To which proposed Main Modification (MM) to the submission draft Salt Cross Area Action Plan does this representation relate?

Proposed Main Modification Reference Number (e.g. MM1)

2. Do you consider the proposed Main Modification is legally compliant and sound? (Please refer to the separate guidance note on completing this form for further explanation on these requirements)

(1)	Legally Compliant	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
(2)	Sound	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

3. Please give details of why you consider the proposed Main Modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the proposed Main Modification, please also use this box to set out your comments.

MM2/Core Objective GV3

Given compelling recent evidence⁶ of the accelerating climate crisis it cannot be justified to remove the means of achieving net zero-carbon development by deletion of '100%' (use of low and zero-carbon energy) and replacing it by a vague and unenforceable 'wherever possible' (in relation to no reliance on fossil fuels). This change undermines the stated vision for the garden village: 'The Garden Village is an exemplar net zero carbon, energy positive development which meets the challenges of climate change head on.'¹ The NPPF requires a plan to 'contain policies that are clearly written and unambiguous.' The new wording is unclear and ambiguous and does not reflect the requirement for 78% carbon reduction by 2035 and net zero by 2050 as in the adopted Sixth Carbon Budget. As multiple reports have stated, we must not build in reliance on fossil fuels, and certainly not in an exemplar garden village built to garden village/city principles. The change is therefore unjustified.

MM2's changes make **Core Objective GV3 unsound** and inconsistent with the vision and evidence contained in the draft AAP.

⁶ <https://www.unep.org/resources/emissions-gap-report-2022>



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4. Please set out what change(s) you consider necessary to make the proposed Main Modification legally compliant or sound, having regard to the test you have identified at 2 above where this relates to soundness. You will need to say why this change will make the proposed Main Modification 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.

Reinstate the original wording of **Core Objective GV3** to include '100% use of low and zero-carbon energy' and delete 'wherever possible' from no reliance on fossil fuels.

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PART B (3) – Representations on Proposed Main Modifications (please complete a separate Part B form for each representation you wish to make)

Name of Organisation:

1. To which proposed Main Modification (MM) to the submission draft Salt Cross Area Action Plan does this representation relate?

Proposed Main Modification Reference Number (e.g. MM1)

2. Do you consider the proposed Main Modification is legally compliant and sound? (Please refer to the separate guidance note on completing this form for further explanation on these requirements)

(1)	Legally Compliant	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
(2)	Sound	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

3. Please give details of why you consider the proposed Main Modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the proposed Main Modification, please also use this box to set out your comments.

MM4/Policy 2 – Net Zero Carbon Development

We (GreenTEA) contributed in depth to the consultation which resulted in climate change and biodiversity standards for an inspiring example of zero carbon construction. One garden city/village principle which could be met in this location was *‘Development that enhances the natural environment, providing a comprehensive green infrastructure network and net biodiversity gains, and that uses zero-carbon and energy-positive technology to ensure climate resilience’* (my emphasis). We were pleased when WODC took on the net zero challenge and commissioned Elementa to reproduce a report: [Assessing the Trajectory for Net-Zero Buildings for the Oxfordshire Cotswolds Garden Village](#) led by LETI founder Clara Bagenal George. The recommended standards were included in the AAP.

As recently as 27.10.22 the UN’s *Emissions Gap Report 2022: The Closing Window – Climate crisis calls for rapid transformation of societies* ‘finds that the international community is falling far short of the Paris goals, with no credible pathway to 1.5°C in place. Only an urgent system-wide transformation can avoid climate disaster’ ; ‘Wide-ranging, large-scale, rapid and systemic transformation is now essential to achieve the temperature goal of the Paris Agreement’. And ‘the transition needs to be initiated at an accelerated pace immediately, everywhere.’⁷ This means immediate action, not at some future date. This UN report provides an in-depth exploration of how to deliver this transformation, looking at the required actions in the electricity supply, industry, transport and buildings sectors, and the food and financial systems.

⁷ <https://www.unep.org/resources/emissions-gap-report-2022> Press release and pages XXII, 38



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For buildings the report includes these recommendations:⁸

- **EFFICIENT BUILDING SHELL:** Optimize building shells to minimize the need for active heating and cooling.
- **SCALE UP ZERO-EMISSIONS HEATING AND COOLING TECHNOLOGY:** Highly efficient air conditioners and heat pumps without hydrofluorocarbons can be powered by renewables, either on-site or supplied off-site through electricity.
- **ALL NEW BUILDINGS SHOULD BE ZERO CARBON IN OPERATION:** New buildings should be designed and constructed so that they are zero carbon in operation, with a minimal energy demand that is met through zero-carbon sources.
- **MINIMIZE EMBODIED EMISSIONS:** Emissions from construction materials should be minimized by reducing the emissions intensity of steel and cement production and substituting lower carbon materials, including recycled materials, where possible.

This is exactly what the KPIs in Policy 2 set out to do but have been struck out. It is highly relevant that the Future Homes Standard will NOT achieve these recommendations and does not deal with embodied carbon at all. Current Building Regulations fall further short.

In addition to weakening Core Objective GV3, Policy 2 has been entirely rewritten without justification and is now inconsistent with the detailed arguments, evidence and aspirations set out elsewhere in the Plan and supporting documents. It contradicts the recommendation for the zero carbon option as *'the only scenario that achieves the level of energy efficiency and low- and zero-carbon energy generation required to meet climate change targets. It is also the only scenario that aligns with the aspirations of the Council and local communities.'*⁹

The NPPF requires a plan to **'contain policies that are clearly written and unambiguous'**. The new wording is reduced to a general aspiration and is thus unclear and ambiguous.

The NPPF requires a plan **'to be shaped by early, proportionate and effective engagement between plan-makers.'** The Council, local groups and residents, energy experts and others worked hard over a long period of time to get this right, but the Main Modification has taken the force and effectiveness out of the standards and removed the Key Performance Indicators (KPIs). It is this net zero objective that has been removed. This change and the lack of reasons for the change undermine the outcome of long and extensive public engagement. It no longer satisfies the NPPF requirement for a plan **'be prepared positively, in a way that is aspirational but deliverable'** as the means to deliver the net zero aspiration have been removed.

According to the NPPF Plans are 'sound' if they are

35 (b) Justified

35 (b) Effective

⁸ <https://www.unep.org/resources/emissions-gap-report-2022> Table 5.7 page 5)

⁹ AAP August 2020 para 5.37, evidenced by EV17 Elementa 'Assessing the trajectory for net-zero buildings for the Oxfordshire Cotswolds Garden Village' May 2020



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Despite the submitted evidence, the effective means to mitigate impacts on climate change through the recommended net zero KPIs have been removed, rendering the reduced standards **unjustified and ineffective**.

35 (d) Consistent with national policy

As stated above *‘the plan’s net zero objective is clearly in line with government policy, supported by the Sixth Carbon Budget which is itself enshrined in law and entirely consistent with the climate duty in the 2004 Planning Act and the powerful enabling law in the Energy Act’*.¹⁰ Thus Policy 2 did not need the modifications to be consistent with national policy.

These changes also have an adverse effect on the developing Zero Carbon Energy Action Plan for the Eynsham primary substation area, including Salt Cross. This Energy Action Plan is part of The Smart and Fair Futures project which aims to accelerate and support the transition to smart, fair, green energy and would contribute to the net zero ambition of the draft AAP. The Smart and Fair Futures project is part of Project LEO¹¹, a major nationally funded innovation project involving local councils, university, industry and community experts. GreenTEA chairs the Local Steering Group. This is the first community led Local Area Energy Plan and it is hoped it will be a model for others. The Plan uses scenarios from *Pathways to a Zero Carbon Oxfordshire*¹² as a basis for modelling the changes needed to achieve net zero targets and we were aiming for “Oxfordshire leading the way”/“Societal transformation” scenarios. However, reduction of net zero standards at Salt Cross, and the implications for other development, will make this more difficult to achieve.

It is no exaggeration to say that working hard for net zero development and the zero carbon energy to support it has been GreenTEA’s main focus since the garden village was first proposed- several years of time and commitment to do the best for Eynsham and the planet. The changes in the AAP waste all this effort.

By removing parts of the Core Objective GV3 (MM2) and the KPIs and detailed requirements of Policy 2 (MM4) from the AAP, the central pillar of an exemplar garden village has been taken away, undermining the central vision and ignoring submitted evidence.

MM4 is therefore **unsound**.

¹⁰ <https://www.gov.uk/government/news/uk-enshrines-new-target-in-law-to-slash-emissions-by-78-by-2035>
<https://tcpa.org.uk/pins-assault-on-an-exemplary-net-zero-planning-policy/> accessed 29.10.22

¹¹ <https://project-leo.co.uk/case-studies/eynsham-smart-and-fair-futures/>

¹² <https://news.oxfordshire.gov.uk/pathways-to-zero-carbon-oxfordshire-report-welcomed/>



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4. Please set out what change(s) you consider necessary to make the proposed Main Modification legally compliant or sound, having regard to the test you have identified at 2 above where this relates to soundness. You will need to say why this change will make the proposed Main Modification 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.

Revert to Policy 2 as in the pre-submission draft AAP which is compliant with law and national policy and justified by evidence. Reinstate the standards (KPIs) to require net zero operational carbon through KPIs for building fabric, energy efficiency, on site renewables, with no fossil fuels, and low embodied carbon, supported by an energy strategy, measurement and verification.



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PART C – Representations on Sustainability Appraisal (SA) Addendum Report and Habitat Regulation Assessment (HRA) Addendum Report

Name of Organisation: GreenTEA Energy group

1. To which Section of the SA Addendum Report or HRA Addendum Report does this representation relate?

Sustainability Appraisal (SA) Addendum Report Section: SA Addendum Table 2 Page 7, MM2 and MM4; MM40 page 44, Table 4 page 59. Appendix B

HRA Addendum Report Section:

2. Please set out your comments below.

Sustainability Appraisal (SA Addendum) is flawed. The conclusion on page 7 regarding the changes to Policy 2 state: *'the significant positive effect expected in relation to SA objective 10: climate change is still applicable given the requirements for development to contribute to ambitions for achieving net zero carbon at Salt Cross.'* This is not an accurate assessment when all the net zero standards have been removed and replaced by vague, unenforceable ambitions. The only enforceable requirement will be the current national Building Regulations, which are far from net zero, with no requirement for renewable energy generation or reduction in embodied carbon.

Although the SA Addendum recognises that *'For a small number of policies, the proposed changes would result in planning applications having to meet less onerous requirements, thereby reducing the strength of the expected positive effects.'* it continues: *'However, considered in the round, the proposed Main Modifications do not significantly alter the conclusions of the August 2020 SA Report, including the assessment of cumulative effects'*(1.37 page 60). This SA process is a judgement, as accepted by the authors (1.16), but clearly displays a misunderstanding of the impact of the changes and a lack of informed judgement.

This is evidenced by the fact that SA Addendum Table 4 page 59 'Cumulative effects of AAP as proposed to be modified' has an identical assessment of the cumulative impact as of the original AAP policies on SA10: Climate change, as the original SA August 2020 Table 4.11: 'Summary of cumulative effects for policies in the Pre-Submission AAP' page 71. The impact is assessed as +/- *'The option or policy is likely to have a mixture of significant positive and minor negative.'* If it was thought to make no change of impact on the Climate Change objective, why would WODC have gone to so much trouble to develop net zero KPIs and the Planning Inspector remove them? The obvious answer is that current and anticipated standards are incompatible with achieving net zero as defined in the AAP on the basis of sound evidence.

Page 57 'Summary of updated SA findings' states *'The proposed Main Modifications do, however, result in the proposed replacement of Policies 2, 14, 15, 16 and 17. In most cases the replacement policies are expected to have the same or broadly similar sustainability effects as the original policies, however, for completeness, new appraisal work has been undertaken for the proposed replacement policies and SA matrices are presented in Appendix 2.'* But analysis in Appendix B 'SA matrices for new policies' goes further and assesses that Policy 2 - Net Zero Carbon Development will have ++



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effect *'The option or policy is likely to have a significant positive effect on the SA objective(s)'* on SA10: Climate change. This is not true: the amended policy will add significant and unnecessary carbon emissions.

Throughout, this assessment represents a major underestimate of the impact of the removal of all standards (KPIs) and replacement with unenforceable aspiration for ambition.

In addition, the finding that MM40 Policy 25, which removes delivery of self build plots in each phase, has no change to SA findings is flawed. This change means that local self-builders (registered with WODC) could have to wait to the last phase which does not reflect community wishes nor the vision of the AAP and does not support the development of a resilient community from the outset.

Overall it is extraordinary that the overall assessment of impacts is unchanged and unduly positive in some respects.

Please indicate whether you wish to be informed of any of the following by ticking the appropriate box:

1. The publication of the recommendations of the person appointed to carry out an independent examination of the Area Action Plan under Section 20 of the Act
2. The adoption of the Area Action Plan

Signature



Date

1 November 2022