

DEMOCRATIC DEFICIT (THE CURRENT LACK OF DEMOCRATIC LEGITIMACY)

A reflection and call to action by POETS (Planning
Oxfordshire's Environment and Transport Sustainably)

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Introduction

1. POETS is extremely concerned at the range of development and infrastructure currently being proposed by bodies which are not directly elected and at the lack of statutory or structured opportunities for local residents' involvement. We highlight some features of this local and wider democratic deficit, and outline some proposals to address it, around which we would like to generate a conversation and, more importantly, action.

Oxfordshire's Future?

2. Oxfordshire (the County and its constituent Districts) has declared a Climate Emergency: councils are also aiming to meet local and affordable housing need, to support local businesses and services, and to restore and enhance the county's ecosystems and their resilience to climate change. Oxfordshire is commendably aiming to plan strategically for 2050.
3. On the other hand, there is a strong movement for a 'dash for growth' which might result by 2050 in:
 - some 300,000 more houses in the county in 30-40 years (roughly doubling the current housing stock and population), with associated employment, services, infrastructure development and pressure on natural resources such as water
 - an Oxford-Cambridge Expressway (2-3 lane "smart" motorway, grade-separated, with overhead gantries, unspecified number of junctions etc) to provide increased "connectivity" within a notional east-west sub-region
 - failure to implement zero carbon and biodiversity recovery targets
4. **We are particularly concerned at the extent to which a set of unelected or not directly elected bodies is building up a critical mass around this growth agenda: engagement so far has been only with a limited array of stakeholders, and solely around this pro-growth assumption, and there is a risk that any future more general public consultation will be based only on this limited premise.**

Six development agencies – What are their democratic credentials?

5. There is a complex set of organisations influencing the future of Oxfordshire, which POETS is attempting to map. The bodies proposing the developments mentioned above include:
 - a) National Infrastructure Commission (NIC) – launched in 2015 by the Treasury, to examine longer-term infrastructure needs, it became an executive agency in 2017 with a remit to publish National Infrastructure Assessments to which government should respond. It has taken on a major role in developing an Oxford-Cambridge Arc.

- b) Highways England – a government owned company created in 2015 to carry out the work of the former Highways Agency.
 - c) England's Economic Heartland (EEH) – a construction of 5 shire counties, 6 unitary authorities and 3 LEPs (see below), across a geographic area from Swindon to Peterborough
 - d) Oxfordshire Local Enterprise Partnership (LEP) – conceived as a part replacement for regional development agencies in 2011, LEPs include Local Authority representatives, outnumbered by other interests. They act as a channel for the Local Growth Fund and have other roles, such as writing the Oxfordshire Local Industrial Strategy.
 - e) Oxfordshire Growth Board – a joint statutory committee of the six Oxfordshire councils, represented by the council leaders, with non-voting strategic partners including the LEP, the universities, the NHS, Environment Agency and Homes England.
 - f) Homes England – a self-styled 'housing accelerator' agency of central government with a remit to increase the number of new homes built and the supply of public land for housing.
6. These agencies have different statutory bases, and their number, powers and structure can change over time. This paper represents our understanding at the end of 2019, and we will aim to review them and update this paper in 2020.
 7. In Appendix A, we outline the status and remit of these organisations and their growth ambitions, and point up some of our concerns.

Lack of democratic involvement in key decision-making

8. POETS is seriously concerned about the lack of democratic input into all these bodies and the lack of clarity of which agency has responsibility for particular remits, policies and actions. The basis of our concern is that:
 - they are unelected or are not directly elected;
 - there is little effective involvement by our elected representatives; and
 - it is not clear to whom Oxfordshire residents could take their concerns.

Wider context for this democratic deficit

9. We also draw attention to the wider picture of concern about the lack of democratic legitimacy:
 - a) We have a highly centralising government: despite claims (such as in the Localism Act 2011) to devolve powers such as neighbourhood plan-making to a more local level, the agencies of the central state (such as NIC) are effectively being given more influence over decisions
 - b) There has been a plethora of new quangos and partnerships (despite the promised bonfire), such as LEPs and sub-national transport bodies such as EEH, not directly elected from any constituency
 - c) The number and complexity of roles of these organisations makes their individual responsibility unknown and unaccountable. While some organisations have run 'consultations', there is often no standardised reporting

of responses, nor a clear statement of how these fit in with other bodies' consultations. Several questions arise – what is the pecking order of the organisations, is one consultation of greater weight than another, and has one already pre-judged another?

- d) The opportunities for participative democracy offered by many of these bodies are dominated by those with a self-interest in development (such as Universities, colleges and other landowners, property agents and consultancies in the Oxford-Cambridge Arc, and EEH extending its partnership to specific business interests)
- e) The significant loss of financial resources to local authorities under austerity measures since 2010 has weakened their autonomy: Oxfordshire has needed to establish an unelected Growth Board, and enter into a Growth Deal, with central government, in order to access a limited amount of funding for infrastructure.

Risks of Democratic Deficit

10. These elements of the lack of democratic opportunity are important to wider society. We consider this democratic deficit brings risks:

- a) Locally, the consequences may be that the growth agenda will be covertly inserted into plan-making through central government taking decisions on local housing and employment proposals, with no control over the adoption or sequencing of Local Plans¹
- b) Local residents may feel an increased sense of powerlessness, and be discouraged from active and informed engagement with major local and strategic planning decisions
- c) Local residents may struggle with the huge load of separate, disparate but often over-lapping “public consultations” by bodies such as LEPs, EEH, NIC and Highways England
- d) There may be greater alienation of younger people, who have a strong moral awareness around issues such as climate change and social justice
- e) This may engender loss of confidence in, or disaffection with, democratically-elected institutions such as local councils, and lead to more reliance on direct action
- f) While social media offers opportunities for wider engagement, especially, for instance, with younger voters, there is a danger that its current formulation encourages people to see only views that they agree with, rather than seeing a range of views with balance. The Royal Society of Arts points out that this may lend itself to polarisation rather than problem-solving and collaboration²
- g) There may be further loss of confidence in the planning system, already identified in the Raynsford Review of Planning³ (the Town and Country Planning Association is shortly to update the original Raynsford report, highlighting the increasing lack of legitimacy in the planning system). Research commissioned by Civic Voice found that only 7% of their interviewees had confidence in local authorities in planning for large-scale development⁴
- h) Without public, democratic oversight, unelected bodies and interests might unduly influence the assumptions and decisions of public and private bodies (“institutional capture”)

- i) The resulting complex and obscure set of decision-making by bodies with pre-defined and limited terms of reference may fail to address the cross-cutting and inter-related challenges of climate change; social equity (e.g. affordable housing, education and well-skilled employment); health and well-being; and ecosystem disruption⁵.

Possible positive ways to address and remedy this deficit

11. We believe that action needs to be taken by us as citizens, and by our elected representatives at local, county and national level. As members of POETS, at this stage we make some suggestions to generate interest and a debate. Important ways to do this might include:

Central government:

- take seriously the climate emergency, particularly by backing rhetoric with actions, such as abandoning proposals for major airport expansion or road building, prioritising investment in sustainable forms of transport, raising standards for zero-carbon energy and water consumption, and ensuring education and skills for a zero-carbon future – reviews of major infrastructure should respect these issues to an equal or greater extent to issues of economic growth and conventional cost-benefit
- reinforce the capabilities of existing democratically elected and established agencies⁶
- re-appraise the scales and participation opportunities for strategic planning;
- enact legislation to ensure land value capture (see forthcoming POETS paper);
- ensure proper devolution of finance and policy powers to the appropriate democratic level – respect and enhance the autonomy of local government rather than treat it as an executive arm of central government.

Local government:

- any proposed future growth should take the climate emergency seriously, especially ensuring climate change mitigation actions (such as renewable sources of energy, zero-carbon buildings, water resource conservation, new development located with sustainable transport and minimised need to travel) are consistent with climate change adaptation (such as integrated green and blue infrastructure, natural flood management, and urban cooling)
- ensure investment reflects climate and health priorities, for example by favouring provision for walking, cycling and public transport over capacity for cars and lorries
- re-think strategic plans for Oxfordshire 2050 and the interpretation of growth by the Oxfordshire Growth Board [the continuation of proposed growth, but not the NIC levels of growth, are currently being considered]
- stand up to central government on issues of appropriate delegation of power
- engage fully with young people on issues relating to their future wellbeing
- enable councillors to make a difference, and enhance political equality
- widen engagement beyond the ‘usual suspects’

- experiment further with deliberative democracy, such as citizens' juries and citizens' assemblies. Examples are Oxford City Council's Citizens' Assembly on Climate Change⁷, and the Greater Cambridge Partnership Citizens' Assembly on Air Quality, Congestion and Transport⁸.

What can be done by those who aren't part of political structures

12. We believe that we should, as POETS and as individuals

- a) Task (or further encourage) our local politicians to mainstream the climate emergency in decisions and budgets
- b) Engage with elections
- c) Use the media – all media – to encourage democracy
- d) Challenge charitable landowners (such as Colleges, Universities, Church Commissioners..) to be socially and environmentally responsible
- e) Encourage investment now in the environment
- f) Sign petitions
- g) Donate to campaigns
- h) Share ideas at meetings....

13. **We urge you to join our conversation, and take action.**

Appendix A: Development Agencies

The National Infrastructure Commission (NIC) and Oxford-Cambridge Growth Arc

The NIC was launched by George Osborne in 2015, “sponsored” by the Treasury, but was only formally established as an executive agency of government in 2017. Its role and function have been fluid. The Commission was originally intended to address long-term needs for infrastructure such as transport, energy, water, waste and flood defences. Its initial focus was on transport for the north and for London, and on future energy needs. Its principal obligation is to publish a National Infrastructure Assessment during each Parliament to which the government should respond: this was published in 2018.

NIC was asked to consider how to maximise the potential for major growth to 2050 in the so-called Oxford-Cambridge Growth Arc, on which it reported in 2016 and 2017. The legislative foundation for NIC’s involvement in regional spatial planning has never been formally established, although a critical appraisal of this mission creep was undertaken by Smart Growth UK in Feb 2019⁹. However, it is already leading to proposals from the property industry, led by Bidwells, for an “Olympic-style delivery body to stop development deadlock”¹⁰. It is suggested this body would “bring together local councils and developers”, but would not be locally or regionally accountable.

There has been no formal public consultation on the idea of the Arc: a Joint Declaration by the Ministry of Housing, Communities and Local Government (MHCLG) and local partners (including Oxfordshire County Council (OCC)) was published in March 2019¹¹, which committed to launching a public engagement exercise over summer 2019. However, this commitment was not met, and MHCLG has recently stated that they will update the timeline for that planned engagement in 2020¹².

Highways England and the Oxford-Cambridge Expressway

Highways England is a government-owned company with responsibility to operate, maintain and improve England’s motorway and trunk road network. Until 2015 this work was done by the Highways Agency (a government agency). Their work programme includes major new road schemes such as the Expressway, the justification for which has shifted from being a strategic link between the A34 and M1 to one of “unlocking” development sites in the Oxford-Cambridge Arc.

Consultation by Highways England on the Expressway so far has only been with “stakeholders”. Some locally elected bodies, such as Oxfordshire County Council, Vale of White Horse and South Oxfordshire District Councils, entered into Non-Disclosure Agreements with Highways England. The ostensible purpose of these was to allow those authorities to explore route options before they are put out to public consultation. A legal challenge by Berkshire, Buckinghamshire and

Oxfordshire Wildlife Trust (BBOWT) on the process of assessing the environmental impacts of the road at the corridor assessment stage was unsuccessful.

Many Local Authorities (Oxfordshire and Buckinghamshire County Councils, Oxford City, Vale of White Horse and South Oxfordshire District Councils) now oppose the principle of the road. Highways England had intended to consult with the general public on its preferred routes in autumn 2019. However, this has now been delayed until 2020.

England's Economic Heartland and the Sub-national Transport Strategy

England's Economic Heartland (EEH) is a construction of 5 shire counties, 6 unitary authorities and 3 LEPS (Local Enterprise Partnerships) from Swindon to Peterborough, including Northampton and Luton. EEH comprises a different geographic area from the Oxford-Cambridge Arc, but, similarly to the Arc, coincides with no established electoral area. It aims to be a Sub-national Transport Body under the Cities and Local Devolution Act 2016, for which it will require a statutory footing. It has received some funding from the Department for Transport.

Its strategic delivery partners include the private sector businesses which provide highway services to some of the local transport authorities. In 2019, it consulted on an Outline Transport Strategy: POETS responded with a fundamental critique of EEH's approach¹³.

Oxfordshire Local Enterprise Partnership (OXLEP)

Oxfordshire's LEP was established in 2011 to champion and develop the Oxfordshire economy. It is registered as a company, and its Board of Directors comprises 20 members, including the leaders of the six Oxfordshire Councils. It funds projects that are intended to benefit the local area and economy.

LEPs received funding through the Local Growth Fund from 2012: OXLEP received £118.4m from Rounds 1 and 2, and a further £26.4m from Round 3¹⁴. This might be contrasted with the Local Nature Partnerships, which were supposed to provide an environmental counterweight to economic considerations and, where they exist, generally rely on voluntary financial, skills and time contributions.

OXLEP is committed to a number of strategies, including most recently the *Oxfordshire Local Industrial Strategy* (LIS) in July 2019. It has been decided that this has to be considered in plan preparation by the Local Planning Authorities¹⁵.

Oxfordshire Growth Board

Oxfordshire Growth Board is a joint statutory committee of the six Oxfordshire councils (represented by the leaders of the Councils) with non-voting key strategic partners (the Oxfordshire LEP, the two Universities, the NHS, Environment Agency and Homes England), set up to deliver projects in the fields of economic development and strategic planning, under the City Deal and Local Housing and Growth Deal with the Government. Its meetings are open to the public, who can participate, although in practice to date there is very little discussion or debate at the meetings, leading to concerns that most substantive decisions are taken behind

closed doors. In November 2019, it consulted on its priorities and structure, and will report in January 2020. POETS will review the outcome.

Homes England

Homes England, a self-styled “housing accelerator”, is a non-departmental public body, or agency of central government, with a remit to increase the number of new homes built and the supply of public land for building, to stimulate local growth and to attract private sector investment. It has compulsory purchase powers.

It owns Chalgrove Airfield in South Oxfordshire, inherited from the former Homes and Communities Agency which took ownership of the site from the MoD in September 2016. The fact that major housing development is being proposed on this site, in a location that is seriously deficient in terms of accessibility by sustainable modes of transport, leads POETS to question the role which Homes England appears to be playing in the planning process.

References

¹https://www.poetsplanningoxon.uk/poets_housing_need_and_growth_in_oxfordshire_final_nov2019.pdf

² The Royal Society for the Encouragement of Arts, Manufactures and Commerce: Taylor, M, 2018, Is deliberative democracy key to a 21st century social contract?
<https://www.thersa.org/discover/publications-and-articles/matthew-taylor-blog/2018/05/21st-century-social-contractpf>

³ Raynsford, N, 2018, *Planning 2020: The Raynsford Review of Planning, Final Report*
<https://www.tcpa.org.uk/raynsford-review>

⁴ <https://www.theplanner.co.uk/news/communities-should-have-a-say-throughout-planning-process>

⁵ The ITRC-Mistral Infrastructure Analysis 2019 has attempted to look at some of the interactions between some infrastructure systems in possible scenarios of development in the Arc, such as transport, drainage, water and energy

⁶ The Committee on Climate Change, for instance, was established as an independent statutory body by the Climate Change Act 2008, to provide advice to the government on mitigation and adaptation, and to report to Parliament on progress

⁷https://www.oxford.gov.uk/info/20011/environment/1343/oxford_citizens_assembly_on_climate_change

⁸ <https://www.greatercambridge.org.uk/news/greater-cambridge-citizens-assembly-headline-report-published/>

⁹ Smart Growth UK, 2019, *The overheated arc - A critical analysis of the Cambridge-Milton Keynes-Oxford-Newbury “growth corridor”*
http://www.smartgrowthuk.org/resources/downloads/Arc_Report_1.pdf

¹⁰ <https://www.bidwells.co.uk/news/call-for-olympics-style-delivery-body-for-oxford-cambridge-arc-to-stop-development-deadlock/>

¹¹ MHCLG, 2019, *The Oxford-Cambridge Arc: Government ambition and joint declaration between government and local partners* para 4.4: “a broad, joint public engagement exercise over summer 2019”

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/799993/OxCam_Arc_Ambition.pdf

¹² Letter from Bethanie Roughley, MHCLG, 31 Oct 2019, to POETS member RW

¹³ https://poetsplanningoxon.uk/POETS_EEH_OTC_Consultation_Response_Oct19.pdf

¹⁴ <https://www.oxfordshirelep.com/about/our-programmes/local-growth-fund>

¹⁵ MHCLG, 2019, National Planning Policy Framework para 81a

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf