

# **Cherwell District Council**

## **Council**

**20 July 2015**

<p><b>Cherwell Local Plan 2011-2031 (Part 1): Inspector's Report on the Examination into the Cherwell Local Plan and Plan for Adoption</b></p>
--

### **Report of Head of Strategic Planning and the Economy**

This report is public

#### **Purpose of report**

The main purpose of this report is to allow Members to consider the content of the Inspector's Report on the Examination into the Submission Cherwell Local Plan, to decide whether to approve Main Modifications to the Local Plan as recommended by the Inspector together with additional modifications to enable the Plan to proceed to adoption, and to consider whether to adopt the Plan, as modified.

#### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To note the conclusions of the Inspector's report (Appendix 1) and accept his recommendations regarding the Main Modifications that are required to make the Plan sound.
- 1.2 To approve the incorporation of additional modifications as set out in Appendix 2, including consequential changes to the Policies Maps arising from the Inspector's recommendations.
- 1.3 To adopt as a development plan document the Local Plan (Appendix 3) incorporating all of the Main Modifications recommended by the Inspector together with the additional modifications as set out in Appendix 2, in accordance with Regulation 26 of the Town and Country Planning (Local Planning) Regulations 2012.
- 1.4 To delegate to the Head of Strategic Planning and the Economy prior to the publication of the Local Plan the correction of any further minor spelling, grammatical or typographical errors together with any improvements from a presentational perspective.
- 1.5 To delegate to the Head of Strategic Planning and the Economy the publication of an updated Adopted Policies Map to illustrate graphically the application of policies contained in the adopted development plan, comprising any site specific saved

policies of the Cherwell Local Plan 1996 not replaced by the adoption of the Cherwell Local Plan 2011-2031, and site specific saved policies of the adopted Oxfordshire Minerals and Waste Local Plan 1996, in addition to relevant policies contained in Cherwell Local Plan Part 1.

- 1.6 To acknowledge that in adopting the Local Plan, it will revoke those saved policies indicated as being replaced in Appendix 7 of the Plan (Appendix 3) with immediate effect.

## **2.0 Introduction**

- 2.1 The Cherwell Local Plan Part 1 has now reached the final stages of preparation. The Draft Cherwell Local Plan was submitted to the Secretary of State for Communities and Local Government via the Planning Inspectorate on 31 January 2014, and the Examination Hearings commenced on 3 June 2014.
- 2.2 On the second day of the Hearings the Inspector suspended the Examination for 6 months, to enable the Council to: *"...put forward proposed modifications to the plan involving increased new housing delivery over the plan period to meet the full, up to date, objectively assessed, needs of the district, as required by the National Planning Policy Framework (NPPF) and based on the Oxfordshire Strategic Housing Market Assessment 2014 (SHMA)..."*. The Oxfordshire SHMA was published in April 2014 after submission of the Local Plan. The SHMA was produced by independent consultants on behalf of all the Oxfordshire Councils in order to meet the requirements of the National Planning Policy Framework (NPPF paragraph 147).
- 2.3 The Council published Proposed Main and Minor Modifications for consultation in August 2014, and the modifications were revised and approved by the Council on 20 October 2014, following consideration of representations received.
- 2.4 The Proposed Main and Minor Modifications were submitted to the Secretary of State on 21 October 2014, and the Examination Hearings resumed on 9 December, extending to 23 December 2014. The order of issues considered at the Examination and the Council's opening statement are attached as Appendices 5 and 6.
- 2.5 A number of correction and Hearing Documents were produced by the Council to address issues arising at the Examination and these were submitted alongside a Schedule of Hearing Minor Modifications, as requested by the Inspector, on 6 February 2015.
- 2.6 The final Inspector's Report on the examination was received by the Council on Thursday 11 June 2015 and was made available to the public via the Council's website and at deposit locations on Friday 12 June 2015. An advertisement was placed in local newspapers on Thursday 18 June announcing the publication of the Inspector's Report and all those people on the Council's Local Plan database were notified direct.
- 2.7 The Council now needs to consider the content of the Inspector's Report and his recommended modifications, and agree the next steps in the Local Plan process.

## **3.0 Report Details**

### **3.1 The Role of the Inspector**

3.1.1 Nigel Payne was appointed by the Secretary of State for Communities and Local Government as the independent Inspector to examine the Cherwell Local Plan. The Inspector is required to consider all representations made in accordance with Regulation 20 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (Local Plan regulations).

3.1.2 In examining the Plan the Inspector's responsibilities are to assess whether the local authority has met the Duty to Co-operate, whether the Plan is legally compliant and whether the Plan is sound. The four tests of soundness, as set out in paragraph 182 of the NPPF, are as follows:

- *Positively prepared- the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;*
- *Justified- the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;*
- *Effective- the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and*
- *Consistent with national policy- the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.*

3.1.3 The Inspector set a programme for the hearing sessions. The programme allowed for appropriate consideration of legal compliance matters including duty to co-operate and SA/SEA, in addition to assessing soundness. The Hearings Programme for the December Hearings setting out the Inspector's issues and questions for discussion is attached as Appendix 5 to this report for reference.

### **3.2 The Inspector's Report**

3.2.1 The Planning Inspectorate's guidance, "*Examining Local Plans Procedural Practice*" December 2013 (3<sup>rd</sup> Edition v.2), indicates that Inspectors' reports should be brief, avoid direct reference to representations and provide clear conclusions in relation to Duty to Co-operate, legal compliance and tests of soundness. The options available to the Inspector are:

- to conclude that the Local Plan is unsound and changes cannot be made to make it sound, and/or legal procedural requirements have not been met, including the Duty to Co-operate (in which case the Council would not be able to adopt the Plan),
- to conclude that the Plan is sound provided that certain main modifications as recommended by the Inspector are made to the policies or supporting text prior to the Plan being adopted.

3.2.2 The guidance makes clear that the Inspector will only make recommendations necessary to make the Plan sound and that minor changes, known as additional modifications, can be made by the local planning authority without the need to be examined (paragraph 5.2). Whilst the guidance does not mention the relevant part of the Planning and Compulsory Purchase Act 2004, it is important to note that

Section 23 provides that the Council can adopt the plan with additional modifications, if those additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications recommended by the Inspector but no other modifications (see sections 3.22 and 4 below).

3.2.3 The basis for the Inspector's examination of the Plan is the submitted plan of January 2014 and his report and recommendations therein have been compiled accordingly. **The report indicates that the Plan “provides an appropriate basis for the planning of the district to 2031, providing a number of modifications are made”** (Inspector's Non-technical summary). The Inspector's modifications for the most part reflect those modifications proposed by the Council.

3.2.4 The Inspector's report comprises two parts:

- the main report giving the Inspector's assessment of the Plan, his recommendations and the reasons for his recommendations; and
- an appendix comprising a schedule of main modifications necessary to make the Plan sound.

3.2.5 The Inspector's modifications are based on those proposed by the Council in October 2014 but amended by the Inspector where considered necessary by him for soundness.

### **Main conclusions and recommendations of the Inspector's report:**

#### **3.3 Assessment of Duty to Co-operate (Paragraphs 7-11 of the Report)**

3.3.1 The Inspector considers that the Council has satisfactorily documented where and when co-operation has taken place, with whom, and what basis, and provided evidence to demonstrate that positive engagement has continued since the submission of the Plan. The Inspector observes (paragraph 10) that the formal arrangements in place between the Oxfordshire authorities to fully address the results of the 2014 SHMA, as referred to in paragraph B.89b of the plan as modified, reinforces his conclusion that the Council has met the Duty to Co-operate.

#### **3.4 Assessment of Legal Compliance (Paragraph 249 of the Report)**

3.4.1 Paragraph 249 of the report contains the Inspector's assessment of legal compliance. He concludes that the Plan meets all of the legal requirements.

#### **3.5 Assessment of Soundness- overall conclusions and recommendations**

3.5.1 The Inspector identified fourteen main issues upon which the soundness of the Plan depended. These were the focus of the December Examination Hearings. The summary below focusses on key issues of note and highlights the main areas where the Inspector has not agreed with the Council's proposals. The Inspector's Report is attached as Appendix A to this report. The report is written in an accessible style and provides clear conclusions on all the principal issues and sub-issues. The summary below is therefore not intended to be a comprehensive analysis of all of the Inspector's main modifications, but seeks to highlight the Inspector's overall conclusions on the fourteen identified main issues.

### **3.6 Issue 1: Strategy, Vision and Objectives (Paragraphs 20-29):**

3.6.1 The Inspector was content that firm evidence has been provided that the plan policies and proposals are realistic and economically deliverable in terms of on and off site infrastructure provision. He considered that the plan's spatial vision and strategic focus for new development on Banbury and Bicester, together with Upper Heyford, is entirely sound and sustainable in principle, and indicated that none of the alternatives put forward by representors are preferable. The Inspector considered that the strategy is supported by fifteen sensible strategic objectives. He was content that the strategy, vision and objectives are supported by a clear and robust evidence base, including demonstrating that reasonable alternatives to the proposed strategy have been assessed at all relevant stages dating back to 2008. He confirmed that the Council has carried out extensive and appropriate public consultation at each relevant stage of the plan process, including in respect of the proposed main modifications.

### **3.7 Issue 2: Employment (Policy SLE1) (Paragraphs 30-42 of the Report)**

- 3.7.1 The Inspector concluded that subject to Main Modifications MM19, MM20 and MM21 as amended by him, policy SLE1 is sound and compliant with NPPF guidance.
- 3.7.2 The Inspector did not consider it necessary or appropriate to include a reference in the policy to "examining options for the release of land at motorway junctions in the district for very large scale logistics buildings in the Part 2 LP" (as proposed by the Council under SHMM1 February 2015) as the need is as yet largely unproven. In addition he considered such schemes would be road based, likely to be visually intrusive in the open countryside due to the size of buildings and be potentially difficult to cater for in highway capacity terms at the M40 junctions. The Inspector referred to the availability of alternative locations such as DIRFT III near Daventry, granted permission specifically to meet national and regional need for such major schemes, and having the advantage of rail access. He concluded that the employment sites identified in the Plan are sufficient to provide the level of jobs needed to deliver the Plan's strategy and objectives over the Plan period and such a commitment is unnecessary and may raise unrealistic expectations or concerns as to the content of Local Plan Part 2.

### **3.8 Issue 3: Housing Scale and Distribution (policies BSC 1 to 6) (Paragraphs 43-63 of the Report)**

- 3.8.1 The Inspector concluded that subject to Main Modification MM34 to include provision for 22,840 net new homes and the identification of the additional and extended strategic sites, the plan now addresses the full objectively assessed needs for housing, including affordable housing, in the plan period. He indicated that the supporting text to policy BSC 1 needs to be modified as proposed in MMs 30-33. He also considered that it is essential for clarity and soundness that the Council's firm commitment to help meet the needs of Oxford City is formally recorded in the plan in new paragraphs B.89b and B.90 (MMs 28-29), which the Inspector has reworded slightly from that proposed by the Council in respect of the third and last paragraph of B89b.
- 3.8.2 The Inspector concluded that subject to main modifications MMs 25-30 and 40-45, policies BSC2, 4 and 5 are sound.

3.8.3 The Inspector indicated that Main Modification 39 as proposed by the Council is required to make Policy BSC3 (Affordable housing) sound. He also indicated that in view of the latest Government policy announcement on affordable housing it is necessary for soundness to delete the third paragraph of the policy which refers to affordable housing provision on schemes of 3-10 dwellings. In effect this means that the policy would require affordable housing provision to be made by schemes of 10 or more dwellings throughout the district; however government guidance indicates that contributions should not be sought from schemes of 10 dwellings or less. The additional modifications in Appendix 2 therefore include a consequential change to policy BSC 3 to correct this, amending the threshold to 11.

3.8.4 The Inspector's main modification 46, for policy BSC6, travelling communities, updates the policy with regard to pitch provision, as proposed by the Council in SHMM9 (February 2015). His modification also adds two additional criteria to be considered in assessing the suitability of sites: the existing level of local provision and the availability of alternatives to applicants.

### **3.9 *Issue 4: Retail (Policy SLE2) and Tourism (Policy SLE3) (Paragraphs 76-81 of the Report)***

3.9.1 The Inspector concluded that subject to main modifications MMs22, 23, 24 and 26, as amended by him, policies SLE2 and SLE3 are sound. The Inspector's main modification to the text of policy SLE3 now makes reference to Former RAF Upper Heyford representing a potential new tourism development, in addition to RAF Bicester.

### **3.10 *Issue 5: Transport (Policies SLE 4 and 5) (Paragraphs 82-85 of the Report)***

3.10.1 The Inspector concluded that subject to main modifications MMs 25 and 27, as amended by him, policies SLE4 and SLE5 are sound. The Inspector's modifications include inserting a reference to in kind contributions from development as an alternative to financial contributions to mitigate the transport impacts of development.

### **3.11 *Issue 6: Climate Change, Energy, Environment and Landscape (Policies ESD1-18, except Policy ESD14) (Paragraphs 87-109 of the Report)***

3.11.1 The Inspector was generally supportive of these policies as proposed to be modified by the Council, and finds them sound, with the exception of two policies. Policy ESD15, the Urban Rural Fringe proposed the identification of green buffers at Banbury and Bicester. The Inspector considered that the policy is unnecessary as other relevant policies including Policy ESD13 and saved adopted Cherwell Local Plan policy C15 could be used in relation to protecting local landscape character and vulnerable gaps between settlements to prevent coalescence. As such he finds Policy ESD15 unsound and recommends its deletion. (Acceptance of this recommendation will mean renumbering policies ESD16 to ESD18 and the supporting paragraphs).

3.11.2 The Inspector suggested (paragraph 106) that a reworded policy applying only to specific locations meeting the narrower definition of "valued landscapes" or "areas of environmental or historic significance" as defined in the NPPF, particularly around

Banbury and Bicester, could be considered for inclusion in Local Plan Part 2 once the local needs of villages have been assessed to identify where development would be inappropriate.

3.11.3 The Inspector also recommended modifications to Policy ESD3 so that the third paragraph now refers to the strategic site allocations being expected to provide “contributions” to carbon emissions reductions and wider sustainability, rather than being expected to “reflect exemplary” contributions. He has modified the final paragraph of the policy to refer to “independent” economic viability assessments being undertaken rather than “in house” viability assessments.

### **3.12 Issue 7: Community Facilities and Green Spaces (Policies BSC7-12) (Paragraphs 110-116 of the Report)**

3.12.1 The Inspector concluded that subject to Main Modifications MMs47-50, policies BSC7-12 are sound.

### **3.13 Issue 8: Bicester Housing Sites (Paragraphs 114- 141 of the Report)**

3.13.1 The Inspector considered that the Sustainability Appraisal process has confirmed that the most sustainable options for new housing at Bicester have been identified in the Plan and that the evidence base demonstrates that all of the selected sites are viable and deliverable over the plan period (albeit Bicester 1 may continue to be developed beyond the plan period). As such it was not necessary for the Inspector to consider alternative or additional strategic site allocations to those identified, with non-strategic sites being a matter for consideration in Local Plan part 2.

3.13.2 With reference to the request for part of land north of Gavray Drive (Policy Bicester 13) to be designated as a Local Green Space (as resolved by Council at its meeting on 20<sup>th</sup> October 2014), the Inspector indicated (paragraph 140) that he does not consider this to be justified.

3.13.3 The Inspector concluded that subject to main modifications MMs 67, 70-76, and 88-91 as amended by him, policies Bicester 1, 2, 3, 12 and 13 are sound.

### **3.14 Issue 9: Bicester Other Sites (Paragraphs 142-159 of the Report)**

3.14.1 The Inspector concluded that subject to main modifications MMs 77-87, as amended by him, policies Bicester 5 to 11 are sound.

3.14.2 In policy Bicester 8 (Former RAF Bicester), the Inspector recommended the deletion of reference to the development of a museum to RAF Bomber Command, as this now seems unlikely to proceed. He also recommended a modification to the wording in the last paragraph of the policy to indicate that the continuation of gliding use will be supported, consistent with the Council’s proposed modification in SHMM20 (February 2015).

3.14.3 In Policy Bicester 10, the Inspector recommended a modification to the wording of the bullet point on “Access and Movement” under “Infrastructure Needs”, to refer to safeguarding of land for future highway improvements to peripheral routes on this side of town. The Inspector’s modifications do not refer to ancillary uses at the site including a hotel as was being proposed by the Council under SHMM24 (February

2015). Whilst he referred to the Council proposing to amend the Policies Map to facilitate the development of a hotel on the site frontage as part of the overall scheme, he did not recommend its inclusion as part of his main modifications.

### **3.15 Issue 10: Banbury Housing Sites (Paragraphs 160-184 of the Report)**

3.15.1 The Inspector indicated that the Sustainability Appraisal process considered realistic alternative options, and indicated that all the strategic new housing sites, including those in the proposed modifications, are sustainable. The Inspector considered that all are demonstrably viable and deliverable. As such the Inspector indicated that it was not necessary to identify any additional or extended sites in Banbury over the plan period as things stand, and none of those put forward would be more sustainable alternatives to the allocated sites.

3.15.2 The Inspector concluded that subject to main modifications MMs 95-103 and 116-124, as amended by him, policies Banbury 1, 2, 3, 4, 5, 16, 17, 18 and 19 were sound. In policy 18, Land at Drayton Lodge Farm, the Inspector's modification deletes the reference to potentially contaminated land on the site, as proposed by the Council in its minor modification SHMM55 (February 2015), as no evidence existed to justify its inclusion.

### **3.16 Issue 11: Banbury Other Sites (Paragraphs 185-211 of the Report)**

3.16.1 The Inspector concluded that subject to main modifications MMs 105-115, as amended by him, policies Banbury 6 to 15 are sound.

3.16.2 The Inspector main modification 115 to policy Banbury 15 (land north east of the M40) significantly changes the allocation from that proposed by the Council, in that he recommended a reduction in site area to 13 hectares, contained by the A361 in the east and the M40 in the west, with consequential changes to the policy and throughout the plan to reflect the reduced allocation. The Inspector considered that development of land to the east of the A361 would have a significantly detrimental impact on the local landscape and materially extend the built up area of Banbury to the east and lead to a significantly harmful erosion of its rural setting on this side of the town. He observed that development of the larger site proposed by the Council was likely to require major contributions for transport and highway improvements but there was no clear evidence that an acceptable programme of works could be delivered taking into account other committed development. The Inspector considered that there was insufficient evidence to justify the whole 49 ha of the site at present. A smaller scheme would reduce harmful landscape impacts, be likely to prove viable without the need for significant highway improvements, and would ensure that sufficient new land is available to meet largely non-strategic B2 and B8 needs arising from within and/or related to the Banbury area.

3.16.3 The Inspector's modifications also include amended wording to policy Banbury 6, employment land west of the M40. Under Infrastructure Needs: Access and Movement, the wording makes clear that a route needs to be reserved for a future road connection. In policy Banbury 12, land for the relocation of Banbury United Football Club, the Inspector's modification amends the wording of the policy and lower text to indicate that the remaining land not required by the football club is considered suitable for a secondary school to serve the town. However his modification does not include reference to the amount of land to be reserved for the

football club and secondary school, as contained in the Council's minor modification SHMM43 (February 2015).

### **3.17 Issue 12: Villages and Rural Areas (Policies Villages 1-5) (Paragraphs 212-233 of the Report)**

3.17.1 The Inspector concluded that subject to main modifications MMs 131-157, as amended by the Inspector, policies Villages 1-5 are sound.

3.17.2 The Inspector's modification to policy Villages 5, former RAF Upper Heyford, "Infrastructure Needs" indicates that the 2.22ha site for a new 1- 1.5 form entry primary school to be provided should have potential for future expansion if required, as proposed by the Council in SHMM65 (February 2015). Under "Key site specific design and place shaping principles" his modification refers to the need to reinstate the historic Portway route across the western end of the main runway as a public right of way on its original alignment. However his modifications do not include reference to the exact number of homes at the site to be dependent on further examination, or include additional text regarding the northern edge of development adjacent to the taxiways, as proposed by the Council in SHMM64 and SHMM66 (February 2015).

### **3.18 Issue 13: Kidlington (Policies Kidlington1 and Kidlington2) and the Oxford Green Belt (Policy ESD14) (Paragraphs 234-242 of the Report)**

3.18.1 The Inspector concluded that subject to main modifications MMs 61, 62 and 125-127, as amended by him, policies Kidlington 1 and 2 and policy ESD14 are sound. He considered that exceptional circumstances exist to justify limited changes to the Green Belt boundary as set out in policy Kidlington 1, in respect of meeting high value employment needs. However, the Inspector did not consider it necessary for reference to be made to a potential small scale local review of the Green Belt boundary to help meet Kidlington's local housing need, as he indicated this should be able to be addressed under policy Villages 3 (rural exception sites), and exceptional circumstances do not therefore exist at present. His modifications therefore deleted references to the potential for small scale local review of the Green Belt boundary to meet Kidlington's local housing need, as proposed by the Council in its modifications.

### **3.19 Issue 14: Infrastructure, Delivery and Monitoring (Policy INF1)**

3.19.1 The Inspector concluded that main modifications MMs 159-168, as proposed by the Council, were required to the Infrastructure Delivery Plan and the Delivery and Monitoring section, with the exception of the reference to a possible small scale Green Belt review to meet Kidlington's local housing need in modification 185, which the Inspector has deleted. He indicated that consequential changes from the Inspector's main modifications should be incorporated into the employment trajectory.

### **3.20 Overall Conclusion and Recommendation (Paragraphs 250-251 of the Report)**

3.20.1 The Inspector indicated that the Submitted Plan (January 2014) has a number of deficiencies relating to soundness and as such recommends non-adoption of the Plan as submitted in January 2104. However, he concluded that with the

recommended Main Modifications set out in the Appendix of his report, the Cherwell Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

### **3.21 Consequential changes**

3.21.1 Paragraph 4 of the Inspector's report indicated that there were a number of consequential amendments to the Policies Map arising from his main Modifications which were a matter for the Council and did not form part of his recommendations. These changes are indicated on the Plans attached at Appendix 3 and comprise the following:

- Removal of all Green Buffers following the Inspector's deletion of Policy ESD15
- Reduction in the size of strategic employment allocation Banbury 15: Land north east of Junction 11

3.21.2 In addition there are a number of consequential amendments to the text necessitated by the Inspector's Main Modifications, as indicated in the Schedule of additional modifications attached as Appendix 2 to this report. This includes consequential changes to the IDP: the Inspector's Main Modification 222 relates to the Draft IDP accompanying the Main Modifications August 2014 in Appendix 8. Minor modifications to the IDP to address changes consequential to the Inspector's modifications as well as clarification/corrections/updates and other matters raised through the August public consultation are listed in the additional modifications contained in Appendix 2 to this report.

### **3.22 Additional Modifications**

3.22.1 Paragraph 6 of the Inspector's Report refers to additional minor modifications prepared by the Council, and indicates that as they are not directly relevant to his examination of the Plan for soundness, for the most part they are not referred to in his report. However he indicated that the Council will take representations into account before finalising the Plan text for adoption.

3.22.2 As indicated under Section 2 above, the Council has published a series of additional minor modifications since the Plan was submitted in January 2014. Minor modifications were published alongside main modifications for public consultation in August 2014, and further minor modifications were made at the Council meeting on 20 October in response to representations received.

3.22.3 In addition, at the Inspector's request, a Schedule of Hearing Minor Modifications was submitted on 6 February 2015. The minor modifications comprised those put forward by the Council during and after the hearings and the content of Statements of Common Ground entered into immediately preceding the Hearings.

3.22.4 The Inspector has incorporated or modified a number of the minor modifications from August and October 2014, and February 2015 in making his Main Modifications to the Plan. Substantive changes to the Plan contained within the modifications approved by the Council in October 2014 and in the Schedule of Hearing Minor Modifications submitted in February 2015 which are not incorporated into the Inspector's Main Modifications are as follows:

- Reference to the possibility of a small scale Green Belt review for meeting Kidlington's local housing needs (MMs 17, 61, 62, 126, 160) (See 3.18 above)
- Reference to the examination of options for the release of land at motorway junctions for very large scale logistics buildings as part of Local Plan part 2 (SHMM1) (See 3.7 above)
- Deletion of policies Bicester 9 and Banbury 13 regarding burial provision and insertion of references to contributions towards burial provision within the strategic site allocation policies (SHMMs 13, 16, 21, 22, 23, 28, 32, 35, 36, 37, 38, 40, 44, 45, 47, 50, 56, 60). (The Inspector considers Policies Bicester 9 and Banbury 13 are sound and references within the site policies are not necessary)
- The eastern portion of strategic site allocation Banbury 15: Land east of the M40. (MM115) (See 3.16 above)
- References to ancillary uses including a hotel in Policy Bicester 10 (SHMMs 24). (See 3.14 above)
- Reference to the specific amount of land required for a secondary school on site Banbury 12 (Land for the relocation of Banbury United Football Club) (SHMM43)
- References to a spine road and the specific amount of land to be safeguarded to meet secondary school education needs in policy Banbury 17 (South of Salt Way east) (SHMM48, 49, 51 and 54). The Inspector's alternative wording refers to land being reserved for a secondary school and for provision of an east-west link for local traffic.
- Additional text in Section E: Monitoring and Delivery (SHMMs 67-73).

3.22.5 As the Inspector has considered the changes required to make the Plan sound the Council could decide to proceed to adoption without making any additional modifications. However, some of the minor modifications proposed by the Council were made in response to representations received following consultation, and others were proposed to correct grammatical errors, provide greater clarity and ensure that the Plan is as up to date as possible. The incorporation of some additional modifications is therefore considered appropriate to achieve a better quality plan, without contradicting the Inspector's conclusions.

3.22.6 In considering whether additional modifications are required the Council needs to be mindful of the provisions of section 23 of the Planning and Compulsory Purchase Act 2004 (as modified by the Localism Act 2011), which allows additional modifications to be made to the Plan if the additional modifications taken together would not materially affect the policies that would be contained in the Plan if it were adopted with just the Inspector's modifications. It should also be noted that many of the minor modifications proposed in February arose from discussion at the Hearings and having heard the evidence and considered the hearing modification, it was open to the Inspector to decide which recommendations he thought were appropriate. This is demonstrated by the inclusion of some of the hearing modifications proposed by the Council within his main modifications.

3.22.7 This has been taken into account in considering whether the minor modifications previously proposed by the Council should be carried forward into the Plan for adoption. The list of minor modifications recommended to be incorporated into the plan for adoption therefore focus on those changes required for clarity, consistency, to provide factual updates or corrections, grammatical corrections, or to remove

repetition. These are in addition to those required as consequential amendments to the Inspector's main modifications referred to under Para 3.21 above. The additional modifications proposed for incorporation in the Plan for adoption are set out in Appendix 2, and officers consider that taken together, they meet the requirements of section 23 of the Planning and Compulsory Purchase Act 2004.

3.22.8 Those minor modifications not included in the schedule of Additional Modifications in Appendix 2 are summarised below:

*Minor Modifications October 2014*

3.22.9 Minor Modification 334b: (Appendix 6 Monitoring framework) proposed a new row to be inserted at the start of the table for PSD1: "Policy PSD1 Local Plan indicators: N/A Target N/A":

- This has been updated in the Schedule attached at Appendix 2 to make the indicator more specific.

Minor Modification 335a: (Appendix 6 Monitoring Framework) proposed to amend the indicator and target for Policy Banbury 11 to read: "Indicator: Progress on delivering the Banbury linear park. Target: as set out in Policy Banbury 11":

- This is not proposed to be taken forward as the monitoring indicator for Banbury 11 already covers the entire policy and as the IDP includes the specific infrastructure project, its delivery will be monitored as part of INF1.

*Minor Modifications February 2015*

3.22.10 The reasons for those February Minor Modifications (SHMMs) not being included in the Plan for adoption fall under the following categories:

- i) The Inspector did not agree with the modification proposed:
  - SHMM1 (Policy SLE1)
- ii) The Inspector has already incorporated or has modified the wording of the SHMM in making his main modifications to the Plan:
  - SHMM8 and SHMM9 (policy BSC6 Travelling communities), SHMM14 (policy Bicester 2), SHMM17 (policy Bicester 5 paragraph C.69), SHMM19 (policy Bicester 7, paragraph C.83), SHMM20 (policy Bicester 8), SHMM55 (policy Banbury 18), SHMM65 (policy Villages 5)
- iii) The Inspector has not accepted the SHMM and has recommended alternative text:
  - SHMM12 (policy ESD14, paragraph B.256), SHMM25 (policy Bicester 10), SHMM29 and SHMM30 (policy Bicester 12), SHMM43 (policy Banbury 12), SHMM46 (policy Banbury 15), SHMM48 (policy Banbury 17), SHMM49 and SHMM51 (Banbury 17), SHMM61 (Paragraph C.190, Kidlington)
- iv) The SHMMs are no longer required as a consequence of the Inspector's recommendation that policies Bicester 9 and Banbury 13 (burial provision) are sound:
  - SHMM13 (policy Bicester 2), SHMM16 (policy Bicester 3), SHMM21, SHMM22, and SHMM23 (policy Bicester 9), SHMM28 (policy Bicester 12), SHMM32 (policy Bicester 13), SHMM35 (policy Banbury 1), SHMM36 (policy Banbury 2), SHMM37 (policy Banbury 3), SHMM38 (policy Banbury 4),

SHMM40 (policy Banbury 5), SHMM44 and SHMM45 (policy Banbury 13), SHMM47 (policy Banbury 16), SHMM50 (policy Banbury 17), SHMM56 (policy Banbury 18), SHMM60 (policy Banbury 19)

- v) The Inspector has not incorporated the SHMM in his main modifications:
- SHMM2, SHMM3, and SHMM4 (policy SLE2): these changes proposed minor deletions and re-wording to policy SLE2 following discussion at the hearings.
  - SHMM15 (policy Bicester 2): Proposed insertion of text providing additional information on ecological surveys required. This proposed change arose from a statement of common ground SOCG PM19B
  - SHMM18 (policy Bicester 5): Proposed deletion of text referring to proposals for A1 use within the town centre area of search prior to it being reviewed in Local Plan part 2. This proposed change arose from discussion at the hearings.
  - SHMM24 (policy Bicester 10): Proposed additional reference to use classes to include “plus ancillary uses (including a hotel)”. This proposed change resulted from a Statement of Common Ground SOCG PM12
  - SHMM26 (policy Bicester 11): Proposed insertion of text relating to cumulative ecological impact. This proposed change resulted from a Statement of Common Ground SOCG PM19B.
  - SHMM27 (policy Bicester 11): Proposed insertion of text relating to landscape boundary treatment on the northern boundary of the site.
  - SHMM31 (policy Bicester 12): Proposed insertion of additional text relating to ecological surveys required. This proposed change resulted from a Statement of Common Ground SOCG PM19B.
  - SHMM33 (policy Bicester 13): Proposed insertion of additional text relating to ecological surveys required. This proposed change resulted from a Statement of Common Ground SOCG PM19B.
  - SHMM34 (policy Banbury 1): Proposed changes to land area and use class sections of the policy. These proposed changes resulted from a Statement of Common Ground SOCG PM25.
  - SHMM39 (policy Banbury 4): Proposed insertion of reference to provision of access to the proposed secondary school on site Banbury 12. This proposed change resulted from a Statement of Common Ground SOCG PM19B.
  - SHMM52 , SHMM53 and SHMM54 (policy Banbury 17): These proposed the insertion of text to refer to provision of a cricket pitch as part of outdoor sports provision, a strategic landscape buffer in the vicinity of Tudor Hall School, and amending “link road” to “spine road”. All of these changes arose from discussion at the hearings.
  - SHMM57 (policy Banbury 18, Land at Drayton Lodge Farm): Proposed additional text under open space to refer to the possibility of the adjoining golf course contributing to the development’s open space provision if shown to be surplus to requirements. This proposed change arose from discussion at the hearings.
  - SHMM58 and SHMM59 (policy Banbury 19): Proposed insertion of text to refer to review of the Local Transport Plan, and replacement of “approximately 70% houses 30% flats under “dwelling mix” with “to be informed by Policy BSC4: Housing mix”. This proposed change arose from discussion at the hearings.

- SHMM63 (paragraph C.205): Proposed amendment to text referring to the provision of new or expansion of existing education facilities. This proposed change arose from a Statement of Common Ground SOCG PM19B.
- SHMM64 and SHMM66 (Villages 5): Proposed reference to the exact number of homes at the site to be dependent on further examination, and the inclusion of additional text regarding the northern edge of development adjacent to the taxiways. These proposed changes arose from discussion at the hearings.
- SHMM76 (5.2 Key Policies Map: Bicester): Proposed extension of Bicester 10 to the south arising from discussion at the Hearings.

3.22.11 The following SHMMs are not specifically referred to by the Inspector in the report and/or he has not made main modifications to the policies/paragraphs concerned:

- SHMM10: Proposed deletion of “and highly valued” from paragraph B.245 of policy ESD13. This proposed change arose from discussion at the Hearings
- SHMM11: Proposed deletion of paragraph B.255 of ESD14 providing historical context to the Green Belt. This proposed change resulted from discussion at the Hearings
- SHMM41: Proposed deletion of the word “small” from the following bullet point of Banbury 9: “Use classes- Retail (including small A1, A3), Hotel (C1). This proposed change resulted from a Statement of Common Ground SOCG PM25.
- SHMM42: Proposed insertion of text in paragraph C.175 of policy Banbury 11 to refer to cricket pitch provision in association with development of land south of Salt Way following discussion at the Hearings.
- SHMM62: Proposed insertion of text into paragraph C.190 (Kidlington) to cross refer to paragraph B.89b of the plan.
- SHMM67, SHMM68, SHMM69, SHMM70, SHMM71, SHMM72, and SHMM73: Proposed changes to the Monitoring and Delivery Section following discussion at the Hearings and the Statement of Common Ground SOCG PM 19B.

3.22.12 On review, these changes are not considered to be necessary to incorporate in the plan for adoption as they have not been considered necessary for inclusion by the Inspector for soundness, are not essential for clarity and understanding of the Plan, and to avoid any risk that if they were to be included, some could be considered to materially affect the policies in the Plan.

### **3.23 Adoption of the Local Plan**

3.23.1 In considering the recommendations contained in the Inspector’s Report, and the next steps in progressing the Cherwell Local Plan, there are three options available to the Council under the Planning and Compulsory Purchase Act 2004 Section 23, as modified by the Localism Act 2011 section 112 (3):

- adopt the plan in accordance with the Inspector’s main modifications,
- adopt the plan in accordance with Inspector’s main modifications and additional modifications, if the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications
- reject the Inspector’s modifications and not adopt the Plan.

3.23.2 This report recommends that the Council adopts the Plan as set out in Appendix 3, which incorporates the Inspector's main modifications together with additional modifications as indicated in Appendix 2 to this report, in accordance with procedures set out in Regulation 26 of the Town and Country Planning (Local Planning)(England) Regulations 2012. In accordance with the regulations, the Adopted Plan will need to be accompanied by an adoption statement, which must be sent to the Secretary of State.

### ***Sustainability Appraisal***

3.23.3 Although no further Sustainability Appraisal work is required for Local Plan Part 1, Cherwell District Council needs to meet Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations (2012) requirement to make 'the sustainability appraisal report' available alongside the Adopted Local Plan.

3.23.4 A SA/SEA Adoption Statement has been prepared which explains what comprises the final SA Report, that is:

- The December 2013 SA Report (prepared to accompany the Submission version of the Cherwell Local Plan)
- The October 2014 SA Addendum (prepared to accompany the Proposed Main Modifications proposed to the Local Plan)

3.23.5 The SEA Regulations (The Environmental Assessment of Plans and Programmes Regulations 2004 - SI No. 1633) also require a number of steps to be taken upon adoption of a local plan. These are also addressed in the SA/SEA Adoption Statement which describes how each of the requirements in SEA Regulation 16(4)(a)-(f) have been met during the SA/SEA process for the Cherwell Local Plan and sets out the SA/SEA monitoring framework proposed for monitoring the implementation of the Local Plan. The SA/SEA Adoption Statement is attached as Appendix 4 to this report.

### ***Saved Policies***

3.23.6 Once adopted, the Plan comes into effect immediately, and has the effect of revoking saved policies as set out in Appendix 7 of the Plan. Please note that following further consideration minor amendments have been made to Appendix 7 of the Submitted Plan in respect of 1996 Saved Policies with reference to saved policies EMP3, S8 and TR20. These were previously shown as being "retained" policies in error, as they will be replaced by policies SLE1, Banbury 1 and SLE4/Bicester 8 respectively.

3.23.7 The saved policies shown as retained in Appendix 7 of the Plan will be reviewed as part of Local Plan Part 2, together with other issues referred to in the Inspector's report as being for consideration as part of that plan. Members will be aware that work has already commenced on Local Plan Part 2. Work is also progressing on preparation of the Community Infrastructure Levy (CIL), which will help to ensure that adequate infrastructure can be provided to accompany the growth planned for the district.

### **3.24 Adopted Policies Map**

3.24.1 Once the Plan is adopted, the Council will need to produce an Adopted Policies Map in accordance with Regulation 9 of the Local Plan Regulations 2012. The map will illustrate graphically the application of policies in the adopted development plan, which will comprise the adopted Cherwell Local Plan 2011-2031 Part 1, those saved policies of the adopted Cherwell Local Plan 1996 not replaced by the Cherwell Local Plan Part 1 (as indicated in Appendix 7 of that Plan) and the saved policies of the Oxfordshire Minerals and Waste Local Plan 1996.

### **3.25 Consultation**

3.25.1 Extensive consultation has been undertaken throughout the preparation of the Plan, as recognised by the Inspector in paragraph 29 of his report. Representations received at each stage have been reported to the Council and taken into consideration in progressing the Plan. There has been close co-operation and co-ordination with Oxfordshire County Council in particular with regard to transport and infrastructure needs generated by the Plan's proposals.

3.25.2 The Inspector's report has been made publicly available in accordance with the Local Plan Regulations but there is now no further opportunity for further consultation or comment on either the Report or the Plan. The Inspector's report was published on 12 June 2015 and will remain available at the deposit locations for at least six weeks following the adoption of the Plan.

### **3.26 Legal Challenge**

3.26.1 There is provision under Section 113 of the Planning and Compulsory Purchase Act for a legal challenge to be made within 6 weeks of the date of adoption of the Local Plan. As a Bank Holiday falls within 6 weeks of the adoption date, the period for legal challenge will end on Wednesday 2 September 2015.

## **4.0 Conclusion and Reasons for Recommendations**

4.1 The Inspector's report on the examination into the Cherwell Local Plan Part 1 is a positive report for the Council and is to be welcomed. He has endorsed most of the Council's proposed modifications to the Plan either without change or with minor amendments. The main issues where the Inspector did not agree with the Council's proposals were the identification of green buffers at Banbury and Bicester, and the amount of land allocated for employment use at strategic allocation site Banbury 15, Land north east of the M40.

4.2 The issues where the Inspector did not agree with the Council proposals are not considered to be of such overriding concern as to halt the Council from proceeding to adoption. With particular reference to the deletion of Policy ESD15, Policy ESD13 can be used to protect local landscape character, and the Council can continue to use retained saved policy C15 in the Cherwell Local Plan 1996 to prevent the coalescence of settlements pending completion of Local Plan part 2. In terms of employment development, the amount of employment land provided, even with the reduced size of strategic employment allocation Banbury 15, is considered

sufficient to provide the number of jobs needed to deliver the Plan's strategy and objectives over the life of the Plan (2011-2031).

- 4.3 The Council has the option of accepting the Inspector's main modifications only and adopting the Plan, as these are the only modifications the Inspector considers are necessary to make the Plan sound. However, this report is recommending a number of additional modifications which will correct, update and provide greater clarity to the Plan without contradicting the Inspector's main modifications
- 4.4 The meeting is therefore recommended to accept the Inspector's recommendations regarding the main modifications required to make the Plan sound, approve the incorporation of additional modifications as set out in Appendix 2, and adopt the Plan as contained in Appendix 3 in accordance with the Local Plan Regulations 2012. It is considered that the additional modifications taken together do not materially affect the policies that would be contained in the document if it were to be adopted with the main modifications recommended by the Inspector and no other modifications.
- 4.5 If the Council agrees to adopt the Plan this report is also seeking delegated authority for the publication of an updated Adopted Policies Map, as required by Regulation 9 of the Local Plan Regulations. In effect this will mean transposing the allocations and constraints indicated on the Policies Maps in Local Plan part 1, and adding any site specific allocations from the saved policies of the adopted Cherwell Local Plan 1996 not replaced by the adoption of Local Plan part 1, together with the site specific allocations of the saved policies of the adopted Oxfordshire Minerals and Waste Local Plan 1996.

## **5.0 Consultation**

- 5.1 No public consultation has been undertaken as consultation is not required at this stage in the Local Plan process.

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To adopt the Local Plan with the Inspector's Main Modifications only

This option was rejected as this would fail to address minor matters of clarification, updating and corrections, which together do not materially affect the policies but without which the Plan would be of lesser quality.

Option 2: Reject the Inspector's Main Modifications and not adopt the Plan.

This option was rejected as the Inspector has endorsed the majority of the Main Modifications proposed by the Council and those not endorsed are not considered significant enough to not proceed to adoption. In addition, having an up to date adopted plan is an important national policy requirement. Further time delay in not having an up to date adopted plan in place providing the strategic planning policy

framework for the district would be of major concern, presenting challenges to development management within the Council's administrative area.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 There are no financial and resource implications arising directly from this report. The cost of preparation of the Local Plan is met from existing resources.

Comments checked by:

Paul Sutton, Head of Finance and Procurement, Extension 7936,  
[Paul.Sutton@cherwellandsouthnorthants.gov.uk](mailto:Paul.Sutton@cherwellandsouthnorthants.gov.uk)

### **Legal Implications**

- 7.2 The Council is required to have an up to date Local Plan. This report and associated documents will enable the adoption of Cherwell Local Plan 2011-2031 Part 1, meeting this requirement.

Comments checked by:

Kevin Lane, Head of Law and Governance, Extension 7967,  
[Kevin.lane@cherwellandsouthnorthants.gov.uk](mailto:Kevin.lane@cherwellandsouthnorthants.gov.uk)

### **Risk**

- 7.3 As indicated under Section 3 above, there is the risk of a legal challenge being made to the adoption of the Local Plan. However officers are not aware of any likely legal challenge at the time of writing this report.

Comments checked by:

Claire Taylor, Corporate Performance Manager, extension 1563,  
[Claire.taylor@cherwellandsouthnorthants.gov.uk](mailto:Claire.taylor@cherwellandsouthnorthants.gov.uk)

## **8.0 Decision Information**

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

- Accessible, Value for Money Council
- District of Opportunity
- Safe and Healthy
- Cleaner Greener

### **Lead Councillor**

Councillor Michael Gibbard, Lead Member for Planning

## Document Information

Appendix No	Title
1	Inspector's Report (including his schedule of Main Modifications)
2	Schedule of Additional Modifications
3	Local Plan for adoption incorporating all modifications
4	SA/SEA Adoption Statement
5	Programme of Issues for the December Examination Hearings
6	Cherwell District Council Opening statement- December Hearings
<b>Reference</b>	
<a href="http://www.cherwell.gov.uk/LocalPlanExamination">www.cherwell.gov.uk/LocalPlanExamination</a>	
<b>Background Papers</b>	
None	
<b>Report Author</b>	Adrian Colwell – Head of Strategic Planning and the Economy
<b>Contact Information</b>	03000030110 <a href="mailto:Adrian.colwell@cherwellandsouthnorthants.gov.uk">Adrian.colwell@cherwellandsouthnorthants.gov.uk</a>