

# **Cherwell District Council**

## **Lead Member Decision - Lead Member for Planning**

**18 April 2018**

<b>Consideration of the Examiner's Report for the Adderbury Neighbourhood Plan</b>
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### **Report of Executive Director for Place and Growth**

This report is public

#### **Purpose of report**

The Adderbury Neighbourhood Plan (submission draft as proposed to be modified) has been examined by an independent examiner. The examiner has produced a report and the Council as the Local Planning Authority is required to consider the report's recommendations; determine whether the Plan, incorporating modifications, should proceed to a referendum; and, confirm the area covered by the referendum.

#### **1.0 Recommendations**

The Lead Member is recommended:

- 1.1 To approve all of the Examiner's recommendations and modifications (Appendices 1 and 2, to follow) to enable the Plan, incorporating the recommended modifications (Appendix 3 to follow), to proceed to a referendum.
- 1.2 To approve the area for the referendum as being the designated Neighbourhood Plan area (the administrative boundary of Adderbury Parish) in accordance with the examiner's recommendations, noting that there will be no extension to the area.
- 1.3 To authorise the issue of a 'decision statement' confirming the Executive's decision including that the Plan will now proceed to referendum.
- 1.4 To authorise the Executive Director for Place and Growth to make any minor presentational changes and corrections necessary to ready the Plan for referendum.

#### **2.0 Introduction**

- 2.1 This report is prepared to inform a decision by the Lead Member for Planning following the independent examination of the submission draft of the Adderbury Neighbourhood Plan. The examination formally commenced on 1 March 2018 and the Examiner's report was received on 26 March 2018.

2.2 The Lead Member for Planning is invited to consider the following documents (all to follow):

- i. Examiners Report (Appendix 1)
- ii. A schedule of the Examiner's recommendations and of officers' consideration of each recommendation (Appendix 2)
- iii. The Post-Examination Adderbury Neighbourhood Plan 2014 – 2031 with modifications (Appendix 3)
- iv. The representations received to the Submission Plan (Appendix 4)
- v. Consultation Statement (with dates amended) (Appendix 5)
- vi. Basic Conditions Statement (with dates amended) (Appendix 6)
- vii. SEA Screening Statement (Appendix 7)

2.3 All of the documents submitted to the Examiner are available on-line at <https://www.cherwell.gov.uk/Adderburyneighbourhoodplan> .

2.4 On behalf of the Council, it is the Lead Member's decision whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission plan.

2.5 Once a neighbourhood plan has been independently examined, and the decision taken to put the plan to a referendum, it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application.

### **3.0 Report Details**

#### **Submission**

3.1 The Adderbury Neighbourhood Development Plan Submission Draft was consulted from Thursday 12 October to Friday 24 November 2017. Officers provided a formal response of behalf of the Council. The issues raised from the consultation were discussed with Adderbury Parish Council which then proposed a number of minor modifications in the form of a Schedule and amended the maps for submission with the Plan to the Examiner.

#### **Examination**

3.2 Under neighbourhood planning legislation the appointed Examiner must:

- be independent of the Parish Council and Local Planning Authority;
- have no interest in any land that may be affected by the draft plan;
- have appropriate qualifications and experience.

3.3 An Independent Examiner, Chris Edward Collison BA (Hons) MRTPI MCMI IHBC was appointed by the District Council to consider the submitted documents; to determine whether the Neighbourhood Plan meets prescribed 'Basic Conditions' and legal requirements; and to recommend whether or not the Plan should proceed to referendum.

3.4 A neighbourhood plan meets the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

3.5 The District Council publicised the plan proposal as required by regulations, namely the submitted Neighbourhood Plan and map within it, a consultation statement, a basic conditions statement and an SEA Screening Opinion. All correspondence and statements through the examination were posted on the Council website to ensure that the examination process was open and transparent to all interested parties.

3.6 The Examiner's report is presented at Appendix 1 and his recommended modifications are listed at Appendix 2 with officers' consideration of each included. A summary of his findings is set out at paragraphs 225 to 229 of his report.

3.7 The examiner notes (para. 56) that the Neighbourhood Plan seeks to:

- support infill development within a defined settlement boundary;
- protect and enhance the landscape in open countryside;
- maintain or enhance value of defined green infrastructure;
- designate seven Local Green Spaces;
- conditionally resist development of eighteen identified areas to be designated as Local Open Spaces;
- define two Local Gaps where development will only be supported if it does not harm open character;
- establish design principles for development in defined areas of the Parish;
- resist loss or harm to the significance of ten buildings and structures identified as Locally Listed Buildings;
- allocate identified land off Milton Road for sports and community uses;
- conditionally support proposals to improve or extend community facilities at Lucy Plackett Fields;
- conditionally support proposals to improve the viability of identified community assets and local services and guard against their unnecessary loss;
- support proposals for new or expanded shops or commercial units and guard against their unnecessary loss;
- conditionally support proposals for new employment and tourism uses, including tourism and leisure uses along the Oxford Canal, and proposals for intensification of uses on defined established business parks; and
- resist unnecessary loss of land or buildings from business use.

3.8 In brief, the Examiner finds:

- that the Plan meets statutory requirements and the prescribed Basic Conditions;

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it would be appropriate to make the plan;
- the making of the neighbourhood plan would contribute to the achievement of sustainable development;
- the making of the neighbourhood plan would be in general conformity with the strategic policies contained in the development plan for the area (or any part of that area);
- the Plan (including with recommended modifications) would not breach, and otherwise be compatible with, EU obligations;
- the making of the Plan is not likely to have a significant effect on a European site either alone or in combination with other plans or projects.

3.9 In concluding that the Plan would contribute to the achievement of sustainable development, the Examiner finds that the Plan would ensure schemes are '*...of an appropriate quality; will enhance social and economic facilities; and will protect important environmental features...*' (para. 56).

3.10 The Examiner recommends that the Adderbury Neighbourhood Development Plan for the plan period up to 2031 should, subject to recommended modifications, be submitted to referendum (para. 226).

3.11 The Examiner also recommends that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Cherwell District Council as a Neighbourhood Area on 7 June 2013 (the administrative area of Adderbury Parish).

### **Proposed Modifications**

3.12 The Examiner recommends twenty-one modifications in his report. They include amendments to the Proposals Map and insets further to the Parish Council's proposed modifications included as part of the submission documents.

3.13 The modifications include changes suggested for reasons of accuracy/precision/clarification, where they are necessary in response to representations, to assist the interpretation and application of policies and to give sufficient regard to national planning policy. Consequential modifications, minor corrections and updates are also recommended.

3.14 The recommended modifications are listed in Appendix 2 with an officer response to each.

### **Officers' Consideration of the Examiner's Report**

3.15 Having considered the Examiner's report, officers are of the view that all the recommendations should be accepted and that with the modifications, the Neighbourhood Plan meets the prescribed Basic Conditions and should proceed to referendum. Officers also agree with the Examiner that the referendum area should be based on the designated Neighbourhood Area (Adderbury Parish) and that the referendum area does not need to be extended.

3.16 The Parish Council have been sent a copy of the Examiner's report, have seen the modifications proposed to the Neighbourhood Plan (Appendix 3) and are aware of this report being prepared.

## **Next Steps**

- 3.17 Should the Lead Member approve the Examiner's recommendations and the publication of a 'decision statement', the Plan, as modified (Appendix 3) would proceed to referendum organised by the Assistant Director for Law and Governance. An Information Statement would be published providing at least 28 days' notice of the Referendum and the prescribed documents, including the Neighbourhood Plan and the Examiners Report would need to be made publicly available.
- 3.18 Planning Practice Guidance clarifies the new post-referendum status of Neighbourhood Plans further to legislative changes in 2017 (PPG, paragraph: 064 Reference ID: 41-064-20170728):

*'If the majority of those who vote in a referendum are in favour of the draft neighbourhood plan ... then the neighbourhood plan ...must be made by the local planning authority within 8 weeks of the referendum.*

*A neighbourhood plan comes into force as part of the statutory development plan once it has been approved at referendum...*

*The 8 week time limit does not apply where a legal challenge has been brought in relation to the decision to hold a referendum or around the conduct of the referendum...*

*There are narrow circumstances where the local planning authority is not required to make the neighbourhood plan.... These are where it considers that the making of the neighbourhood plan...would breach, or otherwise be incompatible with, any EU or human rights obligations'.*

- 3.19 It should be noted that under the legislation where a Local Planning Authority proposes to make a decision that differs from the Examiner's recommendations then it must notify prescribed bodies/persons and invite representations. It must then make a final decision within five weeks of the end of the representation period or within five weeks of receipt of an Examiner's report if the Local Planning Authority refers the issue to independent examination.

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

- 4.1 The submission Adderbury Neighbourhood Plan has been independently examined and is recommended by the Examiner for referendum subject to the incorporation of modifications. Officers agree with the Examiner's conclusions. They consider that with the incorporation of his recommended modifications the Plan meets the requisite Basic Conditions and should proceed to referendum. The referendum area should be the designated Neighbourhood Plan Area (the Parish boundary).

## **5.0 Consultation**

- 5.1 Councillor Colin Clarke, the Lead Member for Planning, was given prior notice that this report would be published ahead of his consideration.

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

- 6.1 The following alternative options are available but are not recommended for the reasons as set out:

*Option 1: Not to approve some of the Examiner's recommendations but to proceed to a referendum.*

Officers agree with all of the Examiner's recommendations. Where a Local Planning Authority proposes to make a decision that differs from the Examiner's recommendations then further consultation would be needed. This would take more time and have cost implications.

*Option 2: Not to accept the Examiner's recommendations and not to proceed to a referendum.*

Officers agree with the Examiner's recommendations. This option could only be justified if the Examiner recommends that the Plan should not proceed to a referendum, or the Council is not satisfied that the plan has met the procedural and legal requirements.

*Option 3: To extend the area in which the referendum is to take place.*

Officers agree with the Examiner's recommendations. There is no need to extend the referendum area.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 The costs of appointing the Examiner, undertaking the examination and the holding of the referendum is being met within existing budgets prior to reclaiming costs.
- 7.2 LPAs can claim £20,000 once they have set a date for a referendum following a successful examination where a neighbourhood plan has not previously been made for that area.

Comments checked by: Kelly Watson, Assistant Director – Finance and Procurement.

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### **Legal Implications**

- 7.3 The legal process for making the Neighbourhood Plan has been followed. The Adderbury Neighbourhood Plan has been prepared in accordance with the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 (as amended), and the Neighbourhood Planning (General) Regulations 2012 (as amended). The Adderbury Neighbourhood Plan would become part of the statutory Development Plan for Cherwell District if the Plan achieves majority support at the referendum.

Comments checked by: Nigel Bell, Team Leader - Planning & Litigation, Law and Governance

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## 8.0 Decision Information

<b>Key Decision</b>	<b>No</b>
<b>Financial Threshold Met:</b>	<b>N/A</b>
<b>Community Impact Threshold Met:</b>	<b>N/A</b>

### Wards Affected

Adderbury, Bloxham and Bodicote Ward

### Links to Joint Corporate Strategy and Policy Framework

This report directly links to all three themes from the Joint Corporate Strategy 2018-19:

- District of Opportunity & Growth
- Protected, Green & Clean
- Thriving Communities & Wellbeing

### Lead Councillor

Councillor Colin Clarke – Lead Member for Planning

## Document Information

<b>Appendix No</b>	<b>Title</b>
Appendix 1	Examiner's Report
Appendix 2	Schedule of Recommended Modifications by the Independent Examiner for the Adderbury Neighbourhood Plan (Appendix 2)
Appendix 3	The Post-Examination Adderbury Neighbourhood Plan 2014 – 2031 with modifications
Appendix 4	Representations received to the Submission Plan
Appendix 5	Consultation Statement (with dates amended)
Appendix 6	Basic Conditions Statement (with dates amended)
Appendix 7	SEA Screening Statement
<b>Background Papers</b>	
None	
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