

Cherwell District Council

Lead Member Decision - Lead Member for Planning

24 January 2019

<h3>Consideration of the Examiner's Report for the Mid-Cherwell Neighbourhood Plan</h3>
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Report of Assistant Director - Planning and Economy

This report is public

Purpose of report

The Mid-Cherwell 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 enable the Plan, incorporating the recommended modifications (Appendix 3), to proceed to a referendum.
- 1.2 To approve the area for the referendum as being the designated Neighbourhood Plan area 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 Lead Member's decision including that the Plan will now proceed to referendum.
- 1.4 To authorise the Assistant Director – Planning and Economy 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 Mid-Cherwell Neighbourhood Plan (2018 - 2031). The examination formally commenced on 15 October 2018 and the Examiner's report was received on 2 January 2019. The Mid Cherwell Neighbourhood Forum has been sent a copy of the Examiner's report.

2.2 The Lead Member for Planning is invited to consider the following documents:

- i. Examiner's Report (Appendix 1)
- ii. A schedule of the Examiner's recommendations and of officers' consideration of each recommendation and proposed changes (Appendix 2)
- iii. The Post-Examination Mid-Cherwell Neighbourhood Plan 2018-2031 with modifications (Appendix 3)
- iv. A summary of the representations received to the Submission Plan (Appendix 4)
- v. Consultation Statement (Appendix 5)
- vi. Basic Conditions Statement (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/info/221/neighbourhood-plans/400/mid-cherwell-neighbourhood-plan/2>

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

3.1 The Council's Executive resolved at a meeting on 7 April 2015, to designate the area shown in the area application for the purposes of preparing a Neighbourhood Development Plan <https://www.cherwell.gov.uk/info/221/neighbourhood-plans/400/mid-cherwell-neighbourhood-plan>. The application was made by Ardley with Fewcott Parish Council (on behalf of a consortium) as a 'relevant body' under Section 61G(1) of the Town and Country Planning Act 1990 as amended.

3.2 The designated Neighbourhood Area comprises the following parishes. The Mid-Cherwell Neighbourhood Forum was formed to facilitate plan preparation and includes Dorchester Group and Heyford Park Residents Association as associate Members in addition to the Parish Councils.

- Ardley with Fewcott Parish
- Kirtlington Parish
- Duns Tew Parish
- Lower Heyford Parish
- Middleton Stoney Parish
- Somerton Parish
- Steeple Aston Parish
- Middle Aston Parish
- North Aston Parish
- Fritwell Parish
- Upper Heyford Parish

Submission

- 3.3 The Mid-Cherwell draft Submission Neighbourhood Plan was submitted by Ardley with Fewcott Parish Council on behalf of the Neighbourhood Forum to the District Council on 10 April 2018. Public consultation was undertaken on the draft Submission between 4 May and 19 June 2018. The 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.
- 3.4 Officers provided formal representations on behalf of the Council. The issues raised from the consultation were discussed with the Forum which then decided to submit additional documents for the examination. This included a covering letter from the qualifying body (Ardley with Fewcott Parish Council), 'Schedules of Minor Modifications' (August 2018) and a commentary on the representations (August 2018). Two schedules were submitted: Schedule A: Modifications to Plan Policies and Schedule B: Modifications to Supporting Text and Drawings. These documents were published on the Council's website and the Examiner was of the view these documents comply with good practice and took them into account for the examination.

Examination

- 3.5 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.
- 3.6 An Independent Examiner, Richard High BA MA MRTPI 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.
- 3.7 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.
- 3.8 Correspondence with the examiner through the examination was published on the Council's website at the examiners request to ensure that the examination process was open and transparent to all interested parties.

3.9 The Examiner's report is presented at Appendix 1. The Examiner has considered the Plan and the Forum's proposed minor modifications.

3.10 The examiner notes in his report that the Neighbourhood Plan seeks to:

- provide a vision statement which provides a clear aspiration for the Plan with 10 objectives
- provide for infill, conversions and minor development within defined settlement areas of villages and outside subject to certain criteria, with an indication of dwelling numbers permitted during the Plan period.
- provide a zone of non-coalescence between the western boundary of the Heyford Park Strategic Development Site and Upper Heyford village
- protect important views, vistas and the conservation area;
- ensure a high standard of design which will maintain and reinforce local distinctiveness
- control light pollution
- designate 30 Local Green Spaces and proposes that development should only be permitted on them in exceptional circumstances
- ensure that new developments favour houses with a smaller number of bedrooms and specify the percentage mix of houses with different numbers of bedrooms.
- provide for the development of rural exception sites for affordable housing within or immediately adjacent to villages, particularly favouring the re-use of brownfield land for this purpose.
- support housing that is capable of internal and external modification to meet the needs of people at different stages of life, particularly the elderly and those with disabilities.
- provide support for the provision of extra care housing if the numbers provided as part of the Heyford Park development are insufficient to meet the demand in the area.
- require garages or adjacent parking provision rather than separate parking courts and the provision of well- designed waste storage areas.
- control parking provision where an existing dwelling is altered or extended.
- require any development of 10 or more dwellings and any non-residential development to submit a Traffic Assessment to identify the impact of any traffic generated on the "hot-spots" in the MCNP area
- support developer contributions through the Community Infrastructure Levy (CIL) and Section 106 where they are spent on infrastructure that directly benefits the area.
- support the continued use of existing business premises for employment generating purposes and the encouragement of new small businesses
- support the establishment of a health facility at Heyford Park which would provide GP and other services.
- support the establishment of a new cemetery within or adjacent to Heyford Park as the existing capacity is limited and insufficient to serve a community of the size envisaged there.
- provide a Community Action Plan which addresses matters which cannot be addressed through planning policies

3.11 In brief (page 5 of the examiners report), the Examiner finds:

- The Mid-Cherwell Neighbourhood Development Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012 (as amended) and that;
- 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 Plan would contribute to the achievement of sustainable development;
- The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;
- The Plan would not breach and will be otherwise compatible with European Union obligations and the European Convention on Human Rights.

- 3.12 At paragraph 173 of his report the examiner recommends that the Mid-Cherwell Neighbourhood Development Plan should proceed to a referendum subject to the modifications that he recommends.
- 3.13 He also recommends, at paragraph 174 of his report, that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Cherwell District Council as a Neighbourhood Area and not be extended.
- 3.14 The examiner states at paragraph 31 of his report that he is satisfied that the arrangements for public consultation exceeded the requirements of the legislation and made every effort to ensure that the residents and businesses in the whole neighbourhood area were engaged throughout the preparation of the plan. The examiner recognises at paragraph 171 of his report that there will be disappointment in the deletion of some proposed Local Green spaces but states that it is important to apply the criteria in the NPPF consistently.
- 3.15 At paragraph 35 of this report the examiner references the Mid-Cherwell Basic Conditions Statement (Appendix 6) and gives the view that this is clearly presented, thorough in its scope and at the same time concise, and that he found it very helpful for the examination.
- 3.16 At paragraph 50 with reference to the SEA Screening Opinion (Appendix 7) and views of the statutory bodies the examiner states that he is satisfied that the submitted Screening Statement constitutes a clear statement of reasons for the conclusion that a SEA is not necessary.
- 3.17 At paragraph 170 the examiner found the Plan and its supporting documents to be very clearly presented, with carefully constructed policies which, with a few exceptions, take their relationship with other development plan policies carefully into account. He finds the use of the substantial body of supporting evidence to be clearly cross-referenced. At paragraph 170 he also states that it is also evident that there has been much joint working between the MCNP Forum and the Council and extensive consultation with other agencies.

Examiner's Recommended Modifications

- 3.18 The examiner's report (appendix 1) includes his recommended modifications to the draft Neighbourhood Plan. Appendix 2 to this report lists these recommendations and provides officer responses. The modifications proposed by the examiner include amendments to the plan's policies, maps and supporting text. The

examiner also recommends that the proposed minor modifications to supporting text and drawings, submitted by the Forum in its Schedule B of August 2018 are made.

- 3.19 Modifications are recommended by the Examiner to ensure the basic conditions are met. 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.

Officers' Consideration of the Examiner's Report

- 3.20 Having considered the Examiner's report, officers are of the view that all his 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 and that the referendum area does not need to be extended.
- 3.21 Appendix 3 to this report (the Post-Examination Neighbourhood Plan) incorporates the Examiner's recommendations. Minor changes such as the re-numbering of policies and cross-referencing following the implementation of recommendations have been made to the Plan (appendix 3) and some elements of policies moved into the Community Action section of the Neighbourhood Plan. Typographical errors have been corrected.

Next Steps

- 3.22 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 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.
- 3.23 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'.

- 3.24 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 Mid Cherwell 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.

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:

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Legal Implications

- 7.3 The legal process for making the Neighbourhood Plan has been followed. The Mid Cherwell 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 Mid-Cherwell Neighbourhood Plan would become part of the statutory Development Plan for Cherwell District if the Plan achieves majority support at the referendum.

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8.0 Decision Information

Key Decision	No
Financial Threshold Met:	No
Community Impact Threshold Met:	No

Wards Affected

Fringfords and Heyfords
Deddington
Launton and Otmoor

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

Appendix No	Title
Appendix 1	Examiner's Report
Appendix 2	Schedule of Recommended Modifications by the Independent Examiner for the Mid Cherwell Neighbourhood Plan
Appendix 3	The Post-Examination Mid-Cherwell Neighbourhood Plan with modifications
Appendix 4	Representations received to the Submission Plan
Appendix 5	Consultation Statement
Appendix 6	Basic Conditions Statement
Appendix 7	SEA Screening Statement
Background Papers	
The Mid-Cherwell Neighbourhood Plan Submission documents https://www.cherwell.gov.uk/info/221/neighbourhood-plans/400/mid-cherwell-neighbourhood-plan/2	
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