

Mid-Cherwell Neighbourhood Plan 2018-2031

The Report by the Independent Examiner

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2 January 2019

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Summary

I have concluded that, if the modifications that I have recommended are made:

- 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.

I am therefore pleased to **recommend that the Mid-Cherwell Development Plan should proceed to a referendum subject to the modifications that I have recommended.**

I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. I have not received any representations or seen any other evidence to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”. **I therefore conclude that there is no need to extend the referendum area.**

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Introduction

1. The Localism Act 2011 has provided local communities the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. The Mid-Cherwell Neighbourhood Plan (MCNP) has been prepared by a consortium of 11 parishes together with the Heyford Park Residents' association and the Dorchester Group, who are the lead developer of the Heyford Park growth area. All of the parishes have formally agreed to participate in the preparation of the neighbourhood plan and Ardley with Fewcott Parish Council has acted as the qualifying body as defined by the Localism Act 2011. The 11 parishes are:
 - Ardley with Fewcott
 - Duns Tew
 - Fritwell
 - Kirtlington
 - Lower Heyford
 - Middle Aston
 - Middleton Stoney
 - North Aston
 - Somerton
 - Steeple Aston
 - Upper Heyford
3. This group of parishes has come together to prepare a neighbourhood plan as they are united by the proximity of the Heyford Park growth area, where large scale housing and employment development is proposed on the former RAF/USAF air base. The initiative for a neighbourhood plan came from the Dorchester Group who are the owners of the Heyford Park site and recognised that the consequences of the large-scale development would be a matter of concern for several surrounding parishes. 14 parishes were approached and the 11 listed above responded positively to the approach. The process of preparing the plan has been led by a Neighbourhood Plan Forum¹ (MCNPF), with a clear constitution and terms of reference designed to ensure that the process of preparing the neighbourhood plan was open and that there was effective project management.
4. The parishes make up a roughly triangular area, west of the M40 which lies between Oxford and Banbury and tapers from north to south. Oxford is about 6 miles from the southern end of the neighbourhood area and Banbury is about 7 miles from the northern edge. The valley of the River Cherwell is a prominent feature running from north to south through the area and

¹ This is not a neighbourhood forum in the sense used in section 61F of the Town and Country Planning Act 1990 as amended by Schedule 9 to the Localism Act 2011 and in Part 3 of the Neighbourhood Planning Regulations

passing to the west of the Heyford Park growth area. The Oxford Canal and the Oxford to Birmingham Railway closely follow the course of the river through the area.

5. The population of the area in 2011 was just over 7000. Outline planning permission was granted in 2010 for a new settlement of 1075 dwellings, comprising 761 new dwellings and 314 existing on site dwellings at the former RAF Upper Heyford (now known as Heyford Park). The Cherwell Local Plan adopted in 2015 increased the number of new dwellings by 1600.
6. If, following a recommendation from this examination, the Plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and will then form part of the statutory development plan. This would make it an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

Appointment of the Independent Examiner

7. I have been appointed by Cherwell District Council (CDC), with the agreement of the MCNPF to carry out the independent examination of the MCNP.
8. I confirm that I am independent of both CDC and all of the parishes in the Plan area. I have no interest in any land which is affected by the MCNP. I have never had any other professional involvement in Mid-Cherwell, but I have carried out one previous neighbourhood plan examination in Cherwell District at Hook Norton.
9. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I have completed over 30 neighbourhood plan examinations and three health checks. I therefore have the appropriate qualifications and experience to carry out this examination.

The Scope of the Examination

10. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B of the Town and Country Planning Act 1990.
11. I must:
 - i. Decide whether the Plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the Plan and I shall deal with these first.
 - ii. Decide whether the neighbourhood development plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates mainly to the contents of the Plan.

- iii. Make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the Plan area.
12. The Plan meets the basic conditions if:
 - i. Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan;
 - ii. The making of the Plan contributes to sustainable development;
 - iii. The making of the 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);
 - iv. The making of the Plan does not breach, and is otherwise compatible with, EU obligations.
13. I am also required to consider whether the Plan is compatible with the European Convention on Human Rights.
14. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. In carrying out the examination I concluded that the examination could be completed without a hearing.
15. The main documents to which I have referred in the examination are listed below:
 - Mid-Cherwell Neighbourhood Plan 2018-2031 Submission Version March 2018
 - Mid-Cherwell Neighbourhood Plan 2018-2031 Appendices March 2018
 - Mid-Cherwell Neighbourhood Plan Basic Conditions Statement March 2018
 - Mid-Cherwell Neighbourhood Plan Consultation Statement March 2018
 - Mid-Cherwell Neighbourhood Plan SEA Screening Opinion March 2018
 - Letter from CDC to Ardley with Fewcott Parish Council confirming the designation of the Mid-Cherwell Neighbourhood Area
 - Responses to Regulation 16 publicity on the Submission Plan
 - Mid-Cherwell Neighbourhood Plan Forum: Schedules of Minor modifications August 2018
 - Mid-Cherwell Neighbourhood Plan Forum: Commentary on Representations August 2018
 - Modifications to Maps
 - Cherwell District Council Local Plan 2011-2031 part 1 Adopted in July 2015
 - Cherwell District Council: Developer Contributions Supplementary Planning Document adopted in February 2018
 - The Neighbourhood Planning (General) Regulations 2012 as amended which are referred to as the NPR

- The Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).
 - The National Planning Policy Framework which is referred to as the NPPF
 - National Planning Practice Guidance referred to as PPG
16. The documents submitted include all of those that are required to be submitted under regulation 15 of the NPR.
17. Three of the documents listed were submitted by the Neighbourhood Plan Forum following the regulation 16 publicity on the submitted plan.
- Schedules A and B Proposed Minor Modifications (August 2018); in response to comments received;
 - Schedule C (August 2018) Commentary on representations.
 - Modifications to Maps
18. All of these documents comply with good practice and I have taken them into account. The first document is entitled “Schedules of Proposed Minor Modifications” and is divided into two schedules. Schedule A relates to comments on policies and I shall deal with these, including the recommended changes to policies in my consideration of each policy. Only policy changes that are necessary to meet the basic conditions can be supported at this stage. Schedule B relates to modifications to supporting text and drawings. Many of these are factual updates, the correction of typographical errors or for clarification. The modifications to the maps insert scales and references to the Ordnance Survey copyright and are not significant in policy terms. These modifications fall under the “the correction of errors”² for the purpose of my examination and I am satisfied that they can all be accepted along with the revised maps. One additional modification also needs to be made for accuracy and consistency as proposed modifications to paragraphs 1.7.8 and 3.5.14 remove reference to the Masterplan for the Heyford Park growth area and delete Appendix M but no similar change is made to paragraph 1.11.3.

Recommendations

That the proposed minor modifications in Schedule B of August 2018 be made.

In Paragraph 1.11.3 delete the last sentence: “The ‘masterplan’ for the remaining development at Heyford Park is shown in Appendix M”.

19. I made an unaccompanied visit to the plan area 26-27 October 2018 to familiarise myself with the area. I visited all the parishes in the area and walked around them to visit all the key sites referred to in the Plan’s policies.
20. During the examination I sought clarification relating to proposed Local Green Spaces. My email and the response to it have been posted on the CDC website.

² Schedule 4B inserted into the Town and Country Planning Act 1990 by the Localism Act 2011 section 10 (3)(e)

The Preparation of the Plan

21. An application for the designation of the 11 parishes as a neighbourhood area was submitted by Ardley with Fewcott Parish Council, representing the consortium of parishes, on 8 August 2014, together with a map of the area to be designated. The application was subject to consultation from 11 September -23 October 2014 and the designation was confirmed in a letter from CDC to Ardley with Fewcott Parish Council dated 14 April 2015.
22. The Planning and Compulsory Purchase Act 2004 requires that the Plan clearly states the period to which it relates. The Plan and all the submission documents show clearly that the plan period is 2018-2031.
23. The Plan must not include any provision about development that is excluded development as defined in section 61K which is inserted into the 1990 Town and Country Planning Act. Excluded development includes “county matters”, such as mineral extraction and waste disposal, and major infrastructure projects. I am satisfied that the submitted Plan contains no policies which relate directly to these matters.
24. I am also satisfied that the Plan does not relate to more than one neighbourhood area.

Public Consultation

25. The Consultation Statement describes the various stages of consultation that were undertaken during the preparation of the Plan. The involvement of 11 parishes in the Plan made this quite a demanding exercise as it required central co-ordination to ensure that the materials used, and the approaches taken were consistent.
26. The process started with initial meetings in 2014 to establish the neighbourhood forum. In July it was found necessary to formalise the leadership arrangements for the preparation of the Plan. This involved the reconstitution of the forum to establish clearly the representation on it and to adopt clear terms of reference. It was also agreed to establish a small executive group to report to the main forum. In September 2015 arrangements for local engagement were approved and early in 2016 the website was launched; the draft objectives were published, and the first round of engagement meetings were held. These were attended by 480 people and generated over 1600 comments.
27. A second round of public engagement meetings was held in June 2016 at which more detailed information on the key issues identified in the initial meetings was presented. 10 meetings were held attended by 278 people. A questionnaire to test support for the objectives of the plan was also circulated and 325 responses were received.
28. The third round of public engagement meetings was held in January 2017. Prior to these a leaflet was circulated publicising the meetings and setting out the draft policies. At the

meetings a short questionnaire was issued inviting comments on the draft policies. These meetings were attended by over 300 people and over 100 questionnaires were returned.

29. Formal consultation in accordance with regulation 14 of the NPR took place between 7 August and 19 September 2017. This period was then extended by two weeks because of a brief problem with the MCNP website. The Draft Plan and Appendices and a summary of the Draft Plan were available on the website and there was an interactive questionnaire on line to facilitate response. 600 copies of the summary and 150 hard copies of the Plan and Appendices were produced. Copies were placed in local libraries, council offices, pubs and shops. The documents were also made available on the community websites of the individual parishes.
30. The Consultation Statement describes the approach to consultation at each stage, and for each stage summarises the comments that were made. It includes copies of the consultation material produced at each stage. For the regulation 14 consultation it includes a full schedule of all the comments received and the action taken in response to them, a separate schedule of all comments made by CDC and the action taken, a schedule of all the statutory organisations that were consulted in accordance with the NPR³ and a schedule of all changes made to the draft policies as a result of the consultation. The Consultation Statement also includes the results of a Health Check carried out in March 2017.
31. I am 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 Consultation Statement also meets the requirements of the NPR.⁴

The Basic Conditions Test – The Plan taken as a whole

32. The consideration of whether the Plan meets the basic conditions is the main focus of the independent examination process. This section of my report clarifies the meaning of each of these conditions and considers how the Plan, taken as a whole, meets them.

“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”

33. National Policy is set out in the National Planning Policy Framework (NPPF). The NPPF was first published in 2012. A revised version of the NPPF was issued in July 2018. However, Annex 1, Implementation, indicates that neighborhood plans submitted in accordance with Regulation 15 of the NPR on or before 24 January 2019 should be examined against the 2012 edition of the NPPF.⁵

³ NPR Schedule 1 section 1.

⁴ Neighbourhood Planning Regulations: Regulation 15

⁵ NPPF July 2018 paragraph 214 and footnote

34. There are two important points to emphasise in relation to this basic condition. The first is that I must consider this requirement in relation to the making of the Plan; it thus applies to the Plan as a whole rather than to individual policies. The second point is the use of the phrase “*having regard to*”. This means that I must consider the national policy and advice, but it does not mean that each policy should be in absolute conformity with it. PPG explains that “*having regard to national policy*” means that “*a neighbourhood plan must not constrain the delivery of important national policy objectives*”.⁶ The Plan as a whole is clearly the sum of its policies and it is therefore necessary to consider the extent to which each policy complies with national policy and guidance. However, in reaching my conclusion on this basic condition it is the relationship of the Plan as a whole with national policies and guidance rather than individual policies which is the key consideration.
35. Table 1 of the Basic Conditions Statement lists each of the main section headings of the NPPF, identifies the policies of the MCNP which are relevant to each section and explains how each of the policies relate to the national requirements. This is clearly presented, quite thorough in its scope and at the same time concise. I have found it very helpful in my examination.
36. Also, relevant to this element of the basic conditions test is “...guidance issued by the Secretary of State” as set out in PPG. This contains extensive guidance on both general principles and specific aspects of the preparation of neighbourhood plans⁷ some of which I have already referred to. It is important to be able to demonstrate that the preparation of the Plan has had regard to this. The Basic Conditions Statement does not refer to PPG, but in my report, I make frequent reference to it. At this stage I need to emphasise the importance of the guidance on the formulation of policies. “*A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood plan for which it has been prepared*”⁸. Also “*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn on to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan...*”⁹
37. I have considered each policy in turn having regard to national policy and guidance and my findings on each policy are set out later in this report. Some of the modifications I have made have been because the policies, or parts of them do not add significantly to national or Local Plan policy and are thus not “*distinct*”. Taking the Plan as a whole, and subject to the modifications I have recommended, there is no serious conflict between the policies of the

⁶ PPG What does having regard to national policy mean? Reference ID: 41-069-20140306

⁷ PPG Neighbourhood Plan, Reference ID Paragraphs 41-001 to 41-087

⁸ PPG Neighbourhood Planning How should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

⁹ PPG Neighbourhood Planning What evidence is needed to support a neighbourhood plan? Reference ID 41-040-20160211

Plan and national policies and guidance.

“The making of the Plan contributes to sustainable development”

38. There is inevitably considerable overlap between the requirements for satisfying this basic condition and the previous one as the NPPF clearly states that *“the purpose of the planning system is to contribute to the achievement of sustainable development and the policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.”*¹⁰
39. The NPPF then spells out the three dimensions of sustainable development: economic, social and environmental, and emphasises the interdependent nature of these. Again, it is important to note that the assessment to be undertaken relates to the Plan as a whole, but clearly the contribution of each policy needs to be considered to enable a conclusion to be reached. Policies which fail to demonstrate that they contribute to sustainable development are likely to require modification or deletion. As the NPPF points out, local circumstances vary greatly and that influences the way in which contributions to sustainable development can be made.¹¹
40. Table 2 of the Basic Conditions Statement identifies the MCNP policies that are relevant in relation to each of the dimensions of sustainable development and describes how each contributes to sustainable development. Again, this is a clear and concise approach which I have found helpful. In many cases, policies contribute to more than one dimension of sustainable development and where this is the case it is identified.
41. The contribution of each of the policies of the Plan to sustainable development is considered later in my report. However, taken as a whole I am satisfied that the Plan contributes to sustainable development.

“The making of the plan is in general conformity with the strategic policies contained in the development plan for the area”

42. As with the previous two conditions, the test applies to the Plan as a whole, but also requires consideration of individual policies against relevant strategic policies in order to reach an overall conclusion. The test of *“general conformity”* is fundamentally that the neighbourhood plan policies should not undermine the strategic policies of the Local Plan. The test is spelt out more fully in PPG.¹² It does not preclude some variation from a strategic policy where it is justified by local circumstances providing the proposal upholds the general principle that a strategic policy is concerned with. However, any departure from development plan policies needs to be clearly justified.

¹⁰ NPPF Paragraph 6

¹¹ NPPF Paragraph 10

¹² PPG What is meant by ‘general conformity’? Reference ID 41-074-20140306

43. The main development plan document for the purposes of the MCNP is the Cherwell Local Plan 2015 (CLP). Table 3 of the Basic Conditions Statement identifies the relevant policies in the CLP for each of the MCNP policies and explains clearly and concisely how they are in general conformity and how the MCNP policy does more than replicate the Local Plan policy. In several instances, CDC has identified differences between the policies of the CLP and the MCNP and I have had to consider whether these mean that these policies do not meet the “basic conformity” test. In some cases, it has been necessary to recommend modifications. In others, notably the approach in Policy PD1 to the definition of the settlement area in Category A villages and to development outside it, I have been satisfied that the distinct approach here does not undermine the intentions of the strategic policy. Taking the Plan as a whole, and subject to the modifications I have recommended, I am satisfied that it is in general conformity with the policies of the CLP.
44. With regard to Minerals and Waste, two areas within the Plan area are identified as of significance for minerals in the Oxfordshire Minerals and Waste Core Strategy adopted on 2017. Much of the north-western part of the area in the vicinity of Duns Tew is identified as a safeguarding area for soft sand and much of the eastern part of the area is identified as a strategic resource for crushed rock. However, the Plan does not make new allocations for development and I have received no comments regarding the effect of the Plan on minerals policies.

“The making of the order does not breach and is otherwise compatible with EU obligations”
Strategic Environmental Assessment and Appropriate Assessment under the Habitats Regulations

45. PPG indicates that *“In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects it may require a strategic environmental assessment”*¹³, subsequently referred to as SEA. A SEA requires the preparation of an environmental report. In order to determine whether the plan is likely to have a significant environmental effect, a screening assessment is necessary.
46. Regulation 15 of the NPR requires that the submission of a neighbourhood plan must include: *“(i) an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans Regulations (EAPPR) or (ii) where it has been determined under regulation 9(i) of these Regulations that the proposal is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), a statement of reasons for the determination”*.
47. The submission documents include a SEA Screening Opinion dated March 2018 prepared by the MCNP Forum. It contains a Screening Assessment which has been prepared in accordance with regulations 9 and 10 of the EAPPR which concludes that because the Plan does not

¹³ PPG Does a neighbourhood plan require a strategic environmental assessment? Reference ID: 11-027-20150209

propose new allocations, it is unlikely to have significant environmental effects. The draft Screening Assessment, as required by the EAPPR, has been subject to consultation with the statutory consultation bodies. Responses were received from Historic England and Natural England. Historic England expressed some concern that there was the potential for significant effects on the historic environment from infill development which may be permitted in accordance with policies PD1 and PD2 of the Plan and that SEA was desirable.

48. The MCNP raised concerns at the impracticality of a meaningful SEA when the locations of any infill development have not been determined and Historic England have agreed that the inclusion of an additional criterion in Policy PD1 relating to the importance of conservation areas and heritage assets would be an acceptable way forward.
49. Natural England agreed that the Plan would be unlikely to have significant environmental effects but requested a stronger reference to the need to protect and enhance biodiversity.
50. I am satisfied that the submitted Screening Statement constitutes a clear statement of reasons for the conclusion that a SEA is not necessary.
51. Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (CHSR) puts into effect the requirements of Article 6.3 of the EU Habitats Directive and requires that:
“(1) Where a land use plan - is 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) and is not directly connected with or necessary to the management of the site, the plan-making authority must before the plan is given effect, make an appropriate assessment of the implications of the site in view of that site’s conservation objectives.”
Amendments to these regulations were made in Schedule 2 to the NPR which inserted Regulation 102A to the CHSR:
“A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.”
52. The Screening Opinion states that the Oxford Meadows SAC is the nearest European designated site and is over 10km away from the MCNP Area.¹⁴ The assessment concludes that there is no potential for any adverse impact on this site from the proposals in the Plan. No comment has been received from Natural England and I am satisfied that there is no indication that Appropriate Assessment under the Habitats Regulations is necessary.

¹⁴ It also refers to the Cotswolds Area of Outstanding Natural Beauty (AONB), the Blenheim Palace World Heritage Site and five SSSIs within the Plan area. None of these are relevant to the requirement for Appropriate Assessment under the Habitats Regulations as they are not European designated sites.

Human Rights

53. Nothing in the Plan suggests that there would be any breach of the European Convention on Human Rights

Vision for Mid-Cherwell

54. This section of the Plan starts with a review of the strengths, weaknesses, opportunities and threats of Mid-Cherwell and the vision statement has been drawn from this:
“In 2031 our Neighbourhood will still comprise vibrant, individual villages connected by unspoiled countryside, and our community will feel that its wishes have been heard and its rural way of life maintained; small-scale affordable housing will have been sensitively added, heritage and conservation respected, and road traffic mitigated; public transport will be well-used; the major new community at Heyford Park will have been successfully integrated into the neighbourhood, and a combination of central and local amenities will better provide for our community’s needs.”
55. This vision statement provides a clear aspiration for the Plan. From it a set of 10 objectives have been developed under five headings: Traffic and Transport, Development, Amenities, Housing, and Technical Infrastructure. Neither the Vision Statement or the Objectives will have the status of development plan policies when the Plan is made. They therefore do not need to comply with the basic conditions. However, their purpose is to define areas in which policies are needed. Thus, if they point in a direction which would clearly conflict with national policy, strategic development plan policy or sustainable development they would be inappropriate.
56. The first two objectives relating to traffic and transport and the last relating to technical infrastructure fall largely outside the scope of land use planning and may therefore not be deliverable through policies in the Plan. However, they do not conflict with sustainable development and help to define aspirations for the Pan area and help in the formulation of the Community Action Plan in Section 5, which is clearly distinguished from the policies that will form part of the development plan.
57. Objective D1 is *“To strongly encourage the use of brownfield sites before any development is considered on greenfield sites, unless specifically allocated in the Neighbourhood Plan”*. Paragraph 2.3.4 acknowledges that this goes further than the NPPF which encourages the use of previously developed land but does not explicitly impose any sequential consideration to prevent greenfield development where there are brownfield sites.¹⁵ While the Plan is not being examined against the new edition of the NPPF, it is appropriate to take it into account as it somewhat strengthens the emphasis on brownfield land and it would make no sense to recommend a modification which would move the Plan away from the latest government policy. The July 2018 NPPF requires planning decisions to *“give substantial weight to the value of using suitable brownfield land...”*¹⁶ But again this does not establish a clear precedence for brownfield land to the exclusion of greenfield land. I therefore conclude that Objective D1 leads in a direction that is not consistent with the basic conditions.

¹⁵ NPPF paragraph 17, 8th bullet point.

¹⁶ NPPF July 2018 paragraph 118c)

Recommendation

In Objective D1 delete “before any development is considered on greenfield sites, unless specifically allocated within the Neighbourhood Plan”.

58. The other objectives are all consistent with the basic conditions.

Policies

59. I have considered all the policies of the Plan against the basic conditions, having regard to the evidence provided to justify them. Where necessary I have recommended modifications. I am only empowered to recommend modifications necessary to meet the basic conditions, to comply with the convention on Human Rights, to comply with the legal requirements in relation to neighbourhood plans or to correct errors.¹⁷
60. In considering the policies I have taken account of all the comments made during the preparation of the Plan with a particular focus on comments made in response to the regulation 16 consultation on the submitted plan. While I have not referred directly to all the comments made, I have given attention to all of them.
61. The policies in the Plan are presented under four main headings;
- Development
 - Housing
 - Transport
 - Community Infrastructure

Development Policies

62. The introduction to this section of policies explains its relationship to the strategic policies for new housing development in the CLP Part 1. The policies are designed to ensure that the need for new housing identified in the Local Plan is met and that this provision reflects the policies for the different categories of village in it.

Policy PD1: Development at Category A Villages

63. The policy provides for infill, conversions and minor development within the settlement areas of Fritwell, Kirtlington and Steeple Aston. The policy also provides for development outside the settlement areas of these villages when it is adjacent to the settlement area, does not result in the loss of the best quality agricultural land, cause significant adverse landscape impact, or harm to the character and appearance of the conservation area and does not cause the coalescence of any of the villages. The policy also provides an indication of the number of dwellings to be provided in each of these villages.

¹⁷ Schedule 4B inserted into the Town and Country Planning Act 1990 by the Localism Act 2011 section 10 (3)(a)-(e)

64. CLP Policy Villages 1 identifies Fritwell, Kirtlington and Steeple Aston as Category A villages, where minor development, infilling and conversions would be appropriate. Policy Villages 2 indicates that provision will be made for 750 dwellings on sites of 10 or more dwellings in Category A villages either through allocations in neighbourhood plans or in Part 2 of the Local Plan and the determination of applications for planning permission. This would be in addition to completions between 2011 and 2014, planning permissions up to March 2014, and an allowance for windfall development of 754 dwellings across the rural area in Cherwell District as a whole.
65. The MCNP does not allocate sites, but settlement areas have been defined for each of the three villages within which infill development would be acceptable subject to the other policies in the plan. The policy also identifies indicative levels of new housing either within or adjacent to the settlement area in each of the villages: 25 for Fritwell, 17 for Kirtlington and 20 for Steeple Aston, a total of 62.
66. CDC has made several comments on this policy. They do not point to serious conflict with the CLP but raise issues of clarification which need to be considered. These relate to: the scale of development, the relationship between windfall development within the settlement area and developments of 10 or more dwellings, the definition of settlement areas, and the approach to brownfield land. The first three of these overlap to some extent.
67. The approach to the scale of development in the MCNP differs somewhat from the CLP. Neither plan identifies a precise requirement for the number of new dwellings in these settlements as the CLP only makes proposals for Category A villages as a whole and the figures used in the MCNP are indicative and do not impose a cap. The Housing Needs Assessment for Mid-Cherwell, carried out by AECOM (Appendix E of the Plan), calculated the need for the category A villages on a pro rata basis using their share of the total number of households in all the Category A villages. This resulted in a need for 48 new dwellings. However, this figure did not take account of the 754 dwellings anticipated through windfall development across the rural areas as a whole. I have no information on which to base a pro rata calculation of this element, but it would clearly be substantially less than 48 dwellings as the Category A villages only make up a proportion of the rural area population.
68. CDC point out that the forecasts in the AECOM study are out of date as they have been superseded by the 2014 Strategic Housing Market Assessment (SHMA) on which the CLP is based. The Cherwell Monitoring Report 2017 identifies that of the 750 dwellings to be accommodated in Category A Villages planning permissions have been granted for 664 leaving a residual requirement of just 86.¹⁸ Only one of the permitted sites is in Mid-Cherwell, a site of 11 dwellings in Fritwell where delivery is said to be uncertain.¹⁹ MCNP indicates that it has not relied on the AECOM study in defining the level of need and point to the village by village assessment on page 29 of the Plan as the rationale for the numbers. This relies on the views of

¹⁸ Cherwell annual Monitoring Report Table 40

¹⁹ MCNP p29

the individual parish councils on an appropriate level of growth, which is then expressed as a percentage increase in the number of dwellings in the parish. There is no explicit rationale for deriving these figures.

69. The key requirement for neighbourhood plans is that they “*should not promote less development than set out in the Local Plan or undermine its strategic policies*”.²⁰ It is clear to me that there is no precision in either the scale of development required to be accommodated in the three Category A villages or in the scale of development which the policies of the MCNP provide for in them. The Local Plan only identifies these villages as possible contributors to a total of 750 dwellings on sites of 10 or more dwellings to be provided between 23 Category A Villages of which 664 already have planning permission. It also anticipates that these villages will accommodate a share of 754 dwellings across the whole rural area to be provided by windfall sites. The MCNP identifies an indicative figure for each of the three Category A villages which exceeds a pro rata approach to the provision on sites of 10 dwellings or more. The policy also provides for infill and small-scale development within the settlement area and for the possibility of development outside the settlement area subject to criteria. There is no cap on the amount of development. On this basis I am satisfied that the MCNP makes provision for an amount of development that reflects the aims of the CLP and is consistent with national policy in terms of the amount of development.
70. A representation argues that the indicative figures in the Plan for the scale of development in the three Category A villages should not be regarded as a cap and it is clear from the words “*indicative*” and “*approximately*” that it is not the intention that they should. Another representation, relating to land on the south-eastern edge of Fritwell, suggests that these figures should be regarded as a minimum in order to provide more flexibility for additional development. Any proposals on this site would need to be considered against the criteria for development adjacent to the settlement areas of Category A Villages and I am not persuaded that it is necessary to make this change to meet the basic conditions.
71. A related issue is whether absence of a distinction in the MCNP between sites of more than 10 dwellings and windfall sites undermines the strategic approach in the CLP. The MCNP has defined settlement areas for each of the three villages within which housing development in the form of infills, conversions and minor development will be supported in principle. The approach to the definition of these settlement areas is explained in Appendix 3. This states that “*the boundary of the areas has been drawn fairly tightly around the existing pattern of settlement.*” Another important consideration has been the avoidance of coalescence between adjoining settlements. Few comments have been made regarding the settlement areas that have been defined, though CDC has expressed concern that in some areas they may have been drawn too loosely, potentially leading to pressure to develop some of the land enclosed. The Council refers particularly to land in Fritwell on the north side of North Street

²⁰ NPPF paragraph 184

and the East Side of East Street, suggesting that the latter includes part of an ancient woodland.

72. It is true that in these locations the definition of the settlement area provides the potential for significant infill development. However, the amount and form of this development would be subject to the other policies in the Plan and to Local Plan policies and I do not consider that this would in any way undermine the strategic policies of the Local Plan. The purpose of neighbourhood plans is to allow *“local people to ensure that they get the right types of development for their community”* provided that it is *“aligned with the strategic needs and priorities of the wider area”*. The definition of a settlement area is clearly one way of doing this and I find no reason in terms of the basic conditions to object to the way it has been done here.
73. CLP Policies Villages 1 and 2 deal separately with infill and minor development and developments of more than 10 dwellings. This appears to be a way of monitoring the amount of development that has been allowed, but there is no obvious necessity in planning terms to draw a sharp distinction between them for Category A villages, where both policies apply. The adopted Local Plan refers to *“small scale development”* as *“typically but not exclusively for less than 10 dwellings”* in relation to Policy Villages 1.²¹ To date the Category A villages in the MCNP have not contributed to the 750 dwellings to be provided on sites of more than 10 dwellings in all the Category A Villages in the district, but most of these have already been provided for in villages outside the plan area. However, they have contributed at a steady rate to infill development and the definition of the settlement areas means that there is clear potential for them to continue to do this. At the same time, the MCNP allows some flexibility for additional development by providing for the possibility of development outside the settlement boundary. CDC argue that this should be for developments of 10 dwellings or more, but no clear reasons have been given as to why this should be exclusively for developments of this scale. Smaller scale developments would still be subject to national policies for development in the countryside, the detailed criteria in this policy and Policy Villages 2 and there is therefore no clear reason to allow for larger scale developments but preclude smaller ones.
74. Oxfordshire County Council Highways Department has suggested that development outside the settlement area of Category A villages is unlikely to be sustainable because of poor access to public transport and the likelihood of poor accessibility for pedestrians and cyclists. This would need to be assessed on a case by case basis and to preclude such development completely would be clearly in conflict with the CLP.
75. I now turn to the criteria in Policy PD1 for development outside the settlement areas of Fritwell, Kirtlington and Steeple Aston. Criterion a) requires that such development should be immediately adjacent to the settlement area and is consistent with the basic conditions.

²¹ CLP part 1 paragraph C254

76. Criterion b) states *“the site should preferably be previously developed land and not land of the best and most versatile agricultural value”*. CDC have commented that, while being previously developed should be a positive consideration in the evaluation of sites, the implication here is that there should be a sequential approach that does not allow the release of greenfield sites if previously developed land is available. I have already commented similarly on this issue in relation to objective D2. The wording used here does not go as far as requiring a sequential approach, but it does imply something close to it. I have noted the representation from Natural England in support of a preference for the use of previously developed land before greenfield land, but this goes beyond paragraph 111 of the NPPF which simply encourages the use of brownfield land without referring to the implications of this for greenfield land. I have recommended a modification to indicate that land being previously developed will be a positive consideration, taking account of the rather stronger emphasis on the use of previously developed land in the July 2018 version of the NPPF.
77. CDC have also commented that the criterion should clarify what is meant by the best and most versatile agricultural land, but I am satisfied that this phrase is in general use to describe land classified in grades 1, 2 and 3a.
78. Natural England have suggested that criterion c) relating to landscape impact should be phrased more positively in accordance with paragraph 118 of the NPPF, and I have recommended a modification to this effect. A similar modification is also appropriate for criterion d) and I am satisfied that criterion e) relating to the non-coalescence of adjoining settlements, particularly Steeple Aston and Middle Aston, meets the basic conditions.

Recommendations

In Policy PD1:

Modify criterion b) to read “The site should not be the best and most versatile agricultural land and the use of previously developed land is particularly likely to be acceptable;”

Modify criterion c) to read “The development should conserve and, where possible, enhance the landscape;”

Modify the beginning of criterion d) to read “The development should conserve and, where possible enhance the special interest, character...”

Policy PD2: Development at Category B Villages

79. The policy provides for infilling, conversions and minor development within the settlement areas of the two Category B villages in the area: Lower Heyford and Middle Aston. It also includes criteria that are almost identical to those in Policy PD1 for any development outside the settlement areas of these villages. CDC have commented that these criteria are inappropriate as CLP Policy Villages 2 is not relevant to Category B villages and the Local Plan does not provide for development outside built-up area limits other than for rural exception sites. In response to this the MCNP Forum has suggested deleting the middle section of the policy and modifying the last section to remove reference to development adjacent to the

settlement boundary. I agree that these modifications are necessary to meet the basic conditions.

80. CDC has also commented that the settlement boundary for Middle Aston appears from aerial photographs to include an area of agricultural land at the western edge of the village. I visited this site. It is in fact a large garden area, which is traversed by a public footpath leading to a track. It is true that this is quite a generous interpretation of the settlement area, but the rationale is clear and the response to this comment is that the site has the potential to provide for some infilling in a location which is otherwise very restricted. As in the case of settlement areas in Policy PD1, it is appropriate, having regard to the purpose of neighbourhood plans, for local communities to have some discretion in the definition of settlement areas in a neighbourhood plan and the positive approach to the provision for some infill development is to be welcomed. While a more restrictive definition could also be justified, I find no conflict in terms of general conformity with strategic Local Plan policies or the other basic conditions.

Recommendations

In Policy PD2 delete the middle section of the policy from “Any residential development proposal.... Middle Aston and Steeple Aston”. In the last section after “... Lower Heyford,” delete “either” and after “...settlement areas” delete “, or adjacent to them”.

Policy PD3: Development adjacent to Heyford Park

81. The policy proposes a zone of non-coalescence between the western boundary of the Heyford Park Strategic Development Site and Upper Heyford. The village of Upper Heyford is very close to the western boundary of the Heyford Park site. The western end of the runway of the former airbase is within about 50m of the nearest houses on Somerton Road and the western boundary of development on the site is generally about 300m from houses on Somerton Road. It is clear that a development of the scale envisaged at Heyford Park has the potential to influence the setting of Upper Heyford unless there is a strong policy in place to prevent this. The area of the non-coalescence zone identified on Fig 18 is relatively modest, extending about 800m from north to south and between 150m and 300m from east to west. It also overlaps with or surrounds two areas proposed as Local Green Spaces, which are considered under Policy PD7.
82. The policy identifies the uses which would be considered acceptable within this area and these include ecological mitigation or visual screening from Heyford Park, continued agricultural use and footpaths, cycle routes and bridleways. CDC has suggested that these uses could lead to urbanisation which would undermine the principle of non-coalescence. I do not accept that this is a likely consequence, and the reference to footpaths, cycleways and bridleways is necessary for the policy to be consistent with the references within CLP Policy Villages 5 to the *“Retention and enhancement of existing Public Rights of Way, and the provision of links from the development to the wider Public Rights of Way network”*. However, I accept that the

emphasis should be on continued agricultural use. I have therefore recommended a modification to this effect.

83. CDC also suggests that the penultimate paragraph should more clearly preclude development, but I do not consider that any change is necessary to meet the basic conditions, as the possibility of development that is appropriate in this countryside location cannot be precluded. However, I agree with CDC that the last paragraph is unnecessary as it effectively cross refers to the CLP and repeats the intention of the previous paragraph.
84. A representation suggests that Policy PD3 should not constrain future growth options for Heyford Park. However, the Plan needs to work within the existing strategic context, and to comply with the basic conditions there is no need to explicitly provide for possible future growth that would undermine Policy PD3. Heyford Park covers a wide area and the proposed zone of non-coalescence only affects a small part of the boundary where it is closest to a neighbouring settlement.
85. A representation refers to the possibility of a zone of non-coalescence between Heyford Park and Caulcott, but no evidence or justification for this has been submitted and the gap between Heyford Park and Caulcott is substantially larger than that between Upper Heyford and Heyford Park.

Recommendations

In Policy PD3:

Modify the second section to read: “Within the zone of non-coalescence, the land should remain predominantly in agricultural use, but it may also accommodate:

- **Ecological mitigation and appropriate visual screening arising from development at Heyford Park;**
- **Footpaths, cycle routes and bridleways”**

Delete the last paragraph.

Policy PD4: Protection of Important Views and Vistas

86. The policy is in two main parts. The first requires that development proposals must not significantly harm views and vistas defined in Table 4, which refers to: views of church towers in the MCNP area, views referred to in CDC Conservation Area appraisals, or updated versions of them and views identified in the AECOM Character Assessment. The second part requires development within or adjacent to a Conservation Area to demonstrate through a Heritage Impact Assessment that they would not harm the Conservation Area or its setting.
87. The size of the plan area inevitably means that a very large number of views and vistas are included within documents referred to. For example, almost 30 views are identified in the Fritwell Conservation Area Appraisal alone. It is clearly not practical within the limited scope of this examination to review all the views identified. It is, however clear that the nature and

significance of these views varies greatly. Some of them are extensive views over open countryside which are of exceptional value, others are small scale glimpses between buildings within villages and more local in their significance. It is clear that the same weight cannot be attached to the protection of all these views.

88. There is clearly potential for a conflict between this policy and Policies PD1 and PD2 with regard to potential infill development within settlement boundaries. Many spaces between buildings are identified as positive views in the Conservation Area Appraisals, but it is also these spaces that have potential as infill sites. It could be argued that any impact on views of this sort would be harmful but to prevent any development that may cause significant harm would not be consistent with the proportionate and balanced approach to the protection of heritage assets set out in the NPPF. Some views identified in Conservations Area Appraisals as “*positive views*” may be of much more significance than others. In these circumstances there is a clear need to balance the significance of the view and the extent of any harm to it against the benefits of the development.
89. A second general point relates to the views identified in the AECOM character assessment. Many of these encompass areas outside the plan area and the policies of the Plan can only relate to the plan area.
90. A representation expresses concern at the absence of a map of important view and vistas and argues that there should be clearer evidence of the significance of views. In terms of mapping, I am satisfied that the clear cross referencing to the photographs in the AECOM Character Assessment together with the map on page 90 of it, the maps in the Conservation Area Assessments and Figure 8 showing the important skylines on either side of the Cherwell Valley adequately identify the views and provide valuable evidence in support of the policy. However, the comment on the significance of the views partly reflects the points I have made above. In some instances, the text of the AECOM Character Statement is very descriptive – “there are views of...” – without evaluating their significance.
91. The recommendations below are made to address these points:

Recommendations

In Policy PD4:

In the first line after “Development proposals” insert “within the plan area”, in the second line after “...in that table,” delete “and must not significantly harm these important views and vistas” and insert “by including an assessment of the significance of the views and the effect of the proposed development on them. Proposals which cause significant harm to any of these views will only be acceptable where the benefits of the proposal clearly outweigh any harm.”

In the second part of the policy after “...at Appendix K” insert “, demonstrated that the proposal causes as little harm to an identified view as possible and that any harm is outweighed by the benefits of the proposal”.

Policy PD5: Building and Site Design

92. The policy aims to ensure a high standard of design which will maintain and reinforce local distinctiveness in accordance with the guidelines in the AECOM Character Assessment. It also identifies criteria for the design of new development, which relate to impact on landscape and biodiversity, the retention of stone walls, the provision of new or improved footpaths and cycleways, maintaining the rural character of the highway network and managing change.
93. This policy is underpinned by the very detailed Character Assessment of the 6 Category A and B Villages in the area which forms Appendix K of the Plan. For each of the villages included the study develops guiding principles for future development and policies. This study is a very positive response to the requirement in Paragraph 58 of the NPPF that “...*neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected...based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.*” It is unfortunate that funding limitations meant that it was not possible to include the 5 Category C villages in this study and thus there is a less detailed evidence base to underpin decisions in these villages.
94. CDC has pointed to an inconsistency with CLP policy ESD10 in criterion a) as the Local Plan requires a net gain in biodiversity in association with development proposals. This is consistent with paragraphs 109 and 118 of the NPPF and the comments of Natural England on the SEA Screening Assessment and Policy PD1. The MCNP has recommended a modification to reflect this comment. CDC has suggested that the word “*techniques*” should be deleted from criterion (d) as techniques are not a planning matter and MCNP has accepted this.
95. CDC has commented that criterion d) requiring that “...*alterations and additions to the existing highway network and associated infrastructure should seek to prevent damage to the rural character of the roads affected*” is a matter for the Highways Authority. I agree that is the case, but it is appropriate to include this aspiration in the Community Action Plan as an issue on which the MCNP Forum would wish to influence the Highways Authority.

Recommendations

In Policy PD5:

In criterion a) delete “offset any loss of” and insert “provide a net gain in”

In criterion b) replace “techniques” with “forms”

Delete criterion d)

Policy PD6: Control of Light Pollution

96. The policy aims to minimise the spillage of light beyond the development site boundary and sets out seven detailed criteria that proposals should meet. This is presented as an issue of great importance for local people and there is particular concern that the commercial activities at Heyford Park generate a damaging amount of light.

97. Criterion a) requires that street lighting should only be provided where it is essential. CDC comment that this is a matter for the Highways Authority and cannot be controlled by a neighbourhood plan. I agree with this comment, but this issue would also be appropriate for inclusion in the Community Action Plan. Criterion b) relating to energy efficiency is a matter for the building regulations.
98. Criteria c) to g) are a thoughtful set of criteria which seek to influence the design of new buildings to minimise light pollution. In many cases external lighting is not subject to planning control, but where it is these criteria are consistent with the basic conditions.

Recommendations

In Policy PD6:

Delete criteria a) and b)

Policy PD7: Designation of Local Green Spaces

99. The policy proposes the designation of 30 Local Green spaces and proposes that development should only be permitted on them in exceptional circumstances. I visited all the proposed spaces on my site visit and each of them is considered below in the context of the criteria in the NPPF.²²

AF1 Ardley with Fewcott Playing Field

100. This is the recreation ground in Ardley which includes a children's play area and the Ardley United football ground. It is clearly an important and well used facility which meets the requirements for Local Green Spaces.

AF2 Ardley with Fewcott: Old Quarry Field

101. Old Quarry Field is a substantial area of grassland to which there is public access; it adjoins an area of woodland bordering Somerton Road to which there is also public access. It is crossed by several footpaths and it was evident from my site visit on a bright Saturday morning that it is clearly an important recreational facility for the local community. While quite large for a Local Green Space it is close to the village and an unusual but valuable community asset. The objection from the County Council that designation is not necessary because it is owned by a "responsible public body" is not a valid argument as many Local Green Spaces are owned by public bodies and I am satisfied that the requirements for designation are met in this case.

AF3 Ardley with Fewcott: The Knob Green

102. The Knob Green is a small grassed area at the junction of Somerton Road and Water Lane and is an attractive feature which defines the entrance to the village. It meets the requirements for Local Green Spaces.

²² NPPF paragraphs 76-77

AF4 Ardley with Fewcott: Fewcott Green

103. Fewcott Green is a small green area at the junction of Ardley Road and the B430. It marks the entrance to the village from the eastern side and performs a similar function to AF3. It is appropriate for Local Green Space designation.

DT1 Duns Tew: Play Area

104. This is a small recreational area including a tennis court. It is the only public green space in the small village of Duns Tew and is used in many ways as an important community space as well as a children's play area. It meets the requirements for designation.

FT1 Fritwell: Church View

105. This is a large green area which separates the development at the north-western end of Fritwell, including the Church and North Street from the east of the village. The significance of this area to the character of the village is highlighted in the Conservation Area Appraisal²³ and in the Heritage and Character Assessment prepared by AECOM. The area is crossed by several footpaths which clearly help connectivity in the village, but a notice posted at the northern end of the site by the owners allows public access only to the footpaths. The Conservation Area Assessment indicates that an archaeological assessment suggests that the paths crossing this area are *"ancient, possibly even pre-dating the manorial estates"*.
106. The area defined on the policy map is substantially larger than that identified as important in the Conservation Area Assessment as it extends south to the boundaries of properties in Forge Place. The whole area is approximately 400m from north to south and 200m from east to west at its widest point, but it tapers to about 100m wide at the northern end. This is a large area in the context of the village.
107. The area south of the footpath between East Street and the church is different in character, not crossed by footpaths and separated from the northern part of the area by a barbed wire fence. It is in agricultural use and in my judgement its visual contribution to the character of the village is of much less significance than the northern part. I am satisfied that, although quite a large area, the northern part of the area designated as a Local Green Space is demonstrably special in terms of the character of the village but is not an unacceptably large area. It is close to the village and is clearly an essential part of the identity of the village. However, I am not satisfied that this applies to the area to the south of the footpath from East Street to the Church.

FT2 Fritwell: Recreation Ground and Play Area

²³ Cherwell District Council: Fritwell Conservation Area Appraisal 2008 pp26-27

108. This area is a playing field with a pitch used for football; there is also a children's play area together with a scout hut and changing rooms. It is clearly an important recreational facility and is close to the heart of the village. It is appropriate for Local Green Space designation.

KT1 Kirtlington: Quarry and Washford Pits

109. This large roughly triangular site lies between Mill Lane and the Oxford Canal. It is the site of a former quarry and part of the site is designated as a geological SSSI. It is clearly a fascinating area to explore with steep cliffs, many sharp changes in level and a complex network of footpaths. It also slopes down to the Oxford Canal which forms the north-western boundary of the area. It is evidently an area of great recreational value. However, this is a large area for a Local Green Space with a frontage to Mill Lane of about 900m and a maximum depth from the road of about 500m. The site already enjoys protection as a local nature reserve and it is some distance from the village. It is clearly a recreational resource for an area wider than the village and as such is not truly local in nature. In my view it constitutes an extensive area of land. For these reasons I conclude that it does not meet the criteria for Local Green Spaces and such designation would add little to the protection it already enjoys.

KT2 Kirtlington: Allotments

110. This is a roughly square area of allotments on the western edge of the village. They appear to be well used and are an important resource for the community. The area is appropriate for Local Green Space designation.

KT3 Kirtlington: Square Green in the Centre of Dashwood Mews

111. This is a small grassed square with a number of mature trees. It provides an attractive feature in a residential setting and is on a through route from a more substantial area of residential development in Hatch Way and Hatch End to the centre of the village. I am satisfied that it is appropriate for Local Green Space designation.

KT4 Kirtlington: Recreation Ground and associated community buildings

112. This is a large recreation ground, but the area allocated also takes in the village hall, the church and churchyard and the scout hut. This is an important cluster of community facilities which play an important part in village life. The playing field is also an attractive green space offering excellent views to the east into Kirtlington Park designed by Capability Brown and westwards to the church. While it is not usual for Local Green Spaces to include substantial buildings, in this instance I accept that there is a visual and functional unity about the space as a whole which is important for the overall character of the village. It therefore meets the criteria for Local Green Spaces.

KT5 Kirtlington: Small Green within Gossway Fields housing

113. This is a small area of open space including a small play area which provides a valuable amenity for the surrounding housing. Its designation as an Amenity Green Space by CDC does not preclude designation as a Local Green Space.

LH1 Lower Heyford: The Meadow abutting Oxford Canal

114. This is an important site which helps to define the identity of Lower Heyford in terms of its relationship with the Oxford Canal. It is a popular walking route within the village and offers access to the canal basin which is the main mooring area in the vicinity. It clearly meets the criteria for Local Green Space designation.

LH2 Lower Heyford: Paddock adjacent to Ivy Close in The Lane

115. This is a small rectangular paddock area which is very visible from The Lane, close to its junction with Station Road. It is attractive and well maintained and provides an important visual break within the built-up area. On balance I accept that it meets the criteria for designation.

LH3 Lower Heyford: Paines Field

116. This is a large area of pasture between Freehold Street and Station Road, almost 500m long and 180m wide at its widest point. It provides a pleasant outlook for residents in Freehold Street, but it is not in my view demonstrably special. The existence of a footpath across it is not a justification for the designation of the whole area as a Local Green Space. In the context of the village of Lower Heyford this is an extensive area of land and the NPPF makes it clear that *“Local Green Space designation will not be appropriate for most green areas or open space and should only be used:...where the green area concerned is local in character and is not an extensive tract of land.”*²⁴ PPG amplifies this in stating that *“...blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name.”*²⁵ For these reasons in my judgement it is not appropriate for designation.

LH4 Lower Heyford: Allotments

117. This is a small allotment site separated from the main part of the village by Station Road. It appeared to be considerably underused at the time of my visit and because of this and its detachment from the village it is not in my judgement demonstrably special. While in many cases the designation of allotment sites as Local Green Spaces is appropriate I do not consider that the criteria are met in this instance.

²⁴ NPPF paragraph 77

²⁵ PPG How Big Can a Local Green Space be? Reference ID 37-015-20140306

LH5 Caulcott: Paddock on South Street

118. This is a small paddock between the houses on the west side of South Street in the small hamlet of Caulcott. It is an attractive feature in the street scene which contributes to the rural character of the settlement and therefore appropriate as a Local Green Space.

LH6 Caulcott: Dairy Ground

119. This is quite a large rectangular field of grassland extending into the countryside from Greenway at the southern end of Caulcott. A brook runs through the field as does a footpath and it is stated to be of some historic significance. While the field is an attractive area of countryside it is not visually distinct from the land which adjoins it. In the context of the village of Caulcott it is a large area and I am not persuaded that it is clearly a special space that merits the strong and enduring protection offered by Local Green Space designation.

MA1: Middle Aston House front lawn

120. This is the large lawn between Middle Aston House and the unnamed road which approaches the village from Steeple Aston. The lawn makes an important contribution to the setting of Middle Aston House and to the distinctive character of the village. It also contains an impressive array of mature trees and is bordered on part of its length by a ha-ha which is a locally listed heritage asset. The relationship between the garden setting of Steeple Aston House and the extensive views over the countryside to the north and east is also a defining feature of the character of the village. I am satisfied that this site meets the criteria for Local Green Spaces.

MS1 Middleton Stoney: Children's Playground

121. This is a small recreation ground including a children's play area. It is the only public green space in the village and is clearly a vital asset for the community. It is suitable for Local Green Space designation.

SA1 Steeple Aston: Robinson's Close Fir Lane

122. This is a recreation ground used for sports and community events and it is the only publicly accessible amenity space in the village. It is evidently a very important community facility and meets the criteria for Local Green Space designation.

SA2 Steeple Aston: Allotments Fir Lane

123. This is a small but attractive and well used allotment site which is well located in relation to the village as a whole. It is owned by the Diocese of Oxford which has objected on the basis that the designation may preclude the development of a facility such as a community shelter which was envisaged. Local Green Space designation need not preclude any development (see paragraph 138 below) and this facility has now been completed. The importance of this site is its role as a community recreational facility and a further community facility of a scale and design which did not prejudice the current use may well be appropriate. I am satisfied that the designation meets the criteria for Local Green Spaces.

SA3 Steeple Aston: Field adjacent to Paines Hill

124. SA3 is a rectangular field of grassland which occupies a prominent position in the village particularly in views along Paines Hill from both the northern and southern ends. The owners have objected to the designation on the grounds that there is no justification for treating the site differently from the rest of the undeveloped central core of the village and that no evidence is given of the historic significance of the site which is referred to in the justification.
125. In my judgement this site plays an important part in the distinctive character of Steeple Aston and the close relationship between the village and the countryside throughout the village. Its significance can be clearly distinguished from the rest of the green area which separates North Side and South Side, because of its prominence in views along Paines Hill. There is no public access to the site, but its significance in iconic views of the village make it demonstrably special. Being in the heart of the village it is clearly close to the community it serves, and it is not an extensive area. The ownership of the site and the circumstances in which it was acquired are not material considerations in the determination of its suitability as a Local Green Space.

SA4 Steeple Aston: Former Sandworks adjacent to Fenway

126. Sand working finished on this site around 1960 and since then it has been left undisturbed. The site is rectangular and at the north-western edge of the village. It extends back about 300m from the gardens of houses in Fenway, to a footpath which runs across the northern boundary, and is about 200m wide. In parts of the site the undergrowth has clearly been cut back, but in other parts it remains overgrown. The site has clearly been colonised by many trees which are now semi-mature and there are larger mature trees close to the northern boundary. There is no public access to the site, but I was given access on my visit and walked around the whole site. The area is clearly visible from the gardens and rear windows of houses in Fenway and Grange Park and glimpses into the northern part of the site can be obtained from the footpath on the northern boundary.
127. Representations have been made on behalf of the owners of the site against the designation of the site as a Local Green Space on the grounds that it is not of historic significance, that an ecological assessment concludes that it is not of great significance, and that some individual

trees and groups of trees on the site are protected by Tree Preservation Orders (TPOs). It is, however, acknowledged that a small area at the northern end of the site is designated as a priority habitat. After the start of my examination I was notified that additional trees and groups of trees have been included within a TPO and this means that there is now extensive protection of trees on the site. The representation also seeks either the designation of the site for development in the neighbourhood plan or the extension of the settlement boundary to include the site, or part of it. Many representations have been made in favour of the designation as a Local Green Space, on the basis of its wildlife value and its secluded, wilderness character. Indeed, over half the representations in response to the regulation 16 publicity on the Plan related to this issue and supported Local Green Space designation.

128. There is no doubt that the site in its present unused state is attractive as a wild and secluded place in which there is potential for increased biodiversity. It may have been the intention of the previous owner that it should be a recreational resource for the village but that is clearly not the intention of the present owners and designation as a Local Green Space would not in itself facilitate this. There is no reason in principle why a privately-owned site that is not accessible to the public should not be designated, but for this to be justified it is important that the site is demonstrably special to the community it serves.
129. I understand that those who live in houses that overlook the site would prefer that it was not developed, but that is not a sufficient reason for designation; indeed, if the site is not designated it does not follow that it would be considered suitable for development, particularly as it is a large site outside the settlement area. To justify designation, it must be demonstrably special in some way to the community it serves. Although the Parish Council has supported the designation, almost all the representations received in response to the regulation 16 consultation were from the occupants adjoining the site. The site is not very visible in the landscape except to immediate neighbours and even the limited views into the wooded part of the site from the footpath on the northern boundary the views do not differ greatly from those of the neighbouring land on other parts of the path. While there is undoubtedly a range of wild and plant life and this has been recorded by qualified person, it has not been demonstrated to be of particular ecological significance. It is difficult to see how the site functions as a community asset, given its lack of visibility and the lack of access to it. This is a large site of about 7ha. on the edge of the village and I am not persuaded that there is a clear justification for its designation as a Local Green Space.

UH1 Upper Heyford: Common

130. The Common is a sloping grassed area alongside the Oxford Canal. It is the only canal side space accessible to the public and is close to the village. For these reasons it is clearly a special amenity for the village and is appropriate for Local Green Space designation.

UH2 Upper Heyford: High Street Allotments

131. These allotments comprise three adjoining small areas which together make up an attractive and useful facility in the heart of the village. They are appropriate for designation.

UH3 Upper Heyford: Recreation Ground

132. The recreation ground is an important facility for the village of Upper Heyford and has served this purpose for a very long time. As well as providing sports facilities it is used for village events and is therefore special to the village and appropriate for designation.

UH4 Upper Heyford: Poors Allotments Somerton Road

133. This is quite a large area south of the recreation ground and east of Somerton Road, extending almost to the western boundary of the Heyford Park growth area. Although it is described as allotments only about 10% of the area is currently in use for this purpose and the rest of the area shown for designation on Fig 18 is a large field currently in agricultural use. I sought clarification on this and was informed that *“The whole of the site is owned and managed by charitable trustees on behalf of the local community, since an Enclosure Act of 1843 designated the land for parish allotments. The extent of allotments in use has varied over the years, and currently occupies the lowest portion of the land, closest to the village, as you have seen. At other times, demand has required the whole site to be used. The trustees are presently promoting greater take-up amongst parishioners and are also proposing siting a community orchard further up the site. In the meantime, an area is rented out to a local farmer for growing food crops. The area is not, however, classified as agricultural land and MCNP Forum considers that LGS protection is appropriate for the whole of the allotment site”*.
134. While some fluctuation in the demand for allotments is likely, there appears no realistic prospect that more than a small proportion of this area will be used as allotments. The area not used as allotments in its present form cannot be described as *“demonstrably special”*, and it is the current character of the land rather than potential uses of it that is important in determining whether Local Green Space designation is appropriate. It is an extensive area of countryside on the edge of a settlement which, as I pointed out in relation to site LH3 is not appropriate for designation as a Local Green Space. The ownership of the land by charitable trustees means that plans for a community orchard do not depend on this designation.
135. The area lies between two areas proposed as *“non-coalescence zone”* in Policy PD 3 and figure 18 shows a narrow strip between UH4 and the edge of Heyford Park also designated for this purpose. The site clearly shares the characteristics of the sites to the north and south as a relatively narrow strip of land separating Upper Heyford from Heyford Park. In the absence of designation as a Local Green Space, it would clearly be consistent with the intentions of the Plan for it to be included in the *“non-coalescence zone”*, indeed it would be anomalous for it to be excluded and I have therefore made a recommendation to reflect this.

UH5 Heyford Park: Western End

136. This is a rectangular field in agricultural use at the south-western corner of Heyford Park and accessed from Kirtlington Road. Although it is crossed diagonally by a footpath, the space itself is not demonstrably special. All or part of it may have potential for use as open space as part of the Heyford Park development, but this needs to be determined through the master plan for the area. At this stage there is no justification for designation as a Local Green Space.

UH6 Upper Heyford: The Meadow

137. This is an area of meadow almost 500m long and about 120m wide at its widest which lies between two channels of the River Cherwell. It is crossed by footpaths which connect to paths leading further afield. On a cold wet afternoon, its recreational potential was not strongly in evidence, but it is close to the village with a very distinctive character and, although very different, is comparable to AF2 in the role it performs for the village. Although quite large, I accept that it is appropriate for designation as a Local Green Space.
138. The policy to be applied to the designated Local Green spaces precludes development other than in exceptional circumstances. The guidance in the NPPF requires that policies for Local Green Spaces should be consistent with those for Green Belts. Green Belt policy does not preclude all development and defines certain categories of development as not inappropriate. These cannot be applied directly to Local Green Spaces because of the difference in scale but the principal can be used. For instance, there may well be types of development that complement the role played by a Local Green Space: a shelter in a cemetery or park, or a changing facility in association with pitches, for example. These would not be exceptional circumstances and I have recommended a recommendation to reflect this.

Recommendations

In Policy PD7:

after “Development on the designated Local Green Spaces” insert “which does not relate to or complement their importance to the community”.

delete KT1 Kirtlington Quarry and Washford Pits, LH3 Paines Field, LH4 The Allotments, LH6 Dairy Ground, SA4 Former Sandworks adjacent to Fenway and UH5 Heyford Park Western End. Renumber the other sites where these deletions leave a gap.

In Figure 9 on page 55 reduce the area of FT1 by deleting the green shading from the southern part of the site south of the footpath from East Street to the south-eastern corner of the churchyard.

In Figure 10 Delete area KT1

In figure 11 delete area SA4

In Figure 12A delete areas LH3 and LH4

In Figure 12B delete area LH6

In Figure 18 reduce the area of UH4 to the area currently in use as allotments, include the area deleted in the zone of non-coalescence under Policy PD3 and delete area UH5.

Housing Policies

Policy PH1: Open Market Housing Schemes

139. The policy requires that new developments favour houses with a smaller number of bedrooms and specifies the percentage mix of houses with different numbers of bedrooms.
140. A comment from CDC points out that the figures given do not make explicit the need for one-bedroom dwellings and that the policy should make it clear that this mix does not apply to the mix of affordable housing or in development under CLP Policy Villages 5, which relates to Heyford Park. MCNP has accepted this comment and put forward alternative wording to reflect these points.
141. It is entirely appropriate for policies to aim to secure a mix of housing that reflects clearly evidenced need. However, the policy as phrased is too prescriptive as it lacks flexibility and specifies precise percentages. In practice, the location and the characteristics of sites and nearby development may well justify some divergence from these precise figures. Some locations may be particularly suitable for smaller dwellings and others for larger ones. CLP Policy BSC 4 includes such flexibility using evidence of need in the Oxfordshire Strategic Housing Market Assessment (SHMA) (2014) as a starting point for negotiations. A representation also argues for some flexibility. I have recommended modifications to reflect the modifications put forward by MCNP and include an element of flexibility in the policy.

Recommendations

In Policy PH1:

Modify the second sentence to read: “The mix of housing will be determined having regard to the evidence of housing need in the Oxfordshire Strategic Housing Market Assessment, or more up to date published evidence, and the characteristics of the location and site. On the basis of the 2014 SHMA, in developments of 10 dwellings or more the indicative mix should be: 30% 1 or two bedrooms, 46% 3 bedrooms and no more than 24% with 4 bedrooms or more. Smaller schemes should aim for a similar mix where possible.

Note: This policy does not apply to the affordable housing element of such schemes or developments affected by Policy Villages 5 of the Local Plan”

Policy PH2: Affordable Housing on Rural Exception Sites

142. The policy provides for the development of rural exception sites for affordable housing within or immediately adjacent to villages, and particularly favours the re-use of brownfield land for this purpose. It also proposes local letting plans to ensure that properties go to local people involving the MCNP Forum and constituent parish councils.

143. Modifications have been recommended to this policy following comments from CDC which suggest that letting policies are not a planning matter and that the reference to this should be removed from the policy and inserted in the supporting text or the Community Action Plan. The proposed modifications are consistent with the basic conditions, but I have retained the first sentence of the second paragraph within the policy.

Recommendation

In Policy PH2 delete all the policy wording after “...local needs in perpetuity” and insert “The number of affordable dwellings on rural exception sites shall not exceed that evidenced by local needs housing surveys.”

Delete the second paragraph of the policy, excluding the first sentence and insert it either at the end of paragraph 3.3.6 or in the Community Action Plan.

Policy PH3: Adaptable Housing

144. The policy supports the provision of 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. The justification for the policy refers to the above average proportion of the population that is elderly and evidence that bungalows are in short supply.
145. CDC have suggested a minor modification to future proof the policy which MCNP has accepted. The policy meets the basic conditions.

Recommendation

In the second part of Policy PH3 after “...Building Regulations Part M (4)” insert “as amended” and delete “(2015 edition incorporating 2016 amendments)”.

Policy PH4: Extra Care Housing

146. This policy provides 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. It also provides for additional extra-care housing in category A villages.
147. The first part of the policy is simply a restatement of Local Plan policy BSC4. As such it should be included in the supporting text rather than in the policy. The second part of the policy is, as CDC say, an assertion that it is expected that the provision at Heyford Park will be adequate. MCNP has suggested a modification to address this by supporting further provision if necessary. This is consistent with the representation from Oxfordshire CCG pointing to the likelihood of an increased demand for extra-care accommodation. With these modifications, the policy, including the final sentence, meets the basic conditions.

Recommendation

In Policy PH4:

Delete the first sentence and insert it as the first sentence of paragraph 3.3.12

Modify the second sentence to read “If the number of extra-care homes proposed at Heyford Park is insufficient to serve demand during the Plan period from the population of the MCNP

area, then support will be given for additional dwellings in Fritwell, Kirtlington and Steeple Aston to meet demonstrable need.”

Policy PH5: Garaging and Waste Storage Provision

148. The policy requires garages or adjacent parking provision rather than separate parking courts and the provision of well- designed waste storage areas. It does not include development at Heyford Park under CLP Policy Villages 5. The policy meets the basic conditions.

Policy PH6: Parking Facilities for Existing Dwellings

149. This policy relates to parking provision where an existing dwelling is altered or extended. It indicates that permission will be resisted unless adequate parking provision is retained on the site and the development will not exacerbate existing difficulties with on-street parking. CDC has suggested a modification to recognise that many extensions do not require planning permission and to more clearly link the assessment of the adequacy of on-site parking to off-street parking conditions. MCNP has accepted this comment and recommended a modification to address it. With this the policy meets the basic conditions.

Recommendation

In Policy PH6:

In the first line replace “Any proposal” with “Applications”

In the third line delete the full-stop after “satisfactory” and replace “Developments must” with “and will”.

Transport Policy

150. The introduction to this section acknowledges the difficulty of addressing traffic issues in a land use planning document. Concerns relating to the volume and speed of traffic and the impact of increased traffic as a result of the large-scale development at Heyford Park were the greatest concern of residents during the preparation of the Plan and I understand that there will be frustration at the limited powers of neighbourhood plans in these areas. However, the introduction also refers to the Community Action Plan at the end of the Plan as a means of seeking to influence transport policy in other ways.

Policy PT1: Travel Plans

151. The policy requires 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 shown on map 19. The second part of the policy requires that any need for mitigation identified through the assessment should take account of the proposed works set out in Appendix F of the Plan which have been identified by the parish councils as priorities and that this mitigation should be funded through developer contributions.

152. Oxfordshire County Council (OCC) has made several comments on this policy. The first is that the heading for the section “Travel Plans” is only relevant to much larger developments, and that the correct terminology should be “Transport Assessments” or “Transport Statements”. It also points out that it is the responsibility of the Highways Authority to determine whether a Transport Assessment is necessary. OCC have clear guidance on the necessity for Transport Assessments and Transport Statements and in particular the thresholds for the scale of development at which they are required.²⁶ It also identifies the general scope for such assessments and how it should be determined.
153. The threshold for the preparation of Transport Assessments in Policy PT1 is much lower than in the OCC guidance. For example, for residential development the OCC minimum threshold is 80 dwellings and 50 dwellings for a Transport Statement compared with the figure of 10 dwellings in the Policy PT1. The Policy requires such an assessment for any non-residential development, but OCC set out detailed thresholds for a wide range of uses which would mean that many small-scale commercial activities would not be required to prepare a Transport Assessment or Statement. There is no clear justification for the use of such different thresholds in the MCNP area. While the rationale for the policy refers to the effect on traffic of large-scale development at Heyford Park in addition to existing levels, this development will be subject to a full Transport Assessment and Travel Plan and is not a justification for the approach proposed.
154. I conclude that that this policy falls outside the scope of a neighbourhood plan and that even if it did not, the justification for the policy does not justify the application of standards that differ greatly from those in the rest of Oxfordshire. Paragraphs 3.4.4-3.4.8 provide the rationale for this policy, but paragraph 3.4.8 also refers to Policy Map Fig 19 which is relevant to the Community Action Plan. I have recommended the deletion of most of this supporting text with modifications to paragraph 3.4.8.

Recommendation

Delete Policy PT1

Before the existing paragraph 3.4.4 delete “Rationale for Travel Plans Policy” and insert as a new heading “Transport Issues in the Community Action Plan”. Delete paragraphs 3.4.4-3.4.7 and at the beginning of paragraph 3.4.8 insert: “Policy PT1 relating to travel plans was deleted at the examination stage but transport issues will be addressed through the Community Action Plan.” Delete “Policy Map” before “Fig.19.

Community Infrastructure Policies

Policy PC1: Developer Contributions

²⁶ Oxfordshire County Council: Transport for New Developments 2014: Transport Assessments and Travel Plans Part 3 and Appendix 1

155. Policy PC1 supports developer contributions through the Community Infrastructure Levy (CIL) and Section 106 where they are spent on infrastructure that directly benefits the area. It explicitly includes development at Heyford Park and Category A and B villages. It also requires that developer contributions take into account the priorities identified in Appendix J as updated from time to time. Both CDC and OCC have expressed concerns about this policy on the basis that S106 contributions are required to make individual applications acceptable in planning terms, and not to resolve existing problems or generally improve the infrastructure of an area.
156. While the aspirations behind the policy are understandable, it is difficult to see how it could influence a decision maker in relation to an individual application. A S106 planning obligation will be necessary where the legal requirements as set out in paragraph 204 of the NPPF are met. These are that the obligation is: *“necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development.”* Thus, whether the policy welcomes an obligation or not is not a material consideration. Where it meets the criteria, it will need to be imposed and where it doesn't it cannot be. There is no need to refer to Heyford Park and Category A villages as it could apply to any application anywhere if the criteria are met. It is also not possible to require consultation with the MCNP Forum or relevant parish councils on the purposes of a S106 agreement as these will be determined by the nature of the development and not the wider priorities of the area. Parishes could of course make their views known when they are consulted on planning applications in the normal way as could MCNP Forum, which is now recognised as a consultee on planning matters.
157. Contributions through CIL will be determined through the rates set out in the relevant Charging Schedule when it is adopted. Work by CDC to enable the application of CIL was suspended in 2017 while the government reviews its approach to CIL, and it is therefore not in operation now. If and when it is introduced the relevant parishes will have discretion as to how their share of it is spent. It will be appropriate for them to have regard to the priorities in Appendix J as updated at that time, but they will not be a material consideration in the determination of any planning application.
158. For these reasons I conclude that Policy PC1 will not provide any useful guidance to a decision maker in determining a planning application and it therefore does not meet the basic conditions.

Recommendation

Delete Policy PC1

Policy PC2: Employment

159. The Policy supports the continued use of existing business premises for employment generating purposes and the encouragement of new small businesses subject to four criteria.

The justification for the policy refers to the very small proportion of residents who work in the Plan area.

160. The first criterion requires such development to provide employment opportunities for those living in the neighbourhood area, otherwise benefit the local economy or enhance agricultural production. While this could preclude employment generating activity that has no local connection, I am satisfied that this is in general conformity with the urban focus on new employment in CLP Policy SLE1 and the requirement in that policy for new employment development in rural areas to demonstrate a need to be there.
161. The second criterion, that it should not adversely affect the surrounding built, natural or historic environment, is very broad and, to a large extent, expresses in general terms what is set out more specifically in the fifth bullet point of the part of CLP Policy SLE1 that relates to rural areas. It could be argued that almost any development will have some adverse effect and thus this criterion could preclude any employment related development. Policy SLE1 addresses this by referring to “*undue harm*”. In practice, to determine what is undue harm would require that the benefits of the development are balanced against any environmental effect and I have recommended a modification to this effect. While there may be concern that this would make the policy too open-ended, the limitation to small-scale businesses would mean that any serious environmental harm would be likely to outweigh the economic benefits.
162. The third criterion is unnecessary as it simply cross refers to Local Plan Policy SLE1. The fourth criterion again overlaps significantly with Policy SLE1, but also refers specifically to the volume of goods traffic and the potential effect on on-street residential parking. The NPPF makes it clear that the generation of traffic in itself is not a reason for refusing development²⁷, it is the effect of this traffic, on congestion, highway safety, or the environment in terms of noise or disturbance. I have recommended a modification to address these points to meet the basic conditions.

Recommendations

In Policy PC2:

Modify criterion b) to read “do not have an adverse effect on the surrounding built, natural or historic environment that is not clearly outweighed by the economic benefits of the development.”

Delete criterion c)

Modify criterion d) to read: “are unlikely to generate a volume of goods traffic that would have a significantly harmful effect on road safety or congestion or cause unacceptable noise and disturbance for local residents or to the rural environment and would not adversely affect on-street residential parking.”

²⁷ NPPF paragraph 33

Policy PC3: Health Facility

163. This policy supports the establishment of a health facility at Heyford Park which would provide GP and other services. The rationale for the policy points out that there is no medical practice within the neighbourhood plan area, though there is a practice in Deddington, just to the north, which serves a very large rural area.
164. Policy Villages 5 of the CLP refers to the provision of health services at Heyford Park, but CDC have expressed concern that the policy is too prescriptive in determining the form and catchment area of any health facility, as that is the function of the Care Commissioning Group. Much of the policy is phrased in a permissive way, indicating the circumstances in which a facility would be welcomed. In that these parts of the policy do not preclude other types of proposal which would have to be determined under other development plan policies it is not prescriptive. However, the second sentence of the policy in setting out minimum standards for a health facility at a facility is prescriptive and implies clearly that a facility which did not meet these standards would not be supported. The Oxfordshire CCG has commented that the population would not justify a new stand-alone practice and, while a facility providing fewer services may not be what is ideally wanted, there is no clear reason in planning terms why it should be refused, though the aspiration for a stand-alone practice could be retained in the Community Action Plan. I have recommended a modification to remove this unjustified prescription and achieve general conformity with Policy Villages 5.

Recommendation

In Policy PC3:

Delete the second sentence.

Policy PC4: New Cemetery

165. This policy supports 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. CDC has indicated that Policy Villages 5 does not provide for a new cemetery at Heyford Park and there is therefore a potential conflict with that policy.
166. No reason has been given why the provision of a new cemetery within or adjacent to Heyford Park need be prejudicial to the provisions of Policy Villages 5; indeed, these would be a material consideration in the assessment of any proposal and would help to determine the suitability of the site. It could be argued that Policy PC4 is too imprecise in terms of what would make a site "suitable", but it is not necessary to list all the Local Plan and other policies in this Plan that would be taken into account. For clarity I have recommended a modification to clarify that the application of these policies is how suitability would be determined. Subject to this the policy meets the basic conditions.

Recommendation

Modify the beginning of Policy PC4 to read: "Subject to the suitability of the site having

regard to Policy Villages 5 of the Cherwell Local Plan and other development plan policies, an application for the ...”

Other Policies

167. There have been several representations suggesting additional policies. Some additions to the objectives of the Plan have also been suggested. A neighbourhood plan is not required to include policies on any particular subject and in the absence of policy guidance in the neighbourhood plan, planning applications will be determined on the basis of Local Plan and national policies. I am not empowered to recommend the inclusion of additional policies unless it is necessary to do so to meet the basic conditions. While it is possible that additional policies could meet the basic conditions and add value to the Plan, that is not a sufficient reason to justify a recommendation to include them.

Community Action Plan

168. Section 5 of the Plan is entitled Community Action Plan and explicitly states that this addresses matters which cannot be addressed through planning policies. This section does not need to be assessed against the basic conditions as it will not form part of the statutory development plan. PPG indicates that it is entirely appropriate to include aspirations of this sort within the Plan provided that they are separate from the policies.²⁸ I am satisfied that this separation is achieved adequately here but for additional clarification a clear statement that the actions identified do not have the status of planning policies is necessary.
169. The value of the Community Action Plan is particularly high in a multi-parished area such as this where parishes have come together to identify issues of common concern and committed to ongoing joint working to make progress on these issues, either by seeking to influence CDC, OCC and other agencies or by taking action themselves.

Recommendation

After the first paragraph of the Community Action Plan insert an additional sentence in bold type: “None of the actions identified in the Community Action Plan have the status of development plan planning policies.”

Conclusion and Referendum

170. The preparation of a neighbourhood plan for eleven parishes and a substantial growth area is a major undertaking, in terms of the need for joint working, effective project management and the amount of research and evidence required. I have 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. The use of the substantial body of supporting evidence is clearly cross-referenced. This has

²⁸ PPG What should a neighbourhood plan address? Reference ID 41-003-20140306

helped me in carrying out my examination and has meant that I have had little need to ask for any clarification of the documentation. It is also evident that there has been much joint working between the MCNP Forum and CDC and extensive consultation of other agencies.

171. I have found it necessary to recommend several modifications to the Plan to meet the basic conditions. Many of these incorporate the suggestions of the MCNP Forum in response to comments by CDC and other bodies. Others have required the deletion of some of the proposed Local Green Spaces. I am sure that there will be disappointment about that, but it is important to apply the criteria in the NPPF consistently. It has also been necessary to delete some policies which failed to add to Local Plan policy or addressed matters outside the scope of a neighbourhood plan.

172. Subject to the modifications which I have recommended I have concluded that:

- 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 would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

173. I am therefore pleased to **recommend that the Mid-Cherwell Neighbourhood Development Plan should proceed to a referendum subject to the modifications that I have recommended.**

174. I am also required to consider whether or not the referendum area should extend beyond the Neighbourhood Plan Area. The eleven parishes which have come together to prepare the Plan have done so because they perceive that there are planning issues which will affect them all. Initially 14 parishes were invited to participate, but the other three declined to take up the offer. The consultation which has taken place during the preparation of The Plan has not highlighted any concerns from outside the area about the effects of the policies of the Plan and I have seen nothing to suggest that the policies of the Plan will have “a substantial, direct and demonstrable impact beyond the neighbourhood area”.²⁹ **I therefore conclude that there is no need to extend the referendum area.**

Richard High

2 January 2019

²⁹ PPG Reference ID: 41-059-20140306