

# Cherwell District Council

## Executive

5 February 2024

## Deddington Neighbourhood Plan

### Report of Assistant Director – Planning and Development

This report is public.

## Purpose of report

To consider the Examiner's report on the draft Deddington Neighbourhood Plan (the "**Draft Neighbourhood Plan**") to determine whether the Draft Neighbourhood Plan, incorporating modifications should proceed to referendum.

## 1.0 Recommendations

The Executive is recommended:

- 1.1 To approve all the Examiner's recommendations and modifications (Appendices 1 and 2) to enable the Plan, incorporating the recommended modifications (Appendix 3), to proceed to a referendum.
- 1.2 To authorise the issue of a 'decision statement' confirming the Executive's decision including that the Plan will now proceed to a referendum.
- 1.3 To authorise the Assistant Director – Planning and Development to make any minor presentational changes and corrections necessary to ready the Plan for referendum.

## 2.0 Introduction

2.1 This report is prepared by Cherwell District Council (the "**Council**") to inform a decision by the Executive following the independent examination of the Draft Neighbourhood Plan. The examination commenced in August 2023 and the Examiner's report was received on 12 December 2023. Deddington Parish Council (the "**Parish Council**") also received a copy of the Examiner's report.

2.2 The Executive is invited to consider the following documents:

- Examiner's Report (Appendix 1);
- A schedule of the Examiner's recommendations and officer consideration of each recommendation and proposed changes (Appendix 2);

- The draft Deddington Neighbourhood Plan 2020-2040 incorporating all recommended modifications (Appendix 3).

- 2.3 All the documents submitted to the Examiner are available on-line at <https://www.cherwell.gov.uk/downloads/download/497/deddington-neighbourhood-plan>, together with the Examiner's correspondence.
- 2.4 It is the Executive's decision whether the Draft Neighbourhood Plan should proceed to referendum, and what modifications, if any, should be made to the plan.
- 2.5 An emerging neighbourhood plan is likely to be a material consideration in the consideration of many planning applications. Where the local planning authority publishes notice of a referendum, the emerging neighbourhood plan should be given more weight, while also taking account of the extent of unresolved objections to the plan and its degree of consistency with NPPF.

### 3.0 Report Details

- 3.1 The Neighbourhood Plan Area (the "**Designated Area**") was designated on the 2 December 2013 by the Executive.
- 3.2 The Parish Council initially prepared a draft Neighbourhood Plan, which was submitted to this Council in October 2018. However, the Parish Council subsequently decided to withdraw this Neighbourhood Plan following an independent examination.
- 3.3 The Parish Council has since progressed a new version of the Draft Neighbourhood Plan with public consultation on the Regulation 14 pre-submission draft having taken place between 1 October 2017 and 19 November 2017. Consultation on the Regulation 16 submission draft took place between 9 June 2023 and 21 July 2023.
- 3.4 Following the consultation on the draft in paragraph 3.3 above, the Council, in agreement with the Parish Council, appointed an independent examiner, John Slater, (the "**Examiner**") to undertake the examination. The Examiner's report has been fact checked by the Council and by the Parish Council and has been published on the Council's website.
- 3.5 The Examiner's report was received by the Council on 12 December 2023. It finds that, subject to specified modifications, the Draft Neighbourhood Plan meets the requisite Basic Conditions and other legal requirements. It is recommended by the Examiner that the Draft Neighbourhood Plan should proceed to a local referendum based on the plan area.
- 3.6 However, the decision as to whether the Basic Conditions and legal requirements have been met and therefore the determination as to whether the document can proceed to referendum, rests with the Council. The Examiner's report is presented at Appendix 1. It includes his recommended modifications to the Draft Neighbourhood Plan. At Appendix 2, Members will find a schedule of the Examiners' recommendations and officer responses. The modifications proposed by the Examiner include amendments to policy, policy maps and supporting text.

## Requirements

- 3.7 An Examination includes consideration of whether a plan meets the legal requirements in the prescribed “**Basic Conditions**” below:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
- 3.8 In addition to the Basic Conditions, the Examiner’s report also considers:
- whether the Draft Neighbourhood Plan is compatible with the European Convention Rights; and
  - whether the Draft Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.
- 3.9 The Examiner’s report must recommend either:
- that the Draft Neighbourhood Plan is submitted to a referendum; or
  - that the modifications are made and that the modified Neighbourhood Plan (the “**Modified Neighbourhood Plan**”) is submitted to a referendum; or
  - that the Draft Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
- 3.10 Whilst the Examiner’s report must address the issues above, it is the responsibility of the Council as local planning authority to ensure that all the regulations appropriate to the nature and scope of the Draft Neighbourhood Plan submitted have been met in order for the Draft Neighbourhood Plan to progress to referendum.
- 3.11 Schedule 4B to the Town and Country Planning Act 1990 requires that the local planning authority must:
- a) consider each of the recommendations made by the report (and the reasons for them), and
  - b) decide what action to take in response to each recommendation.
- 3.12 The local planning authority must then publish the decisions it makes in relation to the Examiner’s recommendations (the “**Decision Statement**”), including within the reasons for making those decisions and such other matters relating to those decisions and to notify the qualifying body and other relevant bodies.

- 3.13 The only modifications that the local planning authority may make are:
- modifications that the authority consider need to be made to secure that the draft order meets the Basic Conditions mentioned in paragraph 8(2);
  - modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights;
  - modifications that the authority consider need to be made to secure that the draft order complies with the provision made by or under sections 61E(2), 61J and 61L;
  - modifications specifying a period under section 61L(2)(b) or (5);
  - modifications for the purpose of correcting errors.

- 3.14 Where a council wishes to put forward any modifications which differ from those proposed by the Examiner, the council is required to undertake further consultation.

### **Examiner's Report**

- 3.15 The Examiner's report is presented at Appendix 1. It includes his recommended modifications to the Draft Neighbourhood Plan. At Appendix 2, Members will find a schedule of the Examiners' recommendations and officer responses. The modifications proposed by the Examiner include amendments to policy, policy maps and supporting text.
- 3.16 The Examiner is satisfied that the community has had sufficient opportunity to be involved with and influence the Draft Neighbourhood Plan; that it is in general conformity with the strategic policies in the adopted Cherwell Local Plan and saved policies. He goes on to advise that he has considered compliance with the Basic Conditions relating to European legislation and Habitats Regulations, and also the Human Rights Act and is content that these Basic Conditions are met.
- 3.17 The first policy that the Examiner considers is that which relates to the settlement boundary (Policy DEDD1) and proposes that the boundary be amended to include the proposed allocation site, as this will, in due course, reflect the built area of the village. He also proposes amendments to the wording regarding development outside settlement boundaries to bring it in line with national policy.
- 3.18 Policy DEDD2 is concerned with the village site allocation and the Examiner seeks to take a flexible approach on the policy criteria, although he does propose that it is clarified that all policy criteria have been considered and applied.
- 3.19 The Draft Neighbourhood Plan allocates land at Banbury Road, to the north of the fire station for residential development, a nursery and public parking. The increased capacity of the site is 85-90 dwellings, alongside the 20-25 public parking spaces and nursery with appropriate landscaping. The development is expected to be delivered within five years and, as such, the Draft Neighbourhood Plan states that it does not expect any further development, other than infill sites.
- 3.20 The policy on Housing Mix DEDD3 is supported by a housing needs assessment undertaken for the Parish Council and the Examiner sought greater clarity on the connections required for this policy to apply and has changed the policy to become an encouraging policy. Affordable housing is to be encouraged to be allocated to those with such a connection or key workers.
- 3.21 Design quality in Deddington DEDD4 only attracts minor wording changes from the Examiner to bring the policy in line with national policy, i.e. the use of *'preserve and*

*enhance*’ when referring to conservation areas. Deddington Health Centre and the Windmill Centre are not considered to constitute a heritage asset and as such these heritage asset designations are proposed to be removed from the Draft Neighbourhood Plan.

- 3.22 Neighbourhood Plan policies relating to design quality in the other settlements are unchanged.
- 3.23 In terms of landscape character and key views (DEDD7), the only change that the Examiner sought to make was the removal of an identified key viewpoint at Snakehill Lane, Hempton.
- 3.24 The Examiner considers Policy DEDD8 Travel Planning to be overly restrictive and so amends the policy to ensure traffic calming and financial contributions to public transport are to be sought when requested by the Highway Authority. He also queried the requirement for air quality mitigation and removed this as there is no evidence to support this requirement.
- 3.25 The policy relating to Green Infrastructure remains unchanged.
- 3.26 Policy DEDD10 – Satin Lane Allotments Local Green Space is proposed by the Examiner to be brought in line with Secretary of State policy so that it does not introduce greater control over development beyond the scope of local green space policy.
- 3.27 Policy DEDD11 – Community Facilities seeks to protect specific buildings within the neighbourhood plan area unless certain criteria are met. The Examiner has proposed that two of the criteria are removed, relating to the efforts made to improve the operation and management of the facility and also whether, in the case of a public house, that suitable alternative public houses remain in the area.
- 3.28 The policy in respect of Deddington Village Centre remains unchanged.
- 3.29 Policy DEDD13 – Local Business seeks to support new business uses within the settlement boundary or adjacent an existing use if this is outwith the settlement boundary. The Examiner has amended the policy to reflect Class E uses and also introduced greater flexibility in line with national policy.
- 3.30 The Examiner has left the policy DEDD14 – home working unaltered.
- 3.31 Policy DEDD15 is concerned with broadband and mobile communications. The original Neighbourhood Plan policy required developers to provide a superfast broadband connection, though it is proposed, through the Examiner’s report that this element of the policy be deleted so that developers are required to provide the necessary infrastructure to enable such a connection to be made.
- 3.32 The Examiner explicitly sets out that his proposed modifications to Policy DEDD16 – Zero Carbon Building have been made in order to address a Basic Conditions issue. These changes reflect a more encouraging approach to zero carbon building which does not conflict with national guidance.
- 3.33 In summary, the Examiner congratulates the Parish Council on reaching a successful outcome to the examination and commends its evidence, policies and

approach. The Examiner concludes that the Draft Neighbourhood Plan as modified would achieve sustainable development and should proceed to referendum on the basis of the existing Designated Area (Executive decision 2 December 2013). He states, *'It is clear that a huge amount of hard work has gone into this plan by volunteers on behalf of the local community over many years and I am pleased to recognise their sterling work.'*

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

- 3.34 Having considered the Examiner's report, officers are of the view that all of his recommendations should be accepted. Officers consider that the Draft Neighbourhood Plan meets the Basic Conditions with the Examiner's proposed modifications. The modifications and necessary consequential changes and editing are shown in the Neighbourhood Draft Plan text at Appendix 3. Officers also agree with the Examiner that the referendum area should be based on the Designated Area and that the referendum area does not need to be extended.

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

- 4.1 Given the above, it is recommended that the Executive agrees to agree to submission of the Draft Neighbourhood Plan (as modified) for referendum and that a Decision Statement be issued.
- 4.2 This Council would then be responsible for making the necessary arrangements for the referendum to be held. A notice of the referendum will need to be issued. In line with the Neighbourhood Planning (referendums) Regulations 2012, Schedule 1, the following question would be asked:  
"Do you want Cherwell District Council to use the neighbourhood plan for Deddington to help it decide planning applications in the neighbourhood area?"
- 4.3 If a majority of votes are in favour of the Neighbourhood Plan, it would come into force as part of the statutory Development Plan for the District. This Council must then ensure that the plan is "made" within eight weeks of the referendum for it to take effect.

## **5.0 Consultation**

- 5.1 In the preparation of this report, Councillor Dan Sames: Portfolio Holder – Planning and Development.

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

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

*Option 1: Not to accept all the Examiner's recommendations.*

Where a local planning authority proposes to make a decision that differs from the Examiner's recommendations it is required to set out these reasons in a Decision Statement which would be subject to further consultation.

Reason: Officers agree with all the Examiner's recommendations.

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

Option 2 could only be justified if the Examiner recommends that the Draft Neighbourhood Plan should not proceed to a referendum, or the Council is not satisfied that the Draft Neighbourhood Plan has met the procedural and legal requirements.

Reason: Officers agree with the Examiner's recommendations and are of the view that the local planning authority have met the procedural and legal requirements.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 Local Planning Authorities can claim £20,000 once they have issued a Decision Statement detailing their intention to submit a neighbourhood Development Plan for referendum (as set out under Regulation 25 of the Neighbourhood Planning (General) Regulations 2012). The date for the referendum does not have to be set in order to make this claim. There will be no additional costs borne by the Council as this funding will reimburse all r costs incurred including holding the referendum and the Examiner's fees incurred to date.

Checked by:

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### **Legal Implications**

- 7.2 The Council has a statutory duty to assist communities in the preparation of neighbourhood development plans. The Draft Neighbourhood Plan has been prepared in accordance with the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 (as amended), and the Neighbourhood Planning (General) Regulations 2012 (as amended). It is considered that the Draft Neighbourhood Plan meets the statutory Basic Conditions and that there is no legal reason why the Draft Neighbourhood Plan, with the modifications made by the Examine, should not proceed to referendum.

Checked by:

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### **Risk Implications**

- 7.3 The Draft Neighbourhood Plan has been thoroughly examined and officers have considered the Draft Neighbourhood Plan and the Examiner's report. Whilst there is always the potential for legal challenge, in the circumstances described herein, there is not considered to be a notable risk of challenge. If any arise it will be managed through the service operational risk register and escalated to the Leadership Risk Register as and when deemed necessary.

Checked by:

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## **Equalities and Inclusion Implications**

- 7.4 The Draft Neighbourhood Plan, and its supporting consultation statement, set out how the Parish Council has sought to prepare a neighbourhood development plan that seeks to respond to all members of its community, keeping in line with the principles of our Equalities, Diversity and Inclusion framework.

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## **Sustainability Implications**

- 7.5 The Draft Neighbourhood Plan has been informed by a process of Sustainability Appraisal, including detailed reports on the assessment of sites. As noted by the Examiner, it supports sustainable development through its strategy and contains a suite of policies that support sustainable development, including those relating to the standards any new development should conform to, including those required to achieve climate change goals/targets.

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## **8.0 Decision Information**

### **Key Decision**

**Financial Threshold Met: No**

**Community Impact Threshold Met: No**

### **Wards Affected**

Deddington

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

Business Plan 2023-24

The Draft Neighbourhood Plan, as modified, would assist in meeting the business plan's strategic priorities:

- Housing that meets your needs
- Supporting environmental sustainability
- An enterprising economy with strong and vibrant local centres

- Healthy, resilient and engaged communities

### **Lead Councillor**

Councillor Dan Sames – Portfolio Holder for Planning and Development

### **Document Information**

#### **Appendix number and title**

- Appendix 1 Examiner's Report 12 December 2023
- Appendix 2 Schedule of Recommendations
- Appendix 3 Post examination Draft Neighbourhood Plan with modifications in tracked changes

#### **Background papers**

None

#### **Reference papers**

Deddington Neighbourhood Plan submission documents

<https://www.cherwell.gov.uk/info/221/neighbourhood-plans/397/deddington-neighbourhood-plan/3>

Documents related to the Examination of the Deddington Neighbourhood Plan

<https://www.cherwell.gov.uk/info/221/neighbourhood-plans/397/deddington-neighbourhood-plan/5>

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