

OXFORD CITY COUNCIL
Report to:
EXECUTIVE BOARD – 9th May 2005

Report of: Michael Crofton-Briggs,
Business Manager,
Planning Services

Ward: All

Title: **Oxford Local Plan 2001-2016; Response to Inspector's Report and Proposed Modifications**

Report author: Adrian Roche, Team Leader - Planning Policy

Contact Tel No: 01865 252165

E-mail address: aroche@oxford.gov.uk

Key Decision: Yes

Lead Member: Councillor Turner

Scrutiny responsibility: Environment

RECOMMENDATIONS

The Executive Board is asked to recommend Council to agree:

1. the responses to each of the Inspector's recommendations set out in the schedule at Appendix 3 are agreed;
2. the Proposed Modifications to the Oxford Local Plan 2001-2016 set out in the schedule at Appendix 4 are agreed;
3. that the Planning Policy Manager be authorised to alter the schedules in Appendices 2 and 3 before publication of the Proposed Modifications to the extent felt to be necessary in light of legal advice in order to make it defensible, to clarify the text, and to make any necessary editorial corrections; and
4. that the Proposed Modifications be published for a 6-week consultation period and that, if no objections are received during the consultation period, the Oxford Local Plan 2001-2016 be adopted on the expiry of that period.

1. Summary

- 1.1 This report sets out the City Council's response to the recommendations of the Inspector who conducted the Local Plan Inquiry into objections to the draft Oxford Local Plan 2001-2016. The Inspector has made recommendations in respect of outstanding objections to the First and Second Drafts of the Plan, and objections

made to the City Council's proposed Pre-Inquiry Changes. The Inspector has also commented upon the Further Proposed Changes that were suggested as a result of discussions during the Local Plan Inquiry.

- 1.2 The purpose of the report is to enable the Executive Board to agree responses to the Inspector's recommendations and to consider what modifications should be made to the Plan. The Executive Board's resolutions will stand as recommendations to Council because the Local Plan forms part of the City Council's policy framework.

2. City Council's Vision and Strategic Aims

- 2.1 The Local Plan contributes to the delivery of all aspects of the City Council's vision, which is set out in paragraph 1.7.1 of the Plan. In particular, the policies and proposals in the Plan will have a significant influence upon the quality of the environment, the provision of more affordable housing, the creation of local prosperity, and the improvement of transport and mobility.

3. Background and Context

- 3.1 The City Council is now well advanced in the lengthy process of preparing a new Local Plan to replace the current adopted Oxford Local Plan 1991-2001. The Local Plan review started at the end of 1999 with two and a half years of public consultation, leading to the publication of a First Draft Oxford Local Plan 2001-2016 in June 2002, followed by a Second Draft in February 2003. In September 2003, the City Council published Pre-Inquiry Changes to the Second Draft Plan.
- 3.2 Last year an independent Planning Inspector, Mr A Freeman, held a Local Plan Inquiry into all the unresolved objections to the draft Local Plan. This Inquiry ran from 2nd March to 12th August 2004. A total of 803 objections were heard at the Inquiry, whilst a further 4,394 objections were dealt with by written representations. During the course of the Inquiry, a number of Further Proposed Changes were proposed by Officers to resolve issues discussed at the Inquiry.

4. The Inspector's Report

- 4.1 The Inspector's Report (IR) was received on 8th February 2005 and was published on the City Council's website shortly afterwards. All Members were sent a briefing note by email, and copies of the IR were placed in each of the parties meeting rooms.
- 4.2 A letter was sent to the Planning Inspectorate on 3rd March 2005 to clarify certain matters, and to draw attention to a small number of factual errors and omissions. The Planning Inspectorate replied on 23rd March 2005, enclosing new versions of several sections of the Plan to take account of the issues raised. This exchange of

correspondence has also been published on the City Council's website. Updated versions of the Inspector's Report were placed in the parties meeting rooms.

- 4.3 The Inspector has generally been very supportive of what the City Council is trying to achieve and endorses most of the policies in the Oxford Local Plan. He also endorses the vast majority of the Pre-Inquiry Changes and Further Proposed Changes.
- 4.4 The Inspector has made recommendations in respect of each of the policies and paragraphs that were the subject of objections. He has made a total of 566 recommendations, of which 221 propose amendments to the draft Plan and 345 recommend no change. Many of the changes he has recommended are of a minor nature to improve the wording of policies or the supporting text. However, there are of course some recommendations that would result in significant changes to the draft Local Plan, such as the deletion of certain policies.
- 4.5 Amongst the 'good news' stories arising from the IR are his support for the provision of generally a minimum of 50% affordable housing on all sites above the relevant threshold; his support for the policy which aims to achieve a balance of dwellings within a site and within a locality; his endorsement of the uses identified for key development sites such as Westgate and Oxpens; his endorsement of the policies on student accommodation; and his support for innovative new policies such as the requirements for developers to submit a Natural Resource Impact Analysis (NRIA) on schemes above a certain size, a Health and Radiation Impact Analysis (HRIA) for telecommunications proposals and affordable housing from certain types of Commercial Development.

5. Consultation

- 5.1 Following receipt of the IR, an interim report was prepared for consideration by the Environment Scrutiny Committee on 14th March 2005 and by the Area Committees during the April cycle. Appendix 1 of this report provides a summary of the views of each committee that they wished to highlight for consideration by the Executive Board. Consultation with the Environment Scrutiny Committee and the Area Committees has focused on the main changes to the Plan recommended by the Inspector. Officers have taken account of their views in formulating a proposed response to the Inspector's recommendations.

6. Statutory Process

- 6.1 The City Council is required to prepare a statement of the decisions it has reached in the light of the IR, and the justification for any decisions which do not follow a recommendation contained in the IR. Appendix 3 of this report contains a schedule that lists each of the Inspector's recommendations in Plan order. The right-hand column sets out

Officers recommended response to the Inspector's recommendations and includes a cross-reference to a Modification number if relevant.

- 6.2 Appendix 4 of this report contains a schedule of Proposed Modifications to the Second Draft Local Plan. This includes all the changes recommended by the Inspector that Officers propose to accept, as well as the Pre-Inquiry Changes and Further Proposed Changes endorsed by the Inspector. In addition, there are a limited number of factual updates to ensure that the Local Plan is as up to date as possible when it is adopted. This schedule is also in Plan order, with Proposals Map changes at the end. The Proposed Modifications to the Plan are described in the third column of the schedule, whilst the right-hand column sets out the justification for each Modification and includes a cross-reference to the relevant Inspector's recommendation where appropriate.
- 6.3 To help Members consideration of the above schedules, Appendix 2 of this report provides a brief summary of the principal changes to the Plan that are now proposed.
- 6.4 Once the statement of decisions and the Proposed Modifications have been ratified by Council, they will then be published for a 6-week period of public consultation. At that stage, any person or organisation may object to (i) a Proposed Modification, or (ii) to the fact that the City Council may not have accepted a Modification recommended by the Inspector. However, it will not be possible for individuals or organisations to comment on policies that have not been modified at this stage, or to reopen the debate on issues that were considered by the Inspector at the Local Plan Inquiry.
- 6.5 Whilst the Inspector's recommendations are not binding on the City Council, it should be borne in mind that where the Council chooses not to accept a recommendation, it is required to produce clear and cogent reasons for not doing so. There is likely to be an increased risk of a successful High Court challenge to the Local Plan, or the need to hold a second Local Plan Inquiry, if the Inspector's recommendations are rejected without such clear and cogent reasons.
- 6.6 The City Council would probably not be able to hold a second Local Plan Inquiry as by the time one had been arranged, held, and the Inspector's report received, the Plan would in all likelihood not be able to be adopted until after July 2006. This is particularly significant because the European Union Directive on Strategic Environmental Assessment (SEA) will apply to all plans that are not adopted by July 2006. To apply SEA retrospectively would be extremely difficult. The likely result would be that the Local Plan would have to be abandoned at this late stage in the process.
- 6.7 It is considered important to adopt the Local Plan as soon as possible not only for the benefits this will bring to the development control

process, but also because the planning reforms under the Planning and Compulsory Purchase Act 2004 require the City Council to start preparing the new-style Local Development Framework (LDF) within a very challenging timescale. The timetable for preparation of the various Local Development Documents is set out in the City Council's Local Development Scheme (LDS), which was approved by Council on 7th March 2005.

6.8 In light of the above comments, it is considered that the vast majority of the Inspector's recommendations should be accepted.

7. Inspector's Recommendations Not Accepted

7.1 Officers consider that only nine of the Inspector's 566 recommendations should be fully rejected. All of these relate to development sites where the Inspector has recommended they should be deleted on the basis that the sites in question have the benefit of planning permission. Therefore, the Inspector considers that the policy is no longer necessary. The sites in question are:

DS.13 Castle Site
DS.17 Cowley Road Bus Depot
DS.32 Horspath Site, Land South of Oxford Road
DS.40 Lucy's Factory Site, Walton Well Road, Jericho
DS.49 OAC Factory Site, Woodstock Road
DS.69 Rivermead Rehabilitation Centre, Abingdon Road
DS.72 Speedwell School Site, Littlemore
DS.74 St Augustine's School Site, Iffley Turn
DS.80 The Trap Grounds

7.2 However, development on these sites has either not commenced, or is not yet completed. Officers are concerned that their deletion from the Plan would be premature, and could result in the City Council having to determine future planning applications without any statutory policy backing concerning the preferred range of uses on the sites in question. It is considered that the reasons for rejecting the Inspector's recommendations, which are set out in full within the schedule in Appendix 3, are clear, cogent and consistent.

7.3 A further six recommendations made by the Inspector are proposed to be accepted in part, or in principle. These are:

<u>Recommendation</u>	<u>Policy/Paragraph</u>
4.17/1	NE.14 (Water and Sewerage Infrastructure);
5.16/2	Section 5.0 (New Policy on Setting);
6.6/3	Section 6.5A & HS.1 (Planned Housing Growth);
7.25/1	HS.19 (Houses in Multiple Occupation);
14.51/1	DS.46 (Museum Road, Land at Rear of 1-27); and
14.58/1	DS.53 (Osney Mead, Ferry Hinksey Road).

- 7.4 The reasons for not accepting the Inspector's recommendations in full are set out in the schedule in Appendix 3.

8. Editorial Corrections

- 8.1 It should be noted that in a small number of cases some further alterations might be required to the details contained in Appendices 3 and 4 before publication of the Proposed Modifications. It is, therefore, recommended that the Planning Policy Manager be given delegated authority to carry out such clarifications and editorial corrections.
- 8.2 This will include updating the housing figures to reflect the position at 31st March 2005. At the time of writing this report, figures were only available for the period up to 31st December 2004. An Urban Potential Study will be published alongside the Proposed Modifications to provide an up-to-date assessment of the ability of Oxford to meet its housing requirement during the Plan period.

9. Sustainability Appraisal

- 9.1 The First and Second Draft versions of the Plan were the subject of independent sustainability appraisal, but there is no requirement to undertake a sustainability/environmental appraisal at the Modifications stage of the Local Plan process. Given that it is not proposed to make radical changes to the Plan, or to allocate any significant new areas for development, Officers considered that it would not be necessary or appropriate to carry out a further appraisal of the Proposed Modifications as set out in Appendix 4.

10. Plain English

- 10.1 Officers have been working closely with the Plain Language Commission throughout the Local Plan review process to ensure that the final document receives accreditation for its use of Plain English. Some changes proposed at this stage are as a result of their input to improve readability and clarity.
- 10.2 A copy of the full Local Plan text, incorporating all the Proposed Modifications set out in Appendix 4, will be published on the Council's website during the public consultation period so that individuals and organisations who may wish to comment can see clearly how the Plan has been amended following the Inspector's recommendations.

11. Financial/Staffing Implications

- 11.1 There are not considered to be any significant direct financial or staffing implications for the City Council arising from this report, since few of the Inspector's recommendations would necessitate additional work at the current time.

- 11.2. However, if the City Council chose to make a radical change to the Plan at this stage, which resulted in a second Local Plan Inquiry, a High Court challenge or the Plan being abandoned, then there would be significant financial implications.
- 11.3 The Inspector has recommended that the City Council should carry out an early review of the key employment sites. This recommendation is consistent with guidance issued by the ODPM in December 2004, which advises that employment land reviews should be an integral part of the preparation of Local Development Frameworks. A budget of £20,000 from Planning Policy and £10,000 from Strategy and Review has already been earmarked for a study to be carried out in the current financial year.
- 11.4 The Inspector has made some requests for the City Council to prepare Supplementary Planning Documents to add clarity to certain policies. Examples include affordable housing, which is programmed in the LDS, and guidance relating to NRIA, which is to be funded from a change in the budget and has been inserted into the LDS. Other topics highlighted by the Inspector, such as open space provision in residential development and guidelines for certain development sites, cannot be progressed within existing resources at the present time. Timescales and available resources will be reviewed in future versions of the LDS.
- 11.5 The Inspector's recommendation to review the HMO boundary can be absorbed within existing staff resources, albeit that this does not form part of the current work programme for Planning Policy or Environmental Health.

12. Legal Implications

- 12.1 Officers have sought Counsel's advice in relation to the most contentious issues with a view to minimising the possibility of potential legal challenges to the Plan. Counsel has indicated that, in relation to the development sites listed in paragraph 7.1 of this report, the reasons put forward in Appendix 3 for rejecting the Inspector's recommendations are, in his opinion, clear and defensible.

13. Next Steps

- 13.1 Public consultation on the Proposed Modifications is expected to take place between 3rd June and 15th July. The representations received will then be analysed by Officers with a view to taking a further report on the outcome of the consultation to Executive Board and Council in the Autumn. Subject to no complications, such as the need to hold another Inquiry, it is envisaged that the Plan will be adopted before the end of this year.

THIS REPORT HAS BEEN SEEN AND APPROVED BY:

Portfolio Holder for Strategic Planning, Housing and Economic Development:
Councillor Ed Turner

Legal and Democratic Services: Kate Chirnside/Lindsay Cane

Financial Management: Sarah Fogden

Background Papers: Letter and report from the Planning Inspectorate dated 4th February 2005 and additional letter dated 23rd March 2005, available on the City Council website at <http://www.oxford.gov.uk/services/inspectors-report.cfm>

List of Appendices:

1. Views of the Environment Scrutiny Committee and the Area Committees;
2. Summary of the principal changes to the Local Plan now proposed;
3. Full schedule of Inspector's recommendations and Officer's recommended responses; and
4. Full schedule of Proposed Modifications to the Second Draft Local Plan.