

**To:** City Executive Board  
**Date:** 18 December 2018  
**Report of:** Acting Head of Planning Services  
**Title of Report:** Summertown and St. Margaret's Neighbourhood Plan

| <b>Summary and recommendations</b>   |  |
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| <b>Purpose of report:</b>  | To consider the Examiner's Report, approve modifications to the Summertown and St. Margaret's Neighbourhood Plan and agree that the Summertown and St. Margaret's Neighbourhood Plan is submitted to a referendum. |
| <b>Key decision:</b>   | Yes  |
| <b>Executive Board Member:</b>   | Councillor Alex Hollingsworth, Lead Member for Planning  |
| <b>Corporate Priority:</b>   | None.  |
| <b>Policy Framework:</b>   | Strong and Active Communities; Meeting Housing Needs; A Vibrant and Sustainable Economy; A Clean and Green Oxford  |
| <b>Recommendations:</b> That the City Executive Board resolves to:   |  |
| <ol style="list-style-type: none"> <li>1. <b>Approve</b> the Modifications to Policies in the Summertown and St. Margaret's Neighbourhood Plan as recommended by the Examiner's Report (September 2018);</li> <li>2. <b>Approve</b> the factual modifications that have been made for the purpose of correcting errors and approve the factual modifications relating to textual changes in the introductory chapters or in terms of the justification for the policies in the Summertown and St. Margaret's Neighbourhood Plan;</li> <li>3. <b>Agree</b> that the Summertown and St. Margaret's Neighbourhood Plan (as modified in the form at Appendix 4) is submitted to a referendum.</li> </ol> |  |

| <b>Appendices</b> |  |
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| Appendix 1        | Map of neighbourhood plan area   |
| Appendix 2        | Summertown and St. Margaret's Neighbourhood Plan 2018 – 2033 Submission Version  |
| Appendix 3        | The Report by the Examiner to Oxford City Council on the Examination of the Summertown and St. Margaret's Neighbourhood Plan |
| Appendix 4        | The Summertown and St. Margaret's Neighbourhood Plan as modified by the Examiner's recommendations                           |
| Appendix 5        | Habitats Regulations Assessment (HRA) Review in the light of the judgement 'People Over Wind' (the Sweetman decision)        |
| Appendix 6        | Risk Register  |

### **Introduction and background**

1. The Localism Act 2011 introduced new rights and powers to enable communities to get directly involved in planning for their areas. Neighbourhood planning allows interested communities to come together through a Neighbourhood Forum to produce a Neighbourhood Plan. Once a Neighbourhood Plan is adopted or 'made' it will become part of the statutory development plan, and therefore an important consideration when making decisions on planning applications.
2. There are detailed statutory requirements for the process prior to submission of a draft neighbourhood plan and once such a plan has been submitted.
3. The draft Summertown and St. Margaret's Neighbourhood Plan 2018-2033 (Appendix 2) was submitted by the Summertown and St. Margaret's Neighbourhood Forum on the 2<sup>nd</sup> January 2018. The contents of the Summertown and St. Margaret's Neighbourhood Plan, has been shaped by the local community. The Submission Stage Consultation (Regulation 16) took place for 6 weeks from Wednesday 30<sup>th</sup> May to Wednesday 11<sup>th</sup> July 2018. The Neighbourhood Plan received responses from 23 organisations and individuals. The Draft Neighbourhood Plan ('The Plan') is for the area formally designated on 10<sup>th</sup> July 2013. A map of this area is shown in Appendix 1.
4. The City Council in consultation with the Neighbourhood Forum discussed and agreed the appointment of an independent Examiner.

### **The Examiner's conclusions**

5. Under the terms of the neighbourhood planning legislation the Examiner is required to make one of three possible recommendations these being:-
  - (i) that the plan should proceed to referendum, on the basis that it meets all the legal requirements; or
  - (ii) that the plan should proceed to referendum as modified, based on the Examiner's recommendations
  - (iii) that the plan should not proceed to referendum on the basis that it does not meet all the necessary legal requirements.

6. On 29<sup>th</sup> September 2018, the City Council received the Examiner's Report (see Appendix 3). The Examiner concluded that *'the Summertown and St. Margaret's Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan, subject to a series of recommended modifications to the policies in the Plan.'* Notwithstanding these changes the Examiner considered that *'the Plan remains largely unchanged in its role and purpose.'*
7. The principle modifications proposed by the Examiner related to 'spatial' policies concerned with the balance of dwellings; key worker and affordable housing; and protecting family dwellings; mainly on the grounds that they were not in 'general conformity' with adopted Local Plan policies set out in the Core Strategy or Sites and Housing Plan. As such they did not meet the 'basic conditions' test and therefore these policies together with the supporting text are recommended to be deleted. In addition Policy EN6 concerned with Sustainable Construction was considered to be contrary to national policy and again did not meet the 'basic conditions' test.
8. In relation to the 'community policies' the Examiner supported the majority of the policies proposed. However the Examiner considered that there was insufficient evidence provided to support the approach being proposed towards Houses in Multiple Occupation (HMO's) and therefore recommended its deletion together with the supporting text. As for the policy approach for the balance of dwellings the Examiner considered that the views expressed by the Forum could form a community policy instead of a spatial one as referred to in the above paragraph.
9. The Examiner explains in the report that his role as an independent examiner is clearly defined in the legislation. This requires him to examine whether or not the submitted Plan meets the 'basic conditions' and Convention Rights and other statutory requirements. The modifications proposed by the Examiner are therefore made to ensure that the Plan is legally compliant which can enable the Plan to proceed to a Referendum.
10. The Examiner recognises that the Plan *'seeks to bring forward positive and sustainable development in the neighbourhood area,'* and has a *'very clear focus on safeguarding green and open spaces'*, supports the *'vitality and viability of the Summertown District Centre'* together with a *'suite of housing policies'*. The report acknowledges that the Plan has been *'underpinned by community support and engagement'* and that *'all sections of the community have been engaged in its preparation'*. The Examiner is clear that the content and form of the Plan is fit for purpose and is *'distinctive and proportionate to the Plan area'*.
11. The Examiner's overall conclusions are that:-
  - on the basis of the findings in this report I recommend to Oxford City Council that subject to the incorporation of the modifications set out in his report that the Summertown and St. Margaret's Neighbourhood Development Plan should proceed to referendum; and
  - that the neighbourhood area, as approved by the City Council on 10<sup>th</sup> July 2013, is entirely appropriate and does not need to be extended;
12. The Council is now required to consider each of the Examiner's recommendations (and the reasons given) and decide what action to take in response to each of those recommendations.

13. The Council must decide to proceed to the holding of a referendum if it is satisfied that:
  - a. Having regard to national policies and the advice of the Secretary of State's guidance, it is appropriate to make the Plan;
  - b. The Plan would contribute to the achievement of sustainable development;
  - c. The Plan would be in 'general conformity' with the strategic policies of the Development Plan;
  - d. The Plan would not breach (and would be compatible with) EU obligations;
  - e. Requirements imposed by regulations (e.g. as to consultation) are complied with; and
  - f. The Plan would be compatible with rights established in UK law by the Human Rights Act 1988.
14. The Examiner has considered all of these matters in his report which have informed his recommendations, and subject to his modifications, recommends that the Plan should now proceed to a Referendum. Officers respectfully adopt the reasoning of the Examiner and, on the basis of the criteria a to f set out in paragraph 13 above and contained within the Regulations, see no reason to come to a contrary conclusion on any of his recommendations. Should CEB resolve as recommended (recommendations 1 to 3) it will be on the basis of accepting all of the Examiner's recommendations and his reasoning. The Plan including the main modifications recommended by the Examiner is attached as Appendix 4.
15. The Council can proceed with the Plan in a modified form but there are limits to the power to modify. These are limited to modifications to ensure that the Plan meets the requirements set out in paragraph 13 above (recommendation 1) and error corrections (recommendation 2).

#### **Subsequent steps undertaken with the Neighbourhood Forum**

16. Officers met with four members of the Neighbourhood Forum to discuss the Examiner's report and the principle recommendations for changes to the policies and supporting text. The proposed textual changes (set out in Appendix 4) are intended to both align the text with the policy changes and ensure that the document reads as a planning document. They also include factual modifications that have been made for the purpose of correcting errors.
17. The Chair of the Forum subsequently confirmed that:

"Our Steering Committee has met to discuss the proposed changes to the Plan. I am writing now to advise that we have – albeit with some sadness – accepted the recommendations and wish to take the Plan forward."

#### **Next steps towards Referendum**

18. The Regulations require decisions on the Examiner's recommendations to be made within five weeks of receipt of the Examiner's report unless some other date has been agreed with the Neighbourhood Forum. In this case the date 18<sup>th</sup> December 2018 (date of this CEB meeting) has been agreed with the Forum.
19. Once CEB has made its decision, based on the recommendations in this report, as to the Examiner's recommendations that the decision together with its reasoning

and the Examiner's report will be publicised and the Council will proceed with the Referendum, which is likely to be in February 2019. The referendum will be fully publicised.

### **Policies in the Summertown and St. Margaret's Neighbourhood Plan that will form part of the Development Plan**

20. The Summertown and St. Margaret's Neighbourhood Plan contains two types of policies. It contains 'spatial' policies that relate to the control of development (planning policies) which are labelled 'S'. These are the policies in the plan which will form part of the development plan and will be used to determine planning applications within the Summertown and St. Margaret's Neighbourhood Area. Appendix 4 shows a full list of all the planning policies (as amended by the Examiner). There is another type of policy in the Summertown and St. Margaret's Neighbourhood Plan. These policies relate to wider community aspirations and are called 'community' policies. These policies have been labelled 'C' and do not relate to land-use matters or form part of the statutory development plan.
21. The Examiner has considered the structure of the Plan and is satisfied that the community policies should follow the spatial policies within the defined topics for each chapter. However to highlight the significance and importance of the 'spatial' policies which will become part of the development plan the Examiner has recommended that they are shown in a light tonal grey to clearly distinguish the 'spatial' policies from the 'community' policies.

### **Linkages between the Local Plan and the Neighbourhood Plan**

22. If the Plan proceeds to referendum and more than half of those voting in the referendum vote in favour of the Plan the Council is required to make that plan at which point the Summertown and St. Margaret's Neighbourhood Plan will form part of the statutory development plan. The significance of this is that where future planning decisions have to be made in accordance with the development plan unless material considerations indicate otherwise the Neighbourhood Plan will have the same status as, for example, the Core Strategy and the Sites and Housing Plan. If there is conflict between the documents making up the development plan, the Neighbourhood Plan will prevail as it will be the most recent.

### **Environmental Impact**

23. A combined Strategic Environmental Assessment and Habitat Regulations Assessment Screening Statement was submitted as part of the supporting evidence. The conclusions of this statement consider that the Oxford Meadows Special Area of Conservation (SAC) is currently judged by Natural England to be in favourable condition. The Habitat Regulations Assessment (HRA) has concluded that none of the policies within the Summertown and St. Margaret's Neighbourhood Plan are likely to have adverse effects on the integrity of the Oxford Meadows SAC either 'alone or in combination' with other plans, projects or programmes.
24. The City Council have undertaken a review of the screening work (Appendix 5) in the context of the Court of Justice of the European Union judgement (People Over Wind, Peter Sweetman and Coillte Teoranta, April 2018) which has changed the basis for undertaking habitats regulations assessments. This review has concluded

that the recent Court of Justice judgement does not affect the integrity of its earlier screening work and that the HRA has been undertaken on the precautionary principle basis. It concludes that the HRA (October 2017) remains appropriate and no changes are considered necessary in the light of the 'People Over Wind' judgement.

### **Financial Implications**

25. The City Council will be responsible for running any referendum. This requirement will be met from the current resources of the Planning Policy Team supplemented by grants available from central government to district councils for each neighbourhood plan.
26. It should be noted that from the making of a neighbourhood plan the neighbourhood portion of the CIL receipts generated locally that can be retained and spent locally increases from 15 to 25%.

### **Legal Issues**

27. As the Plan conforms to the legal requirements officers consider that the Plan should be approved, subject to the modifications proposed by the Examiner, as recommended by the Examiner's Report. Then subject to any additional factual changes to the text to correct errors, the Plan should then proceed to a Referendum.

### **Level of risk**

28. The Risk Register is attached at Appendix 6. There are no abnormal risks

### **Equalities Impact**

29. Consideration has been given to the public sector equality duty imposed by s149 of the Equality Act 2010. Having paid due regard to the need to meet the objectives of that duty the view is taken that the duty is met.

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**Background Papers:** None