

To: Cabinet
Date: 09 October 2019
Report of: Head of Planning Services
Title of Report: Wolvercote Neighbourhood Plan

Summary and recommendations	
Purpose of report:	To consider the Examiner's Report, approve modifications to the Wolvercote Neighbourhood Plan and agree that the Wolvercote Neighbourhood Plan is submitted to a referendum.
Key decision:	Yes
Cabinet Member:	Councillor Alex Hollingsworth, Lead Member for Planning
Corporate Priority:	None.
Policy Framework:	Strong and Active Communities; Meeting Housing Needs; A Vibrant and Sustainable Economy; A Clean and Green Oxford
Recommendations: That the Cabinet resolves to:	
<ol style="list-style-type: none"> 1. Approve the Modifications to Policies in the Wolvercote Neighbourhood Plan as recommended by the Examiner's Report (July 2019); 2. Approve the factual modifications that have been made for the purpose of correcting errors and approve the factual modifications relating to textual changes in the Wolvercote Neighbourhood Plan; and 3. Agree that the Wolvercote Neighbourhood Plan (as modified in the form at Appendix 4) is submitted to a referendum. 	

Appendices	
Appendix 1	Map of neighbourhood plan area
Appendix 2	Wolvercote Neighbourhood Plan 2019 – 2034 Submission Version
Appendix 3	The Report by the Examiner to Oxford City Council on the Examination of the Wolvercote Neighbourhood Plan
Appendix 4	The Wolvercote Neighbourhood Plan as modified by the Examiner’s recommendations, and also including the type of modifications referred to in recommendation 2 of this report.
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 become 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 Wolvercote Neighbourhood Plan 2019-2034 (Appendix 2) was submitted by the Wolvercote Neighbourhood Forum on the 24th July 2018. The content of the Wolvercote Neighbourhood Plan, has been shaped by the local community. The Submission Stage Consultation (Regulation 16) took place for 6 weeks from Tuesday 9th October to Tuesday 20th November 2018. The Neighbourhood Plan received responses from 11 organisations and individuals. The Draft Neighbourhood Plan (‘The Plan’) is for the area formally designated on 22nd January 2014 and re-designated on 13th March 2019. A map of this area is shown in Appendix 1.
4. It is worth noting that the boundary of the neighbourhood area is based on current ward boundaries. The results of the electoral review of the City Council’s ward boundaries will take effect in May 2020. As a result the ward boundaries in the area will change but this will not affect the neighbourhood area.
5. The City Council in consultation with the Neighbourhood Forum discussed and agreed the appointment of an independent Examiner.

The Examiner’s conclusions

6. 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; or
 - (iii) that the plan should not proceed to referendum on the basis that it does not meet all the necessary legal requirements.
7. On 3rd July 2019, the City Council received the Examiner's Report (see Appendix 3). The Examiner concluded that *'Subject to a series of recommended modifications set out in this report I have concluded that the Wolvercote Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum..'*
 8. A number of the modifications recommended by the Examiner concern the wording of the policies. The modifications aim to mostly add clarity to the policies, or help them to achieve their intended ambition. The principal modifications proposed by the Examiner related to 'spatial' policies, 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, or that they were contrary to national policy, or repeat existing Local Plan policies. As such a number of 'spatial' policies did not meet the 'basic conditions' test and therefore these policies together with the supporting text are recommended to be deleted.
 9. In relation to the 'community policies' the Examiner supported the majority of the policies proposed. Two policies (BEC2 and COC3) were proposed for deletion on similar grounds to the 'spatial' policies. The first (BEC2) because it was out dated and not in 'general conformity' with adopted Local Plan policies, and the second (COC3) because it did not in 'general conformity' with an existing Area Action Plan (AAP) policy approach.
 10. 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.
 11. The Examiner recognises that the Plan *'seeks to bring forward positive and sustainable development in the neighbourhood area,'* and has a *'focus on safeguarding the very clear difference between the built-up parts of the neighbourhood area and its extensive green area'*, and *'seeks to improve the health and well-being of its residents'*. 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'*.
 12. The Examiner's overall conclusions are that:-
 - On the basis of the findings in the Examiner's report, the Examiner recommends to Oxford City Council that subject to the incorporation of the modifications set out in the report, that the Wolvercote Neighbourhood Development Plan should proceed to referendum.

- that the neighbourhood area, as approved by the City Council initially on 22nd January 2014 and re-designated on 13th March 2019, is entirely appropriate and does not need to be extended;
13. 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.
 14. 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 1998.
 15. 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 agree with the reasoning of the Examiner and, on the basis of the criteria a to f set out in paragraph 14 above and contained within the Regulations, see no reason to come to a contrary conclusion on any of his recommendations. Should Cabinet 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 modifications recommended by the Examiner, as well as modifications concerning error corrections and factual textual changes, is attached as Appendix 4.
 16. 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 14 above (recommendation 1), the error corrections, and factual modifications relating to textual changes (recommendation 2).

Subsequent steps undertaken with the Neighbourhood Forum

17. Officers met with four members of the Neighbourhood Forum on Wednesday 24th July to discuss the Examiner's report and the principal 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.
18. The Chair of the Forum subsequently confirmed that the forum have accepted the Examiner's recommendations (set out in Appendix 3), as well as minor, non-material error corrections and factual modifications to the Plan (set out in Appendix 4).

Next steps towards Referendum

19. 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 9th October 2019 (the date of this Cabinet meeting) has been agreed with the Forum.
20. Once Cabinet has made its decision, based on the recommendations in this report, that 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 2020. The referendum will be fully publicised.

Policies in the Wolvercote Neighbourhood Plan that will form part of the Development Plan

21. The Wolvercote Neighbourhood Plan contains two types of policies. It contains 'spatial' policies that relate to the control of development (planning policies) which end in 'S' prior to their assigned number. 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 Wolvercote Neighbourhood Area. Appendix 4 shows a full list of all the planning policies (as modified by the Examiner). There is another type of policy in the Wolvercote Neighbourhood Plan. These policies relate to wider community aspirations and are called 'community' policies. These policies end in 'C' prior to their assigned number, and do not relate to land-use matters or form part of the statutory development plan.
22. 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

23. 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 (adopt) the Plan unless Council considers that the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998) (*Planning and Compulsory Purchase Act 2004 s38A(6)*).
24. . At this point, the Wolvercote Neighbourhood Plan would then 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

25. A combined Strategic Environmental Assessment and Habitat Regulations Assessment Screening Statement were submitted as part of the supporting evidence. The conclusions of this statement consider that the submitted Plan is unlikely to have significant effects on a European site and that an appropriate assessment is not required. The Habitat Regulations Assessment (HRA) has concluded that none of the policies within the Wolvercote Neighbourhood Plan are likely to have adverse effects on the integrity of the Oxford Meadows St Aldate's Chambers.
26. The City Council has 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 (June 2018) remains appropriate and no changes are considered necessary in the light of the 'People Over Wind' judgement.

Financial Implications

27. 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.
28. It should be noted that from the date that a neighbourhood plan has been made, the local community will be entitled to an increase in the Neighbourhood Proportion of the Community Infrastructure Levy (CIL) receipts that are to be spent in the locality with community input. This will rise from 15% of CIL receipts to 25% of CIL receipts. The City Council will retain all the CIL monies but engage with the communities where the development has taken place and agree with them how best to spend the neighbourhood funding element. At the point the Neighbourhood Plan is 'made' the elements of Neighbourhood Portion of CIL which is allocated to Ward Members in this Neighbourhood Plan Area will cease at the end of the financial year.
29. In relation to the referendum, the current estimate for its cost is about £9,000.

Legal Issues

30. As the Plan conforms to the legal requirements, officers consider that the Plan should proceed to referendum, subject to the modifications proposed by the Examiner, as recommended by the Examiner's Report and subject also to the additional factual modifications to correct errors and the factual modifications relating to textual changes as set out in the version of the Plan contained in Appendix 4 to this report.
31. The legal requirements are set out in the body of the report.

Level of risk

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

Equalities Impact

33. 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.

Report author	Keerpa Patel
Job title	Senior Planning Officer
Service area or department	Planning Services
Telephone	01865 335444
e-mail	kpatel@oxford.gov.uk

Background Papers: None

This page is intentionally left blank