

To: Cabinet
Council

Date: 8 June 2020

Report of: Head of Planning Services

Title of Report: Adoption of the Oxford Local Plan 2036

Summary and recommendations	
Purpose of report:	Council is requested to agree to adopt the Oxford Local Plan 2036
Key decision:	Yes
Cabinet Member:	Councillor Alex Hollingsworth, Cabinet Member for Planning and Housing Delivery
Corporate Priority:	A Vibrant and Sustainable Economy; Meeting Housing Needs; Strong and Active Communities; A Clean and Green Oxford.
Policy Framework:	Development Plan Document.
Recommendations:	
That Cabinet resolves to:	
1. Recommend that Council agrees to adopt the Oxford Local Plan 2036 and associated updates to the policies map; and	
That Council resolves to:	
1. Adopt the Oxford Local Plan 2036 (set out at Appendix 1 to this report), which incorporates the Inspectors' Main Modifications (set out at Appendix 3 to this report) and the City Council's Additional Modifications (set out at Appendix 4 to this report) as part of the statutory development plan for the area as listed in Appendix 6;	
2. Adopt the updates to the Oxford City Adopted Policies Map in line with the Oxford Local Plan 2036 set out at Appendix 5 to this report; and	
3. Authorise the Head of Planning Services, in consultation with the Cabinet Member for Planning and Housing Delivery, to finalise the necessary documents to support adoption including the Adoption Statement (draft as Appendix 7) and Sustainability Statement (draft as Appendix 8) and to make such minor editorial corrections to the adopted Local Plan (Appendix 1) and Policies Map (Appendix 5) as deemed necessary ahead of publication. This will include a final desktop published version of the Oxford Local Plan 2036	

and adopted policies map.

Appendices	
Appendix 1	Oxford Local Plan 2036 incorporating Main Modifications and Additional Modifications
Appendix 2	Inspectors' Report
Appendix 3	Schedule of Main Modifications
Appendix 4	Schedule of Additional Modifications
Appendix 5	Updated Policies Map
Appendix 6	List of Documents that will form the Development Plan on adoption of the Local Plan 2036 and also the documents which are superseded
Appendix 7	Draft Adoption Statement
Appendix 8	Draft Sustainability Appraisal Statement
Appendix 9	Risk Assessment
Appendix 10	Equalities Impact Assessment

Introduction and background

1. The purpose of this report is to seek approval for the adoption of the Oxford Local Plan 2036 (the Plan, Appendix 1).
2. The Local Plan is a vital document that sets out the shape of our city, and how it will look and feel in years to come. It will guide and shape new developments, so that they respect the past and present of Oxford, while improving its future by supporting our city's people and their environment. The Oxford Local Plan 2036 will determine the homes, jobs, community facilities, and infrastructure for the next twenty years, striking the right balance between the different pressures that Oxford and its people face. It also sets out our priorities as a city. It makes a priority of providing affordable housing and good quality jobs. It focuses growth and development on district centres - not just on the city centre - to make sure that facilities and services are close to home and convenient for local residents. It encourages and prioritises walking, cycling, and public transport to help tackle congestion and pollution and make our city healthier. A local plan needs to respect the city of previous generations while shaping the city of the generations to come. That is what the Oxford Local Plan 2016-2036 aims to achieve.
3. Once adopted, the Oxford Local Plan 2016-2036 will replace the Oxford Local Plan 2001-2016, the Core Strategy 2026, the Sites and Housing Plan 2011-2026. The adopted Local Plan will be accompanied by an updated Policies Map setting out the spatial policy designations that flow from the Plan's policies (Appendix 5). The Plan will form part of the statutory development plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Appendix 6 lists all of the documents that will form the development plan, which will include the Local Plan

2036. Appendix 6 also lists those documents that are superseded by the Oxford Local Plan 2036. On adoption, the new Local Plan will have full weight in determining planning applications.

4. Following the submission of the Oxford Local Plan in March 2019, the Plan has since been examined by two government appointed independent Inspectors who have concluded in their report (Appendix 2) that the Plan is sound (as amended by the Main Modifications, see Appendix 3). Following this conclusion, the Plan is now ready to be adopted. The Plan has been through a number of key stages to reach adoption. Adoption is the final stage of putting a Local Plan in place.

Summary of the Oxford Local Plan 2036 process to date

Initial consultation exercises

5. The First Steps consultation kicked-off the Local Plan process. This early consultation was not statutorily required but was a very important way of getting wide-ranging input to the initial scoping of the Local Plan, identifying people's aspirations for the Local Plan and what it might achieve.
6. The first statutory stage of consultation was the Preferred Options stage (formally called the Regulation 18 stage), following analysis of the First Steps consultation and collection of significant amounts of other information. At this stage of consultation, sets of options for potential policies were put forward and people could comment at a range of different levels and in a variety of ways on their preferred options for policy approaches. The responses to this consultation shaped the drafting of the Plan.

Regulation 19

7. Prior to submission of the Plan for examination by the Secretary of State, consultation on the proposed submission draft of the Plan took place (formally called the Regulation 19 stage). The aim of this consultation was to ask for views on whether the Plan met the tests of soundness set out in paragraph 35 of the National Planning Policy Framework 2019 (the NPPF). The consultation commenced on 1st November 2018, and representations were invited initially over a six week period, but this was extended to a total of eight weeks until 28th December 2018.
8. A total of 1761 comments were received from 319 respondents. The responses were subsequently summarised by officers, and a response was provided to each comment received. As a result of the comments, a number of minor modifications were made to the Plan. Minor amendments are small typographical corrections, clarifications and factual updates that would not affect how a policy would be applied. Following these amendments, the Plan was ready to be submitted for examination.

Examination

9. On 22nd March 2019 the Regulation 19 consultation representations were submitted to the Secretary of State alongside the Local Plan, to be considered by Planning Inspectors as part of an independent examination into the soundness of the Local Plan.
10. Shortly after submission of the Plan, the Council was assigned two Inspectors by the Planning Inspectorate, Mr Jonathan Bore and Mr Nick Fagan. The Inspectors' task was to consider the soundness of the submitted Plan, based on the criteria set

out in paragraph 35 of the National Planning Policy Framework 2019 (the NPPF). The relevant soundness criteria are whether the Plan is:

Positively prepared (providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development);

Justified (an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence);

Effective (deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground); and

Consistent with national policy (enabling the delivery of sustainable development in accordance with the policies in *the NPPF*).

11. The first stage of this examination included an initial assessment of the Plan by the Inspectors. Following this initial assessment, a number of questions were asked of the Council relating to the soundness of the Plan's policies. Answers were provided in response to these questions, and a number of follow up questions and responses were later given.
12. Following their initial assessment of the Plan, the Inspectors then identified a number of principal matters that were discussed during public hearing sessions chaired by the Inspectors. These Hearing Sessions took place from 3rd to 19th December 2019 at the King's Centre, Oxford.
13. As a result of both the initial questions and hearing sessions, the Inspectors identified various amendments that they considered necessary to ensure the Plan is 'sound' and legally compliant. A schedule of changes deemed necessary by the Inspectors was put together by officers and agreed by the Inspectors. These changes are known as 'Main Modifications'.

Main Modifications

14. The last stage of the Local Plan examination process focused on the Main Modifications recommended by the Inspectors. A schedule of the proposed Main Modifications considered necessary for the Plan to be found sound was prepared (Appendix 3) and agreed by the Inspectors. A Sustainability Appraisal was also undertaken of the Main Modifications. These two documents were consulted upon during a 6 week consultation period from 14th February to 27th March 2020.
15. Following this consultation, the Inspectors considered all the comments received and consequently presented their final conclusions in a report (Appendix 2). The report concluded that the Local Plan meets the criteria for soundness in the NPPF and satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004, subject to the Main Modifications identified as needed to meet legal and statutory requirements and for soundness. In addition officers proposed a number of Minor Modifications (Appendix 4) such as factual updates and typographical changes. The Inspectors were satisfied these did not go to the heart of the soundness of the Plan. These are available on the City Council's website www.oxford.gov.uk/mainmods.

16. Notable Main Modifications have included (please note Appendix 3 for full schedule of Main Modifications):

- i. The Inspectors deemed that Policy E3: New academic floorspace for private colleges/language schools was unnecessary because it made distinctions on the basis of the nature of the applicant, as it allowed the expansion of the two universities and Ruskin College, but only allowed new or additional academic or administrative floor space for private colleges in certain circumstances. Additionally, there are strong policies in place elsewhere in the Plan to prevent the loss of residential and employment space, so E3 was not deemed necessary. Instead, the needs of educational establishments other than the two universities is addressed by MM4 which makes additions to Policy E2, although with less restrictions than in Policy E3. Policy E3 is deleted.
- ii. Policy E4: Securing opportunities for local employment, was recommended for deletion by the Inspectors as they considered it not to be in accordance with the NPPF as they believe its criteria imposed restrictions on the operation of businesses, and also did not concern planning matters. The Council argued that the principle of the policy was sound, as it helped to address the income disparities and skills shortages that exist locally using planning policy. Although Policy E4 was ultimately deleted, the initiatives Policy E4 set out were allowed to remain in the supporting text of the Plan (MM5). A technical advice note is currently being drafted in order to provide guidance on the value of preparing Employment and Skills Plans (ESPs), which could help to deliver the initiatives set out in Policy E4 despite the deletion of the policy.
- iii. On submission of the Plan the City Council wrote to the Planning Inspectorate to say that recent guidance meant that an update would need to be made to the Council's assessment of housing capacity. This was done following submission of the Plan and further refined as part of the examination process. A number of changes in guidance affected the calculation of housing capacity, in particular that calculation of windfall rates no longer excluded garden development and that a national ratio to convert the number of student bedrooms to the number of homes equivalent was introduced and changed for Oxford from 5 to 2.5. These changes to the way housing capacity is calculated resulted in an increased capacity in Oxford from 8,620 to 10,884. A stepped trajectory has also been introduced that reflects the likely delivery timescales. These changes are shown in MM6.
- iv. The Inspectors recommended the removal of the requirement to make affordable housing contributions on sites of less than 10 homes due to its departure from national policy. The Council argued that the departure was justified due to local circumstances, for example the scale of affordable housing need in Oxford, and also the number of sites within the trajectory that would not deliver 50% on site affordable housing due to their size if this element of the policy was removed. Despite this, the Inspectors remained opposed to requiring affordable housing contributions on sites of less than 10 homes and this has now been removed from the Plan (Policy H2) by MM7.
- v. For consistency MM7 also changes the threshold at which student accommodation is liable for affordable housing contributions. In addition some exemptions for student accommodation are also introduced. The

Inspectors required these exemptions because of the requirement in Policy H9 that the Universities provide sufficient student accommodation. The exemptions are student campus sites or redevelopment of existing university student accommodation. These exemptions are lesser than those existing currently in the Sites and Housing Plan. Policy H9 that sets out the thresholds for students living outside of university-provided accommodation has been caveated by MM12 to ensure that the thresholds are achievable by the universities. However, the list of suitable locations for student accommodation in Policy H8, which unlike the Sites and Housing Plan does not list arterial roads as suitable locations, has not been amended.

- vi. The Inspectors required the deletion of Policy G7 in order to make the Plan sound (MM23). Policy G7 set out some criteria for the consideration of development on green spaces not protected by any of the green space policies of the Plan, such as for biodiversity or as playing pitches. The Inspectors said that there is no provision for this kind of policy in the NPPF. Instead they required the alteration of G5 (MM22), which had applied only to outdoor sports, to apply all open spaces. This allows for the loss of open spaces if they are surplus to requirements or can be replaced elsewhere (with the local area). This does not alter the level of protection of these green spaces. Most are protected by the Plan. Those not protected are of more limited value, and may sometimes represent a good development opportunity. Policy G7 merely tried to ensure this potential development opportunity had the most positive outcomes.
 - vii. The Inspectors required some amendments to Policy M3: Motor vehicle parking and the associated Appendix 7.3 MM32). A number of associated modifications to site allocation policies relating to large employment sites were also made. The changes are largely to ensure consistency and clarity. The Inspectors also considered it was not sound to require a reduction of parking at some employment sites. However, the following additional text to Policy M3, set out in MM32, says: 'In the case of the redevelopment of an existing or previously cleared site, there should be no net increase in parking on the site from the previous level and the Council will seek a reduction where there is good accessibility to a range of facilities.'
 - viii. MM37 alters Policy V4 in relation to the shopping frontage thresholds for the Cowley Road to ensure that the thresholds are achievable. Changes to this Policy are also proposed to make it clear that a diverse range of uses is encouraged and will be accepted on upper floors, particularly housing and student accommodation. This is to promote provision of housing in all suitable locations across the city and to ensure efficient use of land.
 - ix. An additional policy, Policy V9, has been added by MM41. This policy sets out requirements for digital infrastructure and ensures consistency with the NPPF.
 - x. Two site allocations have been deleted from the Plan as development has commenced on site. These sites are SP64 Wolvercote Paper Mill and SP7 276 Banbury Road.
17. The examination process, including the hearing sessions, raised a number of changes required to the Plan in order for it to be found sound. These Main Modifications were consulted upon from Friday 14th February to Friday 27th March 2020. A number of additional (minor) modifications have been made to the Plan

since the Regulation 19 consultation, as minor typographical errors were noticed, where clarification was needed to explanatory text or appendices and where updating was required. The Inspectors have checked these and confirmed they do not consider them to be addressing matters of soundness so they can therefore be considered additional (or minor) modifications. The Plan attached as Appendix 1 is shown in strikethrough format to help people follow the changes made through main and additional modifications. The version that will be published following adoption will not show the changes in strikethrough.

Adoption

18. The Inspectors' report concludes that the Plan is found sound dependent on the main modifications set out in the report being made. The receipt of the final Inspectors' report closes the examination process. The Council now has two options; either the Plan with the main modifications recommended by the Inspectors can be adopted, or the Council can choose not to adopt the Plan. All the modifications must be accepted; it is not possible to choose only some of them or to reject them. Furthermore, no further main modifications can be made to the Plan. If the Plan is adopted it will become part of the Development Plan and have full weight in the determination of planning applications.
19. Appendix 6 lists the documents that will form part of the Development Plan on adoption and those that will be superseded. Any future made Neighbourhood Plans will also become part of the development plan. The neighbourhood planning referendum for the Wolvercote Neighbourhood Development Plan (NDP) had to be delayed to 2021 due to the current pandemic in line with Government advice. Therefore it does not currently form part of the Development Plan listed in Appendix 6. However, as we had already issued a decision statement detailing the intention to send the Wolvercote NDP to referendum, that plan can be given significant weight in decision-making. If when the referendum takes place the majority of those who vote on it are in favour the council will then consider a report to make the plan. It is at that point it would become part of the development plan.
20. Adopting the Local Plan brings into effect the policies that have been developed over the last 4 years with the intention of responding to the needs of the city and protecting its special qualities. It would create an environment of planning certainty ensuring that development can come forward to meet need in a planned manner. It ensures that the Housing Delivery test would use the capacity-based housing target of the Plan as the measure, rather than the standard method, which cannot be achieved. This has benefits in terms of decision-making relating to planning applications.
21. If the Plan is not adopted then the Core Strategy 2011-2026, the Sites and Housing Plan 2011-2026, and the saved policies of the Oxford Local Plan 2001-2016 will not be superseded. However, many policies of these plans would be considered out of date, which has consequences in terms of decision making (also discussed in the risk assessment section below). In particular there is a greater risk of government intervention because of being unable to meet the Housing Delivery Test and because of not having an up-to-date Local Plan.

Financial implications

22. The costs associated with the production of the Oxford Local Plan 2036 have been met through the current resources of the Planning Policy team budget. The adoption process itself does not carry significant costs.
23. A decision not to adopt the Local Plan would mean the resources used to prepare this plan would have been ineffectual. It is a statutory requirement to maintain an up to date development plan and therefore not to adopt the plan would leave the council exposed to risk, which could have financial implications including planning appeals and the costs associated with having to expedite a wholly new plan. In addition, the Oxfordshire Growth Deal Delivery Plan and associated infrastructure funding had requirements that required the Oxfordshire authorities to put in place up to date development plans.

Legal issues

24. On adoption of the Oxford Local Plan 2036, any person aggrieved may make an application to the High Court to legally challenge the Plan. This application must be made during the six week period starting with the date of adoption. The High Court may quash the Plan wholly, or in part. Aggrieved person(s) who are unhappy with the adopted Local Plan may decide to exercise their right to apply for a judicial review. In order for a legal challenge to be successful, the High Court would have to be satisfied that the Plan is to any extent outside the appropriate power, and/or that the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement. If successful the High Court could rule that the Local Plan be quashed, wholly or in part, or that a stage would need to be repeated.
25. Officers consider that the relevant statutory procedures have been met during the preparation of the Local Plan 2036. The examination was conducted by two experienced planning inspectors and the report has carefully considered the soundness of the plan in detail to reach their conclusions. We therefore think the risk of a successful legal challenge is low.
26. The only area of the statutory procedures that cannot be wholly fulfilled relate to the deposition of hard copies of the plan upon receipt of the Inspectors report and adoption because of Covid-19 and the associated social distancing measures. The Regulations require deposit of hard copies of the Inspectors' report in the City Council's principal office and other deposit locations (libraries within the city), all of which are currently closed to the public. The same requirement (Regulation 35) applies on adoption of the Local Plan as applies to receipt of the Inspectors' report; that is deposit in the Council's principal office and other deposit locations is required.
27. Steps have been taken to minimise this risk from not following statutory procedures on receipt of the Inspector's report and in terms of the actions required on adoption of the Plan. A note explaining the additional steps the Council was intending to take to advertise receipt of the Inspectors' report and the adoption was added to the website prior to receipt of the Inspectors' report. An addendum to the Statement of Community Involvement in Planning (SCI) has also been produced, for Cabinet to consider as a separate agenda item on 8th June 2020. It is considered that the measures taken represent reasonable and practical steps that should effectively limit the prospect of any prejudice arising as a result of not being able to deposit hard copies.

28. Government published an update to national guidance on 13th May¹ that included further temporary measures to make it easier to operate the planning system. Within this it explains that where any of the policies in the Statement of Community Involvement cannot be complied with due to current guidance to help combat the spread of coronavirus (COVID-19), the local planning authority is encouraged to undertake an immediate review and update the policies where necessary so that plan-making can continue. It goes on to explain that the local planning authority should then make any temporary amendments necessary to allow plan-making to progress, and that continue to promote effective community engagement by means which are reasonably practicable and strongly encourages the use of online methods. The measures we have introduced reflect this guidance.

Level of risk

29. On adoption of the Plan, it is likely to be the case that the requirements of the Regulations for depositing the Plan cannot be met in full because of the Covid-19 situation. The Regulations require that the Plan is published on the website and deposited in hard copy at the Council's principal office and other appropriate locations (usually we use the libraries in the city). The depositing of the Plan in hard copy for inspection is unlikely to be possible. As such, the council has considered all reasonable and practical steps possible to limit the prospect of any prejudice arising from not being able to deposit hard copies. The measures that will be taken include advertising the adoption of the plan on posters at the usual deposit locations, to advertise the adoption in the Oxford Mail/Oxford Times and to use all the usual publicity channels such as social media, in addition to direct notifications to all those on the Planning Policy database. All notifications will give a named officer and contact details if a person requires hard copies of the documents because they cannot access digital copies. These measures were also followed on receipt of the Inspectors' report; that stage is subject to the same Regulation regarding deposit.
30. As explained above the measures being taken by the Council are considered to be in line with the latest Government advice published on 13th May.
31. If a challenge was to be made to the High Court on the basis that hard copies were not available in the deposit locations, the person aggrieved would need to show that they had been substantially prejudiced by the failure to comply with the relevant procedural requirement. It is considered that, given the wide ranging measures being taken to minimise the impact of not complying with this procedural requirement, the risk of a successful challenge on this ground is low, particularly in the context of the clear steer within the latest Government guidance.
32. If a challenge in the High Court was successful on this basis (which is considered to be a low risk), the outcome would likely be that the relevant procedural requirement would need to be carried out before the Local Plan could be considered again for adoption. A challenge under these circumstances would not relate to the content of the Inspectors' report, which would be expected to continue to carry significant weight for decision making. It is considered that given the level of risk, it is appropriate to continue with the adoption of the Local Plan when taking into account the benefits having an up to date development plan in place brings.

¹ <https://www.gov.uk/guidance/plan-making#covid19>

33. There is a risk associated with choosing not to adopt the Plan. If the Plan was not adopted this would put at the risk the delivery of key policies and developments contained within it. The previous capacity-based housing target in the Core Strategy is no longer considered up-to-date for the purposes of the Housing Delivery Test so our housing delivery is assessed against the standard method until adoption of the Plan. This results in a requirement much higher than the capacity of the city. This could mean that the statutory development plan could be overridden in planning decisions in favour of national planning policies in the NPPF and the presumption in favour of sustainable development.
34. A risk register is attached as Appendix 9. All risks have been mitigated to an acceptable level.

Equalities impact

35. The Equalities Impact Assessment (Appendix 10) was carried out on the proposed submission version of the Plan, consulted on alongside the Plan and submitted to the Secretary of State as part of the Examination library. It concluded that the Plan will provide improved standards of quality and access to services and have a positive impact on both the physical fabric and diverse communities of Oxford. There is no evidence that there will be a significant negative impact on any area; however monitoring arrangements will ensure this is kept under regular review. The Equalities Impact Assessment has been considered in light of the main modifications. No changes are required and the previous Equalities Impact Assessment is still relevant (Appendix 10).
36. Ensuring that the Council minimises the equalities impacts of the current pandemic is a key focus of the additional measures proposed in the SCI addendum relating to publicising the adoption of the Plan. As set out in the body of the report, we consider that these measures would ensure that our Public Sector Equality Duty as set out in Section 149 of the Equality Act 2010 is appropriately discharged as the measures being put in place will ensure that persons with protected characteristics continue to be able to participate in this planning process.

Conclusion

Officers strongly recommend the Council adopts the Oxford Local Plan 2036. It is the product of several years' work and a robust evidence base. The Inspectors considered the strategy and policies in detail and found the Plan to be soundly based. The Plan has been developed on the basis of significant input from consultation and a thorough evidence base. It has a positive strategy for the city, attempting to help overcome issues such as inequality, and to require sustainable development, with stringent carbon efficiency policies, requirements for biodiversity enhancements, policies to ensure high quality design, delivery of much needed affordable housing, and promotion of sustainable travel.

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Background Papers: None

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