

# Cabinet Report



Listening Learning Leading

Report of Head of Planning

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To: CABINET

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## Making the Dorchester-on-Thames Neighbourhood Development Plan

### That Cabinet recommends to Council:

1. To 'make' the Dorchester-on-Thames Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. to delegate to the Head of Planning, in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

### Purpose of Report

1. To update the Cabinet on progress of the Dorchester-on-Thames Neighbourhood Development Plan and to present the relevant considerations in relation to whether the plan should be 'made' (formally adopted).

### Corporate Objectives

2. Strongly supporting the development of neighbourhood plans for our towns and villages.

## Background

3. Dorchester-on-Thames Parish Council successfully applied for Dorchester-on-Thames Parish to be designated as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations (2012).
4. The preparation of the Dorchester-on-Thames Neighbourhood Development Plan was led by Dorchester-on-Thames Parish Council ('the qualifying body') and a group of volunteers from the community.
5. Following the formal submission of the Dorchester-on-Thames Neighbourhood Development Plan to the council, the plan was publicised and comments were invited from the public and stakeholders. The publicity period closed on 27 October 2017.
6. South Oxfordshire District Council appointed an independent examiner, Andrew Ashcroft, to review whether the plan met the basic conditions required by legislation and whether it should proceed to referendum. The examiner's report concluded that the plan meets the basic conditions, and that subject to the modifications proposed in the report, the plan should proceed to referendum.
7. Having considered the examiner's recommendations and reasons for them, the Cabinet Member for Planning decided on 19 December 2017:
  1. To accept all modifications recommended by the examiner;
  2. To determine that the plan, as modified, meets the basic conditions, is compatible with the Convention rights (within the meaning of the Human Rights Act 1998), complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP;
  3. To take all appropriate actions to progress the plan to referendum on Thursday 1 March (tbc). **\*\*\* the date of the referendum was revised to 15 March 2018 \*\*\***; and
  4. the referendum area should not extend beyond the neighbourhood area designated by the District Council on 07 June 2013.
8. The modifications were made and the referendum version of the plan was published on 2 February 2018 alongside the decision statement required under Regulation 18(2)(a) of the Neighbourhood Planning (General) Regulations (2012).

## Options

9. The council's options are limited by statute. Paragraph 38A (4)(a) of the Planning and Compulsory Purchase Act 2004 sets out that the council must 'make' a neighbourhood plan if more than half of those voting at the referendum have voted in favour of the plan being used to help decide planning applications in the plan area.
10. The only circumstance where the district council should not make this decision is where 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).

11. Section 3 of the Neighbourhood Planning Act 2017, which came into force on 19 July 2017, amends section 38 of the Planning and Compulsory Purchase Act 2004 to ensure that neighbourhood plans have full legal effect once they have passed their local referenda. In the very limited circumstances that the council might decide not to make the neighbourhood development plan, it will cease to be part of the development plan for the area.
12. The council's decision on 19 December 2017 (referred to in paragraph 7) was published in the decision statement issued on 2 February 2018 (referred to in paragraph 8). It confirmed that the Dorchester-on-Thames Neighbourhood Development Plan, as modified by the Examiner's recommendations, would not breach, and be otherwise incompatible with EU obligations or human rights legislation. Therefore, if the majority of those voting have voted in favour of the Dorchester-on-Thames Neighbourhood Development Plan being used to help decide planning applications in the plan area, to not 'make' the plan would be in breach of these statutory provisions.

## **Referendum**

13. A Referendum relating to the adoption of the Dorchester-on-Thames Neighbourhood Development Plan was held on Thursday 15 March 2018.
14. The question which was asked in the Referendum was: "*Do you want South Oxfordshire District Council to use the Neighbourhood Plan for Dorchester-on-Thames to help it decide planning applications in the neighbourhood area?*"
15. The result was as follows:
  - a. Yes = 398 votes (95.9%)
  - b. No = 17 votes (4.1%)
  - c. Turnout = 51.6%
16. The majority of local electors voted in favour of the plan; therefore, the Dorchester-on-Thames Neighbourhood Plan has become part of the council's development plan.
17. As the plan was approved at the local referendum and the council is satisfied that the plan would not breach, and be otherwise incompatible with EU obligations or human rights legislation, the council is required 'make' the Dorchester-on-Thames Neighbourhood Development Plan so that it continues to be part of the council's development plan.

## **Financial Implications**

18. There are no significant financial implications with this decision that cannot be accommodated within budget.

## **Legal Implications**

19. The decision to 'make' the Dorchester-on-Thames Neighbourhood Development Plan is a legal requirement in the Planning and Compulsory Purchase Act 2004. The only circumstance where the district council should not make this decision is where 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). There is a requirement that the district council will publish a formal decision statement as required under the Neighbourhood Planning (General) Regulations 2012.

20. It is not considered that the neighbourhood plan would breach, or would otherwise be incompatible with, any such obligation or rights. Therefore, the council should now proceed to make the plan.

## Risks

21. The council is required to comply with the statutory requirements (to consider whether the plan should be made following a successful referendum), which this recommendation seeks to achieve. In view of the considerations referred to elsewhere in this report, as the majority of those voting have voted in favour of the plan at the local referendum, a decision not to make the Plan would place the council at risk of a legal challenge.

## Conclusion

22. On the 19 December 2017, the council decided:

1. To accept all modifications recommended by the examiner;
2. To determine that the plan, as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP; and
3. To take all appropriate actions to progress the plan to referendum on Thursday 1 March (tbc). **\*\*\* the date of the referendum was revised to 15 March 2018 \*\*\***; and
4. the referendum area should not extend beyond the neighbourhood area designated by the District Council on 07 June 2013.

23. A referendum was held on 15 March 2018 to meet the requirements of The Localism Act 2011 and The Neighbourhood Planning (Referendums) Regulations 2012.

24. As the majority of those voting have voted in favour of the plan being used to help decide planning applications in the plan area, it is recommended that the Dorchester-on-Thames Neighbourhood Development Plan is 'made'.

## Background Papers

None