

Cabinet Report



Listening Learning Leading

Report of Head of Planning

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To: CABINET

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South Oxfordshire Emerging Local Plan

Recommendations

That Cabinet recommends to Council:

(a) note the updated position in relation to the emerging South Oxfordshire Local Plan 2034, and

(b) agree to progress with the emerging South Oxfordshire Local Plan 2034 as submitted through the examination process as outlined in Option 1.

Purpose of Report

1. To update councillors on the South Oxfordshire Local Plan (the emerging Local Plan), and to consider the implications of any changes councillors may choose to make to it.

Corporate Objectives

2. Officers expect the emerging Local Plan to contribute towards four of the Council's six strategic objectives:
 - invest in the district's future;
 - unlock the potential of Didcot;
 - homes and jobs for everyone, and
 - build thriving communities.

Background

3. When preparing a local plan, Councils must consult with stakeholders and the public. The Council must do so in accordance with its Statement of Community Involvement (which is available on our website). Government regulations¹ identify two stages of consultation that must be undertaken for local plans. These are as follows:
 - “Regulation 18” – this consultation notifies key parties that the Council is intending to prepare a local plan, and details what subjects that plan is going to cover. The Council must invite comments on what a local plan covering those subjects must contain, and
 - “Regulation 19” – this consultation is on the final draft of a plan that the Council intends to submit to the Secretary of State for an independent examination in public (explained further below). The Council does not alter the plan in light of comments made under this type of consultation, and instead submits those comments to the Secretary of State along with the final draft of the plan and its supporting evidence.
4. The Council has undertaken four consultations under “regulation 18” on its current plan between June 2014 and March 2017. It also published a final draft of a plan under “regulation 19” in October 2017. However, in January 2019 the Council published another plan for consultation under “regulation 19” – the emerging Local Plan. The Council submitted this plan to the Secretary of State for Housing, Communities and Local Government, on 29 March 2019, who has appointed two independent Planning Inspectors to conduct an examination in public into the plan.
5. At the moment the draft plan can be used in the consideration of future planning applications and its consideration is classified as a material consideration. The more advanced the production stage of the plan is the greater the weight it can be given in the determination of future planning applications. Once the plan is formally adopted it will replace the previous adopted plan in the determination of future planning applications and planning appeals.

THE EMERGING LOCAL PLAN: NEXT STAGES

6. Subject to no action being taken by the Council, the next stages of the emerging Local Plan would be as follows.

Examination in Public (examination): Hearings

7. The examination stage starts from the submission of the Local Plan to the Secretary of State. The Council has appointed a programme officer, Ian Kemp, who is an independent officer of the examination and will act as the contact for any person who has an interest in the examination and as a liaison between the inspector, South Oxfordshire Council and representors. The programme officer works on behalf of the Inspector to organise and manage the administrative and procedural matters of the examination process. The Programme Officer is an independent Officer of the Examination and works on behalf of the Inspector to organise and manage the administrative and procedural elements of the Examination process. All of the Examination in Public documentation and correspondence is available on the

¹ The Town and Country Planning (Local Planning) (England) Regulations 2012

Examination in Public online electronic library which is managed by the programme officer.

8. The Secretary of State appointed two Inspectors from the government agency called the Planning Inspectorate to carry out the Examination in Public of the South Oxfordshire Local Plan. These two Inspectors are Jonathan Bore MRTPI² and Nick Fagan MRTPI. It should be noted that the Planning Inspectors cannot be contacted directly and all correspondence must come through the appointed Programme Officer.
9. The Inspectors' task is to consider the "soundness" of the emerging Local Plan, based on the criteria set out in paragraph 35 of the National Planning Policy Framework (2019). These are whether the emerging Local Plan is:
 - a) *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);*
 - b) *justified (an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence);*
 - c) *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 a statement of common ground); and*
 - d) *consistent with national policy (enabling the delivery of sustainable development in accordance with the policies in the Framework).*
10. Through this Examination in Public (EIP) process, the Inspectors will consider both the Local Plan, its supporting evidence together with any formal representations which were duly made to the emerging Local Plan's second regulation 19 consultation. The Inspectors will consider the subsequent Hearing Statements that will be submitted by those that are invited to attend the Examination in Public in response to the Inspector's pre-set questions.
11. The Examination in Public itself is a formal public hearing which is managed by the actual Planning Inspector's. The indicative programme of the E.I.P. is set out in the provisional hearing programme which is subject to change depending on how each hearing session goes and if any further evidence is required. The hearing sessions will be split into themes (called 'matters'), for example; the duty to cooperate, housing numbers, the environment, the plan's strategy, economic development, transport, infrastructure etc.

Examination: Modifications

12. If the Inspectors consider that the emerging Local Plan is not sound, then they can either suspend the EIP for further recommended work to be undertaken and consulted upon to then reopen the EIP or they can recommend through their Inspector's report that the Council modifies the plan. Extensive changes to a plan that are needed to rectify its soundness are called "main modifications" and will

² Member of the Royal Town Planning Institute, the professional body of town planners

usually be any change to a policy in the plan. Other modifications, for example to the non-policy text, are “minor modifications”. Any modifications can only be made at the Inspectors’ discretion.

13. The Council will need to conduct a formal public consultation for a minimum statutory period of six weeks on any subsequent modifications to the emerging Local Plan.
14. Any modifications to the plan will need to be supported by relevant evidence, and, depending on the nature of these modifications, may require an update to the Sustainability Appraisal.
15. If the Inspectors consider that the emerging Local Plan has not satisfied the duty to cooperate, then the Inspectors cannot recommend modifications to make the plan sound.

Examination: Inspectors’ Report

16. Following the hearing sessions and any consultation on proposed modifications, the Inspectors will publish a report concluding whether the emerging Local Plan is “sound”. If they conclude the plan isn’t sound, then the plan has failed at examination and the Council will need to go back to an earlier stage of plan making. If they conclude the emerging Local Plan is sound, then the Council will be able to adopt the plan.

Adoption of the Plan

17. If the Inspectors have recommended any modifications to the emerging Local Plan, then the Council will publish these modifications and invite representations on these. The Council will then adopt the plan through a meeting of full Council.
18. There is a six-week judicial review period following the date the Council adopts the plan. In this period, those parties who believe the Council’s decision to adopt the plan was unlawful can challenge the decision in the High Court.

THE EMERGING LOCAL PLAN: KEY COMPONENTS

19. This section of the report summarises the strategy and key policies of the emerging Local Plan. It does not provide a detailed breakdown and explanation of every policy, but officers will be available to take questions at the meeting.

Emerging Local Plan: Strategy

20. The plan’s strategy is to “strengthen the heart of South Oxfordshire”. This translates into major residential development sites in Science Vale³, Chalgrove Airfield, and the edge of Oxford. These sites bring with them significant infrastructure improvements to both offset their own impact on the local area, as well as addressing existing infrastructure shortfalls. These infrastructure improvements will be partly funded by Government through the Oxfordshire Housing and Growth Deal, and the Housing and Infrastructure Funding – the report explains these in more detail below.

³An area of high-tech research and development employment revolving around Culham and Didcot in South Oxfordshire, and Harwell Campus and Milton Park in the Vale of White Horse

21. Continuing the approach of the Core Strategy 2012, the emerging Local Plan creates a “settlement hierarchy”. This hierarchy bands our towns and villages together based on their sustainability credentials – including bus routes, school provision, and access to local shops. Ranging from most sustainable to least sustainable are: towns, larger villages, smaller villages, and other villages. Appendix 1 gives the list of settlements across South Oxfordshire and their position in the hierarchy.
22. The emerging Local Plan encourages the growth of our market towns; Henley-on-Thames, Thame, and Wallingford, as well as our network of 12 larger villages. The emerging Local Plan requires each of these settlements to identify land for new homes in their neighbourhood plans and supports them in allocating land for other uses (such as retail).
23. In our smaller villages the emerging Local Plan supports infill development⁴. Furthermore, the emerging Local Plan supports smaller villages which wish to allocate housing in a neighbourhood plan. The plan expects such to be a growth of around 5% to 10% from their housing stock as of the 2011 Census. This growth must comply with national policy and guidance however, which means smaller villages in the Green Belt or Areas of Outstanding Natural Beauty (AONB) may not be able to accommodate this.
24. In our other villages the emerging Local Plan only supports infill development.

Emerging Local Plan: Housing numbers

25. To establish the amount of homes a local plan provides, the Council has gone through three steps. The starting point is working out the housing need – historically this should exclude any policy aspirations that might drive the housing need higher. It should also exclude at this stage any policy constraints (such as Green Belt) that might mean the need cannot be provided locally.
26. The next step is to identify a housing requirement for the plan. This can take account of any policy commitments to boost growth in the area, as well as any constraints which may necessitate a reduction in the amount planned for. If the amount is reduced below the need, then the Council will have to reach agreement with its neighbours to export it as unmet housing need. The housing requirement is what the Council will assess its housing land supply against.
27. Finally, the supply is the amount of homes that are allocated, or already committed, in the plan. This can exceed the requirement, but the plan won't be found sound if doesn't provide enough homes to meet it. The supply should exceed the requirement to ensure flexibility and to provide a buffer.
28. The NPPF and National Planning Practice Guidance (the Guidance) direct how we should work out our housing need and requirement. We have followed these documents in preparing the emerging Local Plan, but a summary of how they have informed the housing numbers in the plan is as follows:

a) Identifying our housing need: Our starting point, as per Paragraph 60 of the NPPF, was the application of the “standard method”. This gives an annual

⁴ See Policy H16 - filling of a small gap in an otherwise continuous built-up frontage or on other sites within settlements where the site is closely surrounded by buildings

housing need of 632 homes per annum⁵ (see Appendix 2). We do not believe there are exceptional circumstances for following a different approach to the starting point. Then, following the Guidance⁶, we considered that the Oxfordshire Housing and Growth Deal and the Council’s agreement to take unmet need from Oxford, justified a further uplift in need. This resulted in a housing need of 775 homes per annum, with an additional 4,950 homes for Oxford’s unmet need being provided between 2021 and 2031. Across the plan’s 23 year lifespan (2011 to 2034), this gives a total housing need of 22,775 homes.

b) Identifying our housing requirement: We did not believe there was any justification for increasing the housing requirement above this need. Furthermore, our most recent Strategic Housing and Economic Land Availability Assessment (SHELAA) shows we have enough land to accommodate this number.

c) Identifying our supply: The emerging Local Plan makes provision for 26,783 homes between 2011 and 2034. This provides a supply to meet our requirement and an additional 4,008 homes.

Emerging Local Plan: Housing sites and supply

29. The emerging Local Plan can count “committed development” since April 2011 towards the amount of homes it needs to provide. Committed development includes houses that have already been built, those with planning permission, as well as any site that already has an allocation (either through the Local Plan 2011, Core Strategy or Neighbourhood Plans). We can therefore count 15,455 homes of committed development towards our requirement (as of 31 March 2019):

- 5,694 homes built
- 9,761 homes with planning permission or which are already allocated

30. The emerging Local Plan allocates seven strategic housing sites, which we have identified in Table 1 overleaf. The table identifies the total number of homes expected to be delivered on these sites, and the number of homes we expect to be built on them before 2034. We have updated this table since we published the emerging Local Plan to reflect new evidence on lead in times and build out rates.

Table 1: Strategic sites in the emerging Local Plan		
Site	Homes in plan period to 2034	Total homes
Bayswater Brook	1,100	1,100
Berinsfield	1,528	1,700
Chalgrove Airfield	1,763	3,000
Culham	1,528	3,500

⁵ 627 per annum identified in the Local Plan’s evidence base documents – new affordability ratio figures produced by the Office for National Statistics in May 2019 update this figure. See **Appendix 2** for how we have worked this out.

⁶ Planning Practice Guidance – Housing Needs Assessment, Paragraph 010.

Grenoble Road	1,528	3,000
Northfield	1,528	1,800
Wheatley	300	300
Total	9,275	14,400

31. In addition to the strategic sites in the emerging Local Plan, it also identifies housing to be delivered from the following sources:

- 807 homes from revised neighbourhood plans at Henley-on-Thames; Thame; Sonning Common, and Woodcote
- 46 homes from the emerging Local Plan allocations at Nettlebed
- 1,200 homes from a “windfall” allowance – development that can occur without needing an allocation (e.g. infill development)

THE EMERGING LOCAL PLAN: OTHER RELEVANT FACTORS

Oxfordshire Housing and Growth Deal (the Deal)

32. In March 2018, the Council and the other authorities in Oxfordshire signed the Oxfordshire Housing and Growth Deal. This committed the Councils to delivering 100,000 new homes across Oxfordshire between 2011 and 2031. In return, Government provided £215m of funding; £150m for infrastructure projects, £60m for affordable housing, and £5m for the preparation of an Oxfordshire wide plan to 2050 and the administration of the Deal. The Deal committed the Oxfordshire authorities to submitting their local plans for examination by 1 April 2019.
33. The Deal also provided a three year housing land supply test for the purposes of decision taking while the Oxfordshire Plan 2050 is under preparation. The Deal also introduces a bespoke Housing Delivery Test for Oxfordshire to apply after 2020, in the first three years following adoption of the Joint Statutory Spatial Plan. The Housing Delivery Test is an annual measurement of housing delivery in each Council area. There are consequences, such as a presumption in favour of sustainable development, for not meeting the Housing Delivery Test.
34. The 100,000 homes in the Deal is not an assessment of housing need, nor does it apportion the total number between each of the districts. It is derived from and connected to the Oxfordshire Strategic Housing Market Assessment (SHMA) (2014). The SHMA is now more than five years old, and the NPPF requires Local Plans to be reviewed every five years⁷, and that they should be based on up-to-date evidence⁸. There is a risk that the SHMA would therefore be considered out of date.
35. Paragraph 010 of the Guidance⁹ states that where a Deal is in place, it is appropriate for the Council to consider whether the Deal justifies uplifting our housing need

⁷ NPPF, Paragraph 33

⁸ NPPF, Paragraph 31

⁹ Planning Practice Guidance – Housing Needs Assessment, Paragraph 010.

beyond the standard method. The emerging Local Plan considered that the Deal justified an uplift in need to 775 homes per annum (in line with the SHMA recommendations for South Oxfordshire).

36. Appendix three provides the list of Deal infrastructure projects and their funding arrangements in South Oxfordshire.

Housing and Infrastructure Fund (HIF)

37. In addition to the infrastructure funding received through the Deal, Oxfordshire County Council (OCC) has been successful in securing £218 million of funding from the Government's Housing and Infrastructure Fund (HIF). This will contribute toward providing new infrastructure costing £234 million across South Oxfordshire and the Vale of White Horse districts. OCC are finalising an agreement before they will be in receipt of any funding from Government. The infrastructure projects that will be delivered by HIF are:

- a Didcot Science Bridge on the A4130 – going over the railway line and Didcot A Power Station site and join the A4130 Northern Perimeter Road;
- improvements to the A4130 from the Milton Interchange by making it a dual carriageway;
- a new river crossing at Culham; and,
- a bypass at Clifton Hampden.

38. These HIF schemes are identified in both district councils' emerging Local Plans to enable and support delivery of growth across Southern Oxfordshire. They are inextricably linked to some of the committed and planned development in the Didcot and Science Vale area. The HIF and the Deal's transport infrastructure schemes are intrinsically interlinked as they form a package of improvements to the Didcot area. Both funding streams are essential to a wider highway strategy to deliver growth but to also to mitigate the impact of permitted developments.

Oxford's Local Plan and unmet housing needs

39. Oxford City Council submitted their Local Plan 2016 to 2036 for examination on 22 March 2019. Their plan is being examined by the same Inspectors as the South Oxfordshire Plan. Oxford's plan contains a housing need of 1,400 homes per annum, with a capacity-based housing requirement of 8,620 homes. Their plan is based on the rural districts accommodating unmet need, stating that South Oxfordshire is accommodating 3,750 homes. The City's plan was published before the emerging South Oxfordshire Local Plan, and therefore does not reflect our current commitment to planning for 4,950 homes from Oxford.
40. The 4,950 homes figure is based on a Memorandum of Cooperation (Appendix four), prepared by the Oxfordshire Growth Board in September 2016. This Council did not sign the memorandum, and instead chose to provide for a lower figure of 3,750 homes in its October 2017 draft of the Local Plan. However, the emerging Local Plan made a commitment to plan for the unmet housing need of 4,950 homes as set out in the memorandum.

41. The Guidance is clear that where a Council has agreed to take on unmet housing need from a neighbouring authority, this can provide a justification for uplifting the housing need for the district. This Council has agreed, through a Statement of Common Ground (Appendix five), to accommodate 4,950 homes of unmet housing need from Oxford City Council.
42. This unmet need from Oxford City would include housing that would contribute towards some of the 100,000 houses committed in the Deal. In other words, the unmet need from Oxford City is based on the Deal commitments, and not from their “standard method” housing need.
43. On 11 June 2019 the Inspectors for the Oxford City Local Plan published a set of initial questions and comments (Appendix six). These comments are directed to the Oxford City Local Plan but could be relevant to the South Oxfordshire emerging Local Plan. Councillors should bear in mind that they do not represent conclusions. They state the following:

a) Housing calculation: The Inspectors state that the Deal can be used as a justification for uplifting housing need. They recognise that the Deal’s housing targets are based on the SHMA 2014. However, they draw attention to the Deal’s delivery plan, which states this must be supported by an appropriate update to support plans through an examination (under the new NPPF). They also state that the SHMA figures, on which the Deal is based, are “now quite a few years old”.

The Inspectors also highlight some concerns with Oxford City’s Objectively Assessed Need Update (2018). This document attempted to provide a SHMA update just for Oxford, to validate the housing figures in the original SHMA, and hence the Deal. They identify that the document could show the housing needs of Oxford are falling below the 1,400 homes per annum in their plan. They state this could have a bearing on the level of unmet need for each neighbouring authority to accommodate.

b) City’s housing capacity: The Inspectors have asked the City to confirm the capacity of Oxford to meet their housing need. They state the Deal identified a capacity of 10,000 homes, yet the plan indicates a capacity of 8,620 homes.

c) Site capacities: The Inspectors are critical of Oxford’s assessment of each of their proposed sites’ housing capacity (how many homes can be built on each site).

d) Other matters: The Inspectors have identified questions regarding: whether the plan has been positively prepared; the effectiveness of the plan; affordable housing provision; policies making distinctions on the basis of the nature of the applicant; car parking; academic facilities and student accommodation; employment sites; local employment; and sustainable design and construction.

OPTIONS FOR THE SOUTH OXFORDSHIRE LOCAL PLAN

44. This section of the report identifies four options that officers believe are currently open to the Council. It presents each of them in turn, but to summarise, they are as follows:

Option 1) Allow the emerging Local Plan to continue through its examination. No changes will be recommended by this Council. Any modifications made during the examination will be entirely at the discretion of the Inspectors.

Option 2) Allow the emerging Local Plan to continue through its examination, but proactively recommend a series of main modifications to the plan. These changes will be entirely at the discretion of the Inspectors. There are no early conclusions from our Inspectors about the soundness of aspects of the Plan or if modifications are needed. The Plan cannot be changed unless the Inspectors find that part of the Plan unsound.

Option 3) Withdraw the Local Plan from examination. The Council will make changes to the plan, then conduct a further Regulation 19 consultation. The extent of changes will need to fall within the remit of Regulation 19 consultation – i.e. not introduce new subject areas for the plan to cover. The Council would then submit a revised plan to the Secretary of State for examination.

Option 4) Withdraw the Local Plan from examination. The Council will restart the plan making process. This will allow the Council to prepare a significantly different plan (subject to compliance with the law, and national policies and guidance). The Council would need to undertake at least two consultations (Regulation 18 and 19) before submitting the new plan for examination.

45. Under each of these options officers have addressed the following themes, and the possibilities to alter the emerging Local Plan / what a new plan could do to address them.

Theme a) Spatial strategy

Theme b) Housing need, requirement, and supply

Theme c) Housing site allocations

Theme d) Environmental policies

Theme e) Other policies

46. To conclude each option, we have tried to identify the main benefits and risks associated with the option, as well as the timescales for progressing it. Officers have, under each option, made a recommendation as to whether to proceed.

OPTION ONE: PROGRESSING WITH THE EMERGING LOCAL PLAN – NO CHANGES

Synopsis

Allow the emerging Local Plan to continue through its examination. No changes will be recommended by this Council. Any modifications made during the examination will be entirely at the discretion of the Inspectors.

Theme a) Spatial Strategy

47. Officers would not recommend any changes to the spatial strategy of the emerging Local Plan. If the Inspectors felt the strategy was unsound, they could suggest modifications to the plan to address it. However, any alteration to a plan's strategy is likely to lead to the plan fundamentally changing. Officers therefore believe the Inspectors are less likely to recommend changes to the strategy, although it is not impossible.

Theme b) Housing need, requirement and supply

48. Officers would not recommend any changes to the housing numbers of the emerging Local Plan. If the Inspectors felt the numbers were unsound, they could suggest modifications to the plan to address it. This would appear to be a possibility following the Inspectors' initial questions and comments on the housing numbers and the Deal directed at the Oxford Local Plan (29 May 2019).

Theme c) Housing site allocations

49. Officers would not recommend any changes to the housing sites allocated in the emerging Local Plan. If the Inspectors felt any of the site allocations were unsound, they could suggest modifications to the plan to remove them / allocate additional sites. This would appear to be a possibility following the Inspectors' initial questions and comments directed at the Oxford Local Plan that the level of unmet need to neighbouring authorities may drop.

Theme d) Environmental policies

50. Officers would not recommend any changes to the environmental policies in the emerging Local Plan. If the Inspectors felt any of the environmental policies were unsound, they could suggest modifications to the plan to remove/amend them.

Theme e) Other policies

51. Officers would not recommend any changes to any other policies in the emerging Local Plan. If the Inspectors felt any of the policies were unsound, they could suggest modifications to the plan to remove or amend them.

OPTION ONE: BENEFITS

Quickest route to an up-to-date plan

52. The NPPF (2019) requires Councils to maintain an up to date development plan and that they should also review their policies in the local plan at least once every five years. It is also a statutory obligation upon the Council to prepare a local plan.
53. In South Oxfordshire, the Core Strategy was adopted in December 2012, seven years ago, and prior to the latest version of the NPPF (2019) and updated Government Guidance. Option One likely provides the quickest route for the Council to update the strategic policies of the Core Strategy. Without an up to date plan in place, the Council is likely to be at a greater risk of triggering the presumption in favour of sustainable development set out in Paragraph 11 of the NPPF. This could result in a number of speculative planning applications being submitted to the Council

and the potential for an increasing number of appeals on proposed allocated and non-allocated sites with related applications for costs.

Housing Infrastructure Fund (HIF)

54. The emerging Local Plan identifies in both the plan itself and the supporting Infrastructure Delivery Plan the need for the infrastructure projects that HIF will help deliver. These infrastructure projects will both offset the impact of new growth in the emerging Local Plan (Berinsfield and Culham), while also addressing an existing shortfall in infrastructure in the Science Vale area. If these sites are no longer allocated for development, there is a risk that the HIF could be held back or withdrawn by the County Council and/ or the government. By continuing the current plan, there is a low risk to HIF.

Housing and Growth Deal

55. The Deal committed the Council to submitting its emerging Local Plan for examination by 1 April 2019, as well as committing all the Councils in Oxfordshire to collectively planning for the delivery of 100,000 homes by 2031. The Council met this deadline, and the emerging Local Plan meets South Oxfordshire's "share" of the 100,000 homes. The Deal provides funding towards some infrastructure projects in South Oxfordshire (more information on funding is contained within the Funding Report contained within Appendix 3). If the Council withdraws the plan, there is a risk that government could withdraw the Deal. By continuing the current plan, the risk to HIF is limited.

Development certainty

56. Having an adopted Local Plan in place provides greater certainty to all interested parties, including local communities and businesses, as to where new development will take place. By the same token it gives the Council greater control over where development will take place, reducing the prospect for planning by appeal. Planning Appeals take direct control of planning decisions away from the Council due to the fact that planning appeals are determined directly by the Planning Inspectorate. Planning Appeals can be expensive for councils in that they require additional inhouse and external resources together with the fact that the developers may also choose to submit an application for costs. This option is likely to be the quickest way of adopting a new Local Plan, provides greater control to the council, provides certainty and potentially reduces the number of future speculative planning applications and planning appeals.
57. Progressing with the emerging Local Plan provides strength and certainty on the requirement for neighbourhood plans, allowing them to progress and shape development in their area, avoid need for early review and allow them to contribute to the delivery of housing need.

Partners' support

58. An advantage of continuing with Option One is that the emerging Local Plan is widely supported by adjoining councils which helps meets the legislative requirement of the Duty to Cooperate. This is set out in a set of Statements of Common Ground included in the emerging Local Plan's evidence base. Having a plan in place addresses questions of the County's development needs as a whole and helps

reduce planning risk to our partners. These Statements of Common Ground support the evidence that the duty to cooperate has been discharged.

Staying ahead of national policy changes

59. In February 2019 Government released its response¹⁰ to the technical consultation on updates to national planning policy and guidance. This sets out the Government's intention to review the standard method. Government has stated that the existing standard method does not deliver their aspiration to deliver 300,000 homes a year, and so any review of the method could drive housing needs higher.
60. Other influences include the route options for the Oxford to Cambridge Expressway, which may open up new opportunities for growth, thus progressing our plan under this option reduces this risk.

Economic Benefits

61. In addition to the employment policies and allocations within the plan, there are wider benefits that will be attached to the strategic sites allocations. Culham Science Centre (CSC), one of the district's key employment centres, combines world-class publicly funded research into fusion power; commercial technology organisations and Culham Innovation Centre, to create a powerhouse of high technology innovation and enterprise in South Oxfordshire. CSC is an established part of the southern Oxfordshire cluster of education, science and technology, now known as Science Vale, and has established a broad high technology business base.
62. The site hosts the Culham Science Centre for Fusion Energy which includes the Joint European Torus (JET) project. For the time being, JET remains the largest European fusion device and is expected to operate until well into the next decade, running alongside MAST-U, the UK's leading fusion experiment.
63. The Government's 2018 Autumn statement announced an initial £20M (with a further £200M under discussion) for United Kingdom Atomic Energy Authority (UKAEA) to undertake the design of the UK's own compact fusion power plant design – STEP (Spherical Tokamak for Energy Production). This will maintain UK leadership in nuclear fusion; and to support the Government's Clean Growth Grand Challenge.
64. CSC is one example of an employer in Science Vale that is dependent on the allocations in the emerging Local Plan to develop their aspirations that contribute to the local and national economy.

Reduced legal risk

65. Officers believe that the emerging Local Plan is legally compliant, is sound and is the least likely of the four options to result in a successful legal challenge against the Council. Nevertheless, the plan's adoption could be challenged in a six-week legal challenge period following the date the Council decides to adopt the plan.

¹⁰<https://www.gov.uk/government/consultations/changes-to-planning-policy-and-guidance-including-the-standard-method-for-assessing-local-housing-need>

OPTION ONE: RISKS

Housing Land Supply

66. The Council's Housing Land Supply Statement June 2019 (Appendix 7) demonstrates a 5.2 year housing land supply when measured against the emerging Local Plan's housing requirement. The alternative calculation against the standard method (which is what is used when a plan isn't in place) yields a 9.8 year housing land supply. Options 3 and 4 explore this in more detail.
67. Officers have reviewed the housing land supply since the initial Scrutiny Committee in order to provide Councillors with a better understanding of the potential impact in relation to the options set out in this report. In so doing, officers have considered the impact of the 5-year housing land supply position at the point of submission. Officers have reflected on the approach that we take to oversupply to ensure that it is taken into account in an appropriate way, much like undersupply is taken into account. This results in a positive 5-year housing land supply position during the first 5 years of the emerging Local Plan and an improved 5-year position when applied to the standard method.

Certainty on Oxford's capacity and unmet need

68. Progressing with the emerging Local Plan may not give time for a conclusion on Oxford's capacity and unmet need to be reached by the Inspectors. There is therefore a risk that this plan could result in an overprovision of housing, against a potentially lower level of "final" unmet need from Oxford. However, this risk appears to be diminished in light of the Inspectors' initial comments on Oxford's plan, who have recognised that any changes to Oxford's plan will result in impacts on neighbouring councils' plans.

OPTION ONE: TIMETABLE

69. There has been no confirmation from the Planning Inspectorate on the likely scheduling for the formal hearing sessions, which we are waiting for the Planning Inspectors to confirm. This could be linked to the fact that the Inspectors are waiting for Oxford City Council to respond to their initial questions dated 29 May 2019 (attached at Appendix 6). Officers have subsequently written to the Planning Inspectors to seek clarification on the timetable. The letter to PINS is attached at Appendix 10.
70. The current timetable for the emerging Local Plan is steered by the Planning Inspectors, including any potential lengthening of the examination process to address any of the Inspectors' concerns.
71. The current Council's Local Development Scheme (timetable) for the next stages of the emerging Local Plan is set out below (based on the Planning Inspectorate typical timetable for examinations): This will now be subject to change, and any of the Options will necessitate an update to the Local Development Scheme.

March-September 2019	Examination in Public*
September 2019	Inspector's report
November 2019	Adoption

*follows the Planning Inspectorate's standard timetable for examination. Officers now believe it is unlikely the examination process will be concluded by the end of September, but the Inspectors have not issued a bespoke timetable.

OPTION ONE: CONCLUSIONS AND RECOMMENDATION

- 72. Officers recommend the Council proceed with Option One: Progressing with the emerging Local Plan – no changes.
- 73. There are some disadvantages to progressing with Option One, including the shorter term risks to housing land supply from strategic allocations and the inability to finally resolve the questions around Oxford's unmet housing need and capacity before our plan is adopted.
- 74. However, this option is the best opportunity to guarantee the provision of ongoing external infrastructure funding from HIF and the Deal, which is of particular benefit to the communities of Didcot and Science Vale. Furthermore, if housing delivery slows in Didcot, as a result of this funding being withdrawn, then it could have a consequential impact on the housing land supply for the rest of the district. These issues will affect our partners, including Vale of White Horse District Council and Oxfordshire County Council.
- 75. Option One is likely to be the quickest way to update our strategic policies in the Core Strategy and provide long term confidence to our communities and partners about development in the district.
- 76. There are clear advantages over the disadvantages in progressing this option as set out above. Officers therefore recommend Option One.

OPTION TWO: PROPOSING CHANGES TO THE EMERGING LOCAL PLAN THROUGH THE EXAMINATION PROCESS

Synopsis

Allow the emerging Local Plan to continue through its examination, but proactively recommend a series of main modifications to the plan. These changes will be entirely at the discretion of the Inspectors. There are no early conclusions from our inspectors about the soundness of aspects of the Plan or if modifications are needed. The Plan cannot be changed unless the inspectors find that part of the Plan unsound.

Theme a) Spatial Strategy

- 77. The Inspectors would likely consider making significant alterations to the spatial strategy would essentially result in a new plan. Officers believe that the Inspectors are therefore unlikely to accept any modifications to the strategy. However, as discussed under the spatial strategy for option one, this is not impossible. Officers

would recommend that any changes to the strategy under Option Two are limited to maximise the chances of the Inspectors accepting these changes.

78. Any changes would need to be supported by existing evidence, or new evidence that supports an alternative approach. The changes would need to be supported by national policies and guidance, as well as being legally compliant. The changes would be made entirely at the Inspectors' discretion.

Theme b) Housing need, requirement and supply

79. The Inspectors have already identified concerns with Oxford's approach to housing numbers in their Local Plan. The South Oxfordshire emerging Local Plan follows a similar approach to Oxford for housing numbers; with the exception that we have not provided any updated evidence on housing needs to validate the Deal's numbers in South Oxfordshire. This does however demonstrate that the Inspectors are willing to consider changes to the housing numbers during the course of the examination.
80. To support any changes in the housing numbers in the emerging Local Plan through the examination, we would likely need to provide evidence that demonstrates the Deal's numbers no longer reflect housing need. The changes would need to be supported by national policies and guidance, as well as being legally compliant. The changes would be made entirely at the Inspectors' discretion.

Theme c) Housing site allocations

81. It would be possible for the Council to suggest sites are removed from the emerging Local Plan, provided this is supported by evidence. If sites are removed from the emerging Local Plan, then the plan would still need to demonstrate how it meets the housing requirement over the plan period to 2034.
82. Any changes would need to be supported by existing evidence, or new evidence that supports an alternative approach. The changes would need to be supported by national policies and guidance, as well as being legally compliant. The changes would be made entirely at the Inspectors' discretion.

Theme d) Environmental policies

83. It would be possible for the Council to suggest new or amended environmental protection policies, provided they do not fundamentally alter the plan. In doing so, the Council should be mindful of the initial comments by the Inspectors regarding Oxford's sustainable design and construction policies – see question 12, Appendix 6.
84. Any changes would need to be supported by existing evidence, or new evidence that supports an alternative approach. The changes would need to be supported by national policies and guidance, as well as being legally compliant. The changes would be made entirely at the Inspectors' discretion.

Theme e) Other policies

85. It would be possible for the Council to suggest some new or amended policies, provided they do not fundamentally alter the plan. Any changes would need to be supported by existing evidence, or new evidence that supports an alternative approach. The changes would need to be supported by national policies and

guidance, as well as being legally compliant. The changes would be made entirely at the Inspectors' discretion.

OPTION TWO: BENEFITS

Flexibility to change the emerging Local Plan

86. This would allow the Council an opportunity to influence the emerging Local Plan policies and contents, once it was clear about its future direction. This is subject to the Inspectors' discretion.

Quicker route to an up-to-date plan

87. This remains as described under Option One above but is likely to take longer than leaving the plan unmodified. All the benefits of getting a plan in place sooner than under Options Three and Four remain similar, albeit slightly tapered due to the delays caused by potentially more extensive changes.

Housing Infrastructure Fund (HIF)

88. Provided the modification process retains the sites at Berinsfield and Culham, the risks to HIF from this Option are limited. See the same benefit identified under Option One above.

Housing and Growth Deal

89. Provided the modification process guarantees the countywide commitment of planning for 100,000 homes by 2031, the risks to the Deal are likely to be limited. Any delay in adopting a plan could push back the start dates of any housing sites however, making the 100,000 home target harder to achieve by the deadline. See the same benefit identified under Option One above.

Development certainty

90. See this benefit identified under Option One above. The benefit would be tapered in comparison to Option One however as it would likely take longer for the plan to be adopted.

Staying ahead of national policy changes

91. See this benefit identified under Option One above. The benefit would be tapered in comparison to Option One however as it would likely take longer for the plan to be adopted.

Economic Benefits

92. Provided the modification process retains the sites at Culham, the same benefit identified under Option One above is likely to apply.

Reduced legal risk

93. Officers believe that the emerging Local Plan is legally compliant; however, any modifications to it would be recommended by the Inspectors. The Inspectors would need to be satisfied that the plan, as modified, would be legally compliant.

94. Nevertheless, the plan’s adoption could be challenged in a six-week legal challenge period following the date the Council decides to adopt the plan.

OPTION TWO: RISKS

Housing Land Supply

95. The Council’s Housing Land Supply Statement June 2019 (Appendix 7) demonstrates a 5.2 year housing land supply when measured against the emerging Local Plan’s housing requirement. The alternative calculation against the standard method (which is what is used when a plan isn’t in place) yields a 9.8 year housing land supply. Options Three and Four explore this in more detail. If Option Two retains the same housing requirement, it provides a significantly smaller margin for housing land supply, with our projections showing that we will not be able to demonstrate a sufficient land supply between 2021/22 and 2023/24 under the emerging Local Plan.

Certainty on Oxford’s capacity and unmet need

96. Progressing with the emerging Local Plan may not give time for a conclusion on Oxford’s capacity and unmet need to be reached by the Inspectors. There is therefore a risk that this plan could result in an overprovision of housing, against a potentially lower level of “final” unmet need from Oxford. However, this risk appears to be diminished in light of the Inspectors’ initial comments on Oxford’s plan, who have recognised that any changes to Oxford’s plan will result in impacts on neighbouring councils’ plans.

OPTION TWO: TIMETABLE

97. This option would delay the Plan process compared to Option One as set out below. The extent of the delay is difficult to predict as it will depend on the time needed to prepare the changes and this could not be done until officers were clear what was required by Council. This would certainly create a delay of a number of months which would include the preparation of any additional evidence required. It would also require a period of further public consultation, at least six weeks.
98. This Option, with additional proactive Modifications alongside any Inspector’s changes, could add six months (plus) delay to the examination period to gather evidence and undertake consultation. This delay will be subject to the type of evidence required to support the Council’s requested planning policy changes.

July 2019 – March 2020	<i>Identifying Modifications for the emerging Local Plan</i>
March 2019 – March 2020	<i>Examination in Public - Adding an additional six months or more to current timetable for emerging Local Plan</i>
May 2020	<i>Inspector’s report (Regulation 25)</i>
June 2020	<i>Adoption (Regulation 26)</i>

OPTION TWO: CONCLUSIONS AND RECOMMENDATION

99. Officers do not recommend Option Two.
100. There are some disadvantages to Option Two, notably the increased timescales and costs in comparison with Option One. It would also add uncertainty for our communities and neighbourhood plan groups. Furthermore, the nature of any changes would be entirely at the discretion of the Inspectors.
101. However, this Option would provide the Council with an opportunity to potentially change the plan to reflect the new administration's aspirations. This is at the discretion of the Inspectors in the event that they find a soundness issue with a particular theme. This Option could provide the balance between getting a new plan in place whilst amending it.
102. Officers do not recommend this approach, as we believe the disadvantages outweigh the advantages.

OPTION THREE – WITHDRAW THE EMERGING LOCAL PLAN, REVISE IT AND PROGRESS A THIRD PUBLICATION (REGULATION 19) LOCAL PLAN, WHILE PRODUCING A REVISED PLAN

Synopsis

Withdraw the Local Plan from examination. The Council will make changes to the plan, then conduct a further Regulation 19 consultation. The extent of changes will need to fall within the remit of Regulation 19 consultation – i.e. not introduce new subject areas for the plan to cover. The Council would then submit a revised plan for examination. Simultaneously, the Council would begin preparation of a new local plan.

Theme a) Spatial Strategy

103. A Regulation 19 consultation should not introduce new subject areas for the plan to cover. Under this option, the Council should try to minimise the risks of a legal challenge by not undertaking any fundamental changes to the spatial strategy of the emerging Local Plan. This would likely trigger an earlier consultation process (Regulation 18). For example, the introduction of policies or topic areas that we have not consulted on before could be considered a fundamental change.

Theme b) Housing need, requirement and supply

104. The Council could revisit its housing need, requirement and supply, including the amount of unmet need from Oxford, however the changes proposed would have to be supported by sound evidence to justify a change. As stated in earlier options above, the uncertainty over these housing numbers and the Deal is a matter that has already been raised by the Inspectors' initial questions and comments in the Oxford Local Plan examination.

Theme c) Housing site allocations

105. The Council could make changes to its site selection on the basis of planning justifications for said change, which will have to be ratified by a comprehensive suite

of evidence documents. The Council will be required to review its existing evidence base and provide justification for reaching an alternative outcome.

106. This information has been in the public domain and subject to scrutiny. Any differing outcomes from that made to date will have to be justified and will likely be challenged by those with an interest in the existing proposed allocations.
107. This could be further justified by the issue raised above in regard to the Inspectors' initial questions and comments on the Oxford Local Plan that the level of unmet need to neighbouring authorities may reduce.

Theme d) Environmental policies

108. The Council would have the opportunity to revisit its environmental policies. Any new or amended policies, for example an introduction of zero carbon homes standards will need to be justified on a sound basis. The policies would need to be supported by feasibility and impact assessments. The Inspectors' initial questions and matters for the Oxford City Local Plan Examination has raised issue with the evidence base supporting the restrictive carbon emissions requirements within their plan.

Theme d) Other policies

109. The Council could revisit other policies within the plan that would not have a fundamental effect on its spatial and distribution strategy or introduce new topic areas. A review of existing policies, for example the density policy, could be considered if this was supported by evidence.

OPTION THREE: BENEFITS

Freedom to make changes

110. As itemised above, the key advantage of this option is for the new Council to set the direction for the review of the emerging Local Plan. For example, the Council could choose to reduce the number of homes proposed in the Plan, review which sites should be allocated for development and change the natural environmental policies within the plan, as well as any further changes. These changes would need to be based on current or updated planning evidence, and compliant with national policies and guidance.

Amount of unmet housing need

111. The Examination of the Oxford City Local Plan could, in time, provide an accurate number of their unmet housing need, prior to the publication of a revised South Oxfordshire Local Plan. The Inspectors' initial issues and questions for the Oxford City Plan have raised issues with these numbers and the Deal.

OPTION THREE: RISKS

Oxfordshire Housing and Growth Deal

112. It should be noted that this Option would contradict the direction, currently being implemented, regarding the agreed Deal. Officers believe that the withdrawal of the plan does not meet the spirit of the Deal, recognising one of the major milestones was the submission of a plan by 1 April 2019. The Deal Delivery Plan states that:

“Failure to achieve milestones will result in [the] deal being reviewed and potentially further payments could be withheld”.

113. Officers believe that Government will see withdrawing the plan as effectively undermining the Deal.
114. Whilst this reference relates to an earlier stage in the Deal process, it is a risk that the Deal for all the Oxfordshire authorities could be withdrawn if South Oxfordshire decides to either significantly delay or restart its Plan making process. In turn, this presents a risk for the relationships between the Councils in Oxfordshire and future relationships with the Government. Government withdrew the Manchester Greater Combined Authority (GMCA) deal for affordable housing, as it was planning lower housing numbers than agreed in their deal. While these are different circumstances to this Option, it is a clear indication that the Government are prepared to withdraw from these deals. Should Option Three be pursued Officers recommend that discussions with Government take place so that Councillors can be informed of their likely response.
115. If the Deal is withdrawn, then collective work on the Oxfordshire Plan 2050 could halt. The principle and timescales of this plan may need to be re-evaluated.
116. In addition to the above, through the Deal, one of the freedoms and flexibilities afforded to the districts by Government is to reduce the housing land supply requirement from five years of supply to three years of supply for the duration of the preparation stages of the Oxfordshire Plan 2050. This lower three year threshold will only apply to the housing land supply in relation to determining planning applications. Any emerging Local Plan will need to demonstrate a five year land supply (against the proposed housing requirement within it) at the point of adoption. Reducing the housing land supply benchmark will lessen the pressure on the delivery trajectory and provide greater flexibility during this period. However, we should not ignore what may happen once this relaxation period has been lifted.
117. If we remain committed to the Deal, but delay the plan making process, it will be harder for the emerging Local Plan to demonstrate how it meets our part of the commitment to delivering 100,000 new homes by 2031.

Housing Infrastructure Fund

118. Government has awarded £218m of infrastructure funding through HIF. This bid was awarded on the premise of delivering both housing sites with permission, and new housing sites in the emerging Local Plan. If a new local plan no longer allocates the sites associated with HIF funded infrastructure (Berinsfield and Culham), this could place HIF at risk. This is because HIF is awarded on a cost to benefit ratio, with the benefit to Government being the amount of homes that the funding unlocks or accelerates delivery of.
119. If HIF is lost, it would result in a large funding shortfall for major infrastructure projects necessary to mitigate existing development in Didcot and Science Vale; the dual carriageway improvements to the A4130 to the A34, Science Bridge, the Thames River Crossing, and the Clifton Hampden Bypass.

120. Due to the current severe¹¹ impact on the road network around Didcot caused by existing development, the loss of HIF funded infrastructure improvements would leave this issue unresolved. Additionally, the withdrawal of HIF would impact on the agreed Didcot Garden Town Delivery Plan.
121. As with the implications on the Deal, Officers therefore recommend that the Council hold discussions with Government regarding HIF before proceeding.

Housing land supply

122. This option will have longer term impacts on our housing land supply. However, our most recent evidence on housing land supply suggests there is sufficient headroom in our land supply to provide time for a new plan to be prepared.

Oxford to Cambridge Arc

123. The emerging Local Plan would have to respond to any future announcements on the Oxford to Cambridge Expressway route, and any associated development opportunities.

Neighbourhood Development Plans

124. There is a risk that emerging Neighbourhood Development Plans face uncertainty regarding the number of homes they should be planning for while the Council prepares this revised plan.

Adjoining authorities and partnerships

125. If the Council withdraw the plan and either the Deal, HIF, or unmet housing need are affected, there is a high risk that this would affect the plans yet to be adopted across the County – Cherwell Partial Review, Vale of White Horse Local Plan Part 2 and Oxford City Local Plan 2036. The Council would need to withdraw from the Statement of Common Ground attached at Appendix Two.
126. If these circumstances arise, it would have a negative impact on our working relationships and reputation with neighbouring authorities, and partners in Government.

Lack of an up to date local plan

127. Site promoters may see a withdrawn plan as an opportunity to submit speculative planning applications. This could lead to planning appeals and associated applications for costs against the Council for perceived unreasonable behaviour.
128. Certain places are likely to be particularly vulnerable to this speculative development. Officers believe, from our recent experience of losing our land supply, that greenfield sites on the edge of settlements outside the AONB and Green Belt will be at most risk. This is because these areas do not benefit from the high level of protection in national planning policy.
129. Those who proposed alternative sites through the emerging Local Plan, which were rejected by the Council could also use this opportunity to submit speculative planning

¹¹ NPPF Paragraph 109

applications. Many of the sites omitted from the emerging Local Plan fell in areas not within the Green Belt or AONB, such as those located on the edge of Reading, Thame, land at Harrington and Didcot. This would potentially result in the majority of unplanned and planned sites being determined by external planning inspectors rather than the Council. This also places at risk the level of appropriate infrastructure that would be required to mitigate their development proposals and may potentially result in piecemeal infrastructure responses.

130. Examples of other authorities whose Local Plans were previously delayed and who subsequently faced having to determine major planning applications and then suffer the results of subsequent planning appeals and awards for costs (for these appeals) are numerous, but include more recently, Stratford on Avon District Council and Cherwell District Council, although this was under the previous NPPF.

Loss of plan making powers

131. It is worth highlighting that Section 27(1) and (2) of the Planning and Compulsory Purchase Act 2004 allows for the Secretary of State to intervene in the plan making process (at any time before a Plan is adopted), where:

1. the least progress in plan-making has been made;
2. policies in plans had not been kept up to date;
3. there was higher housing pressure; and
4. intervention would have the greatest impact in accelerating local plan production;
5. the wider planning context in each area (specifically, the extent to which authorities are working co-operatively to put strategic plans in place), and
6. the potential impact that not having a plan has on neighbourhood planning activity.

132. In this instance, the Secretary of State would issue a holding direction to prevent the council doing any further work in relation to the emerging Local Plan, if he considers that the Plan is unsatisfactory, and to require the council not to adopt the Plan until it has been modified in accordance with his direction. Additionally, Section 21(4) of the 2004 Act, states that the Secretary of State may at any time before adoption of an emerging Local Plan, require that the Plan is submitted to them for approval.

Prospective future planning documents

133. Delaying the adoption of a Local Plan under this Option would impact on our ability to progress with some other initiatives. A key example is the Community Infrastructure Levy, the document which sets a flat charge for new development on a square metre basis. Normally, our larger sites are excluded from paying the Levy, as we secure infrastructure through separate legal agreements (S106 Agreements). However, smaller developments are covered by the Levy. It is important that we review the Levy that was first introduced in April 2016 to reflect and capture the increase in land values since that time.

Procedural criticism

- 134. Following our last review of the emerging Local Plan (Second Regulation 19) in December 2018, we have since received as part of the consultation, criticism for proceeding straight to a Publication Consultation (Regulation 19). This is because respondents considered they were not provided an opportunity to influence the proposals in the emerging Local Plan that they would have done through a Regulation 18 Consultation.
- 135. Furthermore, this would be the third time the Council has published a Regulation 19 Consultation document since 2017.

Legal risk

- 136. Section 22 of the Planning and Compulsory Purchase Act 2004 provides the mechanism for a local planning authority to withdraw a local plan at any point before adoption. The Council could choose to withdraw the emerging Local Plan from examination by following the process set out in Regulation 27 of the Town and Country Planning Act. They could then review the Plan, and, subject to the level of change could go back a stage in plan making to review the plan and undertake a further Publication Consultation (Regulation 19).
- 137. Officers believe that any decision to withdraw the plan should be based on sound planning reasons, to minimise the risk of legal challenge to such a decision. A person aggrieved by a decision to withdraw the Plan might seek to undertake a judicial review of that decision.
- 138. There could be an additional risk of progressing a third consultation (Regulation 19) version of the plan that the legal duty to cooperate might not be met if the Councils actions are directly jeopardising the Plans' of neighbouring Districts. If the Councils legal duty is not met, an inspector would have no choice but to recommend non-adoption of the revised Plan.
- 139. Officers believe that the potential for the Secretary of State intervention, as mentioned above, is a low risk at this stage.

OPTION THREE: TIMETABLE

- 140. The likely timetable for a withdrawal and preparation of a third Regulation 19 version of the emerging Local Plan is set out below.

July 2019	Withdraw emerging Local Plan
July 2019 – Sept 2020	Review of emerging Local Plan on the basis of conducting a further consultation (Regulation 19) subject to the impact of the changes requested
Sept 2020	Third Regulation 19 Consultation
Feb 2021 – Oct 2021	Resubmission and Examination in Public
Dec 2021	Inspector's report

Jan 2022	Adoption
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OPTION THREE: CONCLUSIONS AND RECOMMENDATION

141. Officers do not recommend Option Three.
142. There are some disadvantages to Option Three, notably the increased timescales and costs in comparison with the previous Options. It would also add uncertainty for our communities and neighbourhood plan groups. Furthermore, it could place the Deal and HIF schemes at greater risk with consequences for housing land supply and infrastructure in Science Vale and around Didcot.
143. However, this Option would provide the Council with an opportunity to change the plan to reflect the new Council’s aspirations.
144. Officers do not recommend this approach, as we believe the disadvantages considerably outweigh the advantages to the Council and its communities.

OPTION FOUR – WITHDRAW THE EMERGING LOCAL PLAN AND EMBARK UPON A NEW LOCAL PLAN

Synopsis: Withdraw the Local Plan from examination. The Council will restart the plan making process. This will allow the Council to prepare a significantly different plan (subject to compliance with the law, and national policies and guidance). The Council would need to undertake at least two consultations (Regulation 18 and 19) before submitting the new plan for examination.

OPTION FOUR: BENEFITS

145. This Option would allow the Council to fully revisit the emerging Local Plan on a fundamental basis, subject to the planning evidence being available to support changes. There are similar advantages to Option Three including the freedom and flexibilities to change the plan and to review the amount of unmet housing need.
146. Under the five themes identified earlier in the report, this option would allow the Council to fully revisit all of these, in particular its spatial strategy and distribution strategy, subject to the planning evidence being available to support changes.

OPTION FOUR: RISKS

147. There are a number of common risks to Option Four as set out below:
 - The Deal – There is a significant risk that withdrawing the emerging Local Plan and starting a new plan would effectively mean we are renegeing on the Deal and will lose its funding.
 - Housing Infrastructure Fund - There is a very high risk that the funding offered would be withdrawn by Government if there was a fundamental delay in housing delivery/allocations, which are intrinsically linked via the emerging Local Plan;

- Housing land supply - Albeit there is sufficient flexibility in the short term in the supply, there is a shortage of planned housing supply for the long term (from 2025/26);
- Oxford to Cambridge Arc – There is the risk that the route will have been subject to further ratification and will require to be considered within this emerging Local Plan period;
- Neighbourhood Development Plans - The same disadvantage as per Option Three except for a longer period of time;
- Up to date local plan - This is a significant disadvantage to Option Four as the adopted Development Plan will be 11 years old by the time an emerging Local Plan could be adopted. This could trigger intervention by the Secretary of State;
- Loss of plan making powers - As mentioned in the preceding paragraph, this could be a high risk to the Council;
- Prospective future planning documents - As per Option Three
- Adjoining authorities and partnerships - If the Council withdraw the plan and either the Deal, HIF, or unmet housing need are affected, there is a high risk that this would affect the plans yet to be adopted across the County – Cherwell Partial Review, Vale of White Horse Local Plan Part 2 and Oxford City Local Plan 2036. The Council would need to withdraw from the Statement of Common Ground attached at Appendix 2.
- If these circumstances arise, it would have a negative impact on our working relationships and reputation with neighbouring authorities, and partners in Government.

Legal risks

148. Section 22 of the Planning and Compulsory Purchase Act 2004 provides the mechanism for a local planning authority to withdraw a local plan at any point before adoption.
149. The Council could choose to withdraw the emerging Local Plan from examination, subsequently beginning the production of a new Plan.
150. Officers believe that any decision to withdraw the plan should be based on sound planning reasons, to minimise the risk of legal challenge to such a decision. A person aggrieved by a decision to withdraw the Plan might seek to undertake a judicial review of that decision.
151. There could be an additional risk from progressing with this option that the legal duty to cooperate would not be met, potentially jeopardising the emerging Plans of neighbouring Districts.
152. Officers believe that the potential for Secretary of State intervention, as mentioned above, could be a higher risk at this stage, compared to the other options.

OPTION FOUR: TIMETABLE

153. An estimated timetable for progressing Option Four is set out below.

July 2019	Withdraw emerging Local Plan
August 2019 – January 2021	Draft Reg 18 Local Plan production
January 2022	Consultation on Reg 19 Local Plan (six weeks)
July 2022 – Jan 2023	Submission and Examination in Public
March 2023	Inspector's report
April 2023	Adoption

OPTION FOUR: CONCLUSIONS AND RECOMMENDATION

154. There are disadvantages to Option Four, notably the significant increased timescales and costs in comparison with the previous Options. It would also add greater uncertainty for our communities and neighbourhood plan groups. Furthermore, it would place the Deal and HIF schemes at significant risk with consequences for housing land supply and infrastructure in Science Vale and around Didcot.
155. However, this Option would provide the Council with an opportunity to significantly change the plan subject to planning evidence and compliance with national policy to reflect the new administration's aspirations.
156. Officers would not recommend this approach, as we believe the disadvantages significantly outweigh the advantages to the Council and its communities.

Financial Implications

157. The preparation of the South Oxfordshire Local Plan is undertaken by the Planning Policy team and is supported by the production of an extensive evidence base. The activities of this team are met from the existing Planning Policy budget. The total costs of the production of an emerging Local Plan for South Oxfordshire have been estimated at approximately £5 million.
158. Each Option carries its own individual cost. The length of the delay will have a direct relationship with this cost as some reports and assessments (of which the majority has been prepared by external consultants) will have a different tolerance to the duration of time.
159. Option One will require existing staff resource already budgeted for, recognising there is a need to recruit permanent staff to facilitate the examination process. Option Two will require existing staff resource already budgeted for, recognising there is a need to recruit permanent staff, plus additional staff, as it is not possible to resource an examination and develop proactive modifications to the Plan at the same time.

The cost, subject to what is required by any Modifications, could be in the region of an additional £200,000 - £300,000.

160. The cost of pursuing Option Three would be an estimated £500,000 to £600,000 over a 14 month period. It would require many of the evidence documents that support the current plan to be redrafted or recommissioned. Option Four would have a higher cost implication as it would necessitate the complete recommencement of the plan making process. This would likely require the redrafting and recommissioning of the entire evidence base. Officers estimate that Option Four would cost around £2 million.
161. Progressing with Option One and Two could be covered within the existing Planning Policy budget whereas Option Three and Four would require a re-assessment of this budget. By way of example, the removal or addition of a new site or sites will require the re-run of the Transport Modelling including the Evaluation of Transport Impacts and a consideration of the transport solutions and mitigation measures (relying on our partner, Oxfordshire County Council, as Highway Authority and could involve Highways England) and significant site-specific updates to the Infrastructure Delivery Plan. However, officers believe that for Options One and Two updates can be covered from within the existing policy budgets as much of the evidence base can have addendum reports rather than necessitating a complete rewrite.
162. Progressing with Option Three or Four will require planning officer resource to support the necessary contractual requests for additional work and to review additional material. As the work programme for the team was focussed on the necessary preparatory work for the examination, it shifts the timescale back and will create some management challenges which will require a flexible approach to officer resource and to ensure that existing officer resource is retained.
163. Additional contingency and resource funding will be required for Development Management for the determination of additional major planning applications and subsequent planning appeals. We have been advised by Oxfordshire County Council officers of their concerns for capacity to support an increase in the workload of Development Management. This would also likely be relevant to other statutory bodies.
164. If the Secretary of State intervenes in the Council's plan making we are responsible for the costs associated with this process. At this time, there is no precise estimate as to the likely costs that might incur.
165. Option Four would have a significant cost implication. The withdrawal of the emerging Local Plan under this Option would result in significant abortive costs for the Council. Currently, we do not have an indication of the Inspectors' time spent on the emerging Local Plan to date. However, their daily rate is circa £1000 per day per Inspector. We will also have to review the budget for a new Local Plan based around the above estimate of costs.

Legal Implications

166. The Publication version of the South Oxfordshire Local Plan has been produced for publication under regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 ("Local Planning Regulations").

167. Local authorities are required by law to prepare a development plan for their administrative area and the process for doing that is governed by statute. The regulations require local authorities to notify and invite comments from a range of specified persons and organisations on their development plan proposals.
168. In the absence of an up to date Local Plan, South Oxfordshire remains vulnerable to challenge. The Core Strategy which was adopted in 2012 was produced several years ago and prior to the current national planning guidance and policy. The recently published Housing Land Supply calculation for South Oxfordshire (April 2018) demonstrates that a five year housing land supply (HLS) for the district exists.
169. Section 33A of the Planning and Compulsory Purchase Act 2004 (as inserted by the s110 of the Localism Act 2011) ("s33A") provides that local planning authorities must co-operate with other local planning authorities in maximising the effectiveness with which activities such as the preparation of local plan/development plan documents are undertaken so far as they relate to strategic matters. This 'duty to cooperate' requires the local authority to engage constructively, actively and on an ongoing basis in any process by means of which activities such as the preparation of Local Plan are undertaken.
170. If the person appointed to carry out the independent examination considers that the council has not complied with its duty under s33A in relation to the preparation of its Local Plan the person can neither recommend adoption nor modifications and in such cases, the council cannot then adopt the Local Plan.
171. Officers believe that any decision to withdraw the plan should be based on sound planning reasons, to minimise the risk of legal challenge to such a decision. A person aggrieved by a decision to withdraw the Plan might seek to undertake a judicial review of that decision.
172. In the writing of this report, regard has been given to legal advice provided by counsel engaged to advise the council on the Local Plan. A copy of the advice has been circulated to all Councillors on a confidential basis. This is not for publication because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings and in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Risks

173. A risk assessment of likely risks for South Oxfordshire is attached at Appendix 8. Both the likelihood and impact of risk is assessed.
174. The biggest risk to the Council by not progressing the emerging Local Plan is the impact on both the Deal and HIF infrastructure projects with potential long term consequences for housing land supply. The infrastructure impacts on the highway network would be significant in Didcot and the surrounding villages in Science Vale.
175. A failure to progress a Local Plan that identifies future development requirements for the area and strategic locations where these requirements can be accommodated will extend the time in which we are operating under the Core Strategy.

176. The absence of a Local Plan could result in an uncoordinated approach to development, leading to inappropriate and incremental development being allowed on appeal that does not take account of cumulative implications and requirements for supporting infrastructure, with the potential for adverse environmental impacts. The locations where speculative applications are likely to be pursued are those areas of the district which are located outside the Oxford Green Belt and the Areas of Outstanding Natural Beauty as these areas have higher protection under the NPPF.
177. The council is required to have a minimum of a five year supply of housing. The council is currently in a position where it can demonstrate a sufficient level of land for housing. The published figures in the June 2019 Housing Land Supply statement evidence that the Council can demonstrate a 9.8 year supply against the standard method, and a 5.2 year supply against the emerging Local Plan.

Conclusion

178. Cabinet is asked to note the updated position in relation to the emerging Local Plan. Cabinet is also asked to consider the options set out in this report, the recommendation(s) from Scrutiny Committee and to make any recommendations to Council.
179. This report sets the options available to members with the advantages and disadvantage, costs and timescales. After each Option, officers have provided their professional opinion to assist and inform members in their consideration on the way forward with the emerging Local Plan.
180. Officers have recommended that the most appropriate way forward, where the advantages outweigh the disadvantages as set out in the report, is to progress with Option One; no change to the emerging Local Plan Examination process.

Appendices

1. Emerging Local Plan Settlement Hierarchy
2. Calculation of standard methodology of housing need for South Oxfordshire
3. Infrastructure Funding Report
4. Memorandum of Cooperation September 2016
5. Statement of Common Ground with Oxfordshire Authorities
6. Inspectors' Initial Comments and Questions – Oxford Local Plan Examination
7. South Oxfordshire Housing Land Supply Statement June 2019
8. Risk Assessment of Options
9. Housing Land Supply note
10. Letter from SODC to Planning Inspectorate

Background Papers

1. Report to and decision of Council of 20 December 2018
2. Report to and decision of Council of 28 September 2017.