

Record of individual Cabinet member decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Decision made by	Councillor Leigh Rawlins
Key decision?	No
Date of decision (same as date form signed)	12/09/2019
Name and job title of officer requesting the decision	Robyn Tobutt Planning Policy Officer (Neighbourhood)
Officer contact details	Tel: 07917 088349 Email: Robyn.Tobutt@southandvale.gov.uk
Decision	<ol style="list-style-type: none"> 1. To accept all modifications recommended by the Examiner; 2. To determine that the Berrick Salome Neighbourhood Development 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 Berrick Salome Neighbourhood Development Plan to referendum.
Reasons for decision	<ol style="list-style-type: none"> 1. The Berrick Salome Neighbourhood Development Plan (the plan) as modified by the Examiner's recommendations, has had regard to national policies and advice contained in guidance issued by the Secretary of State. A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but it is intended to have and does have a significant effect. The principal document in which national planning policy is contained is the National Planning Policy Framework (February 2019) (NPPF) and this conclusion is reached bearing this in mind. The advice within National Planning Practice Guidance ("NPPG") has also been borne in mind in reaching this conclusion. 2. Having considered all relevant information, including representations submitted in response to the Plan, the Examiner's considerations and recommendations, the council has come to the view that the Plan recognises

and respects relevant constraints. The Plan has developed a positive suite of policies that seek to bring forward positive and sustainable development in the neighbourhood area by guiding the design of future development. There is a clear focus on safeguarding the separation between the various settlements and safeguarding the attractive character of the area.

3. The Plan, as modified by the Examiner's recommendations, contributes to the achievement of sustainable development. This condition relates to the making of the plan as a whole. It does not require that each policy in it must contribute to sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Plan includes policies for infill residential development within defined settlement boundaries (BER1). In the social role, it includes a policy on entry-level housing (BER3) and to safeguard its community facilities (BER7). In the environmental dimension the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on important views (BER4), green infrastructure (BER6) and on proposed Local Green Spaces (BER5).
4. As a whole, the council is satisfied that the policies in the Plan pursue net gains across each of the different dimensions of sustainability in a mutually supportive way.
5. The Plan, as modified by the Examiner's recommendations, is in general conformity with the strategic policies contained in the Development Plan for the area. The adopted Development Plan does not require smaller villages or other villages to make housing allocations. In this context, proposals for development in the neighbourhood area should be consistent with the overall strategy of supporting its role and function within the wider network of settlements. The Plan proposes that new development in the Plan area is directed to the most sustainable locations.
6. The council's emerging Local Plan, which will replace the Core Strategy, continues to direct development to the most sustainable locations and supports neighbourhood planning groups who wish to promote development in the smaller and other villages. The plan allows for infilling within the settlement

boundaries, maintaining the separation between the various settlements in the Plan area. The plan identifies and protects locally important views and designates a number of local green spaces in the plan area. It guides the design of new development, supports the provision of entry level homes where there is a need, and seeks to support and retain community facilities. The plan also sets out a series of biodiversity principles for development, addresses water infrastructure, supports the maintenance of the rural character of the area, and supports proposals which have regard to a series of walking, cycling and riding principles.

7. The Plan, as modified by the Examiner's recommendation, would not breach, and be otherwise incompatible with EU obligations, including the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). In addition, no issue arises in respect of equality under general principles of EU law or any EU equality directive. In order to comply with the basic condition on European Union legislation the Council has prepared a Screening Opinion on the determination of the need for a Strategic Environment Assessment (SEA). This process concluded that the Plan is unlikely to have significant environmental effects and therefore a SEA is not required. Consultation was carried out with the relevant statutory bodies (Natural England, Historic England, Environment Agency and Oxfordshire County Council). The responses received agreed with the conclusion that a SEA was not required. Taking the consultation responses into account, the council issued a Screening Statement on 29th March 2019.
8. The Plan, as modified by the Examiner's recommendations, would not give rise to significant environmental effects on European sites. The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination on 26 March 2019, which confirmed to the qualifying body that an Appropriate Assessment would not be required. In response to the council's screening opinion, Natural England confirmed on 23 January 2019 that the proposals in the plan will not have significant effects on sensitive sites and that an Appropriate Assessment is therefore

not required.

9. The Plan, as modified by the Examiner's recommendations, is in all respects fully compatible with Convention rights contained in the Human Rights Act 1988. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.
10. The Plan, as modified by the Examiner's recommendations, complies with the definition of an NDP and the provisions that can be made by a NDP. The Plan sets out policies in relation to the development and use of land in the whole of the neighbourhood area; it specifies the period for which it is to have effect and it does not include provision about development that is 'excluded development'.
11. The council cannot make a decision that differs from the Examiner's recommendations about the referendum area. Therefore, there is no reason to extend the referendum area beyond the boundaries of the designated plan area as they are currently defined.
12. The individual modifications proposed by the Examiner are set out in Appendix 1 alongside the council's decision in response to each recommendation and the reasons for them. The Examiner's Report is available in Appendix 2.
13. The examiner noted in his report that nothing in his report should deter appropriate updating prior to the referendum in respect of incontrovertible issues of primary fact. To ensure that the plan reads as a coherent document the qualifying body and the council have agreed factual and consequential updates. These additional changes are noted in Appendix 3.
14. The Plan was submitted in March 2019, and as such it is assessed against the February 2019 National Planning Policy Framework.
15. The council has taken account of all the representations received.
16. This decision follows the recently made Cabinet Member decision on the Berrick Salome Neighbourhood Plan on the 29 August 2019. Since the publication of the examiner's report, the examiner clarified that he intended for the text to be inserted

	<p>into the final sentence of paragraph 5.12 not the second sentence. This decision corrects the error identified in the examiner's report and enables the council to deal with consequential changes effecting Appendix Evidence Based Report.</p> <p>17. The Counting Officer is responsible for determining the date of the referendum. The Electoral Service team advise that the referendum is planned for Thursday 24th October 2019.</p>
Alternative options rejected	<p>Make a decision that differs from the Examiner's recommendation</p> <p>If the council deviates from the Examiner's recommendations, the council is required to:</p> <ol style="list-style-type: none"> 1. notify all those identified on the consultation statement of the parish council and invite representations, during a period of six weeks, 2. refer the issue to a further independent examination if appropriate. <p>Refuse the Plan</p> <p>The council can decide that it is not satisfied with the plan proposal with respect to meeting basic conditions, compatibility with Convention rights, definition and provisions of the NDP even if modified. Without robust grounds, which are not considered to be present in this case, refusing to take the Plan to a referendum could leave the Council vulnerable to a legal challenge.</p> <p><u>Reason for rejecting alternative options:</u> These options were rejected because the district council is minded to agree with all of the Examiner's modifications and his conclusion that the Plan, as modified, meets the basic conditions and relevant legal requirements.</p>
Legal implications	The process undertaken and proposed accords with planning legislation.
Financial implications	The Government makes funding available to local authorities to help them meet the cost of their responsibilities around neighbourhood planning. A total of £20,000 can be claimed for each neighbourhood planning area. The council becomes eligible to apply to receive this single payment once a date is set for the referendum, after a successful examination. The Government grant funds the process of progressing neighbourhood plans through the formal stages, including the referendum. Any costs incurred in the formal stages in excess of £20,000 is borne by the council. Staffing costs associated with supporting community groups and progressing neighbourhood plans through the formal stages are funded by the council.
Other implications	There are no other implications.

Background papers considered	<ol style="list-style-type: none"> 1. Berrick Salome Neighbourhood Plan and supporting documents. 2. National Planning Policy Framework (2019) 3. National Planning Practice Guidance (July 2014 and subsequent updates) 4. South Oxfordshire Core Strategy 2012 5. Saved policies from the South Oxfordshire Local Plan 2011 6. South Oxfordshire District Council Emerging Local Plan 2034 7. South Oxfordshire District Council SEA/HRA Screening Statement. 8. Representations submitted in response to the Berrick Salome Neighbourhood Plan 9. Relevant Ministerial Statements. 			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?	None			
List consultees		Name	Outcome	Date
	Ward councillors	David Turner	No response	
	Legal	Ian Price	No comment	13.08.2019
	Finance	Richard Spraggett	No comment	16.08.2019
	Human resources	Capita HR	No comment	09.08.2019
	Sustainability	Heather Saunders	No response	
	Diversity and equality	Yvonne Cutler	No comment	12.08.2019
	Communications	Communications team	No comment	13.08.2019
	Senior Management Team	Andrew Down	Please make sure to record outcome from consultees	22.08.2019
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	N/A			
Has this been discussed by Cabinet members?	No			
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature <u><i>Lugh Rawlin</i></u> Date <u>12/9/2019</u>			

ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.

For Democratic Services office use only		
Form received	Date:	Time:
Date published to all councillors	Date:	
Call-in deadline	Date:	Time:

Appendix 1: Examiner's recommendations

Policy/Section	Examiner's recommendations	Council's Decision	Justification/Reason
Page 25 - BER1 Settlement Boundaries and Infill Development	<p>In the first part of the policy remove Rokemarsh from the schedule of settlements.</p> <p>As a free-standing fourth part of the policy insert: 'Development proposals between Rokemarsh and Benson should conserve the open and tranquil character of the intervening landscape and its views. Proposals which would either individually or cumulatively, unacceptably detract from the separation between Rokemarsh and Benson will not be supported'.</p>	Agree	<p>The council consider the deletion of the Rokemarsh settlement boundary and the creation of a more general separation of settlement policy necessary to ensure general conformity with strategic policy CSS1 from the South Oxfordshire Core Strategy 2012.</p>
Page 28 – Inset 2 Map	Remove Rokemarsh inset from the Inset 2 Maps.	Agree	<p>The council consider the removal of Rokemarsh from the Inset 2 Maps to be consistent with the recommendation to BER1.</p>
	<p>At the end of paragraph 5.7 add: '<i>Rokemarsh is of a scale which does not justify the definition of a settlement boundary. Nonetheless it plays an important role in the neighbourhood area. The fourth part of the policy seeks to ensure that the separation of Rokemarsh from Benson is assured within the Plan period. The gap between the two settlements will become all the more important in the event that the proposals for the Relief Road proceed to the north of Benson as incorporated within the made neighbourhood plan for Benson.</i>'</p>	Agree	<p>The council consider this additional supporting text will help to provide useful clarity required by national policy and guidance in relation to the modification made to BER1.</p>

<p>Page 29 – BER2 Design</p>	<p>Delete the first two paragraphs of the policy. Delete the final two paragraphs of the policy. Reposition the first two paragraphs of the policy into the supporting text (between the submitted paragraphs 5.12 and 5.13). Reposition the final two paragraphs of the policy into the supporting text (after the submitted paragraph 5.14).</p>	<p>Agree</p>	<p>The council consider the modifications proposed by the examiner to be necessary to ensure that the policy is not repetitive and to ensure that the policy is concise and precise as required by national guidance.</p>
<p>Page 32 – BER3 Entry Level Homes</p>	<p>In the opening part of the policy replace 'District' with 'neighbourhood area'. Replace criterion iii with 'The development of the site does not cause unacceptable harm to the identified Important Views or harm to any designated heritage assets'. Replace criterion iv with 'The proposal would not result in the coalescence of any two settlements in the neighbourhood area'. Delete the free-standing final paragraph of the policy.</p>	<p>Agree</p>	<p>The council consider the modification to the opening part of the policy necessary to ensure that the policy is locally distinctive and in accordance with national and local policy. The council consider the modification to the third criteria necessary to make it more general and provides the clarity required by national and local policy. The council consider the modification to the fourth criteria necessary to take into account the modification made to BER1 and to provide a more general approach. The council consider the deletion of the free standing final paragraph necessary so that in line with national and local policy the policy is demand-led rather than artificially constrained.</p>

	Delete the final sentence of paragraph 5.17.	Agree	The council consider the deletion of paragraph 5.17 necessary to ensure the supporting text is consistent with the policy.
Page 33 – BER4 Important Views	Replace the final part of the policy with: 'Development proposals should preserve or enhance the local character of the landscape and through their design, height and massing should recognise and respond positively to the various Important Views. Development proposals which would have a significant adverse impact on an identified Important View will not be supported.'	Agree	The council consider the modification necessary to make the policy more general in its application and less restrictive, in accordance with national policy and guidance.
Page 36 – BER5 Local Green Spaces	In the final part of the policy replace 'permitted' with 'supported' and add 'Green Space unless in very special circumstances'.	Agree	The council consider the modifications necessary to ensure that the policy provides the clarity required by national policy and guidance and so that the policy is complete.
Page 36 – Para 5.20	In paragraph 5.20 replace 'paragraph 99 and 100' with 'paragraphs 99-101'.		The council consider the addition of the reference to paragraph 101 from the NPPF necessary for completeness.
Page 37 – BER6 Green Infrastructure	At the end of the opening part of the policy add 'insofar as they apply to the proposed development and its location'.	Agree	The council consider the addition to the policy necessary for clarity and to address the tension between the policy and the supporting text. The Examiner sought clarification from the Parish Council on this matter, with them confirming the intention of the policy.
Page 38 – BER7	In the third part of the policy replace 'will be resisted' with 'will not be supported'.	Agree	The council consider the modification necessary to ensure that the policy provides

Community Facilities			the clarity required by national policy and guidance.
Page 38 – Para 5.23	In paragraph 5.23 replace ‘buildings’ with ‘facilities’.	Agree	The council consider the modification necessary for factual accuracy.
Page 39 – BER8 Managing Traffic	<p>Replace the policy with: ‘New developments should ensure that any associated improvements to the highway network in the Parish are in keeping with the character of the area, and where practicable avoid urbanising highway infrastructure.</p> <p>Where appropriate and necessary development proposals will be supported where they make contributions to improvements to the wider highways network in order to mitigate their traffic impacts’.</p>	Agree	The council consider the modifications necessary to ensure that the policy focuses on planning issues, as opposed to traffic volumes and speeds which are controlled by the Highways Act. The council consider the reconfiguration of the policy necessary to ensure that the policy is concise and precise as required by national guidance.
Page 39 – Para 5.27	<p>Replace the final sentence of paragraph 5.27 with: ‘In the first instance Policy BER8 identifies that new development should be in keeping with the wider environment in the neighbourhood area, including that of its highways network. Within this wider context there may be opportunities for other developments to contribute towards traffic management measures where the contribution is necessary for the proposal to be supported’.</p>	Agree	The council consider the modifications to the supporting text necessary to ensure the text is consistent with policy BER8.
Page 40 – BER9 Walking, Cycling and Riding	<p>In the first principle replace ‘must’ with ‘should’.</p> <p>Replace the third principle with: ‘it is located in an area which facilities and where possible encourages</p>	Agree	The council consider the modification to the first principle necessary to ensure the policy provides the clarity required by national policy and guidance. The second

	walking, cycling and riding to access the Parish.'		modification reconfigures the third principle so that it is capable of being applied through the development management process.
Page 41 – BER10 Supporting Water Infrastructure	Delete criteria ii and iii.	Agree	The council consider the modification necessary to ensure that the policy provides the clarity required by national policy and guidance and so that the policy avoids unnecessary repetition.
Other Matters	Modification of the general text (where necessary) to achieve consistency with modified policies.	Agree	The council agrees with the examiner that it may be necessary to amend the plan where consequential changes to the text are required directly as a result of the examiners recommended modifications.
Page 9 – para 2.3	Replace '45% of parishioners' with '45% of respondents to the survey'.	Agree	The council consider the modification necessary to provide clarity.
Page 12 – para 2.28	Replace '57% of parishioners' with '57% of respondents to the survey'.	Agree	The council consider the modification necessary to provide clarity.
Page 13 – para 2.32	Replace '90% of parishioners' with '90% of respondents to the survey'.	Agree	The council consider the modification necessary to provide clarity.
Page 14 – para 2.41	Replace 'rises. Foul sewage' with 'rises foul sewage'.	Agree	The council consider the modification necessary to provide clarity.
Page 21 – para 3.25	Replace 'Grade 2/Grade 2*' with 'Grade II/Grade II*'	Agree	The council consider the modification necessary to provide clarity.
Page 24 – para 5.5	Replace the final sentence with: 'Planning applications that are within the neighbourhood area	Agree	The council consider the modification necessary to provide clarity.

	will be considered against the neighbourhood plan policies, as well as any relevant South Oxfordshire development plan policies and the NPPF.’		
Page 31 – para 5.12	Page 31 paragraph 5.12 second sentence insert ‘as appropriate to their scale and location’ after ‘Statement’.	Agree	Since the publication of the examiner’s report, the examiner clarified that he intended for the text to be inserted into the final sentence of paragraph 5.12 not the second sentence. The council consider the modification necessary to provide clarity.
Appendices 1 and 2	Delete Appendices 1 and 2 (as they repeat information already contained in the Evidence base)	Agree	The council consider the modification necessary to provide clarity.
Evidence Base	Incorporate the Evidence Base as an appendix within the Plan	Agree	The council consider the modification necessary to provide clarity.
Plan Period	Modify the Plan period (throughout the document) to 2019-2034.	Agree	The council consider the that modification to the Plan period will ensure that the Plan has the clarity required by national policy and to take account of its current stage in the plan-making process.

Appendix 2 - Examiner’s Report

The Examiner’s Report is available here: <http://www.southoxon.gov.uk/services-and-advice/planning-and-building/planning-policy/neighbourhood-plans/berrick-salome-neighbo>

Appendix 3 - Consequential and/or Factual Changes

Section	Agreed change	Justification/Reason
All plan	Paragraph renumbering	To accommodate the Examiner's recommended changes.
Front Cover	Replace Plan period '2013-2034' with '2019-2034'.	To implement the Examiner's recommendation regarding the Plan period.
Page 26 – Insets Map	Remove Rokemarsh inset from Insets Map.	To ensure the map is consistent with the Examiner's recommendations.
Page 41 – para 5.34	<p>Replace the sentence with: 'The Parish is served by a network of watercourses and drainage ditches and the Parish Council periodically reminds all riparian owners/all those responsible/all Parishioners to ensure that the watercourse are kept free of obstruction.'</p> <p>Delete the second sentence: 'They are unable to cope with very heavy rainfall as the capacity of the network has been compromised over the years, due to the loss of ponds and storage areas that attenuate the rate of water flow under adverse weather conditions.'</p>	To correct an error between two sentences which contradicted one another.
Appendix	Update the Evidence Based Report in order to align it with the Examiner's recommendation to delete the proposed settlement boundary for Rokemarsh.	To ensure the Appendix is consistent with modifications recommended by the examiner.

Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off, including the chief executive. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must hand-sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence.
Tel. 01235 422520 or extension 2520.
Email: democratic.services@southandvale.gov.uk
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days) if it is a 'key' decision (see the definition of a 'key' decision below). A key decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing a key decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If a key decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
 - refer the decision back to the Cabinet portfolio holder for reconsideration or
 - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
 - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.

Key decisions: assessing whether a decision should be classified as 'key'

The South Oxfordshire and Vale of White Horse District Councils' Constitutions now have the same definition of a key decision:

A key decision is a decision of the Cabinet, an individual Cabinet member, or an officer acting under delegated powers, which is likely:

- (a) to incur expenditure, make savings or to receive income of more than £75,000;**
- (b) to award a revenue or capital grant of over £25,000; or**
- (c) to agree an action that, in the view of the chief executive or relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.**

Key decisions are subject to the scrutiny call-in procedure; non-key decisions are not and can be implemented immediately.

In assessing whether a decision should be classified as 'key', you should consider:

- (a) Will the expenditure, savings or income total more than £75,000 across all financial years?
- (b) Will the grant award to one person or organisation be more than £25,000 across all financial years?
- (c) Does the decision impact on more than one district council ward? And if so, is the impact significant? If residents or property affected by the decision is in one ward but is close to the border of an adjacent ward, it may have a significant impact on that second ward, e.g. through additional traffic, noise, light pollution, odour. Examples of significant impacts on two or more wards are:
 - Decisions to spend Didcot Garden Town funds (significant impact on more than one ward)
 - Changes to the household waste collection policy (affects all households in the district)
 - Reviewing a housing strategy (could have a significant impact on residents in many wards)
 - Adopting a supplementary planning document for a redevelopment site (could significantly affect more than one ward) or a new design guide (affects all wards)
 - Decisions to build new or improve existing leisure facilities (used by residents of more than one ward)

The overriding principle is that before 'key' decisions are made, they must be published in the Cabinet Work Programme for 28 calendar days. Classifying a decision as non-key when it should be a key decision could expose the decision to challenge and delay its implementation.

