

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 Anne-Marie Simpson
Key decision?	No
Date of decision (same as date form signed)	24/02/2021
Name and job title of officer requesting the decision	Robyn Tobutt Senior 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 Cuddesdon and Denton 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 Cuddesdon and Denton Neighbourhood Development Plan to referendum.
Reasons for decision	<ol style="list-style-type: none"> 1. The Cuddesdon and Denton 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 to a significant effect. A neighbourhood plan must not constrain the delivery of important national policy objectives. 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. Paragraph 13 of the National Planning Policy Framework is clear that neighbourhood plans should

support the delivery of strategic policies contained in local plans and spatial development strategies. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside these strategic policies. More specifically paragraph 29 of the National Planning Policy Framework states that neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

3. Beyond this, the content of a draft neighbourhood plan will determine which other aspects of national policy are or are not a relevant consideration to take into account. The basic condition allows qualifying bodies, the independent examiner and local planning authority to reach a view in those cases where different parts of national policy need to be balanced.
4. 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. It proposes a series of local green spaces and a Local Green Gap between Cuddesdon and Denton. In the round the Plan has successfully identified a range of issues where it can add value. It has a particular focus on maintaining the character and identity of the neighbourhood area. In this context it includes a detailed and locally-distinctive design policy
5. 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 a policy for infill development (Policy CD3). In the social role, it includes a policy on community facilities (Policy CD5) and on home working (Policy CD8). In the environmental dimension the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on design (Policy CD2), on the designation of a local green spaces (Policy CD7) and on a proposed local

green gap (Policies CD 6).

6. As a whole, the council is satisfied that the policies in the Plan pursue net gain across each of the different dimensions of sustainability in a mutually supportive way.
7. The Plan, as modified by the Examiner's recommendations, is in general conformity with the strategic policies contained in the current Development Plan for the area. Although the Plan was submitted within the context of the former South Oxfordshire Core Strategy 2012 and Saved policies from the Local Plan 2011, the South Oxfordshire Local Plan 2035 was adopted on 10 December 2020 and thus the Plan has been examined and tested against strategic policies in the newly adopted Local Plan.
8. Cuddesdon is identified as a Smaller Village in the adopted Local Plan (Appendix 7). Policies H8 (Housing in the Smaller Villages) and H16 (Infill development and redevelopment) of the Local Plan set the context for the scale and nature of new development which would be supported in smaller villages in the District. Policy H8 supports development within the smaller villages in accordance with Policy H16 and offers support to parish councils that wish to prepare a neighbourhood plan and make housing allocations within it to support further growth. The Cuddesdon and Denton Plan is not proposing to allocate any sites for housing. Policy H16 specifies that new residential development should be limited to infill and the redevelopment of previously-developed land or buildings. It also provides specific criteria-based guidance for any new residential development which would be located behind existing frontages or which would involve additional dwellings within an existing site.
9. The Plan, as modified by the Examiner's recommendation, would not breach, and be otherwise incompatible with EU obligations, as incorporated into UK law, including the following Directives: the strategic Environmental Assessment (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.

10. In order to comply with the basic condition on the European Union legislation South Oxfordshire District Council undertook a screening exercise (dated September 2019) on the need or otherwise for a Strategic Environmental Assessment (SEA) to be prepared for the Plan. As a result of this process, it concluded that the Plan is not likely to have any significant effects on the environment and accordingly would not require SEA.
11. The Plan, as modified by the Examiner's recommendations, would not give rise to significant environmental effects on European sites. The Council screened the Plan potential impact on EU Special Areas of Conservation (SACs) and this was completed in September 2019. The HRA screening report concluded that the Plan would not have any likely significant effects on the integrity of European sites in or around South Oxfordshire, either alone or in combination with other plans or programmes. Natural England confirmed on 28 February 2019 that the proposals in the plan will not have significant effects on sensitive sites and that an Appropriate Assessment is therefore not required.
12. 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.
13. 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.
14. The council is satisfied that it is not necessary to extend the referendum area beyond the boundaries of the designated plan area as they are currently defined.
15. 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 reason for them. The Examiner's Report is available in Appendix 2.

	<p>16. The Examiner noted in his report, paragraphs 7.41 to 7.44, that both generally and in relation to the adoption of the South Oxfordshire Local Plan 2035, that it will be appropriate for SODC and the Parish Council to have the flexibility to make any necessary consequential changes to the general text. To ensure that the plan reads as a coherent document the qualifying body and the council have agreed factual and consequential updates. These are set out in Appendix 3.</p> <p>17. The council has taken account of all of the representations received.</p> <p>18. The Counting Officer is responsible for determining the date of the referendum. The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 sets out that neighbourhood planning referendums cannot take place until 6 May 2021. The Government is committed to keep these regulations under review, they may be amended or revoked in response to changing circumstances. The Counting Officer will endeavour to arrange the referendum as soon as practically possible in consultation with the qualifying body.</p>
<p>Alternative options rejected</p>	<p>Make a decision that differs from the Examiner’s recommendation</p> <p>If the council deviates from 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>Refusing to progress 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></p> <p>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>
<p>Legal implications</p>	<p>The process undertaken and proposed accords with planning legislation.</p>

Financial implications	<p>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 for this additional grant once the council issue a decision statement detailing the intention to send the plan to referendum.</p> <p>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 Government grants 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. It is expected that costs associated with progressing this neighbourhood plan can be met from with existing neighbourhood planning budget.</p>			
Other implications	<p>There are no other implications.</p>			
Background papers considered	<ol style="list-style-type: none"> 1. Cuddesdon and Denton Neighbourhood Plan and supporting documents 2. National Planning Policy Framework (2019) 3. National Planning Policy Guidance (July 2014 and subsequent updates) 4. South Oxfordshire Local Plan 2035 5. South Oxfordshire District Council SEA/HRA Screening Statement 6. Representations submitted in response to the Cuddesdon and Denton Neighbourhood Plan 7. Relevant Ministerial Statements 			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?	<p>None</p>			
List consultees		Name	Outcome	Date
	Ward councillors	Elizabeth Gillespie	Consulted 04/02/21 – 11/02/21	
	Legal	Vivien Williams	Approved	23/02/2021
	Finance	Richard Spragget	Consulted 04/02/21 – 11/02/21	
	Human resources		Consulted 04/02/21 – 11/02/21	
	Sustainability		Consulted 04/02/21 – 11/02/21	
	Diversity and equality		Consulted 04/02/21 – 11/02/21	

	Climate and biodiversity		Consulted 04/02/21 – 11/02/21	
	Communications	Communications	No comment	05/02/2021
	Senior Management Team		Subject to legal approval	16/02/2021
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 _____ Councillor Anne-Marie Simpson _____ Date _____ 24 February 2021 _____			

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

For Democratic Services office use only		
Form received	Date: 24 February 2021	Time: 16:00
Date published to all councillors	Date: 24 February 2021	
Call-in deadline	Not applicable as this is not a key decision	

Appendix 1: Examiner's recommendations

Policy/ Section	Examiner's recommendations	Council's Decision	Justification/Reason
<p>Policy CD1 – General Development Principles</p>	<p>Replace the opening part of the policy with: 'Development proposals will be supported where they have regard to the following general principles insofar as they are relevant to their nature, scale and location'</p> <p>In principle a) replace 'and in the SODC...plan' with 'and in the South Oxfordshire Local Plan 2035'</p> <p>Replace principle d) with: 'Where it is practicable to do so, development proposals should result in a 10% net gain in biodiversity compared with the predevelopment baseline. The design of the development should enhance habitats for protected and notable species and where relevant should follow the recommendations set out in the Landscape Character Assessment (Annex B)'</p> <p>Delete principle f)</p>	<p>Agree</p>	<p>The council consider the proposed modifications to the first parts of the policy necessary to ensure that the policy has the clarity that is required by national policy and guidance and also to reflect the recent adoption of the South Oxfordshire Local Plan.</p> <p>The council agrees that the proposed modifications to the fourth principle is necessary to ensure it is positively prepared as required by national policy.</p> <p>The council agrees that the deletion of the final principle is necessary as it not policy wording and therefore does not provide the clarity required by national policy and guidance.</p>
<p>Supporting text – Para 8.3 – 8.4</p>	<p><i>In paragraph 8.3 (2) replace 'support the vision...2019' with 'support the Local Plan vision'</i></p> <p><i>In paragraph 8.3 (3) replace '2011-2034' with '2035'</i></p>	<p>Agree</p>	<p>The council consider the proposed consequential modifications to the supporting text necessary to reflect the recent adoption of the Local Plan 2035 and</p>

	<i>At the end of paragraph 8.4 add: 'Due to its sensitivity and rural character, any proposals for development in Denton in the unnamed lane past Denton House will be expected to make good any damage to the lane before the development is occupied'</i>		the proposed modification to Policy CD1.
Policy CD2 – Design Principles	<p>In the first part of the policy insert 'where practicable' between 'and' and 'enhance'</p> <p>In the first part of the policy replace 'the village's character' with 'the character of the settlement concerned'</p> <p>Replace the opening element of the second part of the policy with:</p> <p>'In particular development proposals should have regard to the following design principles as appropriate to their scale, nature and location:'</p> <p>In i replace 'Follows' with 'the relevant elements of' and delete '2016'</p> <p>In ii replace 'Fits in with' with 'relate to'</p>	Agree	The council consider the proposed modifications to the policy text proposed by the examiner to be necessary to ensure that the policy has the clarity that is required by national policy and guidance.
Supporting text – Para 9.4	<i>In paragraph 9.4 replace 2011-2034' with '2035'</i>	Agree	The council consider the proposed consequential modifications to the supporting text necessary to reflect the recent adoption of the Local Plan 2035.
Policy CD3 –	Delete the first part of the policy.	Agree	The council consider the proposed deletion

Housing Infill Developments	Replace criterion iv) with ‘are consistent with Policies H8, H10 and H16 of the South Oxfordshire Local Plan’		<p>of the first part of the policy necessary to ensure that there is the clarity required by national policy and guidance and to ensure the policy is not duplicating national and local policy.</p> <p>The council consider the proposed modification to criterion iv necessary to ensure general conformity with the strategic policies of the development plan.</p>
Policy CD4 – Residential Parking	<p>In the first part of the policy replace ‘permitted only’ with ‘supported’</p> <p>Replace the second part of the policy with:</p> <p>‘Where practicable car parking requirements should be provided on site. Where on-site parking solutions are neither practicable nor appropriate, planning proposals should provide an effective and sensitive approach to mitigate the impact of additional on-street parking. Proposals should also address the need for parking solutions for visitors’</p>	Agree	The council consider the proposed modifications to the policy text proposed by the examiner to be necessary to ensure that it is written in a policy format and to ensure that the policy has the clarity that is required by national policy and guidance.
Policy CD5 – Community Facilities	<p>Replace the first part of the policy with:</p> <p>‘Proposals for the improvement, extension and refurbishment of existing community facilities will be supported where they meet all relevant requirements set out in other policies in this plan and in the Local Plan’</p> <p>In the second part of the policy replace ‘will be</p>	Agree	The council consider the proposed modifications to the policy text proposed by the examiner to be necessary to ensure that the policy has the clarity that is required by national policy and guidance.

	resisted' with 'will not be supported'		
Policy CD6 – Local Green Gap	In the first part of the policy replace '13' with '21' In the second part of the policy 'the identified long-distance views' with 'the long-distance views C and D as identified in Figure 11	Agree	The council consider the proposed modifications to the policy text to be necessary to ensure that the policy has the clarity required by national policy and guidance.
Figure 21	<i>Delete the northern field from the proposed LGG on Figure 21</i>	Agree	The council consider the proposed modification to Figure 21 necessary to ensure that it is consistent with the proposed modifications to CD6.
Policy CD7 – Local Green Spaces	Replace parts a) and b) of the policy with: 'The following parcels of land (as shown on Figure 22) are designated as Local Green Spaces: <ul style="list-style-type: none"> • Cuddesdon Green; • Cuddesdon Recreation Ground • Denton Green • Parkside Allotments • Denton Hill Allotments' In part c) of the policy replace 'permitted' with 'supported'	Agree	The council consider the proposed modifications to combine the first and second part of the policy so that they list the five Local Green Spaces and to modify the wording in the third part of the policy, proposed by the examiner to be necessary to ensure that the policy has the clarity that is required by national policy and guidance.
Figure 22	<i>Show the two allotment areas on Figure 22</i>	Agree	The council consider the proposed modification to Figure 22 necessary to ensure that it is consistent with the proposed modifications to CD7.
Policy CD8 –	Replace the policy with:	Agree	The council consider the proposed

Home Working	<p>'Insofar as planning permission is required, proposals for home working will be supported where they do not have an unacceptable impact on the amenities of surrounding residential properties.</p> <p>Proposals to provide additional visitor car parking required for home working will be supported where they can be safely incorporated into the local highway network and where they do not have an unacceptable impact on the amenities of surrounding residential properties.</p> <p>Proposals to improve broadband speed and accessibility in the neighbourhood area will be supported where they take account of the landscape and heritage assets'</p>		<p>modifications to the policy text proposed by the examiner to be necessary to ensure that the policy has the clarity that is required by national policy and guidance.</p>
Other Matters	<p><i>Replace the second, third and fourth sentences of paragraph 1.3 with: The South Oxfordshire Local Plan 2035 was adopted in December 2020. It addresses a series of matters including housing, employment and infrastructure'</i></p> <p><i>Replace paragraph 1.4 with: 'The newly adopted Local Plan continues to support and empower the production of neighbourhood plans'</i></p> <p><i>Replace paragraph 4.2 with: 'The newly-adopted Local Plan identifies Cuddesdon as one of a series of smaller villages. As smaller hamlets neither Denton nor Chippinghurst feature in the settlement hierarchy'</i></p>	Agree	<p>The council consider the proposed modifications to the supporting text in the Plan necessary to take account of the recent adoption of the South Oxfordshire Local Plan 2035 and to ensure that the Plan meets the basic conditions.</p>

	<p><i>In paragraph 4.3 delete the first sentence.</i></p> <p><i>Replace paragraph 4.4 with: ‘The adopted Local Plan does not expect that the smaller villages will provide a significant source of housing supply. However, it is possible that some development proposals may come forward over the Plan period in these villages such as single dwellings, infilling and conversions from other uses. Such proposals will be considered against the relevant policies in the Local Plan and in this Plan’</i></p> <p><i>In paragraph 4.5 replace ‘in unsustainable parishes’ with ‘in less sustainable locations’</i></p> <p><i>Replace paragraphs 4.91/4.92 with the same text as in paragraphs 4.2 and 4.4 (see above)</i></p>		
Other matters	<i>Modification of general text (where necessary) to achieve consistency with the modified policies.</i>	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.
Other matters	<i>Throughout the Plan replace ‘2034’ with ‘2035’ in any references to the Plan period.</i>	Agree	The Plan was prepared to address the same Plan period as the Local Plan. As such, the council agrees that references to the Plan period throughout the Plan, need to be updated, replacing ‘2034’ with ‘2035’ in order to achieve consistency with the plan period of the Local Plan.

APPENDIX 2 – Examiner’s Report

The Examiner’s Report is available here: <https://www.southoxon.gov.uk/wp-content/uploads/sites/2/2021/01/Cuddesdon-and-Denton-Neighbourhood-Development-Plan-Examiners-report.pdf>

Appendix 3 – Consequential and/or Factual Changes

Section	Agreed change	Justification/Reason
Front Cover	Change ‘Submission’ to ‘Referendum’.	Factual correction.
Page 9 – Para 1.6	Replace the paragraph with the following: <i>‘This version of the Neighbourhood Development Plan is the result of much work by the Committee and three consultations. It also incorporates a first and second round of comments by SODC. Finally, it incorporates recommendations made by an independent examiner. The next step will be a parish referendum on the Plan. If approved by more than 50% of the community, it will become part of the SODC Local Plan, with the same legal status.’</i>	Factual correction.
Page 11 – para 1.12	Replace the paragraph with the following: <i>‘This document is the sixth draft of the Plan and now forms the referendum version for South Oxfordshire District Council including all the recommendations made by the independent examiner. When complete and following a successful referendum, the Plan will run for a 14 year period from 2021 to 2035.’</i>	Factual correction.

Page 15 – Para 4.3	In the second sentence replace ‘It’ with ‘Cuddesdon’.	Grammatical correction.
Page 45 – Para 8.5	Replace the paragraph with the following: <i>‘The requirement to deliver a 10% increase in habitat value for wildlife compared with the pre development baseline reflects emerging guidance from DEFRA included in the 2019-2021 Environment Bill.’</i>	Factual correction to be consistent with the Examiner’s proposed modifications.
Page 48 – Para 10.5	Replace ‘13.10 of its Core Strategy’ with ‘Policy H16 of the Local Plan’.	Factual correction to be consistent with the Examiner’s proposed modifications.
Page 53 – Para 14.3	Replace the paragraph with the following: <i>‘The five green spaces – Cuddesdon recreation ground, Cuddesdon and Denton Greens, and the two allotments – are all within the community they serve’.</i>	Factual correction.
Page 59 – Para 18.2	Replace ‘2033’ with ‘2035’.	Factual correction.
Page 60 – Para 19.2	Replace ‘2034’ with ‘2035’.	Factual correction to be consistent with Examiner’s proposed modifications.
Page 61 – Para 21.2	Delete ‘or an automated defibrillator’.	Factual correction as one has been installed.

