

Record of an 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 John Cotton
Key decision?	No
Date of decision (same as date form signed)	25 July 2017
Name and job title of officer requesting the decision	Ricardo Rios Senior Planning Policy Officer (Neighbourhood)
Officer contact details	Tel: 07801203535 Email: ricardo.rios@southandvale.gov.uk
Decision	<ol style="list-style-type: none"> 1. To accept all modifications recommended by the Examiner; 2. to determine that the Brightwell-cum-Sotwell 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 Brightwell-cum-Sotwell Neighbourhood Development Plan to referendum on the 7 September 2017 4. the referendum area should not extend beyond the neighbourhood area approved by the District Council on 13 April 2015.
Reasons for decision	<ol style="list-style-type: none"> 1 The Brightwell-cum-Sotwell 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 (March 2012) (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 The council raised concerns in relation to potential

conflicts between Policy BCS1 of the Plan and national planning policy and guidance, particularly Paragraph 16 of the NPPF which indicates that neighbourhood plans should support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

3 Having considered all relevant information, including representations submitted in response to the Plan, the Examiner's considerations and recommendations, and legal advice, the council has come to the view that the Plan has developed a suite of policies that aim to safeguard its character and appearance and to promote sensitive development appropriate to this character and the position of the village in the local settlement hierarchy.

4 The operation of Policy BCS1 through a village boundary will not prevent the development of a strong prosperous rural economy and it actively includes four housing allocations. As outlined by the Examiner, the identified new residential development sites are in excess of that anticipated of a smaller village in policy CSR1 of the adopted Core Strategy and will contribute significantly to the expected minimum total of 500 dwellings for such villages in the emerging local plan. The Plan will boost significantly the supply of housing in the neighbourhood area through a pragmatic and locally-distinctive approach.

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. In the economic dimension, the plan includes policies for new residential development (BCS2-5) and for tourism facilities (BCS 16). In the social role, it includes policies for the retention of community facilities (BCS15), for a natural burial ground (BCS17) and to designate local green spaces (BCS11). In the environmental dimension, the plan positively seeks to protect the natural, built and historic environment. It has specific policies on design (BCS9), the conservation areas (BCS10) and biodiversity, trees, hedgerows and wildlife corridors (BCS12).

6 The council raised concerns in relation to Policy BCS1 being overly restrictive and potentially adding development pressure to less sustainable sites within the proposed village boundary and preventing more suitable

sites coming forward outside such a boundary. As a starting point, it should be noted that a settlement boundary will not inevitably prevent development, particularly if the local planning authority concerned does not have the needed housing land supply. As a whole, the Plan sets out to achieve sustainable development in the plan area. It promotes sensitive development, appropriate to the character of the village and its position in the local settlement hierarchy.

- 7 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 small villages to make site allocations. In this context, proposals for development in Brightwell-cum-Sotwell should be consistent with the overall strategy of supporting its role and function within the wider network of settlements by allowing for limited amounts of housing and employment and by the provision and retention of services.
- 8 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 villages. The Plan makes housing allocations commensurate with the size and capacity of the settlement and takes into account the latest and up-to-date evidence of housing need.
- 9 The Examiner noted in his report the Parish Council's argument that "*whilst the District Council did not use a settlement boundary concept it was however applying similar principles by referring to proposals within the built-up areas of settlements in its adopted policies and the associated supporting text*". The examiner concluded "*that the combination of the policies will provide the 'practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency' as set out in the NPPF (paragraph 17)*".
- 10 Having considered all relevant information, including representations submitted in response to the Plan, the Examiner's considerations and recommendations, and legal advice, the council has concluded that the Examiner reached a conclusion that he was entitled to reach in law and that he gave adequate reasons for doing so. The council considers the reasons set out in the Examiner's report to be robust and can see no reason to depart from it or to reject it.

- 11 The proposed settlement boundary responds to a unique set of issues that exist within the particular context of the submitted plan. The Plan promotes sensitive development, appropriate to the character of the village and its position in the local settlement hierarchy.
- 12 The Plan, as modified by the Examiner's recommendations, 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.
- 13 In order to comply with the basic condition on European Union legislation the Parish Council has prepared a Sustainability Appraisal Report. This report incorporates Strategic Environmental Assessment. The Sustainability Appraisal sets out how it was developed in an iterative fashion with the wider preparation of the plan itself (Section 1). Section 4 sets out a comprehensive range of sustainability issues in the parish to which the plan responds. Section 5 goes on to describe the principal environmental characteristics of the plan area. Section 7 makes an assessment of the neighbourhood plan objectives against a wider set of sustainability objectives. Section 8 then provides an assessment of the neighbourhood plan policies against the sustainability objectives. Section 9 concludes the report by making an assessment of reasonable policy alternatives. Paragraph 9.3 sets out the relationship between the Sustainability Appraisal and the Site Assessments Report. Paragraph 9.6 of the Sustainability Appraisal explains that site assessments were undertaken to ascertain the availability and capacity of land in and around the main village. Each site was then identified as being part of one of five spatial options. The alternative options are described in paragraphs 9.7 to 9.20 and tested in Table F.
- 14 As noted by the Examiner, the approach adopted in the Sustainability Appraisal has attracted overlapping representations from developers and landowners. In some cases, these representations overlap with commentary on policy BCS1. Submitted representations suggested that the outcomes of the sustainability appraisal process are not clear and that the processes followed do not have the necessary validity and

robustness to meet the basic conditions.

15 Having reviewed the information provided, the Examiner concluded that a proportionate process has been undertaken in accordance with the various regulations. None of the statutory consultees have raised any concerns with regard to this aspect of neighbourhood plan and European Union obligations. Having reviewed the relevant information, including the Examiner's considerations and recommendations, the council adds that the qualifying body gave clear reasons for its judgment in respect of the sites it selected and rejected and that judgment was supported in a carefully reasoned report by a planning professional who had examined the submission draft, made a special effort to ensure that those involved had an opportunity to comment on the matter and saw the sites and boundary concerned.

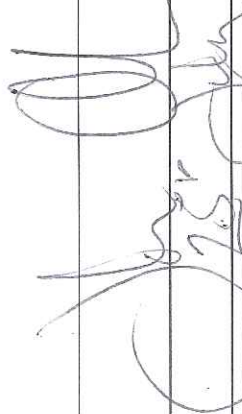
16 The Plan, as modified by the Examiner's recommendations, would not give rise to significant environmental effects on European sites and European offshore marine sites. The council issued a Revised Habitats Regulations Assessment (HRA) Screening Determination in March 2017 confirming that the Plan was not likely to have any significant effect on a European site. The Examiner noted that the council's screening determination was comprehensive in its scope. It addresses six Special Areas of Conservation considered to be within influencing distance of the neighbourhood area. Four of the SACs are elsewhere in the South Oxfordshire District, one is in the Vale of White Horse District and the other in Oxford City. Natural England confirmed its agreement to the conclusions of the council's screening determination.

17 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.

18 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'.

19 The council cannot make a decision that differs from the Examiner's recommendations about the referendum

	<p>area. Therefore, there is no reason to extend the referendum area beyond the boundaries of the designated plan area as they are currently defined.</p> <p>20 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.</p> <p>21 The council has taken account of all the representations received. In some cases, specific representations have been mentioned in this report where it is both appropriate and relevant to do so.</p>
<p>Alternative options rejected</p>	<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></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>
<p>Financial implications</p>	<p>The progress to referendum is funded by the council and budget is available. The budget is funded by the Govt grant to the council.</p>
<p>Other implications</p>	<p>There are no other implications.</p>
<p>Background papers considered</p>	<ol style="list-style-type: none"> 1. Brightwell-cum-Sotwell Neighbourhood Plan and supporting documents. 2. National Planning Policy Framework (2012) 3. National Planning Practice Guidance (March 2014 and subsequent updates).

	<p>4. South Oxfordshire Core Strategy 2012</p> <p>5. Saved policies from the South Oxfordshire Local Plan 2011</p> <p>6. The emerging Local Plan 2033: Second Preferred options</p> <p>7. South Oxfordshire District Council SEA Screening Statement and Revised HRA Screening Determination.</p> <p>8. Representations submitted in response to the Brightwell-cum-Sotwell NDP</p> <p>9. Legal Opinion 14 July 2017</p>																																								
<p>Declarations/conflict of interest?</p> <p>Declaration of other councillor/officer consulted by the Cabinet member?</p>	<p>None</p>																																								
<p>List consultees</p>	<table border="1"> <thead> <tr> <th data-bbox="817 766 851 1037"></th> <th data-bbox="817 558 851 766">Name</th> <th data-bbox="817 351 851 558">Outcome</th> <th data-bbox="817 140 851 351">Date</th> </tr> </thead> <tbody> <tr> <td data-bbox="851 766 929 1037">Ward councillor</td> <td data-bbox="851 558 929 766">Jane Murphy</td> <td data-bbox="851 351 929 558">No comment</td> <td data-bbox="851 140 929 351">24/07/2017</td> </tr> <tr> <td data-bbox="929 766 996 1037">Ward councillor</td> <td data-bbox="929 558 996 766">Pat Dawe</td> <td data-bbox="929 351 996 558">No response</td> <td data-bbox="929 140 996 351">N/A</td> </tr> <tr> <td data-bbox="996 766 1052 1037">Legal</td> <td data-bbox="996 558 1052 766">Ian Price</td> <td data-bbox="996 351 1052 558">No comment</td> <td data-bbox="996 140 1052 351">21/07/2017</td> </tr> <tr> <td data-bbox="1052 766 1108 1037">Finance</td> <td data-bbox="1052 558 1108 766">Paul Sheppard</td> <td data-bbox="1052 351 1108 558">No comment</td> <td data-bbox="1052 140 1108 351">20/07/2017</td> </tr> <tr> <td data-bbox="1108 766 1176 1037">Human Resources</td> <td data-bbox="1108 558 1176 766">Capita HR</td> <td data-bbox="1108 351 1176 558">No response</td> <td data-bbox="1108 140 1176 351">N/A</td> </tr> <tr> <td data-bbox="1176 766 1254 1037">Sustainability</td> <td data-bbox="1176 558 1254 766">Heather Saunders</td> <td data-bbox="1176 351 1254 558">No comment</td> <td data-bbox="1176 140 1254 351">24/07/2017</td> </tr> <tr> <td data-bbox="1254 766 1332 1037">Diversity and equality</td> <td data-bbox="1254 558 1332 766">Cheryl Reeves</td> <td data-bbox="1254 351 1332 558">No comment</td> <td data-bbox="1254 140 1332 351">21/07/2017</td> </tr> <tr> <td data-bbox="1332 766 1400 1037">Communications</td> <td data-bbox="1332 558 1400 766">Gavin Walton</td> <td data-bbox="1332 351 1400 558">No response</td> <td data-bbox="1332 140 1400 351">N/A</td> </tr> <tr> <td data-bbox="1400 766 1467 1037">Head of Service</td> <td data-bbox="1400 558 1467 766">Adrian Duffield</td> <td data-bbox="1400 351 1467 558">No response</td> <td data-bbox="1400 140 1467 351">N/A</td> </tr> </tbody> </table>		Name	Outcome	Date	Ward councillor	Jane Murphy	No comment	24/07/2017	Ward councillor	Pat Dawe	No response	N/A	Legal	Ian Price	No comment	21/07/2017	Finance	Paul Sheppard	No comment	20/07/2017	Human Resources	Capita HR	No response	N/A	Sustainability	Heather Saunders	No comment	24/07/2017	Diversity and equality	Cheryl Reeves	No comment	21/07/2017	Communications	Gavin Walton	No response	N/A	Head of Service	Adrian Duffield	No response	N/A
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<p>Confidential decision? If so, under which exempt category?</p>	<p>NO</p>																																								
<p>Call-in waived by Scrutiny Committee chairman?</p>	<p>N/A</p>																																								
<p>Cabinet member's signature To confirm the decision as set out in this notice.</p>	<p>Signature </p> <p>Date <u>25 July 2017</u></p>																																								

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

For Democratic Services office use only	
Form received	Date: 25/7/17 Time: 1.40pm
Date published to all councillors	Date:
Call-in deadline	Date: N/A Time: