

# Cabinet Report



Listening Learning Leading

Report of Head of Planning

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To: CABINET

Date: 3 October 2019

## Local Plan 2034: options to progress

### Recommendations

That Cabinet:

- (a) notes the progress officers have made in their discussions with Oxfordshire County Council, Ministry of Housing, Communities and Local Government and Homes England on options to protect the Housing Infrastructure Fund (HIF) offer made to Oxfordshire County Council and infrastructure projects that could be delivered by it,
- (b) considers the officer recommendation to progress with the submitted South Oxfordshire Local Plan 2034 through the examination process, Option A,
- (c) considers Options A, B and C, as set out in this report and recommends its preferred Option to Council.

### Purpose of Report

1. To report to Councillors on the progress made in responding to the Council resolution of 18 July 2019 regarding the Housing and Infrastructure Fund (HIF) and to consider, having assessed the risks, which option to progress the Local Plan 2034.

### Corporate Objectives

2. The emerging Local Plan contributes 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. At the Council meeting on 18 July 2019 it resolved to:

- “(1) express its determination to maintain its housing land supply and avoid speculative development;
- (2) express its continued support for the Housing and Infrastructure Fund (HIF) funding and infrastructure projects that could be delivered by it;
- (3) ask officers to explore with Oxfordshire County Council, Homes England and the Ministry of Housing, Communities and Local Government options for protecting the HIF funding whilst enabling the council to address concerns about the current emerging Local Plan 2034 including (but not limited to) climate change issues, Oxford City's unmet housing need, and to report back to Cabinet and Council;
- (4) recognising that the Climate Change Emergency is all too real and is recognised to be of key and statutory importance under the Climate Change Act 2008 and the associated objective of “zero carbon by 2050”, express its wish to do all that it can to respond through the Local Plan process;
- (5) agree that as soon as practicable, alongside satisfactory progress being made on resolving issues in the emerging Local Plan, work on a subsequent Local Plan shall commence, strengthening climate change considerations.”

## UPDATE ON OFFICER ACTIONS

### Background

4. In March 2018, the Council and the other authorities in Oxfordshire signed the Oxfordshire Housing and Growth Deal (Deal). This committed the Councils to support the delivery of 100,000 new homes across Oxfordshire between 2011 and 2031. In return, over a period of five years, Government offered £215 million of funding; £150 million for infrastructure projects, £60 million for affordable housing, and £2.5 million for the preparation of a Joint Statutory Spatial Plan and £2.5 million for wider administrative costs associated with the Deal. The Deal committed the Oxfordshire authorities to submitting outstanding local plans for examination by 1 April 2019 (South Oxfordshire & Oxford City).
5. Paragraph 010 of the Guidance<sup>1</sup> states that where a Deal is in place, it is appropriate for the Council to consider whether the Deal justifies uplifting our housing need beyond the standard method. The emerging Local Plan considered

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<sup>1</sup> Planning Practice Guidance – Housing Needs Assessment, Paragraph 010.

that the Deal justified an uplift in need to 775 homes per annum (in line with the SHMA recommendations for South Oxfordshire).

6. In March 2019, Oxfordshire County Council (OCC) was successful in bidding for £218 million of funding from the Government's Housing and Infrastructure Fund (HIF). It is intended 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 with Homes England (on behalf of Government) before they will secure any of the offered funding. The infrastructure projects that would be delivered by HIF are:
  - a Didcot Science Bridge on the A4130 – going over the railway line and Didcot A Power Station site and joining 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.
7. These HIF schemes are identified in both South Oxfordshire and Vale of White Horse District Councils' emerging Local Plans to enable and support the delivery of development growth across Southern Oxfordshire. These schemes along with transport schemes identified through the Deal are intrinsically interlinked to each other and to some of the committed and planned housing development in the Didcot and Science Vale area, as set out in relevant local plans. These funding streams are part of a wider highway strategy to support the delivery of housing growth but to also mitigate the impact of existing and approved developments.
8. Officers have been working with colleagues from OCC since the outset of the preparation of the emerging Local Plan. This has enabled the assessment of transport and other infrastructure requirements arising from planned development. This has included joint working on transport evidence to both test the proposals in the emerging Local Plan and to determine what level of infrastructure would be necessary. This collaboration has informed policy requirements and supported the production of the Infrastructure Delivery Plan submitted with the emerging Local Plan to examination.
9. At each stage of the formal consultation process we have received detailed representations to the Local Plan from OCC.

#### Summary of progress

10. In response to part 3 of the 18 July resolution the following summary provides progress in exploring options with Homes England, as at the time of writing this report;
11. On 26 August 2019, the leader of the council received a letter (Appendix 13) from the Secretary of State for Housing, Communities and Local Government setting out his view that *"the HIF is contingent on identified housing sites coming forward in an adopted Local Plan and, as the previous Housing Minister set out, the government expects progress on your Local Plan in order to access this funding"*.

12. In addition, in relation to the Deal, the Secretary of State stated that “*should local decisions undermine that framework, the Government would be less inclined to provide local infrastructure funding, both now and in the future*” (his underlining).
13. On 5 September 2019 senior officers and councillors met with the Director General for Decentralisation and Growth, from the Ministry of Housing, Communities and Local Government (MHCLG), to discuss issues relating to the emerging Local Plan and the linkages to HIF and the Deal.
14. Following a positive discussion with South Oxfordshire District Council, officers from MHCLG offered to explore what options may exist, recognising the current democratic timescales, pressures and the shared desire to maintain existing Deal commitments. MHCLG officers have worked closely with council officers to look at ways that the ambitions can be achieved within the context of the HIF. A further letter (Appendix 18) following these discussions was received from the Director General for Decentralisation and Growth on 20 September 2019. It has become clear that the view of MHCLG, from meetings and letters of 26 August 2019 and 20 September 2019, that their preference is that the emerging Local Plan should remain in examination.
15. In the letter of 20 September 2019, it states that should the council choose to withdraw the plan “*it would immediately put at risk the significant investment that the Government has made available to South Oxfordshire and the wider County, including jeopardising the £218m recently allocated through the HIF (Didcot Garden Town)*”. The letter also says, “*this is because the funding is dependent on the delivery of specific sites*”.
16. However, the letter of 20 September 2019 is less categorical in relation to the Deal compared to the HIF, stating that “*withdrawing the plan will also undermine the wider ambitions and commitments of the Housing and Growth Deal and therefore potentially impact future investment to support ambitions either directly or as part of the Growth Deal of Oxford-Cambridge Arc.*”
17. There is a milestone within the Deal that the Local Plan is submitted, however that whilst this milestone was viewed as achieved, it is not clear whether government would continue the Deal should the plan be withdrawn, either with or without South Oxfordshire as Government’s position regarding this point is unclear.
18. MHCLG has acknowledged the ambitions for sustainable growth that the council wants to achieve. To this end they have indicated a willingness to engage in ways that they could assist the council in delivering their aspirations.
19. The current draft HIF contract is between Oxfordshire County Council and Homes England representing MHCLG. The contract contains a pre-condition obligation for South Oxfordshire to have a submitted Local Plan. Alongside this, officers from OCC have been exploring the option of whether a different mix of already approved housing sites and associated number of houses is sufficient to secure the HIF given the current pressures and demands on existing infrastructure across the Didcot Garden Town area of influence. OCC officers remain in conversations with Homes England (on behalf of government) on this issue. Ultimately this will be a decision for Homes England to make as to whether it satisfies the conditions of the HIF. At this time officers are unaware of the position that Homes England will take regarding this decision.

20. MHCLG has been working with the council and partners to try and find a solution to HIF should the council choose to withdraw the emerging Local Plan. However, there are contractual constraints and government are reluctant to set a precedent when they have taken a firm line with other councils or areas in respect of the contractual restrictions on HIF. Officers have also explored the idea of pausing work on HIF for an agreed period of time and to secure an equal extension of milestone dates which potentially would allow the council to develop options without there being an immediate impact on the HIF offer discussions. The feedback from OCC and MHCLG officers is that the end date of HIF, March 2024, is a HM Treasury date and it is unlikely that Treasury would agree to change this date. Officers are advised that it is unlikely that HM Treasury would agree.

Maintaining housing land supply

21. Officers have continued to explore approaches to the council's five-year housing land supply and how this can best be maintained. Since the Council meeting, on 18 July 2019 there have been a series of updates to the National Planning Practice Guidance (NPPG). Included within these updates are helpful additions to the guidance relating to the demonstration of a housing land supply beyond five years and the utilisation of a 'stepped trajectory'.

*"As set out in the National Planning Policy Framework, local planning authorities should identify a supply of specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15. Local plans and spatial development strategies may be able to satisfy the tests of soundness where they have not been able to identify specific sites or broad locations for growth in years 11-15. However, if longer-term sites are to be included, for example as part of a stepped requirement, then plan-makers will need to demonstrate that there is a reasonable prospect that they are likely to come forward within the timescale envisaged."*

*NPPG, Paragraph: 019 Reference ID: 68-019-20190722*

22. Officers have reviewed the potential to introduce a stepped trajectory into the Local Plan's housing supply calculation which better reflects the anticipated supply within the plan trajectory, noting the lead in times expected for larger strategic sites. This provides a positive five-year housing land supply in the first five years of the plan from this point forward and from adoption. Appendix 1 shows the revised position as it would relate to the submitted Local Plan (option A) and commentary on the other two options, B & C, is set out in terms of the five year housing land supply. It is not possible to determine exactly what the five year supply for Options B and C would be as the level of housing need and the level of housing supply are unknown at this time.

**OPTIONS TO PROGRESS THE SOUTH OXFORDSHIRE LOCAL PLAN**

23. This section of the report identifies three options that officers believe are currently open to the Council to progress the Local Plan.
24. An additional option was presented in one of the background papers to this report (18 July 2019 Cabinet/Council report; option 2) which considered the use of

modifications as part of the examination process to address concerns of councillors, as understood by officers. The Inspectors undertaking the examination into the emerging South Oxfordshire Local Plan advised, on 5 July, via the Programme Officer that; (included within Appendix 2):

*“As regards the future of the South Oxfordshire Local Plan, way forward is clearly a matter for the Council, but the Inspectors would like to make two very important points in respect of Option 2. Firstly, the changes referred to will presumably not have been subject to Regulation 19 consultation. Secondly, the Inspectors can only recommend main modifications where they are necessary to ensure the soundness or legal compliance of the submitted plan. Changes that are considered desirable for whatever reason by the Council and would amount to main modifications but are not necessary to remedy the soundness or compliance of the submitted plan will not be recommended by the Inspectors as main modifications and cannot be taken forward.”*

25. This option is open to councillors, but any potential changes proposed to the emerging Local Plan need to address any soundness or compliance issues with the submitted plan, which could be considered by the Inspectors. Any modifications requested will be at the sole discretion of the Inspectors. This Option is not contained in detail within this report, but remains within Option A.

26. As part of officer discussions with MHCLG, in the Director General for Decentralisation and Growth letter, 20 September 2019 (Appendix 18), they suggest that:

*“it is not uncommon for major and minor modifications to be sought during the examination process where there is a compelling and strong case for changes to improve the soundness of the Plan.”*

27. Officers have already proposed main and minor modifications at the time of the submission of the Local Plan 2034 (Appendix 14) and the Inspectors have provided their initial comments on these. The inspectors advise, in the case of the main modifications, that they appear acceptable and necessary for soundness or effectiveness, and they ‘may be justified’. They refer to modifications relating to several of the strategic policies. However, the Inspectors have stated that some modifications *“are either not necessary for soundness or are not themselves sound and should not be taken forward”*. Therefore there is a risk that any further proposed modifications may not be accepted.

28. If the council sought to propose further modifications, given that the hearing sessions have yet to start, this may be more straightforward than during the course of the hearings. Any changes would need to be evidenced, if necessary, with corresponding Sustainability Appraisal work. It is helpful that the Inspectors have submitted their initial questions to us (Appendix 14), the last and third set was received 24 September 2019. Having received these questions, there is potential to respond to any issues raised, especially those that reflect the issues raised by Council in July 2019.

29. The risks and benefits for each Option are set out in this report and should be read in conjunction with the background report, 18 July 2019. The options are summarised as follows:

- Option A) Allow the emerging Local Plan to continue through its examination. Any modifications proposed during the examination will be considered at the sole discretion of the Inspectors.
- Option B) Withdraw the Local Plan from examination and make changes to it ahead of a further regulation 19 consultation and resubmission to the Inspectorate for examination. The extent of the changes to the Plan that would be possible under Option B would be limited to no significant changes, in comparison to those that could be made under Option C. Any representations made at that Regulation 19 would be reported to and considered by the Inspector and would not be within the control of the Council.
- Option C) Withdraw the Local Plan from examination. The Council would commence work on a new Local Plan. 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 rounds of public consultations (Regulation 18 and 19) before submitting the new plan for examination.

**Option A – Progress with the emerging Local Plan**

- 30. Option A would allow the emerging Local Plan to continue through its examination. Any modifications made during the examination will be at the sole discretion of the Inspectors.
- 31. Within this option, the scope to introduce fundamental changes to the Plan is very limited. This is because the Inspectors would only recommend making significant changes to the Plan, known as “main modifications”, if they considered that the changes were necessary to make the Plan “sound” (this is the key test that the Inspectors will be considering).
- 32. It is possible for the council to deal with some of the issues raised by Council in July by publishing supplementary planning documents (SPDs) that link to the adopted Core Strategy and the emerging Local Plan. These could add detail to the policies in the Plan but could not fundamentally change the policy direction. Supplementary Planning Documents are not subject to the same level of scrutiny and do not form part of the Council’s development plan, but are capable of being material considerations in the determination of planning applications. By way of example, this option could be used to address some, but not all, of the issues raised in relation to Climate Change and Biodiversity.
- 33. The current timetable for the emerging Local Plan at examination is steered by the Planning Inspectors, including any potential lengthening of the examination process to address any of the Inspectors’ concerns.
- 34. Although the Inspectors have provided the Council with some initial questions, they have not yet issued their Matters nor a timetable for the hearing sessions. The hearing sessions could possibly be later this year or early next and using the standard Inspectorate timetable for examination, an Inspectors report could be summer 2020, although if Modification consultation is undertaken, which is likely, it

could be autumn 2020 before we receive an Inspectors report. This is an estimation of timing, as we are in the hands of the Inspectors.

**Option A: Advantages**

35. Option A is the quickest route to an up to date Local Plan. It is a statutory obligation for the Council to prepare a Local Plan. The National Planning Policy Framework 2019 (NPPF) 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.
36. The Core Strategy was adopted in December 2012 and prior to the latest version of the NPPF (2019) and updated Government Guidance. Option A provides the quickest route for the Council to update the strategic policies of the Core Strategy.

**Housing Infrastructure Fund (HIF)**

37. The emerging Local Plan identifies in both the plan itself and the supporting Infrastructure Delivery Plan the need for infrastructure projects which HIF will help deliver. Under this option, subject to contracts being signed by OCC and Homes England/MHCLG, local infrastructure necessary to support existing and proposed housing is more secure.
38. The Local Highway Authority (OCC) is of the view that both the HIF and the Deal projects are required to enable them to deliver their transport strategy and support existing and proposed housing growth. They raise no in principle objection to the submitted emerging Local Plan, subject to HIF being successful.
39. HIF schemes not only benefits existing and new development and our communities in South Oxfordshire, but also in the Vale of White Horse. The Vale of White Horse District Council adopted Local Plan Part 1 includes housing allocations that rely on infrastructure supported by HIF. For example, OCC's current position in the Sutton Courtenay / Culham / Clifton Hampden area is that one additional trip has a residual cumulative severe impact on the highway network, which has been supported by planning application appeal inspectors. This means it is unlikely that developments in the vicinity will be able to be supported by the Highways Authority. There is also a significant amount of committed growth in the area which has to be accommodated on the highway network which is currently presenting issues at peak times.

**Housing and Growth Deal**

40. The Deal agreed by all councils and MHCLG provides funding towards some infrastructure projects in South Oxfordshire, such as at Watlington, Benson, Wallingford and Didcot. By continuing the current plan, the risk to the Deal is limited. In addition, in reference to the 26 August 2019 letter (Appendix 13), there would be a greater likelihood of future funding.
41. The Deal also provides a three year housing land supply test for the purposes of decision making while the Oxfordshire Plan 2050 is under preparation. That gives the Council more protection against speculative development. The Deal also introduces a bespoke Housing Delivery Test for Oxfordshire to apply in the first three years following adoption of the Oxfordshire Plan 2050. The Housing Delivery Test is an annual measurement of housing delivery in each Council area. The



consequences for not meeting this test is a presumption in favour of sustainable development.

42. Notwithstanding our current strong five year housing land supply, the absence of an up to date 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 more 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.

#### Development Certainty

43. Having an adopted Local Plan in place provides greater certainty to all interested parties, including local communities and businesses, as to where and when 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 (speculative development) and associated costs.
44. Progressing with the emerging Local Plan provides strength and certainty 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.

#### Duty to Co-operate

45. An advantage of continuing with Option A is that the emerging Local Plan is widely supported by adjoining councils which helps meet the legislative requirement of the Duty to Cooperate. The Council has received a number of letters (Appendices 3, 7-9 & 21) from most of the Oxfordshire councils recognising the role that funding for infrastructure plays, raising concerns about potential impacts on their administrations, but acknowledging that the Council's decision will be in the best interests of South Oxfordshire's residents.
46. The fulfilment of our Duty to Cooperate is set out in our Statements of Common Ground included in the emerging Local Plan's evidence base. Statements of Common Ground are required to be produced to highlight agreement on cross boundary strategic issues with neighbouring authorities and other relevant organisations. 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 help support the evidence that the Duty to Cooperate has been discharged, though this will be a matter of judgement for the inspectors.
47. Under any Option chosen by Council, officers and councillors will no doubt endeavour to demonstrate the Duty to Cooperate has been discharged.

#### Staying ahead of national policy changes

48. In February 2019 Government released its response to the technical consultation on updates to national planning policy and guidance. This sets out the Government's intention to review the standard method for assessing housing

need. 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 will change the level of housing need, whether this be higher or lower.

49. Other external influences include the route options for the Oxford to Cambridge Expressway, which may open up new opportunities for growth, thus progressing the Local Plan under this option reduces this risk.

### Reduced legal risk

50. Officers believe that the emerging Local Plan is legally compliant and would be found to be 'sound'. It is believed that Option A is the least likely of the 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).

### Local Plan Intervention

51. It is believed that it is unlikely that the Secretary of State would intervene in the plan making process under Option A. However, in a letter from MHCLG, 22 July 2019 (Appendix 4) they expressed concern about a delay to the Local Plan on the impact that a delay that would have on government's strategic priorities for Oxfordshire.

### Didcot Garden Town

52. The Garden Town Status of Didcot is underpinned by a commitment to deliver 15,000 homes by 2031. Option A provides the greatest protection to Garden Town Status. At this time, we are eligible for grant funding from Homes England each year to support officer time and consultants to advance the development plan work.

### Transport model

53. As mentioned above the Local Highway Authority (OCC) raise no in principle objection to the submitted emerging Local Plan, subject to HIF being successful. The Oxfordshire Strategic (SATURN) Transport model (OSM) provides part of the evidence for the emerging Local Plan and has assessed the cumulative impact of committed and planned development in the district. The model ceases to be WebTAG compliant at the end of November 2019, though the assessment took place well within its compliant timeframe. There is no alternative available at present, which may become an issue if the Inspector considers Modifications.

## Option A: Risks

### Local Plan 'Soundness'

54. There is a low risk that the emerging Local Plan is found unsound by the Inspectors, however Inspectors usually will suggest Modifications to make the local plan sound. If the emerging Local Plan is found to be sound and the Council adopt it, there is a period of 6 weeks, post adoption, where the Plan is subject to legal challenge at the High Court. This is an inherent risk within any Local Plan process, but if the risk materialises this could have significant financial implications.

Evidence Base

55. As time has progressed a number of evidence base documents are becoming more dated. Following updates, particularly an assessment of housing needs, they are likely to be satisfactory for the current examination.
56. Government has acknowledged that the existing standard method does not deliver their aspiration to deliver 300,000 homes a year, and so any review of the standard method could result in a different housing need whether it is higher or lower, which the Inspectors would ask us to consider if this change happened during the examination proceedings.

**Option A: Conclusion and Recommendation**

57. Option A is likely to be the quickest way to ensure that we have an up to date development plan since we adopted the Core Strategy in 2012, and this Option provides long term confidence to our communities and partners about development in the district and is less likely to result in speculative applications and resultant appeals.
58. The costs of progressing Option A have been met by the existing Planning Policy budget and avoids abortive costs.
59. This option is also the best opportunity to secure 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. This is the only Option which meets the current pre-condition of the draft agreement between Homes England/Homes England and OCC. Furthermore, if housing delivery slows in Didcot, as a result of this funding potentially being withdrawn as a consequence of Council's decision of other Options, 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.
60. There are clear advantages over the disadvantages and officers therefore recommend Option A.

**Option B – Withdraw the Local Plan and progress a revised version of the Local Plan through publication (Regulation 19)**

61. This Option would see the withdrawal of the Local Plan from examination. The Council would then propose changes to the plan and undertake a further regulation 19 publication before resubmitting the Plan for examination. The extent of changes will need to fall within the remit of regulation 19 publication – i.e. not constitute a fundamental re-write of the Plan/introduce significant new subject areas for the plan to cover.
62. By way of example, Option B could include the removal of a site or sites, the inclusion of policies relating to climate change or the review of the uplift above the standard method (although the validity of Option B would need to be reviewed depending on precisely what changes the Council proposes to introduce). The cumulative impact of any proposed changes could necessitate a new Local Plan to

be prepared as the changes could be considered so significant as to depart from the substance of the existing Plan.

63. Whilst Councillors may select this option to progress their preferred aspirations, by virtue of opening up the Local Plan to another regulation 19 publication this will provide an opportunity for others to raise new issues beyond those which Councillors may wish to focus on. These matters would be considered at the subsequent examination.

**Timescale and financial implications**

64. This option would delay the Local Plan process by several months as set out below and would include the preparation of any additional evidence required. This would have cost implications, but until we know the extent of changes and what additional/updated evidence is required it is difficult to estimate whether this can be achieved within existing policy budget. Once officers were clear on the Council’s decision and direction, if necessary, we would bring a report back to consider financial implications. The Plan would require a consultation period (Reg. 19 publication) of at least six weeks. The extent of this would depend on what evidence is required to support the Council’s intended requested planning policy changes. The indicative timetable below has been adjusted to account for the latest information on when evidence to support the Plan will be available.

<b>October 2019</b>	Withdraw emerging Local Plan
<b>October 2019 – March 2021</b>	Review of emerging Local Plan on the basis of conducting a further consultation (regulation 19) subject to the impact of the changes requested. (This assumes the Oxfordshire Mobility Model is operation in August 2020.)
<b>April 2021</b>	Third regulation 19 Publication
<b>September 2021 – June 2022</b>	Resubmission and Examination in Public
<b>July 2022</b>	Inspector’s report
<b>September 2022</b>	Adoption

**Option B: Advantages**

**Freedom to make changes**

65. The key advantage of this option is to enable councillors to review aspects of the emerging Local Plan. For example, the Council could choose to reduce the supply 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 minor changes. The cumulative effect of these changes would need to be considered. These changes would need to be based on current or updated planning evidence, and compliant with national policies and guidance.

Amount of Oxford City's unmet housing need

66. 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 so that the final level of unmet housing need can be incorporated within the South Oxfordshire Local Plan. In effect the council will have withdrawn from the Statement of Common Ground, which currently commits the council to providing for Oxford City Council's unmet need.

**Option B: Risks**

Housing Infrastructure Fund

67. Following the commentary in paragraphs 10 to 20 above, if HIF is withdrawn by Homes England/MHCLG due to the pre-condition, it would result in a loss of funding for OCC for major infrastructure projects necessary to mitigate existing and proposed developments in Didcot and Science Vale area.
68. Due to the current severe<sup>2</sup> impact on the road network around Didcot caused by existing development, the loss of HIF funded infrastructure improvements would leave this impact unresolved. Additionally, the withdrawal of HIF would impact on the agreed Didcot Garden Town Delivery Plan.
69. Any loss of HIF is likely to lead to an objection from OCC as the Highways Authority insofar as the emerging Spatial Strategy would not have guaranteed funding. A departure from the spatial strategy which focusses on the Science Vale area would then constitute a significant change, at which point Option B would have a higher risk and Option C should be progressed instead.

Housing and Growth Deal

70. One of the milestones of the Deal was the submission of a Local Plan by 1 April 2019, so the Local Plan withdrawal in this option could impact on the continuation of the Deal with or without South Oxfordshire. The Deal Delivery Plan states that:
- “Failure to achieve milestones will result in [the] deal being reviewed and potentially further payments could be withheld.”*
71. The Oxfordshire Plan 2050 and the freedoms and flexibilities (i.e. 3 year housing land supply and the Housing Delivery Test) could also be affected by this option. However, it is important to note that discussions between officers and Homes England/MHCLG continue and any updates at the time of council meetings will be verbally reported.

Evidence base update

72. Under this option extensive updating and the provision of additional evidence will be required. The range of this additional evidence will depend on the level of changes proposed. This will require additional officer time and incur costs to support this. Some of our evidence is over five years old and our transport evidence update will be challenging as the model has almost come to the end of its life and it could not be used again to prepare a local plan.

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<sup>2</sup> NPPF Paragraph 109

73. Officers would need to update the Housing Needs Assessment, the retail and economic data underpinning a number of pieces of evidence and the Viability Assessment, Sustainability Appraisal and Habitats Regulations Assessment. These are fundamental parts of a Local Plan's evidence. Depending on the scope of review under this option further studies may be required as the conclusions of one study may then need to be incorporated and assessed with reference to another study. This may further extend the period and which would impact on existing evidence that would need to be updated to be robust. The initial point at which some of this evidence was gathered is becoming more dated the longer the plan making process takes. It is more likely that there would be challenges to the 'soundness' of the plan under this option.

#### Housing land supply

74. This option could have longer term impacts on our housing land supply, subject to when we can secure an adopted local plan. However, our most recent evidence suggests there is sufficient headroom in our land supply to provide time for a Regulation 19 version of the Local Plan to be produced and submitted.

#### Oxford to Cambridge Arc

75. The emerging Local Plan would have to respond to any future announcements on the Oxford to Cambridge Expressway route, and any associated development opportunities. In the event that the route crossed South Oxfordshire it could necessitate a departure from the current spatial strategy. As above, this would then constitute a significant change, at which point Option C should be progressed rather than Option B.

#### Neighbourhood Development Plans

76. 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 councils and partnerships

77. Should Council decide to withdraw the plan and either the Deal, HIF, or unmet housing need are affected, there is a risk that this would affect the plans yet to be adopted across the County.
78. If this situation arises, it could have a negative impact on our working relationships and reputation with neighbouring authorities, and partners in Government, as mentioned above.

#### Duty to Cooperate

79. There is a risk, that the legal duty to cooperate might not be met if the council's actions are directly jeopardising the Plans' of neighbouring Districts.

Lack of an up to date local plan

80. Site promoters may see a withdrawn plan as an opportunity to submit speculative planning applications, despite having a strong housing supply. This could lead to planning appeals and associated applications for costs against the Council for perceived unreasonable behaviour.
81. Certain parts of the district are more vulnerable to speculative developments and officers believe, from our recent experience of losing our housing 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.
82. 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 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 could potentially result in unplanned sites being determined by 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.

Local Plan intervention

83. Officers believe that it is unlikely that the Secretary of State would intervene in the plan making process under Option B, however in order to mitigate against this risk we would need to be clear that we were progressing with plan making. Although a low risk, then this would be a higher risk than Option A.

Community Infrastructure Levy (CIL)

84. Officers have commissioned evidence on viability to support a review of the Community Infrastructure Levy (CIL) and increased charging rates supplemented by a revised Supplementary Planning Document. This evidence is based upon the emerging Local Plan and the cumulative need for infrastructure for the sites and level of growth proposed. As the evidence becomes out of date so will the SPD, which will require a generic update rather than any site specific content until the Local Plan has been reviewed.
85. In the interim, Town and Parish Councils will continue to receive a lower level of CIL funding. Funding gaps created from any from loss of funding would not be filled by CIL.
86. However, we need to recognise that following the changes in September to CIL and Section 106, there may be an opportunity, in any event to update CIL.

Legal risk

87. 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 process and undertake a further Consultation (Regulation 19 - publication).

88. Any decision to withdraw the plan should be based on a sound planning reason(s) and a rationale, to minimise the risk of legal challenge to such a decision.
89. 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 Council's actions directly jeopardise the Plans of neighbouring districts. If the Council's legal duty is not met, an inspector would have no choice but to recommend non-adoption of the revised Plan.

**Option B: Conclusion and Recommendation**

90. There are some disadvantages to Option B, such as a delay in timescales and potential additional costs in comparison with option A. It would also add uncertainty for our communities and neighbourhood plan groups. Furthermore, it could place the Deal and HIF schemes/projects at greater risk with consequences for housing land supply and infrastructure in the Science Vale area and around Didcot.
91. Any loss of HIF is likely to lead to an objection from OCC as the Highways Authority insofar as the emerging Spatial Strategy would not have guaranteed funding. A departure from the spatial strategy which focusses on the Science Vale area would then constitute a significant change, at which point Option B would have a higher risk and Option C should be progressed instead.
92. However, Option B would provide the Council with an opportunity to make limited changes to the plan to address some of the concerns of councillors, as understood by officers.
93. On balance officers do not recommend this approach, as we believe the disadvantages considerably outweigh the advantages to the Council and that some factors are sufficiently outside of the Council's control which would necessitate a new Local Plan rather than progressing a third Regulation 19 version of the Local Plan.

**Option C – Withdraw the Local Plan and embark upon a new Local Plan**

94. This Option would see the withdrawal of the Local Plan from examination. The Council would then develop an entirely new Local Plan. This would be subject to two periods of consultation at regulation 18 and regulation 19 stage (publication).
95. Councillors could select this option to develop an aspirational new Local Plan focussed, for example, on environmental and Climate Change which can fully reflect their ambitions, subject to the development of an appropriate supporting evidence base.
96. This option would lead to Council to withdraw from the current Statements of Common Ground with other Oxfordshire authorities as preparing a fundamentally different Plan would be inconsistent with what is committed to within the



Statements of Common Ground. Officers would then draw up new Statements of Common Ground with Oxfordshire authorities.

Timescale and financial implications

- 97. The indicative timetable below indicates the anticipated programme for preparing a new Plan.
- 98. The financial implications will need to be assessed in the context of a new Local Plan, estimated timescales and the existing policy budget. Once the Council has decided on which option and direction it wishes to take, if necessary, officers will report back to Cabinet/Council regarding any financial implications.

<b>October 2019</b>	Withdraw emerging Local Plan
<b>October 2019 – August 2021</b>	Draft Reg 18 Local Plan production
<b>August 2022</b>	Consultation on Reg 19 Local Plan
<b>February 2023 – November 2023</b>	Submission and Examination in Public
<b>December 2023</b>	Inspector’s report
<b>February 2024</b>	Adoption

**Option C: Advantages**

Freedom to make changes

- 99. The main advantage of this option is for the Council to set a new direction for a new Local Plan, which does not exist under any other Option. Option C provides the widest scope to pursue councillors’ broad ambitions across the Local Pan, subject to an appropriate evidence base. This would positively contribute to the Climate Change emergency which was declared in April 2019. The Council would not be limited to the current adopted Core Strategy policies. These changes would need to be based on new planning evidence, and compliant with national policies and guidance.

Amount of Oxford City’s unmet housing need

- 100. The Examination of the Oxford City Local Plan will have been completed to provide an accurate number of their unmet housing need, prior to the publication of a new South Oxfordshire Local Plan so that the final level of unmet housing need can be incorporated within the South Oxfordshire Local Plan.

Transport model

- 101. The Oxfordshire Strategic (SATURN) Transport model (OSM) will no longer be WebTAG compliant at the end of November 2019, meaning that any future testing of site scenarios and levels of growth in South Oxfordshire will need to be undertaken in the new Countywide model that is currently under development. The

new model moves away from the traditional type of transport model we have been using and, instead, is to be the first Oxfordshire Mobility Model (OMM) which has a greater focus on modal shifts and alternatives to car based transport. This model is still in development and is not expected to be available for use until at least August 2020, but is complementary to a new Local Plan timescale. For clarity, this is the same as Option B.

#### Evidence base

102. In commencing a new Local Plan we would develop a new suite of evidence base studies to be prepared, some of which could be prepared jointly with neighbouring authorities in Oxfordshire, Berkshire and Buckinghamshire. Having a sound up to date evidence base limits opportunity for legal challenge and assisting in defending planning appeals.

#### **Options C: Risks**

##### Housing and Infrastructure Fund

103. It is clear from the dialogue which has taken place with MHCLG, Homes England and Oxfordshire County Council, that the Housing and Infrastructure Fund may not continue in its current form if the Council chooses to progress with a new plan under this option. This is subject to the outcome of the OCC work on alternative sites and whether Homes England will accept alternative sites contractually and vary the clause within the draft agreement which relates to the South Oxfordshire Local Plan. If HIF is lost, it would result in a funding shortfall for major infrastructure projects necessary to mitigate existing and proposed developments in Didcot and Science Vale area.

##### Housing and Growth Deal

104. Option C potentially places the Oxfordshire Housing and Growth Deal at risk. Should the Deal be withdrawn, it could result in a funding shortfall for some major infrastructure projects necessary to mitigate existing and proposed developments in Didcot and Science Vale area. This could have an impact on the housing land supply. The infrastructure impacts on the highway network would be primarily in Didcot and the surrounding villages in Science Vale.
105. The withdrawal of the Deal may also result in a loss of the three year housing land supply test for the purposes of decision and the future bespoke Housing Delivery Test for Oxfordshire.
106. Although the Council has identified a small number of housing schemes to benefit from some of the £60m Deal funding to accelerate the delivery of affordable housing, this is unlikely to be available if the Deal falls (with or without South Oxfordshire).
107. There are also potential longer term implications for Oxfordshire's ability to attract future funding from government if the Deal were withdrawn.

##### Oxfordshire Plan 2050

108. The withdrawal of the Growth Deal funding could also put the Oxfordshire Plan 2050 at risk. Whilst there may remain an ambition from the districts to progress a

strategic County wide plan, the capacity funding of £2.5 million could be lost. Each Council would then be required to make a contribution to the ongoing costs of this project, which are not currently budgeted for.

#### Development Certainty

109. Option C would remove certainty from the current plan making process to all interested parties, including local communities, neighbourhood plan groups and businesses.
110. Notwithstanding a strong five year housing land supply, based on the minimum standard method, the council will not have an up to date plan in place. 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 non-allocated sites, which do not take account of cumulative implications and requirements for supporting infrastructure, with the potential for adverse environmental impacts, with related applications costs.
111. Certain parts of the district are likely to be particularly vulnerable to speculative development and based on our recent experience, 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 higher level of protection set out in national planning policy.

#### Oxfordshire Councils and partner relationships

112. There are risks to the relationships that our Council has with its neighbouring councils and with Government (Appendix 13). A number of Councils have written to the Leader of the Council regarding their concerns.

#### Local Plan intervention

113. 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). This poses a financial risk, a reputational risk and procedurally the Council would lose control of its plan making powers. Under this option, the risk is higher than Option A, but lower than Option B. Officers believe this is a low risk providing the Council is clear after withdrawing its emerging Local Plan, what it does next in plan making terms.

#### Oxford to Cambridge Expressway

114. Other risks include the route options for the Oxford to Cambridge Expressway, which may open up new opportunities for growth. Under this option we would have to respond to any future announcements on the Oxford to Cambridge Expressway route, and any associated development opportunities. This may require a different spatial strategy in a new Local Plan.

#### Duty to Cooperate

115. There is a risk, as with option B that the legal duty to cooperate might not be met if the council's actions are directly jeopardising the Plans' of neighbouring Districts.

116. Any withdrawal of HIF funding could have an immediate impact on our neighbouring authority, the Vale of White Horse District Council. Any loss of funding could affect the delivery of housing sites within the Vale and without the delivery of those sites, it is likely that they would not be able to demonstrate a five or three year housing land supply. There is a possibility that this could lead to further planning implications for South Oxfordshire District Council should we undermine their ability to provide sufficient sites against their housing requirement including the potential for a request to meet their resultant unmet housing need. This is calculated to be in excess of 5,000 homes.

#### Didcot Garden Town

117. The Garden Town Status of Didcot is underpinned by a commitment to deliver 15,000 homes by 2031, which requires delivery of sites in the Didcot area which are reliant on infrastructure being provided by HIF. This option risks the loss of Garden Town Status. This risk is higher under Option C than it would be for Option B given the timescales involved.
118. There are two sites which relate to the Didcot Garden Town that are allocated in the South Oxfordshire Emerging Local Plan 2034; Land Adjacent to Culham Science (STRAT 9) and Didcot A Power Station (H2- New Housing in Didcot).

#### Legal Risk

119. 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.
120. Any decision to withdraw the plan should be based on a sound planning reason(s) and a rationale, to minimise the risk of legal challenge to such a decision. Officers believe the risk of challenge is lower under Option C than Option B.

#### Community Infrastructure Levy (CIL)

121. Officers have commissioned evidence on viability to support a review of the Community Infrastructure Levy (CIL) and increased charging rates supplemented by a revised Supplementary Planning Document. This evidence is based upon the emerging Local Plan and the cumulative need for infrastructure for the sites and level of growth proposed. As the evidence becomes out of date so will the SPD, which will require a generic update rather than any site specific content until the Local Plan has progressed enough.
122. In the interim Town and Parish Councils will continue to receive a lower level of CIL funding. Funding gaps created from any from loss of funding would not be filled by CIL. Should the council wish to progress an update to the current CIL charging schedule this could be linked to the 2012 adopted Core Strategy as an interim measure, pending the adoption of a new Local Plan.

### **Options C: Conclusion and Recommendations**

123. There are more advantages and less disadvantages under Option C than under option B. Noticeably around the ability of councillors to set a new direction for the development plan.
124. The disadvantages under Option C are similar to Option B, though the timescale is longer than Option A or B. Officers believe the impact of Option C on the HIF proposal and the Deal is the same as that as Option B. The loss of infrastructure funding is a key factor for Science Vale and around Didcot. It would also add uncertainty for our communities and neighbourhood plan groups.
125. Officers do not recommend option C, as we believe the disadvantages outweigh the advantages, however, notwithstanding this, officers would advise that Option C presents a better route for a robust plan than Option B and better meets the aspirations of the council should Option A not be acceptable. This is recognising the risk in the age of the evidence base and the likely scope of legal challenge to the soundness of the plan.

### **Work on a subsequent Local Plan**

126. This review is already timetabled within the Councils Local Development Scheme. The Local Development Scheme will need to be updated to reflect the latest progress of the emerging Local Plan and the subsequent Local Plan.
127. Additional resource and finance will be required to progress a new Local Plan alongside a review of the Plan in Option A or B. Evidence compiled to support a review of the Local Plan under Option A or B will not support a new Local Plan.
128. Consideration will also need to be given to the updates to the Community Infrastructure Levy (CIL) that would normally follow the adoption of a new Local plan or where there has been a substantial change in circumstances. Officers believe that a review could be undertaken following changes to the CIL legislation in September 2019.

### **Examination Update**

129. We have received three sets of initial questions from the Inspectors appointed to undertake the examination of the South Oxfordshire Local Plan. Officers have commenced work on responding to these questions in the absence of any mechanism to 'pause' the examination, and no Council decision to withdraw.
130. The hearing sessions and matters statements will need to be prepared for the Oxford City Council Local Plan hearings. Officers believe that these may be received over the next few weeks and will provide an update to the meeting. Any reasons for withdrawal of the Local Plan will have implications for how we can respond to these matters.

## Financial Implications

131. Any decision that has financial implications must be made with regard to the knowledge of the council's overarching financial position. This is as reflected in the council's medium term financial plan (MTFP) as reported to Full Council each February as part of the budget setting report. The February 2019 MTFP and the budget report showed that the council was due to receive £3.3 million less in revenue funding than it planned to spend in 2019/20 (with the balance coming from reserves and accumulated New Homes Bonus). This funding gap is predicted to increase to over £6 million per annum by 2023/24. Every decision should be made in cognisance of the need to substantially reduce this funding gap over the medium term and to eliminate it after five years.
132. The preparation of the South Oxfordshire Local Plan is primarily undertaken by the Planning Policy team and is supported by the production of an extensive evidence base with significant input from other areas of the council. The work of this team is met from the existing Planning Policy budget. The total costs of the production of a Local Plan for South Oxfordshire have been estimated at approximately £5 million.
133. Each Option has costs associated with it. Option A will require existing staff resource already budgeted for, recognising there is a need to recruit permanent staff to facilitate the examination process and to participate in the Oxford City examination hearings. In addition it will require the full funding of the next Local Plan.
134. The additional cost of pursuing Option B would be an estimated £500,000 to £600,000 over a 16 month period. The Council would still incur the full costs of a new Local plan as this would commence immediately afterwards. This would require many of the evidence documents that support the current plan to be redrafted or recommissioned. 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.
135. Over a five year MTFP, Option C would potentially have a lower cost implication than Option A or B as it removes the need for any further costs to be incurred with the emerging Local Plan. Officers estimate that Option C would require around an additional funding of £2 million over the MTFP period, although this would be brought forward expenditure rather than additional expenditure. Officers will also have to review the existing budget for a new Local Plan based around the above estimate of costs. This would be subject to another report.
136. Progressing with Option A, without main modifications, could be covered within the existing Planning Policy budget whereas Options B and C would require a re-profiling of this budget. However, officers believe that for Option A 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, the costs of a new local Plan would be incurred immediately after the Local Plan had been adopted
137. Progressing with Option A, B or C 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.

138. Potential 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, but it is for them to address.
139. If the Secretary of State intervenes in the Council's plan making we would be responsible for the costs associated with this process. At this time, there is no precise estimate as to any costs that might be incurred if this happened. Officers would recommend that any attempt to step into the plan making process was robustly defended.
140. The potential loss to OCC should the HIF funding be withdrawn would total £218 million. If HIF does not progress, Oxfordshire County Councils abortive costs to date are around £1 million.
141. The potential loss of funding associated with Deal, including the accelerating affordable housing fund, would be approximately of £145 million over the remaining three years.
142. As an indication of costs that might be incurred by Oxfordshire partner councils, and recognising the shared commitment to DGT, the financial implications to Vale of White Horse Council with the potential loss of infrastructure to deliver Valley Park in Didcot, amounting to £59,322,512.
143. It is possible that there may be further financial implications that would have a direct impact depending on the range of sites allocated by a future Local Plan. There would be a significant amount of investment from developers and site promoters of the sites allocated within the Local Plan. Appendix 15 is a letter from Carter Jones acting for CEG for the Culham and Culham No.1 allocations. Appendix 18 is a letter from Homes England in relation to the Chalgrove Airfield allocation. These letters represent only two of our strategic allocations, but together they would be providing £330 million of infrastructure funding either directly through S106, which under Options B and C is at risk of being lost. Cumulatively, the funding from developers as well as the risks of loss of the £218 million HIF and the Growth Deal funding, this represents a cumulative financial risk of investment in infrastructure that is very significant. Currently identified funding from developers could not be guaranteed under Options B and C.

## **Legal Implications**

144. 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").
145. 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.

146. In the absence of an up to date Local Plan, South Oxfordshire's ability to decide the type and location of development that comes forward is significantly weakened. There is a requirement to review Local Plans every five years and the Core Strategy, which was adopted in 2012, prior to the current national planning guidance and policy.
147. 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 or discussion in public 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.

#### Power to withdraw the Local Plan

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. Officers believe that any decision to withdraw the plan should be based on sound planning reason(s) with a rationale, 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.

#### Duty to Co-operate

150. 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.
151. 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, and the council cannot then adopt the Local Plan.
152. Under Option A the legal Duty to Cooperate will be examined by the appointed inspectors in the current examination.
153. Under Options B and C there is a risk to the ability to demonstrate that the Duty to Co-operate has been discharged. This will be felt particularly by Vale of White Horse District Council, where Options B and C and a resultant loss of HIF, will immediately impact on their ability to demonstrate a five-year supply of housing land, bringing with it reputational, environmental and potentially financial risks to that Council.



154. Should the Council choose Option B or C, this would impact on Oxford City whose Plan is being examined. Options B and C will signal withdrawal of a significant element of housing delivery that the City Local Plan is reliant upon.

## **Conclusion**

155. Cabinet is asked to note the updated position in relation to the emerging Local Plan, to consider the options set out in this report and to make recommendations to Council.
156. This report sets the options available to members with the advantages and disadvantage, estimated costs and timescales.
157. Option A is likely to be the quickest way to ensure that we have an up to date development plan since we adopted the Core Strategy in 2012, and this Option provides long term confidence to our communities and partners about development in the district and is less likely to result in speculative applications and resultant appeals. The costs of progressing Option A have been met by the existing Planning Policy budget and avoids abortive costs.
158. This option is also the best opportunity to secure 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. This is the only Option which meets the current pre-condition of the draft agreement between Homes England/Homes England and OCC.
159. Option B is considered to be the worst of the three options as the impacts upon the council and its communities are highest. Option B adds an additional stage into a plan making process which has already taken a number of years. The updates to the evidence base which are required are unlikely to be a positive addition to the soundness of the emerging Local Plan.
160. Furthermore, it could place the Deal and HIF schemes/projects at greater risk and any loss of HIF is likely to lead to an objection from OCC as the Highways Authority insofar as the emerging Spatial Strategy would not have guaranteed funding. A departure from the spatial strategy which focusses on the Science Vale area would then constitute a significant change, at which point Option B would have a higher risk and Option C should be progressed instead.
161. Option C would enable the plan making process to move forward with a lower risk approach to addressing any of the council's outstanding concerns. The disadvantages under Option C are similar to Option B, though the timescale is longer than Option A or B. Officers do not recommend option C, as we believe the disadvantages outweigh the advantages, however, notwithstanding this, officers would advise that Option C presents a better route for a robust plan than Option B which meets the aspirations of the council should Option A not be acceptable.
162. There are clear advantages over the disadvantages and officers therefore recommend Option A.

## Background Papers

1. Report to and decision of Council of 18 July 2019
2. Report to and decision of Council of 20 December 2018
3. Report to and decision of Council of 28 September 2017.

## Appendix:

- Appendix 1 – Housing trajectories for the options
- Appendix 2 - 2019-07-05 Letter from the Planning Inspectorate to SODC
- Appendix 3 – 2019- 07-10 Letter from OCC to SODC
- Appendix 4 – 2019-07-22 Letter from Kit malthouse to SODC
- Appendix 5 – 2019-07-24 Letter from SODC to all Partners
- Appendix 6 – 2019-07-30 Letter from SODC to MHCLG
- Appendix 7 – 2019-07-31 Letter from West Oxfordshire District Council to SODC
- Appendix 8 – 2019-08-08 Letter from Oxford City Council to SODC
- Appendix 9 – 2019-08-09 Letter from Vale of White Horse to SODC
- Appendix 10 - 2019-08-14 Letter from SODC to Planning Inspectorate
- Appendix 11 – 2019-08-19 Letter from SODC to Oxford City Council
- Appendix 12 – 2019-08-19 Letter from SODC to Planning Inspectorate
- Appendix 13 – 2019-08-26 Letter from MHCLG (Robert Jenrick) to SODC
- Appendix 14 – 2019-09-05 Inspectors correspondence and questions
- Appendix 15 – 2019-09-20 Letter regarding land adjacent to Culham Science Centre
- Appendix 16 – 2019-09-17 Letter from SODC to MHCLG
- Appendix 17 - 2019-09-19 Letter from UKAEA to SODC
- Appendix 18 – 2019-09-20 Letter from MHCLG (Tom Walker) to SODC
- Appendix 19 – 2019-09-24 Letter from Homes England to SODC regarding Chalgrove
- Appendix 20 – 2019-09-25 Economic Benefits associated with Oxford Science Village
- Appendix 21 – 2019-09-26 Letter from Ian Hudspeth to SODC