

SOUTH OXFORDSHIRE DISTRICT COUNCIL

CHOLSEY NEIGHBOURHOOD DEVELOPMENT PLAN REVIEW: FINAL DECISION STATEMENT

DATE OF PUBLICATION – 26 OCTOBER 2022

1. Decision

- 1.1. Following an Independent Examination South Oxfordshire District Council decided at the Council meeting on 13 October 2022:
1. To make the Cholsey Neighbourhood Development Plan Review with the modifications specified in the Examiner's report.
 2. To delegate to the Head of Policy and Programmes, in consultation with the appropriate Cabinet Member and in agreement with the Qualifying Body, Cholsey Parish Council, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

2. Background

- 2.1 Cholsey Parish Council decided to begin the process of developing a Neighbourhood Plan in 2016. After extensive engagement and consultation with the local community the Neighbourhood Plan for Cholsey was adopted in 2019. Following the plan's adoption, the Parish Council started to work on the review of the made neighbourhood plan. The plan review was submitted to the district council in July 2022.
- 2.2 Following the submission of the Cholsey Neighbourhood Plan Review ('the Plan') to the Council, the plan was publicised and comments were invited from the public and stakeholders.
- 2.3 South Oxfordshire District Council appointed an independent Examiner, Andrew Ashcroft to review whether the plan met the basic conditions required by legislation.

- 2.4 The Examiner's Report concluded, subject to the modifications proposed in his report, that the plan meets the Basic Conditions and should be made by the council.
- 2.5 The council determined on 13 October 2022 that the Plan, as modified by the Examiner's recommendations, should be made.

3. Reason for Decision

- 3.1 The Neighbourhood Planning Act 2017 identifies the circumstances that might arise as parish councils seek to review 'made' neighbourhood plans. It introduces a proportionate process for the modification of neighbourhood plans where a neighbourhood development plan has already been made in relation to that area.
- 3.2 There are three types of modification which can be made to a neighbourhood plan. The process will depend on the degree of change which the modification involves and as follows:
- minor (non-material) modifications to a neighbourhood plan which would not materially affect the policies in the plan;
 - material modifications which do not change the nature of the plan and which would require examination but not a referendum; or
 - material modifications which do change the nature of the plan and would require examination and a referendum.
- 3.3 Whether modifications change the nature of the plan is a decision for the independent examiner. The examiner will consider the nature of the existing plan, alongside representations and the statements on the matter made by the qualifying body and the local planning authority.
- 3.4 Cholsey Parish Council has considered this issue. It took the view that the proposed changes to the 'made' Plan fall into the second category.
- 3.5 South Oxfordshire District Council undertook a separate assessment and concluded that the proposed modifications materially affect the policies in the plan. However, although material, the modifications were not considered to be so significant or so substantial as to change the nature of the plan. The goals and objectives of the plan were updated but remained largely unchanged in their nature.
- 3.6 With the consent of Cholsey Parish Council, the council appointed Mr. Andrew Ashcroft to examine the Plan. The Independent Examiner considered this

issue and concluded that the review of the Plan included material modifications which did not change the nature of the Plan, and which required examination but not a referendum. The Examiner reached this decision for the following reasons: the policies largely repeat and update those in the 'made' Plan; and the modifications in the review bring the Plan up to date to reflect changes in national and local planning policy since the Plan was made.

- 3.7 In these circumstances, proposals for the modification of made neighbourhood development plans are examined in line with the procedures set out in Schedule A2 of the Planning and Compulsory Purchase Act 2004 (As Amended).
- 3.8 Paragraph 13 of Schedule A2 of the 2004 Act sets out that after considering a draft plan, the examiner must make a report on the draft plan containing one of the following recommendations:
- that the council should make the draft plan; or
 - that the council should make the draft plan with the modifications specified in the report; or
 - that the council should not make the draft plan.
- 3.9 Section 7 of the Examiner's Report assesses each policy in turn and identifies any modifications required to ensure that they meet the basic conditions. The Examiner's recommendation is then set out in Section 8. The Examiner concluded that the Plan meets the basic conditions subject to a limited number of recommended modifications. The recommended modifications refine the wording of the policies concerned. Nevertheless, the submitted review of the Plan remains fundamentally unchanged in its role and purpose. The Examiner's Report recommends that the council should make the Plan with the modifications specified in the Report.
- 3.10 Paragraph 14 of Schedule A2 of the 2004 Act sets out that if the Examiner's Report recommends that the council should make the draft plan with the modifications specified in the report, the council must make the draft plan with those modifications. The only circumstance where the council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 3.11 The making of the Cholsey Neighbourhood Development Plan Review (the Plan) would not breach, or otherwise be incompatible with, any EU or human rights 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 issues arise in respect of equality under general principles of EU law or any EU equality directive. In order to comply with the basic condition on the European Union legislation, the council produced a Strategic Environmental Assessment Screening Report in July 2022. It comments that the Plan does not allocate any new sites for development, it carries over the existing allocations, and continues to place great emphasis on conserving the character and appearance of the area. In addition, it comments that the allocations already benefit from planning permission. The report concludes that the implementation of the review of the Plan would not result in likely significant effects on the environment.

- 3.12 The reviewed Plan 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) in July 2022. The Habitats Regulations Assessment 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 and that an Appropriate Assessment is therefore not required.
- 3.13 The council is satisfied that the Plan 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.
- 3.14 The modifications set out in the Examiner's Report individually or combined are not considered to produce likely significant environmental affects and are unlikely to have any significant effects on the integrity of European Designated Sites.
- 3.15 As the Examiner's Report recommends that the council should make the Plan with the modifications specified in the Report and the council is satisfied that the making of the Plan would not breach, or otherwise be incompatible with, any EU or human rights obligations, the council must make the Cholsey Neighbourhood Development Plan Review.

4. Other Information

4.1 In accordance with Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012, this Decision Statement and the made Cholsey Neighbourhood Plan Review can be viewed on the Council's website:
<http://www.southoxon.gov.uk/Cholsey-NP>

4.2 Copies of this Decision Statement and the Cholsey Neighbourhood Plan Review can be inspected at:

Reception South Oxfordshire District Council Abbey House, Abbey Close, Abingdon OX14 3JE	If you would like to view these documents at the Council offices, please contact us on 01235 422600 or email: planning.policy@southandvale.gov.uk to book an appointment.
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4.3 In accordance with Regulation 19(b) and Regulation 30 of the Neighbourhood Planning (General) Regulations 2012, a copy of this Decision Statement has been sent to:

- The qualifying body, namely Cholsey Parish Council
- The persons who asked to be notified of the decision

Signed:



Date: 26/10/2022

Ricardo Rios

Planning Policy Team Leader (Neighbourhood)