

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	Cllr Roger Cox
Key decision?	No
Date of decision (same as date form signed)	9 July 2018
Name and job title of officer requesting the decision	Andrew Maxted Planning Policy Project Lead
Officer contact details	Tel: 07717 271939 Email: andrew.maxted@southandvale.gov.uk
Decision	<ol style="list-style-type: none"> 1. To accept all modifications recommended by the Examiner; 2. To determine that the Radley 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; 3. To take all appropriate actions to progress the Radley Neighbourhood Development Plan to referendum. The referendum area should not extend beyond the neighbourhood area as designated by the District Council on 17 June 2015.
Reasons for decision	<ol style="list-style-type: none"> 1. The council has committed to supporting neighbourhood planning in its Strategic Objective on facilitating sustainable communities, and more specifically through the commitment in the Corporate Plan 2016-2020 of 'Supporting and resourcing the development of neighbourhood plans for our towns and villages'. 2. The Radley 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 considered in

reaching this conclusion.

3. Radley Parish Council submitted the Plan to VOWHDC in December 2017, and after an assessment that the plan met the Basic Conditions as stipulated in the legislation, the council appointed Mr Andrew Ashcroft as independent Examiner to examine the Plan. The Plan has been successful at examination, with the Examiner's report, received on 21 May 2018, concluding that subject to the modifications proposed, the Radley Neighbourhood Plan should proceed to referendum.
4. 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 (PP1/PP2/PP5/PP6/PP7). In the social role, it includes a policy on community uses (PP8), healthcare (PP9) and on cycling and walking (PP12). In the environmental dimension the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on Radley Lakes (PP10) and on the historic environment (PP17).
5. The Plan, as modified by the Examiner's recommendations, is in general conformity with the strategic policies contained in the Development Plan for the area. The Plan delivers a local dimension to this strategic context and supplements the detail already included in the adopted Local Plan. It contains policies to aid the delivery of the Local Plan Part 1 strategic housing allocation sites and to guide future development in the Radley Lakes area. The Plan also contains a suite of policies that will help to shape future development and ensure that measures to support transport, accessibility and infrastructure improvements are delivered.
6. 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. In order to comply with the basic condition on European Union legislation the Parish Council has commissioned a Strategic

Environmental Assessment (SEA) that identifies, describes and evaluates' the likely significant effects of implementing the Plan, and reasonable alternatives. Sections 1-4 of the SEA consider the background to the process of SEA, the Plan's objectives and the scope of the SEA. The following sections (5-7) deal with the identification and appraisal of reasonable alternatives. The preferred approach is identified in section 8, whilst sections 9 and 10 of the Plan identify and evaluate the 'likely significant effects' on the baseline, drawing on the sustainability objectives identified through scoping. The final sections (11-13) address the remaining stages in the process of producing, and subsequently monitoring, the Plan.

7. The Plan, as modified by the Examiner's recommendations, is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). The Council produced a Habitat Regulations Assessment (HRA) screening report on the impact of development proposed in the Plan on European sites which was completed on the 29th January 2018. The Screening Statement concluded that likely significant effects on the integrity of European sites in the Vale of White Horse District and adjacent Planning Authority areas from policies in the Neighbourhood Plan will not occur, and that an HRA would therefore not be required. This conclusion was endorsed by Natural England.
8. Subsequent to that Screening Statement on the 12th April 2018 the European Court of Justice issued a judgment in *People Over Wind and Sweetman v Coillte Teoranta* (Case C-323/17). That judgment made clear that it was no longer appropriate to take mitigation measures into consideration when screening a Neighbourhood Plan under the HRA procedure. Any mitigation should only be taken into consideration at the Appropriate Assessment stage.
9. As a consequence the District Council commissioned a new HRA of the Radley Neighbourhood Plan in June 2018. That report, produced by AECOM, concluded:

"7.1 A previous HRA screening report was undertaken of the Radley Parish Council Neighbourhood Plan, and found the Plan would not result in likely significant effects on European sites. However, as this relied upon mitigation in drawings its conclusions as to likely significant effects on the Oxford Meadows SAC, this report was prepared and included a likely significant effects analysis covering all relevant European sites, and then an appropriate assessment of effects on Oxford Meadows SAC. The

mitigation measures were taken into account during the appropriate assessment.


7.2 The initial screening exercise found there would be no likely impacts on Cothill Fen SAC, Hackpen Hill SAC or Little Wittenham SAC.

7.3 The appropriate assessment found that the existing policies within the Vale of White Horse Local Plan Part 1 and 2, the mitigation measures within the Local Plan Part 1 and Policy PP.10 within the Neighbourhood Plan were sufficient to conclude that there would be no likely significant effect on the Oxford Meadows SAC.

7.4 Therefore it is possible to conclude that no adverse effects on the integrity of European sites will arise from the Radley Parish Council Neighbourhood Plan, alone or in-combination with other plans and projects.”

10. Natural England were consulted on the HRA on 25th June 2018. They responded on 4th July stating that they were satisfied with the outcomes of the new HRA.
11. 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. The Examiner will be notified of the Councils decision once the ICMD is signed; the matter at this stage of the process is in the hands of the Council.
12. 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’.
13. The council cannot make a decision that differs from the Examiner’s recommendations about the referendum area. The Examiner notes that the neighbourhood area is entirely appropriate and no evidence has been submitted to suggest that this is not the case. He recommends that the Plan should proceed to referendum based on the neighbourhood area as approved by the District Council on 15 June 2015.
14. 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.

	15. The council has taken account of all the representations received.			
Alternative options rejected	Alternative options would be: 1) to reject some or all of the independent Examiner's recommendations. This option is not necessary as officers and the parish council accept all the recommendations made by the Examiner, and to reject any changes could trigger a further period of public consultation. 2) to decide not to proceed to referendum on the Neighbourhood Plan. This option is not recommended as officers and the parish council support the plan for the reasons set out in the recommendations section.			
Legal implications	The Neighbourhood Plan will become part of the development plan and will be used to make planning decisions in the Neighbourhood Area. The process undertaken and this proposal accords with planning legislation.			
Financial implications	The progress to referendum is funded by the council and budget is available. The budget is funded by the Government grant to the council.			
Other implications	None			
Background papers considered	<ol style="list-style-type: none"> 1. Submission version of the Radley Neighbourhood Plan and supporting documents. 2. National Planning Policy Framework (2012) 3. National Planning Practice Guidance (March 2014 and subsequent updates). 4. Vale of White Horse District Council Local Plan 2031 Part 1 5. Representations submitted in response to the Radley Neighbourhood Plan 6. Relevant Ministerial Statements. 7. Examiner's Report on the Radley Neighbourhood Plan 8. The January 2018 HRA Screening Statement and the June 2018 HRA 			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?				
List consultees		Name	Outcome	Date
	Ward councillors (Kennington and Radley)	Edward Blagrove Bob Johnston		
	Legal	Ian Price	Ian Price has confirmed his acceptance, following	9 July 2018

			discussion with Andrew Maxted, who confirmed that he sought advice from FTB Chambers, who were satisfied with the Councils approach to revising the HRA, which has since been authorised by Natural England, and the Council's approach to progressing the Radley NP to referendum	
	Finance	Paul Sheppard		
	Human resources	N/A	N/A	N/A
	Sustainability	Heather Saunders		
	Diversity and equality	Cheryl Reeves	Satisfied	9 July 2018
	Communications	Andy Roberts	No comment	9 July 2018
	Head of Service	Adrian Duffield	Satisfied	9 July 2018
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	N/A			
Cabinet member's signature To confirm the decision as set out in this notice.	Signature <u></u> Date <u>9th July 2018</u>			

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

For Democratic Services office use only		
Form received	Date: 10 JULY 2018	Time: 09:00
Date published to all councillors	Date: 10 JULY 2018	
Call-in deadline	Date: NOT APPLICABLE	Time: —

Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off, including the chief executive. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence.
Tel. 01235 422520 or extension 22520.
Email: democratic.services@southandvale.gov.uk
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days) if it is a 'key' decision (see the definition of a 'key' decision below). A key decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing a key decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If a key decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
 - refer the decision back to the Cabinet portfolio holder for reconsideration or
 - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
 - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.

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

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

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

- (a) to incur expenditure, make savings or to receive income of more than £75,000;

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

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

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

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

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

APPENDIX 1: Table of changes recommended by the Examiner

Policy/ Section	Examiner's recommendations	Council's Decision	Justification/Reason
Policy PP.1	<p>Delete policy</p> <p><i>Delete reference to the site in Section 4.2.2 and on Map 3.</i></p> <p><i>Make consequential changes to the first two sentences of the section on 'Smaller housing opportunities.'</i></p>	Agree	<p>The National Planning Policy Framework (NPPF) makes clear that the purpose of the planning system is the achievement of sustainable development in the three dimensions: economic, social and environmental (paragraphs 6-7). The role of Neighbourhood Plans in delivering sustainable development is further emphasised at paragraph 185 of the NPPF.</p> <p>Paragraphs 83-85 of the NPPF make clear that Local Plans are the vehicle through which alterations to the Green Belt should be made.</p> <p>The Council considers the modifications proposed by the examiner necessary to ensure that the Plan has regard to national policy.</p>
Policy PP.2	<p>Replace 'Smaller housing opportunities' with 'Smaller development opportunities' on page 17.</p> <p>Replace 'Development' with 'The residential development'.</p> <p>In the second bullet point delete 'by the Parish Council'.</p> <p>Delete the third bullet point.</p> <p>Insert the deleted third bullet point at the end of the section entitled 'The central allotments' on page 17.</p>	Agree	<p>The National Planning Policy Framework (NPPF) indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraphs 17 and 154). This was reinforced with the publication of Planning Practice Guidance in March 2014. Its paragraph 41 (41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications.</p> <p>Policies should also be concise, precise and supported by appropriate evidence.</p>

Policy PP.3	<p>Insert 'the' between 'in' and 'very'</p> <p>After 'circumstances' add 'as identified in the National Planning Policy Framework and Policy CP13 of the Vale of White Horse Local Plan 2031 (Part 1)</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
Policy PP.4	<p>Replace the policy with the following:</p> <p>'Housing on large development sites will be supported where the mix of dwelling size and type takes account of the needs of the local housing market both in general terms and as expressed in Strategic Housing Market Assessments. Where appropriate the range of dwellings to be provided should take account of the nature of the site concerned in general terms, and its topography in particular.'</p> <p>In the second paragraph on p21 replace 'need' with 'should'.</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF and that the supporting text is factually correct.
Policy PP.5	<p>Insert 'on the identified strategic housing sites or within the Central Radley inset area (as identified on Map 3) between 'self-build' and 'will'.</p> <p>In the final sentence of the supporting text headed 'Self Build' on page 21 replace 'elsewhere...area' with 'within the Central Radley inset area'.</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
Policy PP.7	<p>Replace 'and' with 'and/or'</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
Policy PP.8	<p>Replace the policy with the following:</p> <p>'The replacement of sites or buildings currently being used for community facilities with other and/or expanded community facilities will be supported where the new facilities are available for use before the old facilities are removed unless the physical on-site relationship between the two facilities makes this impracticable.'</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.

<p>Policy PP.9</p>	<p>Delete policy.</p> <p>Replace the policy with an additional Community Action to read: 'The Parish Council will press for and support the expansion of primary health care facilities to meet the extra demand generated by the development of large scale housing development.'</p>	<p>Agree</p>	<p>This matter is more appropriately addressed through a Community Action, because the subject matter is not expressed as a land use policy matter.</p>
<p>Policy PP.10</p>	<p>Restructure the policy as follows:</p> <p>Its opening component becomes Policy 10c) as included in the submitted plan and with the replacement of 'subject to the criteria at b' with 'subject to the following criteria'.</p> <p>Thereafter the submitted 10b) follows on from the opening part of the policy (as set out above) with the deletion of 'For any development area to be supported in the area it must'.</p> <p>Within the list of bullet points replace the fourth of the five criteria with the following:</p> <p>'Avoid detriment to the integrity of the local ecology by incorporating appropriate measures in development proposals. Where appropriate these will include avoidance measures, mitigation measures and compensation measures'.</p> <p>Insert 'and' at the end of the fourth criterion.</p> <p>Thereafter reproduce policies 10 d) and e) as free-standing parts of the policy with the following modifications:</p> <p>In 10 d) and e) replace 'the criteria at b)' with 'the five criteria above'.</p> <p>In the modified policy overall delete the use of letters 'a/b/c/d/e' as component parts of the policy.</p> <p>At the end of the supporting text on page 35 insert the</p>	<p>Agree</p>	<p>The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF and to respond to the representations made by Natural England.</p>

	<p>following:</p> <p>'Policy PP.11 applies to the Radley Lakes area as defined in Map 7. Minerals and waste matters fall outside the scope of this Plan. On this basis the policy refers to long term uses for the site. It does not directly address issues which might prejudice general minerals and waste matters or compliance with planning conditions affecting this particular site'.</p>		
Policy PP.11	<p>Introduce a new paragraph at the start of the policy to read:</p> <p>'New development will be supported where it complies with other development plan policies and can be satisfactorily accommodated within the existing highways network'.</p> <p>In the submitted policy replace 'New' with 'Where appropriate new'.</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
Policy PP.12	<p>Replace 'New' with 'Where appropriate new'</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
Policy PP.14	<p>Replace 'contribute' with 'make appropriate contributions'</p> <p>At the end of the top paragraph of page 46 add:</p> <p>'Significant progress has already been made with the County Council's assistance in securing measures to ensure that developers of the strategic sites contribute towards the provision of additional rack cycle stores. The North West Radley site is already well-advanced on this matter'.</p> <p>Replace the second paragraph of 4.10.2 with:</p> <p>'One way to improve accessibility to the station would be to create a step free access to the upline. There are various land ownership and technical issues that would need to be overcome to achieve this objective'.</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
Policy PP.15	<p>Replace 'permitted' with 'supported'</p>	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the

Policy PP.16	Replace 'permitted' with 'supported'	Agree	clarity required by the NPPF. The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
Policy PP.17	As a separate component at the beginning of the policy add: 'Subject to other development plan policies new development proposals will be supported where they include appropriate measures to safeguard the heritage assets of the neighbourhood area. Delete CA1	Agree	The Council considers the modifications proposed by the examiner necessary to ensure that the Plan achieves the clarity required by the NPPF.
CA.1 Central allotments site	Delete CA1	Agree	The Council is satisfied that the deletion of this Community Action will not adversely affect the overall approach to the way in which the allotments are dealt with in the Neighbourhood Plan.
CA.3 Location of Radley village hall and playing field	Replace the Action with 'The Parish Council will support the preparation of a plan for the reconfiguration/replacement of the existing village hall, playing fields, playground and sports pavilion on the existing site at Gooseacre.'	Agree	The Council is satisfied that the amendment to this Community Action will add clarity to the text.
CA.12 Cycling and Walking	Replace 'should' with 'will'	Agree	The Council is satisfied that the amendment to this Community Action will add clarity to the text.
CA.16 Natural Environment	Replace the Community Action with: 'RPC will work with local partners to ensure that key landscape features are safeguarded and that biodiversity is protected and where possible enhanced especially in the two Conservation Target areas. In doing so RPC will press for Local Plan policies CP 13/44/45/46 to be fully respected in the development management process in all developments within the neighbourhood area'	Agree	The Council is satisfied that the amendments to this Community Action will add clarity to the text whilst broadening the scope so that it addresses the wider range of issues addressed in Section 4.13 of the Plan.

