

# Cabinet Report

Report of Head of Planning

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To: CABINET & COUNCIL

Date: 1 February and 13 February 2019

## Local Plan Part 1: proposed correction to the Adopted Policies Map

### Recommendation

To recommend to Council:

To agree to make a factual correction to the Council's Adopted Local Plan Part 1; Policies Map in relation to the boundary of the Green Belt at North Hinksey village, as set out in **Appendix 1**.

### Purpose of Report

1. This report seeks approval from Council to make a factual correction to the Vale of White Horse District Council's Adopted Policies Map (December 2016), which supports the Local Plan 2031 Part 1.

### Background

2. The Council's Adopted Policies Map must illustrate geographically the application of the policies in the adopted development plan. The map contains a wide range of designations, including:
  - Strategic housing allocations
  - Strategic employment sites
  - Safeguarded land for highways improvements
  - Development boundaries for the main settlements
  - Green Belt boundaries

- North Wessex Downs Area of Outstanding Natural Beauty
- Special Areas of Conservation
- Sites of Special Scientific Interest
- Nature reserves, and
- Conservation areas.

3. The Adopted Policies Map is generally updated alongside the examination of a Local Plan. The most recent update to the Adopted Policies Map was in December 2016, alongside the adoption of Local Plan 2031 Part 1, and included significant changes such as the allocation of strategic housing sites and amendments to the Green Belt boundary. However, as a Local Development Document, the Adopted Policies Map may be modified or revised at any time by resolution of a local planning authority outside of the Local Plan process.<sup>1</sup>
4. Since the adoption of Local Plan 2031 Part 1, a factual error has been identified on the Adopted Policies Map for the Green Belt boundary at North Hinksey Village. This error related to a proposed change to the Green Belt within the submission version of the Local Plan 2031: Part 1 that was not carried through into the final version of the plan following Examination and the Inspector’s final report.
5. The Council proposed a number of changes to the Oxford Green Belt through the Part 1 plan, some of which were supported by the Planning Inspector presiding over the Part 1 plan, and others that were not. The Inspector concluded that exceptional circumstances to justify changes to the Green Belt were demonstrated for four strategic site allocations in the Part 1 plan (North of Abingdon-on-Thames; North-West of Abingdon-on-Thames; North West Radley; and South of Kennington, in the parish of Radley).
6. For the remaining parcels of land that were proposed by the Council to be released from the Green Belt, the Inspector concluded that exceptional circumstances did not exist, and that these parcels of land should remain within the Green Belt.
7. Following examination of the Part 1 plan, the draft Part 1 plan and the draft Adopted Policies Map were updated to take account of the Inspector’s recommendations in his Report. During this process, a factual error resulted in one parcel of land at North Hinksey remaining excluded from the Green Belt on the Adopted Policies Map.
8. The policy position regarding the Green Belt is set out at Policy CP13 (**Appendix 2**) and its supporting text. Policy CP13 provides that the Oxford Green Belt area in the Vale *“as amended following the local Green Belt Review, will continue to be protected to maintain its openness and permanence”*. Policy CP13 also states as follows:  
  
“Development will be permitted in the following settlements, which are inset to the Green Belt (as shown on the Adopted Policies Map), where the proposed development is within the existing built area of the village and in accordance with Core Policies 3 and 4:

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<sup>1</sup> See s. 23 and s. 26 of the Planning and Compulsory Purchase Act 2004.

- Appleton
- Botley
- Cumnor
- Kennington
- North Hinksey
- Radley, and
- Wootton”

9. Paragraphs 5.41 and 5.42 of the supporting text to Policy CP13 provide further information regarding the amendments accepted by the Inspector following the Green Belt Review, explaining that LPP1 had the effect of altering the Green Belt boundary to *“remove land from the Green Belt at Abingdon, Kennington and Radley to be allocated as new strategic housing allocations, as shown in Appendix I”*. North Hinksey is not listed as an area subject to Green Belt release through the Part 1 plan. Appendix I does not show the land at North Hinksey denominated as one of the “proposed sites for release” from the Green Belt (**Appendix 2**).
10. As set out above, the Adopted Policies Map incorrectly shows that the land at North Hinksey is excluded from the Green Belt and within the “inset” settlement of North Hinksey. It is an administrative factual error that the deletion of this site from the Green Belt remained on the Adopted Policies Map.
11. The proposed correction to the Adopted Policies Map is shown by (**Appendix 1**).
12. The Council initially proposed to correct this error via the Part 2 plan process, through the revised version of the Adopted Policies Map that is proposed to be adopted in due course to accompany and reflect the Part 2 plan. However, a representation was received that sought to challenge the lawfulness of this approach, principally on the basis that the amendment did not relate to the Part 2 plan itself but rather was a correction relating to the map that accompanied the Part 1 plan.
13. In the light of the representation made, the Council made a decision to issue a statement (HEAR01.1), in the form of a Hearing Document, during the Part 2 plan Examination, which stated that it would: ‘without prejudice’ ‘delete the correction as identified on the submitted ‘Draft Adopted Policies Map – Abingdon-on-Thames and Oxford Fringe Sub Area’<sup>2</sup> which arose from the Part 1 process’ (**Appendix 1**). The Council did not make any further statement or representation on this matter during the Part 2 plan Examination.
14. The Planning Inspector presiding over the Part 2 plan has reminded the Council in his letter dated 19 December 2018:
- “of the commitment to withdraw the correction of the Green Belt boundary at North Hinksey village from the policies map accompanying the LPPS<sup>3</sup> (**Appendix 3**)”.

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<sup>2</sup> CSD06: Draft Adopted Policies Map – Abingdon-on-Thames and Oxford Fringe Sub-Area (Submission Version) February 2018.

<sup>3</sup> HEAR01.1: Note for Inspector re representation made by Mr Douglas Bond in relation to Question 1.5 of Matter 1. 3 July 2018.

## **Options**

15. There are two logical options; to make or not make the change to the Adopted Policies Map to correct the error.
16. Officers consider that it is proactive and transparent to consider and make the change and correct the error now given that it has been brought to officers' attention. To not make the change and leave the Adopted Policies Map with the error in place would result in the Adopted Policies Map not, as it should, illustrating geographically the application of policies in the Local Plan. Officers believe it is better to deal with the matter now and consider and determine the correction by Cabinet and the Council. This matter is discussed further under the 'Risks' heading set out below.

## **Financial Implications**

17. It is considered that any financial implications related to the proposed change are expected to be small and will not cause any significant budget overspends to the planning service budgets.

## **Legal Implications**

18. The Council has sought external legal advice from counsel on this matter and this confidential advice has been taken into account in the writing of this report.
19. Consideration has been given to Equality Impacts related to this report and its proposals. No related impacts have been identified.

## **Risks**

20. Officers consider that there is risk of legal challenge if a decision is taken to make the correction. This is on the basis that the lawfulness of such a decision has been questioned by the owner of some of the land affected by the proposed correction, who has notified the council of a proposed claim for judicial review if the Map is amended. In particular, it is claimed that there is no legal power to change the Adopted Policies Map otherwise than by the preparation of a Submission Policies Map through a Local Plan process in accordance with the provisions set out in the Town and Country Planning (Local Planning) (England) Regulations 2012. It is also claimed that the Council made a 'public promise' that it would not pursue its earlier proposals to change the Adopted Policies Map through the Part 2 plan process and it is said that any breach of that promise would constitute a breach of the proposed Claimant's legitimate expectation and/or an abuse of the Council's power.
21. As stated above, the Council has taken external legal advice on this matter, and for the reasons stated in the report it is considered that it would be both lawful and proper for the Map to be corrected by the Council resolution.

## **Conclusion**

22. It is recommended that Cabinet recommend to Council to confirm their agreement to make a factual correction to the Council's Adopted Policies Map in relation to the

boundary of the Green Belt at North Hinksey village. This is believed to be an appropriate and transparent approach in dealing with this administrative error.

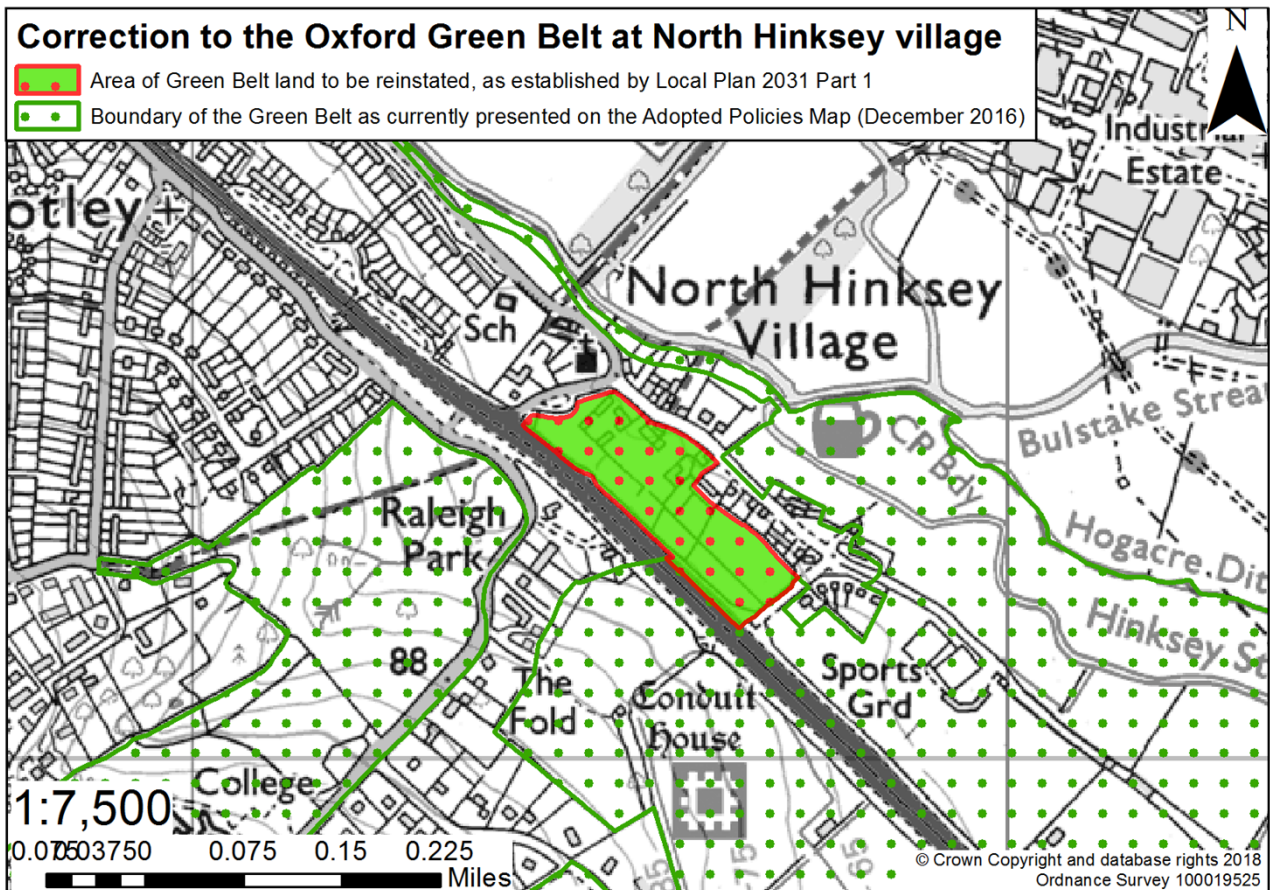
**Appendix 1 – Proposed Amendment to the Adopted Policies Map**

**Appendix 2 – Core Policy 13: The Oxford Green Belt and Appendix I: Proposed alterations to the Oxford Green Belt (as set out in Local Plan Part 1)**

**Appendix 3 – HEAR 01.1: Note for Inspector re representation made to Mr. Douglas Bond in relation to Question 1.5 of Matter 1**

# Appendix 1: Proposed Amendment to the Adopted Policies Map

## FACTUAL CORRECTION TO THE GREEN BELT BOUNDARY AT NORTH HINKSEY VILLAGE



shown on the current Adopted Policies Map (December 2016).