

CHINNOR NEIGHBOURHOOD PLAN

Chinnor Neighbourhood Plan Examination,
A Report to South Oxfordshire District Council

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Introduction

The Neighbourhood Plan

- 1 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 2 This Report provides the findings of the examination into the Chinnor Neighbourhood Plan (referred to as the Neighbourhood Plan).
- 3 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”

(Paragraph 183, National Planning Policy Framework)

- 4 The Neighbourhood Plan was prepared by the Chinnor Neighbourhood Plan Steering Group, on behalf of Chinnor Parish Council.
- 5 As set out in the opening chapter of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Chinnor Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).
- 6 This Examiner's Report provides a recommendation with regards whether the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by South Oxfordshire District Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Chinnor Neighbourhood Area.

Role of the Independent Examiner

- 7 I was appointed by South Oxfordshire District Council, with the consent of the Qualifying Body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 8 I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.
- 9 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 10 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Chinnor Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

- 11 A neighbourhood plan must specify the period during which it is to have effect. Paragraph 1.8 of the Neighbourhood Plan clearly specifies that the document:

"...covers the time period 2011 to 2033."

- 12 In addition, Paragraph 2.4 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan confirms that the:

"...Plan identifies the period to which it relates as 2011 to 2033."

- 13 Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in respect of specifying the plan period.

Public Hearing

- 14 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 15 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 16 Further to consideration of the information submitted, I confirmed to South Oxfordshire District Council that I was satisfied that the Chinnor Neighbourhood Plan could be examined without the need for a Public Hearing. In making this decision I was mindful that the Neighbourhood Plan has emerged through robust consultation (see *Public Consultation*, later in this Report) and that people have been provided with significant and appropriate opportunities to have their say.

2. Basic Conditions and Development Plan Status

Basic Conditions

- 17 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.²
 - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.³
- 18 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

² Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

³ The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 19 Subject to the content of this Report, I am satisfied that these three points have been met.
- 20 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

European Convention on Human Rights (ECHR) Obligations

- 21 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 22 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a "*summary of responses and outcome of comments.*"

European Union (EU) Obligations

- 1 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁴. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 2 In this regard, national advice states:

"Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."
(Planning Practice Guidance⁵)
- 3 It goes on to state⁶ that the draft plan:

"...must be assessed (screened) at an early stage of the plan's preparation..."
- 4 This process is often referred to as a screening report, opinion, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared.

⁴ Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

⁵ Paragraph 027, *ibid*

⁶ Planning Practice Guidance Reference ID: 11-028-20150209.

- 5 The Basic Conditions Statement confirms that:

"As part of the process of developing the neighbourhood plan, SODC prepared a Sustainability Appraisal / Strategic Environmental Assessment Scoping Report."

- 6 The Scoping Report, entitled *"Screening Statement on the determination of the need for a Strategic Environmental Assessment (SEA) in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 and European Directive 2001/42/EC,"* was considered by the statutory consultees, Natural England, Historic England and the Environment Agency. Taking into account the contents of the Neighbourhood Plan, the findings of the Strategic Environmental Assessment for the emerging South Oxfordshire Local Plan 2032 and a Historic England requirement in respect of archaeology, the Scoping Report concluded that:

"...the Chinnor NDP is not likely to have a significant effect on the environment"

and that, subsequently, a Strategic Environmental Assessment was not required.

- 7 Appendix 2 of the Scoping Report produced by South Oxfordshire District Council provides a Screening Opinion in respect of Habitats Regulations Assessment (HRA). A HRA is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.

- 8 The Screening Opinion establishes that:

"There are two Special Areas of Conservation (SACs) within 5km of the Chinnor Neighbourhood Development Plan...Chilterns Beechwoods SAC (and) Aston Rowant SAC."

- 9 Taking account of the Habitats Regulations Assessment for the emerging South Oxfordshire Local Plan 2032, the Screening Opinion concludes that:

"The Chinnor NDP is unlikely to have significant effects on Natura 2000 sites, therefore an Appropriate Assessment for the Chinnor NDP is not required."

- 10 In addition to all of the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations” (Planning Practice Guidance⁷).

- 11 In undertaking the work that it has, South Oxfordshire District Council has considered the Neighbourhood Plan's compatibility with EU obligations and has raised no objections or concerns in this regard. Taking this and the above into account, I conclude that the Neighbourhood Plan meets the basic conditions in respect of meeting European obligations.

⁷ Planning Practice Guidance Reference ID: 11-031-20150209,

3. Background Documents and the Chinnor Neighbourhood Area

Background Documents

12 In undertaking this examination, I have considered various information in addition to the Chinnor Neighbourhood Plan. This has included the following main documents:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- South Oxfordshire Core Strategy (2012)
- South Oxfordshire Local Plan 2011 (2006) (Saved Policies)
- Basic Conditions Statement
- Consultation Statement
- Screening Statement on the determination of the need for a Strategic Environmental Assessment (SEA)

Also:

- Representations received

13 In addition, I spent an unaccompanied day visiting the Chinnor Neighbourhood Area.

Chinnor Neighbourhood Area

- 14 Chinnor Neighbourhood coincides with the Parish boundary of Chinnor. Whilst a plan is provided on page 4 of the Neighbourhood Plan, this is entitled "*Chinnor Parish*" and there is no reference to the Neighbourhood Area. For clarity, I recommend:
 - **Change the title of the plan on page 4 to "*Chinnor Neighbourhood Area*"**
- 15 South Oxfordshire District Council approved the designation of Chinnor as a Neighbourhood Area on 17 June 2015. This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

- 16 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 17 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Chinnor Neighbourhood Plan Consultation

- 18 A Consultation Statement was submitted to South Oxfordshire District Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁸.
- 19 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Chinnor Neighbourhood Area, having regard to Paragraph 183 of the Framework.
- 20 The first meeting of the Chinnor Neighbourhood Plan Steering Group (the Steering Group) was held in March 2015. This was followed up by a presentation at the Village Centre later that month, along with a leaflet drop, advertising and the creation of a website.
- 21 A launch event was held in July 2015 to encourage engagement, along with further displays at village events during the rest of the year. Emails and letters were sent to local groups, organisations and businesses in November 2015 and a Housing and Community Needs Survey was delivered to all households at a similar time.

⁸Neighbourhood Planning (General) Regulations 2012.

- 22 Information gathered informed the draft plan, which was introduced with a preview event in February 2016. Consultation was then carried out during February and March 2016. A large number of comments were received and considered, with all comments being logged.
- 23 Following the end of this consultation period, the Steering Group held a number of meetings with interested parties, including school and youth consultations; provided FAQs and answers relating to the consultation on the dedicated webpages; and developed the draft plan's policies in the light of comments made.
- 24 Evidence has been provided to demonstrate that the plan-making process was widely publicised via banners, leaflets, letters, press releases and a Facebook page. Updates on progress were provided via the website.
- 25 The Consultation Report provides evidence to show that the Neighbourhood Plan was supported by public consultation. Community engagement was encouraged throughout the plan-making process. Matters raised were considered and the reporting process was transparent.
- 26 Taking all of the above into account, I am satisfied that the consultation process was robust.

5. The Neighbourhood Plan – Introductory Section

- 27 The Basic Conditions require consideration of whether or not the Neighbourhood Plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State and whether or not it is in general conformity with the strategic local policies of the Local Plan.
- 28 The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner's Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.
- 29 The legislation behind Neighbourhood Planning underpins the power of communities to plan for themselves and it is important that it is referenced precisely. The Neighbourhood Plan does this and presents a clearly worded introduction. For clarity, I recommend:
- **Page 3, Para 1.5, third bullet point, add "...area (*South Oxfordshire Core Strategy and Saved Policies of the Local Plan*)."**
- 30 There is a mistake in Paragraph 1.8 and I recommend:
- **Page 4, Para 1.8, change to "...with the District Council's *emerging Local Plan*."**
- 31 Paragraphs 1.11 and 1.12 contain information that has been overtaken by events and I recommend:
- **Delete Paragraphs 1.11 and 1.12**
- 32 The inclusion of a plan, on page 10, showing Chinnor's Conservation Areas is very useful. However, the plan is incomplete and does not show the whole of both Conservation Areas. This lessens the relevance of the plan and I recommend:
- **Change the plan on page 10 so that both Conservation Areas are seen in full. If it is not feasible to achieve this on a single plan, provide two plans.**
- 33 The background section sets out information distinctive to Chinnor and provides evidence of a thriving community within the Neighbourhood Area.

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing

Policy CH H1 – Infill Residential Development

- 34 It is not a requirement for a Neighbourhood Plan to allocate land for housing. The Neighbourhood Plan provides evidence to demonstrate that there has been a significant number of residential approvals in the Neighbourhood Area in recent years. For clarity, I recommend:
- **Change last line of Paragraph 4.6 to “*The Neighbourhood Plan does not allocate any housing sites.*”**
- 35 Policy CH H1 is a positive planning Policy that supports infill development and as such, provides for sustainable growth.
- 36 As worded, the Policy runs the risk of pre-determining the planning application process. It is not the role of the Neighbourhood Plan to grant planning permission.
- 37 Also, there is no need for the Policy to cross-reference other Policies in the Neighbourhood Plan, as its policies should be considered as a whole. Multiple cross references result in an unduly cumbersome Policy and provide the potential for confusion.
- 38 The Policy goes on to refer to “aversely” (sic) impacting on traffic. It is not clear why a very minor adverse impact would necessarily prevent sustainable development, whereas Paragraph 32 of the National Planning Policy Framework (the Framework) is clear in stating that:

“...Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

39 Taking all of the above into account, I recommend:

- **Change first line of Policy to *“Infill development within the existing built-up form of Chinnor Village will be supported subject to the following:”***
- **Delete the first and last bullet points**
- **Fourth bullet point, change to *“...does not severely impact on the free...”***

Policy CH H2 – Affordable Housing

- 40 Policy CH H2 reflects local concerns in respect of the need for affordable homes. It is in general conformity with Core Strategy Policy CSH3 (Affordable Housing), which generally requires the provision of 40% affordable housing, where such housing is provided.
- 41 The Policy allows for appropriate flexibility by providing for viability to be taken into account. This has regard to Paragraph 173 of the Framework, which requires careful attention to viability and costs in plan-making.
- 42 However, national guidance⁹ does not require the provision of affordable housing on sites of 10 dwellings or less. No evidence is provided to justify a different approach to that required by national planning guidance and I recommend:
- **Change first line of Policy to “...net gain of 11 or more...”**
- 43 The Neighbourhood Plan and supporting evidence provides plentiful information in respect of the views of the local community and related housing needs information. Given this, whilst I note that one of the references in Paragraph 4.14 is not up to date, it does not, in any case, form a necessary part of the Neighbourhood Plan. I recommend:
- **Delete Paragraph 4.14**

⁹ Planning Policy Guidance Reference ID: 23b-031-20161116.

Policy CH H3 – Tenancy Mix

- 44 The Framework requires plans to be deliverable (Paragraph 174). Whilst, generally, Policy CH H3 has regard to the national policy requirement to provide for a wide choice of homes (Chapter 6, the Framework), there is no substantive evidence to demonstrate that the provision of 25% shared ownership housing on all sites providing affordable housing is deliverable.
- 45 Further to the above, not all housing is required to address local housing need. In this regard, Policy CH H3 conflicts with the previous Policy of the Neighbourhood Plan.
- 46 I recommend:
- **Change first line of Policy to “Proposals for residential development should, where appropriate, have regard to local housing need.”**
 - **Delete second sentence of Policy (“In addition...different mix.”)**
 - **Delete Paragraph 4.17**

Policy CH H4 – Allocations of Affordable Housing for Local People

- 47 Policy CH H4 has regard to Paragraph 184 of the Framework, which provides for local communities to get the right types of development for their community.
- 48 As worded, the Policy is imprecise, in that it gives no indication of the time period represented by “initially.” Planning Practice Guidance¹⁰ states:
- 49 *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*
- 50 However, taking account of comments provided by South Oxfordshire District Council, in respect of its Housing Allocations Policy. I recommend:
- **Change first line of Policy to “...provided by the plan will, on first lettings only, be subject to...”**
- 51 The Neighbourhood Plan has no control over open market housing. I recommend:
- **Delete Paragraph 4.18**

¹⁰ Paragraph: 042 Reference ID: 41-042-20140306

Policy CH H5 – Affordable Housing for Key Workers

- 52 Policy CH H5 is reliant upon development proposals being supported or initiated by the Parish Council. No evidence has been provided to demonstrate that this requirement has regard to national policy or is in general conformity with local strategic policy.
- 53 Further to the above, no evidence is provided to demonstrate that “*a further 5% of all new affordable housing can be allocated*” to Key Workers. Also in this regard, the Policy is imprecise. No indication of what the 5% figure is further to, is provided. In addition, there is no evidence that any such housing “*can be allocated*” – the Neighbourhood Plan provides no evidence of the people who it can be allocated to.
- 54 Also, given the absence of any housing allocation, or indication of any development opportunity that would give rise to the number of dwellings required for Policy CH H5 to have effect, there is no evidence that Policy CH H5 is deliverable.
- 55 Notwithstanding all of the above, there is no evidence to demonstrate that the Key Worker housing categories set out in Paragraph 4.20 have regard to national policy.
- 56 I recommend:
- **Delete Policy CH H5 and Paragraph 4.20**

Policy CH H6 – Size and Type of Homes

- 57 Policy CH H6 is highly prescriptive. It seeks to strictly prescribe the types of dwellings that can be provided, based entirely on one Housing Needs Study carried out at a single moment in time. This fails to provide for flexibility, having regard to national policy, which requires that policies:

“...should be sufficiently flexible to take account of changing market conditions over time.” (Paragraph 50, the Framework)

- 58 Whilst the Policy refers to viability, there is no evidence whatsoever, that the approach set out by Policy CH H6 would be viable for any development. In this regard, the Policy sets out a requirement without any evidence to demonstrate that it would be deliverable. Furthermore, there is an absence of substantive evidence to justify the prescriptive percentages set out. Also, in the absence of any housing allocations, it is unclear how the percentages set out in the Policy would achieve the wider aims of the community, as there is nothing to indicate the likely size (in terms of dwelling numbers and therefore percentage splits) of future developments.

- 59 Policy CH H6 does not meet the basic conditions. I recommend:

- **Delete Policy CH H6**
- **Delete Paragraphs 4.21 and 4.22**

Policy CH H7 – Retirement Housing

- 60 In general terms, Policy CH H7 provides a supportive context for the development of retirement housing or care provision and in the context of the development plan, this provides for sustainable growth.
- 61 However, the second part of the Policy is imprecise. It is not clear what “*safeguarded*” means and no definition is provided. Furthermore, the Neighbourhood Plan does not provide evidence to demonstrate that the approach set out in Policy CH H7 would not prevent sustainable development from coming forward – for example, if there was a sustainable alternative to the provision of retirement housing. Safeguarding land specifically for retirement housing might prevent new care facilities (with a different planning use category), or other uses from coming forward, for example.
- 62 I recommend:
- **Delete second sentence of Policy**

Conservation, Heritage and Design Policies

Policy CH C1 – Design

- 63 Good design is recognised by the Framework as comprising:
- “a key aspect of sustainable development...indivisible from good planning.”*
(Paragraph 56)
- 64 In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework). Paragraph 58 of the Framework goes on to require development to:
- “...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;”*
- 65 Further to the above, Core Strategy Policy CSQ3 (Design), promotes high quality and inclusive design.
- 66 As worded, Policy CH C1 is confusing, as the opening sentence begins by separating out five elements of development, rather than simply refer to development. It is difficult to understand how, for example, *“the separation”* of development will achieve each of the criteria set out. I address this point in the recommendations below.
- 67 A requirement for all development to *“enhance”* its surroundings goes well beyond the requirements of national or local policy and no justification for such an onerous requirement is provided. Further, it is unclear how infill development can maintain spacing between buildings. Infill development, by its very nature, fills spaces.
- 68 The Policy refers to an Appendix, which does not form part of the Neighbourhood Plan, but is appended to it. The Chinnor Design Statement provides some guidance. It does not comprise adopted planning policy and has not undergone any rigorous examination. Any Policy requirements should form part of the Policy. There is no evidence to demonstrate that requiring compliance with the Design Statement provided in the Appendix meets the basic conditions.

- 69 Further to the above, various parts of the Policy are imprecise. It is not clear how high quality design will be measure, who by, or on what basis. No definition of high quality design, as opposed to say, good design, is provided. Taking these things into account, it is unclear how a requirement to secure high quality design in all instances will be controlled.
- 70 It is also unclear how every development can ensure a good standard of amenity for all future occupants of land; and the Policy repeats its requirement for development to reflect local character.
- 71 Taking the above into account, I recommend:
- **Change first sentence of Policy to “*Development in the Neighbourhood Area should be of a high quality and respect residential amenity and local character.*” Delete rest of Policy.**
 - **The supporting text to the Policy is not reflected by the Policy itself. The Policy does not, for example, refer to local materials. Also, the reference to Design Guides is unclear. I recommend:**
 - **Para 5.7, end second line “*...local circumstances.*” Top of page 36, change to “*Design Guides are referenced in Appendix 4. Together with the Chinnor Design Statement, also in Appendix 4, these provide useful information to assist developers. Policy CH C2 sets out...*”**

Policy CH C2 – Conservation Areas

- 72 In general terms, Policy CH C2 seeks to conserve the historic environment, having regard to Chapter 12 of the Framework (“Conserving and enhancing the historic environment”).
- 73 However, the Policy refers to “*the Green Spaces Map*” and in the absence of any evidence, it is unclear why this is relevant to a Conservation Area Policy. No indication of what the “*historic fabric of the area*” actually means is provided. Also, it is unclear how a development affecting a Conservation Area or its setting can conserve the Conservation Area, all of the buildings within it and its setting, or why it should need to. This is an unduly onerous requirement and there is no evidence to demonstrate that it would be deliverable.
- 74 No evidence is provided to demonstrate that any development within, or in the setting of, a Conservation Area would fail to be sustainable if it comprised non-traditional or non-vernacular materials. In setting out national design policy, the Framework is explicit in stating that development should:
- 75 “...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.” (Paragraph 58)
- 76 As set out, the Policy fails to avoid “*unnecessary prescription or detail*” and conflicts with Paragraphs 58 and 59 of the Framework.
- 77 Taking the above into account, I recommend:
- **Change first sentence of Policy to “*Development proposals within the two Conservation Areas, or their setting, should conserve or enhance local character.*” Delete rest of Policy.**

Policy CH C3 – Heritage Assets

- 78 Policy CH C3 begins with a sweeping statement that places an onerous requirement on all development in the Neighbourhood Area to enhance heritage assets. There is no evidence to demonstrate that such a requirement will be relevant, material or necessary in respect of all development in the Neighbourhood Area. Further, I find it unlikely that any such requirement would be viable and there is no evidence to the contrary. As such, the Policy does not have regard to Paragraph 173 of the Framework, referred to earlier in this Report.
- 79 The Neighbourhood Plan cannot simply prevent development without justification. It may be, for example, that some form of demolition forms a necessary and sustainable part of a proposal to enhance a heritage asset, or that on balance, a detrimental impact to the setting of a heritage asset is outweighed by other benefits brought about by sustainable development. Policy CH C3 fails to allow for such things and may serve to prevent sustainable development from coming forward.
- 80 The final part of the Policy refers to development in general, regardless of whether or not it affects a heritage asset and places an unnecessary burden on development, without justification.
- 81 I recommend:
- **Delete first sentence of Policy**
 - **Replace second sentence and bullet points with *“The demolition or partial demolition of a Listed Building or a building or structure on the local list that is not justified by either better revealing the significance of the heritage asset, or the delivery of public benefits that would demonstrably outweigh any unavoidable loss of the heritage asset’s significance, will not be supported.”***
 - **Delete last Para**

Environment, Open Space and Recreation

Policy CH GP1 – Local Green Space

- 82 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

- 83 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land.

- 84 National policy establishes that:

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Paragraph 77)

- 85 Thus, when identifying Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

- 86 Policy GP1 seeks to designate 18 areas of Local Green Space. However, the sites proposed are not shown in the Neighbourhood Plan, but appended to it. This is inappropriate and is addressed below. Further, whilst the areas of Local Green Space can just about be identified for viewing “on the ground” on the plan identifying them, this is inappropriate for inclusion in the Neighbourhood Plan. As above, the Local Green Space designation is significant and it is essential that the boundaries of each Local Green Space are clearly identifiable.

- 87 Evidence is provided to demonstrate that each of the Local Green Spaces proposed meet the requirements set out in the Framework, with the exception of Sites 11, 13 and 16. None of these sites are identified as being demonstrably special to the local community, but rather are identified for some future use.
- 88 The wording of the Policy fails to have regard to the Framework. The Framework simply protects Local Green Space, unless there are exceptional circumstances. By way of contrast, the Policy attempts to define a single exceptional circumstance and goes on to include a vague reference to considering something "*on its merits.*"
- 89 I recommend:
- **Replace Policy wording with "*New Local Green Space, where development is ruled out other than in exceptional circumstances, is designated at the areas listed in the Table and shown on the Plans set out below.*"**
 - **Provide a set of plans, to follow the Policy, showing each Local Green Space on an Ordnance Survey, or equivalent, background, such that all of the boundaries of each Local Green Space are clearly identifiable**
 - **Delete Sites 11, 13 and 16 from the list of Local Green Space. For clarity, these sites are not designated as Local Green Space.**
 - **Provide a Table comprising a list of the areas of Local Green Space, indicating which Plan the Local Green Space is provided on**
 - **Delete Para 6.4**

Policy CH GP2

90 The Policy refers to a Map that doesn't exist. The Policy seeks to treat something that is not a Local Green Space as a Local Green Space. There is no evidence to demonstrate that the Policy meets the basic conditions.

91 I recommend:

- **Delete Policy CH GP2**
- **Delete Para 6.6 on page 39 (which refers to Policy CH GP2)**

Policy CH GP3 – Open Spaces in New Developments

92 Policy CH GP3 applies to all new development. No indication is provided of how it will be possible for all new development to provide open spaces to include trees, shrubs and wildflowers. The Policy does not have regard to Paragraph 173 of the Framework.

93 I recommend:

- **Delete Policy CH GP3**

Policy CH GP4 – Protection of Habitats of Significance

- 94 Paragraph 109 of the Framework requires the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible.
- 95 Generally, Policy CH GP4 affords protection to sites of ecological value and meets the basic conditions. Taking into account the Framework and in the light of the recommended deletion of Policies CH GP3 and CH GP6, I recommend:
- ***Add a new second sentence “The provision of new open spaces of mixed conservation value and the planting of new trees, shrubs and hedges will be supported.”***

Policy CH GP5 – Donkey Lane Orchard

96 Whilst Policy CH GP5 suggests that an area of land will be safeguarded as a nature reserve, no evidence is provided to demonstrate that the land is under the control of the Neighbourhood Plan or that any mechanism is in place, or resources available, to manage the land as such. Consequently, there is no evidence that the Policy is deliverable.

97 However, there is evidence to demonstrate that the land is valued by the local community. Given this, I recommend:

- **Delete Policy CH GP5**
- **Provide a new Action Point in the Environmental Section of Chapter 12 *“The Parish Council will seek to establish a nature reserve in the area known locally as Donkey Lane.”***

Policy CH GP6 – Planting for Wildlife

98 Policy CH GP6 applies to all new development. No indication is provided of how it will be possible for all new development to include the planting of new shrubs, trees and hedges, or why it would be relevant or necessary to do so.

99 I recommend:

- **Delete Policy CH GP6**

Policy CH GP7 – Circular Walks and Running Spaces

- 100 National policy requires planning policies to protect and enhance public rights of way and access and supports the provision of additional links to existing rights of way.
- 101 Policy CH GP7 seeks to protect public rights of way and has regard to national policy. However, it is unclear what a “running space” comprises or why protection should be afforded to “*circular walks*” and consequently, this part of the Policy lacks precision.
- 102 I recommend:
- **Change Policy to “*Development should protect existing public rights of way and access, the enhancement of which will be supported.*”**
 - **Change Policy title to “*Public Rights of Way*”**

Policy CH GP8 – Wetlands, Springs and Water Supplies

- 103 No evidence is provided to demonstrate that the conservation of water supplies is a land use planning matter that the Neighbourhood Plan can control.
- 104 No wetlands or springs are identified in the Neighbourhood Plan. Consequently, it is unclear what the Policy is seeking to protect. The Policy is imprecise and does not meet the basic conditions.
- 105 I recommend:
- **Delete Policy CH GP8**

Policy CH GP9 – Burial Space

106 Whilst Policy CH GP9 seeks to safeguard land for a burial ground, no evidence is provided to demonstrate that the land is under control, or will be under control during the plan period, such that the intended use can be implemented.

107 In the absence of evidence, I am unable to conclude that the Policy is deliverable. Further, safeguarding the land for a use, without evidence that that use can be delivered during the plan period, may prevent other sustainable forms of development from coming forward.

108 Taking the above into account, I recommend:

- **Delete Policy CH GP9 and Para 6.9**

109 In making the above recommendation, I recognise that there is an identified local need and aspiration for a new burial ground and note that the absence of an allocation in the Neighbourhood Plan does not prevent an application for such from coming forward at any time.

Policy CH GP 10 – Encourage Sustainable Developments

110 Whilst, Policy CH GP10 seeks to support sustainability, it is not clear how, or why, the requirements of the Policy will be relevant to all proposed development.

111 Further to the above, no indication of what “appropriate facilities” might comprise is provided. Consequently, the Policy is vague and imprecise. It does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

112 I recommend:

- **Delete Policy CH GP10**
- **Retain supporting text, which sets out useful information**

Policy CH GP11 – Sustainable Homes

- 113 Like other proposed Policies, Policy CH GP11 applies to all development, regardless of relevance. This is inappropriate and renders the Policy undeliverable, contrary to the basic conditions.
- 114 Further to the above, there is no evidence to demonstrate that the requirements of the Policy are viable, having regard to Paragraph 173 of the Framework. However, the general aim of the Policy seeks to contribute to the achievement of sustainable development and taking this into account, I recommend:
- **Change Policy to “*The provision of the following sustainability features, where appropriate, will be supported: (include list of bullet points here)*”**

Policy CH GP12 – Compliance with South Oxfordshire Design Guide

115 The South Oxfordshire Design Guide is the responsibility of South Oxfordshire District Council, not the Neighbourhood Plan. Further, Design Guides are more appropriately referred to in the supporting text to the Neighbourhood Plan's Design Policy.

116 I recommend:

- **Delete Policy CH GP12**

Infrastructure

Policy CH TT1 – Connections to the Chinnor Village Centre

117 Policy CH TT1 begins by requiring all residential and commercial development to “*contribute as appropriate*” to a wide range of requirements. This part of the Policy is imprecise. There is no indication of what might be appropriate. Consequently, the Policy affords little in the way of clarity to developers and does not provide a decision maker with a clear indication of how to react to a development proposal.

118 The Policy then goes on to set out a general “wish list.” There is no indication of how the various requirements will be achieved, or whether they are capable of being achieved. Furthermore, the requirements include matters outside the control of the Neighbourhood Plan, such as the imposition of speed limits, road markings, provision of crossings, signage and so on.

119 There is no evidence to demonstrate that Policy CH TT1 is viable or deliverable, having regard to Paragraph 173 of the Framework. The Policy does not meet the basic conditions.

120 I recommend:

- **Delete Policy CH TT1**

Policy CH TT2 – Developer Contributions

121 Policy CH TT2 largely comprises a wish-list setting out some of the things the Parish Council would like to see. Many of the improvements listed are outside the control of the Neighbourhood Plan and there is no evidence to demonstrate that the improvements are necessary and deliverable.

122 As an aside, given the absence of land allocations, there is little to indicate that such a scale of developer contributions will arise such that the improvements listed comprise a realistic aspiration.

123 I recommend:

- **Delete Policy CH TT2**
- **Move the content of the Policy to the end of the Actions Chapter as a new Action and replace the first sentence with a new introductory sentence *“The Parish Council will seek to work with other parties to achieve the following improvements throughout the Parish:”***
- **Given recommendations above, delete Paragraphs 7.1 to 7.6, inclusive**

Policies CH TT3 and CH TT4

124 These are not Neighbourhood Plan Policies, but Actions. Their inclusion as Policies in the Infrastructure section is confusing.

125 I recommend:

- **Move Policies CH TT3 and CH TT4 to the Action Chapter of the Plan and remove their "Policy" titles**

Water

Policy CH WTR1 – Strategic Reservoir Safeguarding

126 Policy CH WTR1 simply repeats a Policy in the emerging Local Plan (Policy INF4 – Chinnor Reservoir). However, unlike the Policy in the emerging Local Plan, Policy CH WTR1 is not supported by robust evidence. Furthermore, as a strategic water reservoir, this relates to a strategic, rather than neighbourhood planning matter

127 I recommend:

- **Delete Policy CH WTR1**

Policies CH WTR2 and CH WTR3 – Sewerage and Water Infrastructure and Public Sewers

128 Policy CH WTR2 relies on an existing Policy (Core Strategy Policy CS11) and seeks to impose a requirement to engage with a utility company. Policy CH WTR3 imposes a requirement to engage with a utility company. These are not land use planning policy matters under the control of the Neighbourhood Plan.

129 I recommend:

- **Delete Policies CH WTR2 and CH WTR3**
- **Taking the above recommendations into account, delete Chapter 7 in its entirety**

**Policy CH CF1 – Identification of Community Facilities
and Policy CH CF2 – The Protection of Community Facilities**

- 130 As set out, Policy CH CF1 is not a land use planning policy. It is a list of Community Facilities. I recommend below that Policies CH CF1 and CH CF2 should be merged.
- 131 Paragraph 70 of the Framework requires planning policies to plan positively for community facilities and guard against their unnecessary loss. In general terms, Policy CG CF2 seeks to protect community facilities and has regard to national policy.
- 132 The list of community facilities includes commercial operations and it is not clear how the Neighbourhood Plan could control the “reasonable prospect of securing an alternative community use” element of the Policy. No detail is provided in this regard.
- 133 I recommend:
- **Delete Policy CH CF1 and add list of community facilities to the end of Policy CH CF2.**
 - **End Policy CH CF2 “...retain the existing community facility.” (delete rest of sentence)**
 - **Para 8.4, change to “...*prospect of securing the continued use of the community facility.* The property should be advertised...”**

Policy CH CF3 – Healthcare Facilities

134 In general terms, Policy CH CF3 is a supportive Policy that would protect and potentially enhance community facilities, having regard to Chapter 8 of the Framework ("*Promoting healthy communities*").

135 It is not clear how the amenities of neighbours can be "*safeguarded*" and the Policy provides no detail in this respect.

136 I recommend:

- **Change first bullet point of the Policy to "*...development would not significantly harm the amenities of neighbouring occupiers*"**
- **NB, this will become Policy CH CF2 (as the previous Policy will become Policy CH CF1) and consequently, the reference to Policy CH CF1 does not need to change**

Employment Promotion and Development

Policy CH R1 – Protection of Existing Retail Facilities

- 137 Recent changes to Permitted Development Rights mean that planning permission is not always required to change the use of retail premises. Notwithstanding this, Policy CH R1 seeks to protect valued local shops and generally has regard to Paragraph 70 of the Framework, which requires positive planning for the provision of local shops.
- 138 Use of the phrase “*be permitted*” runs the risk of pre-determining the planning application process and failing to take relevant factors into account.
- 139 No indication of what “*the integrity of the retail area*” comprises is provided and this element of the Policy is therefore imprecise and the third part of the Policy conflicts with permitted development rights.
- 140 I recommend:
- **Change first line of Policy to “*Where planning permission is required, change of use from...will only be supported where...*”**
 - **End bullet point 2 “...community need.” (delete rest of sentence)**
 - **Delete bullet point 3**

Policy CH R2 – Enhancement of Retail Facilities

141 This is a vague Policy that could have unforeseen circumstances. For example, it would support the provision of a major hypermarket or retail park. There is no evidence to demonstrate that this is an Objective of the Neighbourhood Plan, or that it would be appropriate within the Neighbourhood Area.

142 Further, the Policy sets out a requirement for a proposal to meet other Policies of the development plan. This is unnecessary as a development proposal would need to address all relevant Policies of the development plan.

143 I recommend:

- **Delete Policy CH R2**

Policy CH B1 – Protection of Existing Business Premises

- 144 The supporting text suggests that Policy CH B1 is concerned with employment facilities, rather than the general, all-embracing “*business use*” referred to in the Policy.
- 145 Notwithstanding this, the general intent of the Policy appears to have regard to the Framework’s support for a prosperous rural economy, by seeking to provide some protection employment facilities, whilst providing some flexibility.
- 146 Bullet point 2 makes little sense and no information is provided to demonstrate how the “*integrity*” of an employment area can be retained, despite it changing use to something else. The final bullet point conflicts with permitted development rights.
- 147 The final sentence of the Policy makes no sense. For example, it states that residential use is a business use.
- 148 I recommend:
- **Change title to “Protection of Existing *Employment* Premises”**
 - **Change Policy wording to “*Proposals requiring planning permission for a change of use from employment use to non-employment use will only be supported where it has been satisfactorily demonstrated that it would be neither economically viable nor feasible to retain the existing or previous employment use and that there is no reasonable prospect of securing an alternative employment use.*” (Delete rest of Policy)**
 - **Delete Para 9.20 which reads as though it is a Policy, which it is not**

Policy CH B2 – Enhancement of Business Facilities

149 Subject to similar concerns re: Policy CH B1 in respect of the use of the term “*Business*” and not the more appropriate “*Employment*,” Policy CH B2 is a positive land use planning policy that supports sustainable economic growth.

150 There is a typographical error in the Policy, as below.

151 I recommend:

- **Change title of Policy to “Enhancement of *Employment* Facilities”**
- **Change first line to “...that generate new *employment opportunities* within the built-up *area* of...”**
- **Change 8th line to “...*published*...”**

Policy CH T1 – Protection of Existing Tourism Facilities

- 152 No indication is provided of what the “*tourism and heritage facilities*” in the Neighbourhood Area that are to be protected actually comprise. The Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal.
- 153 It is not clear how any development “*in the environs*” of any tourism or heritage facility can “*safeguard the integrity*” of such a facility; or how this is necessary, viable or deliverable. Again the Policy is imprecise and fails to provide for clarity. Furthermore, there is no indication of how it is possible to safeguard something that has not been identified.
- 154 The Policy does not meet the basic conditions. I recommend:
- **Delete Policy CH T1**

Policy CH T2 – Enhancement of Tourism Facilities

- 155 It is not clear how the Neighbourhood Plan can support planning permission for new tourism and heritage facilities, or why it would seek to do so. Once planning permission has been granted it is irrelevant whether or not the Neighbourhood Plan supports it.
- 156 In addition, it is not clear what a “*new heritage facility*” is. No definition is provided and the lack of precision in this regard means that this part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal.
- 157 Notwithstanding this, part of the intent of the Policy supports the provision of new tourism facilities and this has regard to Chapter 3 of the Framework, “*Supporting a prosperous rural economy.*” There is nothing to indicate that a property, as opposed to an occupier, has “*amenities*” and this is addressed in the recommendations below.
- 158 I recommend:
- **Change first sentence of Policy to “*New tourism facilities will be supported subject to the following:*”**
 - **Change second bullet point to “*...amenities of neighbouring occupiers;*”**

Developer Contributions

Policy CH IN1 – Infrastructure Priorities

159 Policy CH IN1 refers to something for consideration by South Oxfordshire District Council. As such, it is not a land use planning policy suitable for inclusion in the Neighbourhood Plan.

160 Notwithstanding the above, I recognise that the Policy sets out local aspirations. Rather than lose sight of these, I recommend:

- **Delete Policy CH IN1**
- **Move Paragraphs 11.1 to 11.3, inclusive, along with the deleted Policy, into the Action Chapter of the Neighbourhood Plan**

7. The Neighbourhood Plan: Other Matters

161 For clarity, I recommend:

- **Page 67, below Paragraph 12.1, a new Paragraph *“For clarity, the Action Points in this Chapter are not Policies, but comprise Parish Council aspirations. As Action Points, they do not impose any requirements on developers or other third parties.”***

162 The recommendations made in this Report will have a subsequent impact on Policy, page, figure and paragraph numbering.

163 I recommend:

- **Update the Policy, page, figure and paragraph numbering, taking account of the recommendations contained in this Report.**

8. Summary

164 Having regard to all of the above, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

165 Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

166 Taking the above into account, I find that the Chinnor Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

167 I recommend to South Oxfordshire District Council that, subject to the modifications proposed, **the Chinnor Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

168 I am required to consider whether the Referendum Area should be extended beyond the Chinnor Neighbourhood Area.

169 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

170 Consequently, I recommend that the Plan should proceed to a Referendum based on the Chinnor Neighbourhood Area approved by South Oxfordshire District Council on 17 June 2015.

Nigel McGurk, May 2017
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