

John Slater Planning Ltd

Headington Neighbourhood Plan 2017-2032

Submission Version

A Report to Oxford City Council on the Examination of the Headington Neighbourhood Plan

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Introduction

Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Oxford City Core Strategy (March 2011), the Sites and Housing Plan (February 2013) and the saved policies of the Oxford Local Plan 2001-16 (November 2006). Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by Headington Neighbourhood Forum, which is a “qualifying body” under the neighbourhood planning legislation.

This report is the outcome of my examination of the Submission Version of the Headington Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the Plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Oxford City Council, the Local Planning Authority for the neighbourhood plan area.

The Examiner’s Role

I was formally appointed by Oxford City Council in October 2016, with the agreement of the Neighbourhood Forum, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS)

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 38 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Oxford City Council, and Headington Neighbourhood Forum and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

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Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Headington Neighbourhood Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land, covering the area designated by Oxford City Council, for the Headington Neighbourhood Plan on 23rd April 2014. In terms of my recommended amendments I have had to delete policies relating to protecting the views of Headington from outside the Plan area and which are intended to protect its green setting, as these policies would relate to land which falls outside the plan area.

I can also confirm that it does specify the period over which the plan has effect namely the period between 2017 and 2032.

I can confirm that the plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Headington Neighbourhood Forum is a qualifying body under the terms of the legislation. The City Council has accepted it as a qualifying body meeting the

statutory requirements. The neighbourhood area was designated by Oxford City Council on 23rd April 2014.

The Examination Process

The presumption is that the Neighbourhood Plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. No parties have requested a hearing. I did have a number of issues that I wished to raise with the Neighbourhood Forum and the City Council. I set these out in a note entitled *Initial Comments of the Independent Examiner* dated 28th October 2016. I received a response to the questions raised and further submissions on matters that I had raised in a series of emails between 25th and 29th November 2016. A copy of these are available on both the Forum and the City Council website.

Whilst I had in the past been previously been very familiar with the Headington area (having lived and studied there for 4 years whilst at the then Oxford Polytechnic in the 1970s), I carried out an unaccompanied visit to Headington and the surrounding area on 17th October 2016 to re- familiarise myself with the plan area.

The Consultation Process

The steering group was formed in 2013, prior to the designation of Headington as a neighbourhood area.

Following the designation of the Forum as an appropriately constituted qualifying body in the first part of 2014, the steering group produced a Community Engagement Strategy which sets the framework for ongoing consultation. An Issues and Options Consultation was launched on 11th September 2014 and ran to 24th October 2014. This included the production of a leaflet which was distributed to every household in the plan area, an online survey and a number of community engagement events were held, as well as a website launched. This exercise generated nearly 500 responses. Furthermore, in October 2014 local businesses were separately consulted and were sent a questionnaire, which elicited 32 responses.

This work led to the production of a Pre-Submission version of the Neighbourhood Plan. This ran from 30th May 2015 to 16th July 2015. Responses were received from 80 responsive respondents covering a total of 280 specific comments. These are set

out in Annex 5 of the Consultation Statement and as a result of that exercise a policy dealing with bus transport was deleted from the plan. It then appears that the Forum amended the plan in the light of the residents' responses and carried out another phase of consultation this time with the statutory consultees. As a result, responses were received mainly from the City Council, Oxfordshire County Council, the Environment Agency, Historic England, Scottish and Southern Energy and Thames Water.

I do have concerns that the Neighbourhood Forum, according to the Consultation Statement 12 adopted a two-stage approach at the Regulation 14 Consultation Stage. I do not believe that is strictly in accordance with the requirements set out in the Neighbourhood Planning Regulations 2012. Regulation 14 requires the qualifying body "to bring to the attention of people who live and work or carry a business in the neighbourhood area details of the proposal for neighbourhood development plan. It appears that the version of the plan that the residents were consulted upon in accordance with Regulation 14 a) was different to the version sent to the consultation bodies and the City Council under Regulations 14b) and 14 c). I do not know the extent of changes between different versions. However, whilst I may draw attention to this issue, it is not one of the matters on which I am required to make recommendations upon.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place for a 6-week period between 26th August 2016 and 7th October 2016. This consultation was organised by Oxford City Council who had received the Submitted Plan, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

Responses were received from 11 different bodies. These were from the Environment Agency, Highways England, Historic England, Natural England, and Network Rail, in addition 12 representations were received from 11 individuals. I have read all the comments carefully and where relevant I draw attention to some in the report. Some comments refer to matters of the supporting text and others to the community policies which are not part of the development plan. As these parts are not strictly part of the development plan I have in the main restricted my examination to the development plan policies.

The Basic Conditions

The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of "soundness". The Neighbourhood Plan is

tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The six questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will contribute to the achievement of sustainable development?
- Will be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether prescribed conditions are met and prescribed matters have been complied with?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

Compliance with the Development Plan

To meet the Basic Conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Oxford City Core Strategy adopted in 2011. Other components of the development plan are the saved policies of the Oxford Local Plan 2001 – 16 and the Housing and Sites DPD.

As will be seen I have reached a key conclusion, that the policy requirement for at least 15% of all residential schemes to be given over to public access green space will affect the delivery of the overall housing numbers required over the plan period. I am particularly influenced by the statement set out in Paragraph 1.3.4 of the Core Strategy that states “the scarcity of land available to accommodate an increasing population and the development of the economy is the key overarching spatial issue for Oxford”.

The Core Strategy identified an overall development requirement for 1595 dwellings on identified sites and 516 windfall dwellings, for the Headington sub area of the city. However, it is important to note that this covers a different area to that designated as the Headington Neighbourhood Area. I am not aware there is a specific housing target for the Neighbourhood Plan area. Policy CS 22 of the Core Strategy sets out the overall housing requirement across the city of some 8,000 new homes to be built in period 2006 - 26, which equates to an average of 400 homes per year. Similarly, there are challenging targets for new employment floorspace which, set against the

constraints of the restrictive land supply, mean that the Plan in Policy CS 28 encourages higher density employment development that seeks to make the best and most efficient use of land. I consider that these two specific strategic policies will have a bearing as to how I have come to conclusions regarding particular aspects of the basic conditions test i.e. the issue of general conformity with the strategic local policies which impact on one of the Plan's key policy, namely Policy GSP2 Provision of Green Space within Development

Compliance with European and Human Rights Legislation

The Neighbourhood Forum requested the City Council to screen whether the of the Headington Neighbourhood Development Plan should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the "Environmental Assessment of Plans and Programmes Regulations 2004".

The City Council issued a Screening Statement dated 10th February 2016, having consulted with the three statutory consultees, to the effect that an SEA was not required and I have been sent a copy of that screening opinion. I am satisfied that the City Council's conclusion is sound.

I understand that there are three European protected sites with 20km of the Plan area, namely Oxford Meadows Special Area for Conservation (SAC), Cothill Fen SAC and Little Wittenham SAC. When the Core Strategy was screened the impact on the latter two sites was screened out and an Appropriate Assessment was carried out in respect of the Oxford Meadows SAC. The City Council has screened the Neighbourhood Plan under the Habitat Regulations and has concluded that none of the policies in the Headington Neighbourhood Plan will have an adverse effect upon the Oxford Meadows SAC and therefore it was not necessary for an Appropriate Assessment under the Habitats Regulations to be prepared.

I have received no representations that there is any incompatibility with the European or Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

The Neighbourhood Plan: An Overview

The Headington Neighbourhood Plan is clearly an ambitious document driven by a clear vision which seeks to balance the competing pressures the area faces, in particular which share world-class institutions within an area of Oxford where people have chosen to live.

The plan has three objectives

- Improving the quality of life all residents, workers and students;

- Establishing and promoting an identity which embraces the diverse nature of Headington;
- Fostering beneficial development.

The plan does not make any development allocations but promotes planning policies covering matters which are clearly of importance to the area, not least the issue of public access green space and its protection as well as transport issues.

Neighbourhood plan policies allow communities to decide how planning applications are to be determined. However, this ability can only be delivered in the context of a plan which has general conformity with strategic policies in the Local Plan and having regard to national advice. There have been areas where I have had to delete some policies, which will no doubt be a disappointment or alternatively had to amend them to bring them to comply with the “Basic Conditions tests”. This has allowed me to recommend that the Plan, taken as a whole, can proceed to referendum. In particular, I wish to comment on the policies which relate to the amount of additional public access green space which the plan has promoted, which is a 50% increase on the minimum requirement set out in the city’s Site and Housing DPD. Whilst I can appreciate the desire for the area to see development incorporating more green space, this cannot be allowed to frustrate the delivery of homes and jobs in a city which is confronted by so many constraints on its development. These are all strands of delivering sustainable development, namely the social, economic and environmental dimensions of the Plan.

In carrying out the examination on a neighbourhood plan, the examiner may have to temper the local ambition with what can be achieved through the planning process. This is guided by national and local plan policy. In terms of the Headington Neighbourhood Plan I have had to change or remove some policies.

The Forum are to be particularly commended for the structure of the document. It is evident that the authors of the Plan have recognised the difference between those plan policies which will be used to help determining planning applications and which would be the subject of referendum and broader policy aspirations for the area which do not relate to the use and development of land. In a small number of areas, I have made recommendations changing the language of the policies to more closely reflect how the policy will be used as a decision-making tool, in the future.

Finally, my examination has concentrated on the development plan policies only. I have not made recommendations relating to textual changes in the introductory chapters or in terms of the justification for the policies. It will be necessary for the Steering Group to revise the text in the light of my recommendations, so that there is coherence between the policies and the justification. Similarly, there are a number of factual matters that have been raised during the course of the Regulation 16 consultation, particularly from the City Council planners, which need to be resolved

and addressed, following the consideration of my recommendations. I am confident that with goodwill from all parties, that a very locally distinct Neighbourhood Plan will emerge to shape the future development of the Headington area.

The Neighbourhood Plan Policies

Policy GSP1- Conserving and enhancing Public Access Green Space

Point 1

The policy seeks not just to conserve publicly accessible green spaces, but also requires that it be enhanced. I can see the value in protecting Headington's green spaces but a requirement that all existing open spaces should be enhanced places an unnecessary obligation. There may be instances where enhancement of the open space cannot be justified as a requirement to be placed upon development. The matter can be clarified by the insertion of the caveat "where appropriate" before enhanced. The sites that are exempted are those that are allocated in the Oxford Core Strategy 2011. As a number of representations make clear, the appropriate allocations are found in the Sites and Housing DPD 2015. It may well be that future iterations of the Local Plan also have to consider the green space dependent on circumstances relevant at that time and the matter can appropriately be resolved through the local plan making process. The use of the term "currently allocated" is unnecessary.

The Plan as submitted referred to the sites covered by this policy, by reference to map references set out in a table as Appendix 1. However, that approach would only indicate its general location rather than to the extent of the designation. In my document, *Initial Comments of the Independent Examiner* I asked that the areas be shown on a plan rather than be identified as a schedule. That has now been done with the assistance of the City 's Planning Department and I am grateful for their assistance, and I will be recommending that the policy now refers to that plan.

A site-specific representation has been received from the Hospital Trust about the inclusion of the playing field at Warnefield Hospital. They point out that the whole hospital site is identified for development in the Sites and Housing DPD. It is therefore covered by the exemption in the policy, although of course that development will in turn be required to provide public access green space as a result of its development.

Also as part of the mapping process the City Council identified that one of the sites, Warren Meadow is, in fact, an allocated site in the adopted Site and Housing DPD and should not then be identified for protection under this policy. The schedule in the Appendix includes street trees, but the Forum now recognise that they are covered by Policy GSP 4 rather than being protected under Policy GSP1. One outstanding issue is that the schedule seeks to protect grass verges and gives an example of eight locations. The City Council's view is that these should not be identified as they

do not constitute functional or usable open space. As these areas are normally part of the public highway, they tend not to be the subject to planning control and therefore works to the grass verges would not require planning permission unless it was for accessing new development. I therefore do not believe it is appropriate for them to be protected from development by a neighbourhood plan policy.

Recommendations

Point 1 - insert "where appropriate "before enhanced", and delete "currently" and replace "the Oxford City Local Plan (2011)" with "an adopted development plan document".

Insert "as shown on the Green Spaces Plan" after "HNPA" and remove Warren Meadow site from the Plan and the Warnefield Hospital playing fields.

Point 2

My only comment with regard to this element is the use of the term "welcomed". The purpose of planning policies to indicate where are the presumption in decision-making should be. To give more clarity and to follow the government's aim to support positive planning, I propose the substitution of "welcome" to "approved".

Recommendation

Change "welcomed" to "approved".

Point 3

One possible interpretation of the policy is that it offers support i.e. there is a presumption that planning permission will be granted, so long as the proposal, notwithstanding the other planning merits of the application, does not result in the loss of public access green space. I do not believe that this was the intention of the policy. Rather it is likely that the intention of the policy, is that it presumes against proposals which result in the loss of public access green space, unless either of the two provisos are met. As written, it could be interpreted in a way that it had unintended consequences, implying that an unacceptable scheme would be supported, as it does not involve the loss of green space.

One issue that has been raised is that the Plan has adopted the use of the "imperative reason of overriding public interest" known as the IROPI test. This is the test that developments that result in the loss of European protected habitats have to pass. A more appropriate threshold would be "overriding need".

I also consider that it is not just important to protect the green spaces but also to ensure that any development is appropriate to its setting, as that can influence how such spaces can be used and enjoyed. It also will assist with an amendment I am later proposing to Policy GSP5.

Recommendations

Insert “not” after “will”, change “supported” to “permitted” and replace “does not result” with “results” and insert “or harms its setting” after “public access green space”.

Delete “imperative reason of overriding public interest” and replace with “overriding need”.

Policy GSP 2 - provision of green space within development

Point 1

Again, my only comment relates to the use of the term “welcomed”. From the decision-maker’s perspective, the implication of the policy is that if its terms are met, then the presumption is that the planning application should be approved.

Recommendation

Change “welcomed” to “approved”.

Point 2

This policy represents a fundamental change from the existing Development Plan policy. The proposal is to increase the amount of public access green space required to be provided within developments from a minimum of 10% of the total site area, as set out in the Site and Housing DPD, to at least 15% as a result of this neighbourhood plan policy. I understand that this is a reduction down from 20%, that was suggested in earlier iterations of the Plan. This still represents a 50% increase in the amount of open-space that is required to be provided on any development site. It would run counter to the general presumption that neighbourhood plans must not deliver less development than set out in the Core Strategy. Whilst not specifically referred to in the plan, I am satisfied that this would be the consequence if the higher percentage was to be adopted in Headington. This would potentially undermine what clearly is a strategic policy in the Development Plan, which is one of the Basic Conditions tests, I am required to consider as part of my examination. I am equally concerned that it will run contrary to one of the main objectives of Government policy for the planning system, as set out in paragraph 47 of the National Planning Policy Framework (NPPF), which is to boost significantly the supply of housing.

I raised this concern, with both the Neighbourhood Forum as qualifying body and the City Council, in the questions I set out in the document *Initial Comments of the Independent Examiner*. I postulated that if open-space requirements increased then the equivalent housing numbers on the site could only be achieved if there was a commensurate increase in housing density.

The city council's response was that a 5% increase in the requirement for public green space would result in less developable area being available on each site. If the density were to be increased, then this is likely to result in smaller dwellings being proposed, which could run contrary to other objectives of planning policy i.e. achieving a range of dwelling sizes across the city so as to provide mixed and balanced communities, in particular, a range of the family units the city needs.

In addition, they have confirmed that the 10% figure has been tested as to the impact on the viability of the local 50% affordable housing standard. A decrease in the developable site area could then impact on scheme viability and the delivery of affordable housing units. I have seen no viability evidence to justify whether the 15% figure would affect scheme viability, although my instinct is that it would.

The Neighbourhood Forum's response to my concerns was that the balance between the number of units and the density of development is a matter for the Local Planning Authority. They seem to accept that increasing the density of development would not necessarily conflict with current policy for the provision of housing.

This is well established that there are unique constraints affecting the City of Oxford which mean that it is not in a position to meet its own objectively assessed housing needs, from within its administrative boundaries. The City Council is therefore working with surrounding local authorities, under the duty to cooperate, to ensure that some of Oxford's housing needs will be accommodated outside the city. It would, in my opinion, be perverse, in that context if a policy was introduced that reduced the development potential of sites within a large part of the city. I do not accept that in reality, any reduction in developable area, could be compensated for by higher density of development. Not only will there be site specific constraints, such as delivering a scheme that fits within its context and provide the requisite amount of parking, but it would not provide the type of housing in the city needs. Such an outcome would conflict with Policy H9 of the Local Plan.

I understand that this is an important issue for the Headington Neighbourhood Plan but I do not consider that the shortfall in meeting the standard for access to green spaces, justifies the reduction in the amount of new development that can be built in Headington, which in turn helps meet the city's overall housing need. In any event, I do not believe that this shortfall would be rectified by having larger green spaces within new development. The standards set out in Objective 4 of the Green Spaces Strategy relate to distances to parks. I am not convinced that by increasing the amount of green space within individual development sites will resolve the shortfall in Headington. I also note that the Green Space Strategy has already informed the City Council's Sites and Housing DPD, when it set the threshold at a minimum of 10% of development sites, being open space.

The second leg of the policy relates to the requirement for at least 15% of site area of all “significant non-residential development sites” should be set aside for public access green space. The Neighbourhood Forum is of the view that this amount of green space should be maintained for the benefit of workers on the site. They state that is likely to remain in private ownership and could in time allow public access by negotiation. The threshold for this requirement is schemes of at least 5000 Sq.m. overall floor space. The City Council has pointed to a saved policy in the 2001 Local Plan which already requires public open space on large-scale business, commercial and institutional developments such as hospitals but only where there is a shortage of open space in the vicinity or where the development would lead to a significant additional need for public open space. They have objected to the inclusion of this requirement in the Plan

I am not convinced that there is the evidence to justify the figure of at least 15% of commercial site area on the largest sites, being given over to publicly accessible open-space. Firstly, there is the legal question of public accessibility to commercial premises and, this requirement as a component has to be met on top of the significant space required to be given over to parking, servicing and landscaping. Particularly in such a heavily constrained area as Oxford, where land is at a premium, such a requirement would conflict with one of the underlying principles of planning policy, which is to make effective use of land where it is available for development. It would also conflict with the strategic policy in the Core Strategy Policy CS28. I have seen no evidence to substantiate the need for this significant requirement of open space as being required to meet the amenities needs of workers. My conclusion is that giving over at least 15% of all large commercial sites to public access green space is not justified and could be a barrier to investment, economic growth and scheme viability.

I have carefully considered this issue but I have concluded that this element of the policy does not pass the Basic Conditions test and I will be recommending that this whole section of the policy be deleted. I could have recommended that the figure of 15% be changed to 10% in respect of the residential schemes but I can see no purpose in repeating a policy which already is part of the Development Plan.

Recommendations

Delete all of this element of the policy and renumber.

Point 3

This policy is broadly in accordance with the governments objectives as set out in paragraph 118 of the NPPF which states that when determining planning applications, opportunities to incorporate biodiversity in and around the development, should be encouraged. However, Paragraph 109 of the NPPF states that the

“planning system should contribute to and enhance the natural and local environment by: –

Minimising impact on biodiversity and providing net gains in biodiversity, **where possible.**”

I have an additional concern that a Neighbourhood Plan cannot require the submission of a particular document to accompany planning application. This is done by the Local List of Information Requirements issued by the Local Planning Authority. The policy can require the submission of such a Biodiversity Enhancement Plan by way of a planning condition. In that case, it would have to meet the six tests of planning conditions, as set out in paragraph 206 of the NPPF, including its relevance to planning and to the development being permitted. I propose an alternative wording that acknowledges that such a plan can be required by a planning condition, in appropriate cases.

Recommendations

Insert after “will” the following “be subject, where it is appropriate, to a planning condition requiring the submission to and the approval of the Local Planning Authority of a” and delete “provide”.

Point 4

I have received a representation from University College that the policy should allow the provision of replacement open space outside of the neighbourhood plan area, where there is the shortfall created by a development which lies close to the plan boundary. That would make sense in terms of the accessibility to the open-space to the areas most affected by the loss of space rather than imposing a requirement for replacement green-space being met at the opposite end of the plan area, which could be an outcome that will be compliant with the policy as proposed.

I have received a representation that if a developer does not own land that could be used as replacement open space then a financial contribution should be made. I am not satisfied that such an approach would be capable of delivering the required open space to compensate for that which will have been built upon. I am not therefore inclined to follow that suggestion.

Recommendation

Insert before “the HNPA” “or immediately adjacent to” in the last two sentences of the policy.

Policy GSP 3 - conserving and enhancing biodiversity

Point 1

I need to repeat my comment relates to the use of the term “welcomed”, which is not a verb that is relevant to indicating how a planning application should be determined. The policy is still supportive for proposals beyond that set out in the Core Strategy which only covers designated sites. As this is a permissive policy, this is not an issue

for the Basic Conditions, in the way that policy which stated that a development which did not conserve and enhance a non-designated ecological site would be refused.

Recommendation

Change “welcomed” to “approved”.

Point 2

This policy has generated a number of objections at Regulation 16 stage. I share concerns that the policy seeks to extend protection to what is generally described as “local wildlife” or “ecology of a significant value”, i.e. wildlife or ecology that may be abundant elsewhere but which is rare for Headington. Planning policy is aimed at protecting specific “protected wildlife” rather than all wildlife. The Core Strategy refers to species of ecological value. Paragraph 113 of the NPPF refers to criteria based policies against which proposals for any development affecting inter alia “protected wildlife” will be judged it. Its approach is to draw a distinction between a hierarchy of protected sites, which allows the designation of locally designated sites, so that protection given by policy, is commensurate with their status, giving appropriate weight to their importance and their contribution to wider ecological networks.

The issue for an applicant would be, if the aim of the plan was protecting what is described as “local wildlife”, what species are protected, or what constitutes a protected habitat. The policy does not comply with the required approach to preparing neighbourhood plan policy, as set out by the Secretary of State’s advice in the Planning Practice Guidance, as it does not provide certainty for the decision maker. The situation would be different if the Neighbourhood Plan had provided evidence based policies identifying specific species or habitats that need to be protected by planning policies. The City Council has in its representation identified Core Strategy Policy CS12 as a strategic policy and this adopts an approach in line with the NPPF. I consider that is a helpful guide to what sites and species of ecological value are.

A number of representations have made the point that it may not be appropriate for replacement habitat to be provided on “a like for like basis” and it may be possible to achieve replacement of habitat of a higher ecological value.

Recommendation

Replace “local wildlife or ecology of significant value” with “sites and/or species of ecological value as defined by Policy CS12 of the Oxford Core Strategy or any future policy in a subsequent development plan document.”

Delete “a like for like basis” and replace by “an equivalent or higher ecological value”.

Policy GSP 4 - protecting tree cover

This policy has attracted a number of representations at Submission Stage, some of which are in support but seem to suggest that the 4:1 replacement ratio, related to street trees that are lost in the Neighbourhood Area. That is not how the policy is currently worded.

The policy provides protection to all mature trees irrespective of their quality or the contribution they make to local amenity. Whilst at a Development Plan policy can include criteria relating to how planning applications will be considered which affect trees on or adjacent to the application site the actual protection of trees from felling or having works done to them can only be given by a Tree Preservation Order(TPO) or through the notification procedures for works to Trees in Conservation Areas which allows a period for the LPA to consider whether to serve a TPO. It is appropriate for planning applicants to be required to submit a tree-protection statement and tree surveys, as part of the planning application, but that requirement comes from the Local Validation List, not through a Development Plan policy.

The replacement of felled trees, either by applications for works to trees or through a planning consent, is a matter that should be dealt with by planning permission. It is inappropriate to require, in every case, that replacement trees as part of a landscaping scheme or replacement trees condition is, as a matter of policy required on the basis of an arbitrary ratio of 4:1 but rather that the matter should be considered on a case by case basis. Similarly, the location of any replacement planting should relate to the application site to replace trees lost, rather than through replacement planting elsewhere in the Plan area. Such decisions are a matter for City Council, as Local Planning Authority, unless it chooses to delegate such the decisions to another body, who would act on its behalf. Furthermore, the felling or management of street trees is not normally a matter for the Local Planning Authority as it comes under the duties of the Highway Authority. It is therefore not appropriate to be a neighbourhood plan policy. I have therefore concluded that the policy does not pass the Basic Conditions and I am recommending that it be deleted.

Recommendation

The policy be deleted.

Policy GSP 5 - protection of the green setting

When I issued my *Initial Comments* paper, I expressed my concerns that “the green setting of Headington which had to be conserved and enhanced” will be a difficult concept for the applicant to know how to address with confidence, firstly what “the green setting” is, and secondly how his/her proposal would need to respond to it. I

sought clarification from both the Neighbourhood Forum and the City Council. The supporting text refer to Policy CS18 of the Oxford Core Strategy citing it as providing clarity that within Headington or the surrounding areas, development needs to take account of the green setting of the plan area. My reading of the policies is different. I read the policy as requiring development to respond appropriately to the site and its surroundings. In particular, it refers to the city's unique historic environment.

An underlying premis of a development plan is that it can only put forward planning policies for the geographical area to which it covers. Indeed, that is one of the legal tests for a Neighbourhood Plan. As a number of comments have pointed out, the policy as submitted, seeks to impose planning requirements related to land outside the Neighbourhood Area. A Neighbourhood Plan cannot do that.

I have concluded that the need to conserve and enhance the green setting of Headington to be too vague a concept to be used with confidence when determining a planning application which is a requirement of a neighbourhood planning policy. Having said that, there is at the heart of policy, the basis of a sound objective. That is the any new development should be appropriate to setting. On my visits to Headington I saw that there is no unique building vernacular consistent across the Plan Area. Headington Quarry is very different to the Gypsy Lane area, for example. I am therefore proposing an alternative wording that is not reliant upon the concept of "the green setting" of the plan area. The impact of development on green space is in any event provided my proposed modification to Policy GSP1.

Recommendation

Retitle policy as Policy GSP 4 Protection of the Setting of the Site.

Replace policy with "Development will be permitted where its design responds appropriately to the site and the character of the surrounding area".

Policy GSP6 - provision of allotment land

The policy seeks to retain existing allotments both those existing now, and any that are designated into the future. I am satisfied that this is an appropriate policy position and it meets the Basic Conditions.

Recommendation

Re-number as Policy GSP5

Policy AMP 1- protecting and enhancing sports and leisure and community facilities

A number of representations have pointed out that the requirement for the facility to be replaced within the Plan area does not recognise that different facilities have

different catchment areas. The County Council has suggested that an alternative would be a location that was equally or more accessible by walking, cycling or public transport. I propose to adopt that approach as a recommendation.

Recommendation

Delete everything from “provided” in the last sentence and insert “at a location equally or more accessible to residents of Headington by walking, cycling and public transport”.

Policy CIP1 - development to respect the existing local character

The policy refers to the identification of the local character being contained within the Character Assessments, which are available on the Plan website. However, there are some parts of the Plan Area where there is no description of the character of the area e.g. areas 1, 4, 17 and 18 and some rely upon the character assessments in the City’s Conservation Area Appraisals. These omissions can be rectified by the insertion of an appropriate caveat.

The protection of the “setting of the HNPA” must relate to areas outside of the Neighbourhood Plan Area and this area is therefore not covered by the provisions of this plan. That criteria must therefore be omitted in order for the plan to meet its legal requirements.

Finally, the policy requirement that all development proposals are required to submit a Character Statement is flawed. It is only “major applications” i.e. over 10 residential units and developments in conservation areas that are required to submit a Design and Access Statement. It is only in those cases where the policy can require the statement to indicate how the desired solution responds to local character.

Recommendation

After “distinctive local character” insert “including where it is described” and delete “as identified”.

Replace the final sentence with “Where development proposals are required to submit a Design and Access Statement, they will be expected to demonstrate how their design and layout responds to the local character of the area”.

Policy CIP2 - protecting locally important views.

As previously referred to, a Neighbourhood Plan cannot impose planning requirements or policies for areas beyond the neighbourhood plan boundary. It is therefore not possible for the policy to protect views **into** the plan area.

The policy refers to “conserve and enhance landmarks and local points of interest”. Despite my request for clarification on what these are, the Forum did not respond to me by identifying what were considered to play that role. The policy is therefore ambiguous as to whether a feature could be considered to be a landmark or local point of interest. It could be argued that the Headington traffic lights are a local landmark. It therefore cannot remain as an element of development plan policy if the decision makers would be unsure as to whether the proposal before them, has an impact on a landmark or point of interest.

The Neighbourhood Forum did provide me with a list of viewpoints shown on a map. These are shown as straight arrows. Therefore, technically the view to be protected is only from that one particular point to the end of the arrow. I am sure that the intention is to protect a wider arc of view rather than from a particular point. There is a long tradition going back to the 1960s of protecting viewpoints in Oxford. However, planning policies which seek to protect views and viewpoints, are normally defined by a cone of visibility from a view point to a field of view that is valued. I am concerned that the drawing as submitted does not provide a sufficiently robust basis for considering a development proposal that may affect the important valued local views. I do however recognise that the maintenance of viewpoints is important to the local community and is capable of being protected by a neighbourhood plan policy. I will therefore be recommending that an improved plan showing cones of visibility be inserted. It may be that the City Council’s planning department could assist the Neighbourhood Forum in this task.

I am recommending the deletion of point 2 as this matter is covered by Policy GSP1, GSP5 and CIP1.

Recommendation

Delete “conserve and enhance landmarks and local points of interest in the area and” and insert “protect” and delete “both into” and insert at the end of the policy “as identified by the view cones shown on the Viewpoint Map”. Delete “1.” at the start of the policy.

Replace map showing arrows with view cones.

Delete point 2.

Policy CIP3 - innovative design

I find this policy to be one that meets Basic Conditions.

Policy CIP4 - protecting important assets

At this point in time I understand that the Oxford Heritage Assets Register does not cover the Headington area. Accordingly, there are no properties that would be currently protected by this policy. However, over the lifetime of the plan, that may change. Those properties and items on the register would, I understand be classed both as designated and non-designated heritage assets. Whilst designated assets enjoy statutory protection, the approach set out in the NPPF is that any non-designated asset which is affected by development, should be assessed in terms of the scale of harm or impact arising from that development set against the significance of the asset. This is reflected in the suggestion made by the City Council which I propose to adopt as a recommendation. That is a more nuanced approach to the requirement than the position set out in the supporting text that “the loss or harm of the assets setting not be permitted”.

Recommendation

Replace policy with “Where the significance of a heritage asset, either designated or non-designated, would be affected by a development proposal, that development proposal will only be permitted where it addresses the conservation and enhancement of the significance, character, setting and any special architectural or historic feature of significance the asset may possess.”

Policy EDP1 - new education provision

This is a policy which clearly addresses a local issue and is in line with national advice.

Policy TRP1 - parking provision at a major employment sites

I recognise that Headington has major traffic issues, particularly at peak periods. The restraint of car parking has been a feature of Oxford’s transport policy for many years. It appears that this policy as proposed is taking the principle of restraint of car parking to a new level in Headington. I do note that the policy has the support of the Highway Authority. However, this needs to be balanced against the threshold set out in Paragraph 32 of the NPPF which is that “Development should only be prevented or refused on transport grounds where the residual impacts of development are severe”.

The policy only deals with any additional parking for employment size over 1 ha. The first question, I need to satisfy myself on is whether educational and the institutional facilities, such as hospitals, are considered as employment sites. I have assumed that they do, as they are major employers. The supporting text refers to encouraging employees to reach their workplace by sustainable transport means. It is important

that the policy differentiates between employees and users of the facilities such as hospital patients, who will not be so likely to be travelling to and from the site at the peak periods. I also recognise that some employees may work shift patterns where they need to travel at off peak times. The requirement to provide at application stage “strong evidence that Headington road network has adequate unused capacity at peak periods” is somewhat a nebulous challenge, particularly related to the marginal increase in parking that may be being proposed, dependent upon the number of car parking spaces being created. I consider more usual vehicle will be through the requirement to submit a Transport Assessment. The NPPF states that these will normally be required in application that “generates significant amounts of movement”. However, I believe there is sufficient evidence of peak hour traffic problems in Headington to justify a lower threshold and I consider that the City Council already has thresholds set out in its SPD.

When I carried out my site visit to Headington, I did witness sites where there is indiscriminate parking on rough areas of land within such sites and alongside internal roads. The rationalisation of that parking would not increase peak hour pressures as the parking is already taking place on site. I therefore recommend that the policy differentiates between parking which results in a net increase in on-site car parking, and also between visitor and employee parking and also parking that is restricted so as not to be available for use in the early morning peak period, as the underlying objective of the policy is not to increase peak hour traffic.

Recommendations

Insert “net” before “additional” and insert “for employees, which are accessible during peak periods” after “spaces”.

Insert “by the submission of a Transport Assessment” after “evidence”.

Policy TRP2 - parking at multi-unit development

Whilst the use of the car share clubs is to be encouraged, I do not believe that any condition requiring one space to be reserved for such a vehicle, or dispensation for a car share vehicle being available in the vicinity, would pass the tests for a planning condition as set out in paragraph 206 of the NPPF in that it would not be enforceable. The policy is therefore recommended for the deletion.

Recommendation

That the policy be deleted.

Policy TRP3- connectedness

Whilst is a laudable aspiration, the delivery of this network can only be delivered through the implementation on planning applications on individual sites. The policy requiring “all new development should be connected to the central area, hospitals, university campuses, and other major institutions by easy direct routes” can be an aspiration but not a policy that could be applied through the determination of planning applications. The policy goes on to say developments “should consider” the provision of connecting alleyways linking to adjacent streets. I appreciate that this is a somewhat aspirational policy which I am satisfied that its objectives can be retained in the plan, but not as a specific requirement on individual schemes with the implications that the planning permission would be refused if it did not provide for these routes. A representation on behalf of the University of Oxford has helpfully suggested that the policy could not just refer to rights of way but also permissive rights of way

Recommendation

Move the first sentence of the policy to the supporting text.

Insert “or Permissive Rights of Way” and delete “in accordance with the Oxford Local Plan”.

Policy TR4 - travel plans

The requirement in the Plan to produce a travel plan goes beyond the national guidance, which is that they can only be required for developments which generate significant amounts of movement. I consider that the imposition of it to all new business development irrespective of size, would be an overly onerous requirement. I am aware that the City Council has issued advice on thresholds on when such plans should be submitted and I do not consider that it is necessary for the smallest business development to have to produce a Travel Plan. The threshold set by Secretary of State advice is such plans are required for “developments that generate significant amounts of movement”

Equally the requirement for all new “multi-unit” developments (which the footnote discloses are those which are subject to leasehold title) again goes beyond national advice. I cannot see that it is justified in the case of the smallest schemes. I have seen no evidence that the traffic position in Headington is worse than other parts of the city and which would justify higher standards than are currently set out in the City Council’s SPD entitled Parking Standards, Transport Assessment and Travel Plans Any requirement for plans to be periodically updated in the context of a residential use is totally unenforceable.

The second element to the policy is based on the assumption that all development applications are accompanied by Design and Access Statements. As previously referred to, that this is only required for major residential schemes i.e. over 10 units or individual units in conservation areas. I do consider it appropriate for schemes that do require such statements, to provide a reasoned justification for the level of parking provision.

Recommendations

Point 1 – replace policy with “Any new development which fall above the threshold set by the City Councils Parking Standards, Transport Assessment and Travel Plans SPD will be expected to prepare a travel plan showing how employees and residents may minimise car usage.”

Point 2 – delete everything up to “statement,” and insert “Any development that requires the submission of a Design and Access Statement will be expected to state.....”

Policy TRP5 - provision with people with disabilities to use active forms of transport

I appreciate that this policy’s requirement for all schemes to be fully accessible is an appropriate requirement. The public realm of a new development should be designed so as to be usable by everyone.

Policy TRP6 - promotion of cycling and walking

Whilst the title of the policy refers to walking, there is no reference to it within the wording of the policy. The title should be changed accordingly. There may be some employment developments such as the use of upper floor above shops where it is not possible to provide on-site cycling spaces. I therefore consider the policy should be caveat is by “wherever it is practical and feasible”.

Recommendation

Retitle policy “Promotion of Cycling”.

And insert at the end “wherever it is practical and feasible”.

The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the The Examination of the Headington Neighbourhood Plan

Neighbourhood Plan as designated by Oxford City Council on 23rd April 2014 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

The Neighbourhood Forum are to be congratulated on such a locally distinctive plan, which confronts the challenges facing the Headington area. Whilst I may have had to make some recommendations that will disappoint the Forum, I have done so only to ensure that the Plan meets its statutory tests which enable me to recommend the Plan goes forward. Notwithstanding the changes I have had to recommend, I am certain that the main thrust of the Submission Version of the Neighbourhood Plan remains.

I hope that the City Council will continue to work with the Forum, in the final stages of the Plan's preparation, giving the Plan a final polish and resolving misunderstandings or errors that remain in the supporting text. In particular, my recommendations regarding the Protected Views Plan, where I suggest that the plan adopts the "view cone" method of protecting locally important views, as has been used elsewhere in Oxford to protect the city's skyline, which be an important piece of work.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the Basic Conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

I am therefore delighted to recommend to Oxford City Council that the Headington Neighbourhood Development Plan, as modified by my recommendations, should now proceed to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning

4th January 2017