



CHILTERN District Council

Executive Delegated Decision Made by Officers

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 place new requirements on local authorities relating to executive decisions. That is decisions made by the Cabinet, individual Portfolio Holders, Sub Committee or Joint Committees. This also includes executive decisions made by officers under delegated authority.

In order to comply with these new requirements officers must ensure that as soon after an officer has made an executive decision, including those made under delegated authority, that this form is completed and sent to democraticservices@southbucks.gov.uk or democraticservices@chiltern.gov.uk for publication on the Council's website in accordance with the Regulations.

In order to comply with the Regulation 13, Democratic Services will publish a written statement based on the information provided in the following form:

- 1. Name and role of officer:** Mark Jaggard

- 2. Date of decision:** 23rd April 2019

- 3. Summary of the decision:** To make a decision on behalf of the Council on each recommendation made by the Chalfont St Giles Neighbourhood Plan Examiner in her report on the Chalfont St Giles Neighbourhood Plan.

- 4. Reasons for the decision:** Under the neighbourhood planning regulations (The Neighbourhood Planning (General) Regulations 2012) the Council must decide what action to take in response to each recommendation of the Examiner. This decision has been delegated to the Head of Planning and Economic Development after consultation with the local ward members and the portfolio holder for Planning and Economic Development. Under the regulations the council's decision on the Examiner's recommendation has to be made within a set timeframe. In addition the council has to decide on the neighbourhood plan referendum area. This decision is also delegated to the Head of Planning and Economic Development in consultation with the portfolio Holder for Planning and Economic Development.

- 5. When making the decision did the officer take into account information from another report?** Yes No Examiner's report attached

6. Details of any alternative options considered and rejected by the officer when making the decision: The Council has to make a decision on each of the examiners recommendations – it could decide to disagree with the examiner but there was no reason to disagree in this case. The council has a duty to support the neighbourhood plan process and not hinder the making of a neighbourhood plan that complies with the regulations. As such no reasonable alternative options were considered.

7. (a) Details of any conflict of interests declared by any Member who was consulted regarding the decision:

Were any interests declared by the Member(s)? No

If yes, who?

Type of interest (1):

Nature of interest (1):

Type of interest (2):

Nature of interest (2):

(b) Note of dispensation: *A note of dispensation may be granted by the Head of Paid Service in relation to Members' conflicts of interest. Please provide details below.*

Does this notice contain any exempt information?

Yes (if yes, select reasons below) No

- 1. Identifies individuals (names, addresses, contact information etc.)
- 2. Likely to reveal the identity of an individual
- 3. Financial or business affairs of any person or organisation
- 4. Consultations or negotiations in connection with any labour relations
- 5. Legal professional privilege that could be used in legal proceedings
- 6. Any enactment (prosecution) to a person or organisation
- 7. Any action taken to do with prevention/investigation/prosecution of crime

Date Notice Published: 25 April 2019

Chalfont St Giles Neighbourhood Plan Examiner's Report - Chiltern District Response

Recommended response by Head of Planning and Economic Development under Delegated Authority

Submission

Chalfont St Giles Parish Council submitted a Neighbourhood Plan covering their whole parish in November 2017. The Council considered the submitted documents and under delegated powers confirmed that the Plan was legally entitled to go forward for examination.

Public Consultation

During the consultation period from 26th February 2018 to 9th April 2018 representations were received from 35 respondents.

This Council used the Neighbourhood Planning Independent Examiner referral service to select an examiner. Following discussions with the Parish Council representative and their agreement on the chosen examiner the district council appointed Janet Cheesley BA (Hons) DipTP MRTPI as the Examiner on 24th May 2018.

Following the Examiner's initial review of the Neighbourhood Plan documents submitted for examination, she raised concerns regarding the environmental assessment of the neighbourhood plan and the level of detail in the original Habitats Regulations determination by Chiltern District Council. This in particular related to a recent non-related legal case where it was held that an initial screening assessment should not include any effects of mitigation. As such the Examiner considered it would be prudent to undertake a fresh screening assessment before the plan was formally examined. The Parish Council as the Neighbourhood Plan Group decided to suspend the neighbourhood plan examination and requested Chiltern District Council to undertake the necessary steps to re-assess the environmental aspects of the Neighbourhood Plan.

Following completion of the environmental assessment of the Neighbourhood Plan, Chiltern District Council re-consulted on the Neighbourhood Plan alongside the new environmental documents. The 2nd public consultation period ran from 21st December 2018 until 8th February 2019. During the 2nd consultation potential respondents were advised that previous comments from the 1st consultation would be taken into account and so there was no need to repeat previous responses, however responses were received from 14 respondents.

Examiner's report

The examiner duly presented her report to the Council on 18th March 2018.

Upon receipt of the Examiner's Report the District Council in accordance with the regulations (the Neighbourhood Planning (General) Regulations 2012) as amended has to consider each of the Examiner's recommendations and come to a view on each of them. Assuming the Council is content to follow the Examiner's recommendations it then has to decide on the appropriate area for the referendum which can be wider than the neighbourhood plan area and to confirm that the neighbourhood plan meets the basic conditions and does not conflict with any European law.

The Examiner's report concluded that subject to several modifications to the submitted Neighbourhood Plan it could be recommended to proceed to a referendum.

As a reminder if the referendum is held and over 50% of the people who vote in the referendum support the neighbourhood plan then the Council has to make the plan. The plan once made would become part of the Development Plan for the area and would be relevant to all planning decisions falling within the neighbourhood plan area (Chalfont St Giles parish).

Under agreed delegation (approved by Cabinet 23rd September 2014) before the decision is taken on the Examiner's report the Head of Planning and Economic Development has to consult with the local ward members within the neighbourhood plan area and the Portfolio Holder for Planning and Economic Development. Delegation only relates to minor modifications. Should any modification be significant then the decision has to revert to the Cabinet to make a formal decision. All of the modifications recommended by the Examiner are considered to be of a minor nature and not fundamental to the aims of the neighbourhood plan as such formal Council consideration of the Examiner's Report can be determined under delegated authority.

Content of Examiner's Report

The Examiner suggested some 16 modifications to the submitted Neighbourhood Plan. Some recommendations are made up of several parts and in some cases if the recommendation is accepted will involve the creation of replacement maps (i.e. greenspace policy and design) which will form a modification to the plan as submitted. In other cases she has sought to ensure that the neighbourhood plan requirements don't exceed those in national guidance or add to the burden on developers. Additionally the Examiner has highlighted 18 times where corrections to the text would clarify the content or correct facts in the submitted neighbourhood plan.

Despite the proposed modifications it is considered the end result of the neighbourhood plan as modified will not mean the overall content and or aims of the Plan will be much different. The Examiner has expressed concerns with regard to the scale of some plans and the easy identification of local green spaces proposed in the plan and recommended their replacement by clearer maps. Again, the end result will not mean a major change to the content of the Neighbourhood Plan.

As set out above the council is required to come to a decision on each recommendation of the Examiner. A Council recommended decision for each of the Examiner's recommendations is set out in Appendix A. The minor editing matters suggested by the Examiner are all accepted and are not listed specifically as there is no requirement for the council to come to a decision on each minor amendment.

The District Council can therefore be in agreement with the Examiner's report and her proposed modifications. The parish council have acknowledged the Examiner's findings and are instructing their planning consultant to make the necessary changes, including new mapping, to ensure the plan considered for referendum respects the Examiner's recommendations.

Referendum Area

The Regulations state that the Examiner has to make an assessment of the appropriate area for the referendum and in this case the Examiner recommended that the referendum area is that of the Neighbourhood Plan Area (concurrent with the Parish area). Despite her recommendation Chiltern District Council also has a duty to consider whether or not the referendum area should be different to the area of the Neighbourhood Plan. Given the Chalfont St Giles Neighbourhood Plan does not propose any new development within its boundaries and its content is mostly related to the protection of the character of the Neighbourhood Area it is not considered that there is any need to extend the referendum area into neighbouring areas which in this case could include part of Chalfont St Peter parish, parts of Amersham parish, Seer Green parish and or parts of Coleshill. Therefore it is not considered that the Council should need to consider a revised referendum area. The decision on the area is delegated to the Head of Planning and Economic Development in consultation with the Portfolio Holder and it is suggested that the Head of Planning and Economic Development is recommended to agree with the Examiner on the extent of the Referendum area.

Recommendations to the Head of Planning and Economic Development

- 1. To agree the Examiner's recommendations for all modifications.**
- 2. Agree consequential changes to the Neighbourhood Plan as identified as minor editing matters as set out in the Examiner's report.**
- 3. Recommend that the referendum area is defined as the area covered by the Chalfont St Giles Neighbourhood Area (the Chalfont St Giles parish area) in accordance with the Examiners recommendation.**

Appendix A

Consideration of the Chalfont St Giles Neighbourhood Plan Examiner's report – recommendations

The Chalfont St Giles Neighbourhood Plan Examiner has produced her Examiner's report in the report she makes 16 recommendations. The recommendations are not specifically numbered and so each recommendation is referenced by the paragraph number in the examiner's report.

Para 57 - modification to Housing Policy 1

The policy as submitted includes reference to the need for a Landscape and Visual Impact Assessment (LVIA) to be submitted with planning applications in the AONB – this requirement is not justified by evidence and the Examiner considers the remainder of the neighbourhood plan itself and the Development Plan (Core Strategy and Adopted Local Plan) give adequate protection. Officers agree with this assessment.

In addition following representations from the local conservation area committee the parish council had suggested an amendment to the policy to add that any rural exception scheme should not harm the Conservation area. The Examiner quite rightly concludes that the plan has to be read as a whole and that the impact on conservation areas is covered by another policy.

Recommended Council decision on Modification – Recommendation agreed.

Para 71 - modification to Housing Policy 2

The Examiner argues that the national planning policy affordable housing thresholds should apply to the policy and has suggested an amendment to that effect. Given national guidance would be a material consideration in the determination of any planning application reference to the national standards in the local policy seems a sensible recommendation.

Criterion c of the policy as submitted refers to the tenure of housing. The Examiner argues that this requirement should and could only apply to the affordable elements

of any housing development and not the open market elements of the scheme. This approach is agreed.

The policy as submitted requires developments to be served by up to date electronic communications infrastructure – the aim of this requirement is supported by the district, however the Examiner considers it to be unreasonable to require the developer to provide the most up to date broadband connections and feels that the developer should be required to provide the necessary infrastructure to enable broadband connections to the properties. Adequate broadband cabling is likely to be a selling point of any new housing and whilst it is considered the neighbourhood plan policy wording and the Examiner's reasoned amendments will achieve the same outcome there is no reason to disagree with the Examiner as the end result will be any new development should be provided with communications infrastructure. Therefore the amendment is agreed.

Recommended Council decision on Modification – Recommendation agreed.

Para 76 - modification to Community Facilities Policy 1

The Examiner expresses concern with the wording of the first sentence of the policy where it refers to existing facilities being enhanced. This, the Examiner considers, implies that all existing facilities should be enhanced but does not specify how. She considers that this would be applicable where facilities were being proposed for new development or improvement but not to all existing facilities – it is agreed that the policy can't require facility owners to improve their existing facilities and therefore the proposed amendment is agreed.

Recommended Council decision on Modification – Recommendation agreed.

Para 88 - modification to Economy Policy 1

The policy as submitted refers to local centres – this was meant to refer to the local shopping areas of the three settlements. However the examiner has taken the definition of local centres from the adopted local plan policy which designates certain shopping areas as local centres, given the neighbourhood plan has to be in general conformity with the remaining development plan it is agreed that the use of the term local centres in the neighbourhood plan could cause confusion and possible

policy conflict. In addition, Jordans is within the Green Belt and therefore covered by other policies. As such the Examiner's suggested amendments are agreed.

The policy as submitted seeks to maintain the proportions of A1 to A5 units in a shopping area. As pointed out by the Examiner this is difficult to control as certain changes of use between different use classes can be done as permitted development. Additionally the policy requires developers to provide a variety of unit sizes to meet local business needs. This element, whilst developers may choose to provide a mix of unit sizes in any new or re-development scheme, would be difficult to enforce without more evidence of need and size of units. As such the Examiner's recommended changes are agreed.

Recommended Council decision on Modification – Recommendation agreed.

Para 95 - modification to Natural Environment Policy 1

The Examiner considers that the policy as written would be too onerous on the developers of residential development, pointing out that it is unlikely that an individual house could have an impact on the provision of green routes. As such the Examiner has opted to retain the purpose of the policy in supporting the provision and or improvement of green routes without the requirement that every residential development makes such provision. The Council can see the Examiner's reasoning and therefore supports her recommendation.

Recommended Council decision on Modification – Recommendation agreed.

Para 106 - modification to the last sentence in Natural Environment Policy 2 and Map 11 is replaced with inset OS based maps at an appropriate scale

The policy as submitted seeks to restrict development within designated Local Green Spaces (LGS) where the development performs a supplementary and supporting function. The NPPF is clear that development within designated green spaces should only be allowed in very special circumstances. The supporting and supplementary functions referred to in the policy are not defined and the Examiner considers these go beyond government guidance. Officers agree with the Examiner that the last part of the policy is unclear and so agree with the Examiner's recommended changes.

The Examiner expresses concerns that the mapping to show the designated green spaces is unclear and would benefit from being provided on a larger scale map. Whilst officers consider the mapping would enable most local people to identify the designated local green spaces this may be more difficult for people who don't know the local geography and as such officers agree that to show the designated areas on larger scale mapping is a sensible recommendation.

As part of the representations, there is a petition requesting the inclusion of the Public Open Space at Lapraik Grove as a LGS. The Examiner considers that she is unable to recommend the inclusion of this site as a LGS, as this is not required for the Plan to meet the Basic Conditions. However, it should be pointed out that Laprick Grove was permitted as a rural exception scheme as such the site was and is in the Green Belt. Local greenspace designations are to be considered to have the same effect as if the land was in the Green Belt and as such officers do not consider a LGS designation is necessary. Therefore officers agree with the Examiner's conclusions.

Recommended Council decision on Modifications – Recommendations agreed.

Para 111 – the deletion of Natural Environment Policy 3 and supporting justification

The policy as submitted seeks to add another layer of protection to sites which are already protected as Green Belt and designated through the neighbourhood plan as Local Green Spaces (LGS). The Examiner points out that the policy would prevent any development within these areas whereas the LGS policy allows limited development. As such the two policies would conflict. Given the already high level of protection given to these areas the Examiner recommends deletion of the policy. Officers agree that this additional level of protection is unnecessary and that therefore the policy is not required in the neighbourhood plan.

Recommended Council decision on Modification – Recommendation agreed.

Para 117 - deletion of Natural Environment Policy 4 and the paragraphs on page 47, starting from the last sentence on page 46.

The Examiner argues that the Core Strategy policy on biodiversity offers adequate policy direction to protect biodiversity issues. She regards the submitted neighbourhood plan policy as not being in general conformity with the Core Strategy policy, neighbourhood plans should be in general conformity with the Development Plan of which the adopted Core Strategy forms a part. Further she advises that to

amend the neighbourhood policy so that it is in general conformity to the Core Strategy would not add a local value and as such recommends deletion of the policy. Officers agree that the policy as submitted adds no value to the Core Strategy biodiversity protection and as such agrees with the Examiner's recommendation.

Recommended Council decision on Modification – Recommendation agreed.

Para 127 - modification to Historic Environment Policy 1.

Historic England have requested an amendment to the wording of the policy so that it complies with national guidance – the Examiner has agreed this revision. Given Historic England are the responsible government department officers can see no reasons to disagree with their proposal and the Examiner's recommended amendment.

The policy as submitted requires applications for development in the two conservation areas to be accompanied by a heritage statement. The Examiner points out that the Chiltern District validation requirements also include the need to submit a heritage statement and that this statement needs to include a description of the significance of the heritage asset. The neighbourhood plan policy doesn't require this level of detail and as such the existing planning requirements of the local planning authority exceed those required in the neighbourhood plan. As such the Examiner recommends that this requirement is not needed in the policy. Officers agree that the district council planning application validation requirements would cover all the issues requested in the neighbourhood plan policy and as such there would be an element of duplication and therefore the Examiner's recommendation is agreed.

Recommended Council decision on Modification – Recommendation agreed.

Para 140 - modification to Design Policy 1 and the deletion of reference to the Government's Technical Housing Standards (2015) Map 12 is replaced with inset OS based maps at an appropriate scale

The neighbourhood plan text refers to a local character analysis as a supporting document – the Examiner points out that this document was not provided or published as supporting evidence and as such it is not possible to introduce it now. Given this she feels the reader should be referred in the policy to the relevant detail contained in the neighbourhood plan – officers agree with this recommendation.

Design Policy 1 as submitted requires evidence to accompany planning applications on a list of design matters. The Examiner considers that these requirements would be an onerous requirement and there is no evidence to support this approach. She

suggests a criterion based approach and has suggested amended wording. Additional for consistency she has recommended that therefore to up-to-date electronic communications infrastructure provision is altered to reflect the change made to policy Housing 1. These suggested amendments are agreed.

The neighbourhood plan Paragraph 11.11 refers to new housing developments being required to demonstrate that they are in line with the Government's Technical Housing Standards (2015). The Examiner points out that in a Written Ministerial Statement of 25 March 2015, the Government announced that neighbourhood plans should not be used to apply these national technical standards. Given this she recommends removal of the reference to the standards. As this decision is based on a ministerial statement officers agree with the recommended action.

Finally on this policy the Examiner expresses concerns about the scale of the mapping to show the associated character zones and recommends that these are shown on mapping of a more appropriate scale. Again officers consider that some of the zones would be difficult to identify and or be sure of precise boundaries at the scale of mapping currently in the neighbourhood plan and as such support the proposed amendment to the maps.

Recommended Council decision on Modifications – Recommendations agreed.

Para 144 – the deletion of Planning Contributions Policy 1 and accompanying justification text, and the last sentence in paragraph 9.5. The Parish's Key Neighbourhood Priorities to remain in the Plan as non-planning policy proposals.

The policy refers to requiring developer contributions to support the neighbourhood plan priorities. As the Examiner points out currently there is no mechanism in place to require developer contributions for works not associated with the specific development. This mechanism would be through the Community Infrastructure Levy (CIL). The Chiltern Development Plan doesn't include a CIL requirement and this is due to be put in place alongside the emerging Chiltern and South Bucks Local Plan. Given that there is no way for developer contributions unrelated to the specific requirements of the development to be sought at present this policy is not workable and the Examiner recommends the policy is deleted. Officers agree with this recommendation. The parish council's priorities will become relevant once CIL is in place and assuming the neighbourhood plan is made following a positive referendum result. Given the parish element of CIL will fall to be spent within the parish the neighbourhood plan priorities would act as a focus for any parish council expenditure of CIL and the Examiner recommends these priorities remain listed in the

neighbourhood plan. For the reasons set out in this paragraph officers agree with this approach.

Recommended Council decision on Modifications – Recommendations agreed.

Para 150 - recommend the deletion of the text on page 103 for Rural Exception Sites and its replacement with the definition of Rural Exception Sites in the NPPF.

The Examiner has looked at the glossary and considers that the definition text of rural exceptions sites on page 103 exceeds the normal definitions of terms as contained in a glossary and introduces new criterion to be followed on such sites. She considers this is unreasonable and suggests the glossary definition is replaced with the definition from national guidance. Given this is a glossary which should just explain the meaning of terms and that national guidance has defined what a rural exception scheme is the officers agree with this recommendation.

Recommended Council decision on Modification – Recommendation agreed.

Para 152 - recommend the inclusion of a map identifying the safeguarded HS2 route through the parish and the inclusion of specific HS2 safeguarding text.

The Examiner refers to representations made by HS2 Limited which in turn refer to the Secretary of State's Safeguarding Direction. This direction essentially requires all parts of the development plan to show the route of the HS2 safeguarded area in their plan/policies mapping. Given the neighbourhood plan forms part of the development plan for the area of Chalfont St Giles parish if made this is a legal requirement to be followed. As such officers agree with the Examiner's recommendation.

Recommended Council decision on Modifications – Recommendations agreed.

The examiner summaries her findings as follows:

'Whilst I have set out my reasoning under individual policies, my overall conclusion is that, subject to my recommendations, the Plan meets the Basic Conditions. It is appropriate to make the Plan. Subject to my

recommendations being accepted, I consider that the Neighbourhood Plan for Chalfont St Giles Parish will provide a strong practical framework against which decisions on development can be made. I am pleased to recommend that the Neighbourhood Plan for Chalfont St Giles Parish, as modified by my recommendations, should proceed to Referendum.'

Having considered each of the examiners recommendations officers recommend that the neighbourhood plan as modified should proceed to referendum.

Table Summary of Responses From Those Consulted on The Examiners Report.

Where respondents disagree with the Examiners recommendation their reasons will be set out below.

The Examiner did not number her recommendations therefore for reference the Examiners report paragraph where she makes her recommendation has been used as the reference in the table below.

Examiners report para number	Examiners recommendation	Cllr Bray	Cllr Jackson	Cllr Rouse	CDC Officers	CSG Parish	Cllr Martin
Para 57	- modification to Housing Policy 1	YES			YES	YES	YES
Para 71	- modification to Housing Policy 2	YES			YES	YES	YES
Para 76	- modification to Community Facilities Policy 1	YES			YES	YES	YES
Para 88	- modification to Economy Policy 1	YES			YES	YES	YES
Para 95	- modification to Natural Environment Policy 1	YES			YES	YES	YES
Para 106	- modification to the last sentence in Natural Environment Policy 2 and Map 11 is replaced with inset OS based maps at an appropriate scale	YES			YES	YES	YES
Para 111	- the deletion of Natural Environment Policy 3 and supporting justification	YES			YES	YES	YES
Para 117	- Deletion of Natural Environment Policy 4 and the associated paragraphs.	YES			YES	YES	YES
Para 127	- Modification to Historic Environment Policy 1.	YES			YES	YES	YES
Para 140	- modification to Design Policy 1 and the deletion of reference to the Government's Technical Housing Standards (2015) Map 12 is replaced with inset OS based maps at an appropriate scale	YES			YES	YES	YES
Para 144	- The deletion of Planning Contributions Policy 1 and accompanying justification text, and the last	YES			YES	YES	YES

Examiners report para number	Examiners recommendation	Cllr Bray	Cllr Jackson	Cllr Rouse	CDC Officers	CSG Parish	Cllr Martin
	sentence in paragraph 9.5. The Parish's Key Neighbourhood Priorities to remain in the Plan as non-planning policy proposals.						
Para 150	- recommend the deletion of the text on page 103 for Rural Exception Sites and its replacement with the definition of Rural Exception Sites in the NPPF.	YES			YES	YES	YES
Para 152	- recommend the inclusion of a map identifying the safeguarded HS2 route through the parish and the inclusion of specific HS2 safeguarding text.	YES			YES	YES	YES