

**Wiltshire Council**

**Annual Council**

**16 May 2017**

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**Adoption of Chippenham Site Allocations Plan**

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**Executive Summary**

The Council received the Inspector's Report into the examination of the Chippenham Site Allocations Plan (CSAP) on 21 February 2017. It concludes that, subject to the changes set out in the Report, the submitted CSAP is sound. The Inspector's Report is final and the examination is now closed. This leaves this authority with the choice of adopting the CSAP, as amended in response to the Inspectors recommendations, or not.

If adopted by the Council an adoption notice will be published providing a six week period for legal challenge during which any person or organisations may make an application to the High Court on the grounds that preparation of the Plan did not comply with the correct procedures or is in some respect outside the scope of the powers under which it should have been made.

Upon adoption the CSAP will become part of the statutory development plan for Wiltshire alongside the Wiltshire Core Strategy. The authority is legally bound to take planning decisions in accordance with its policies unless there are material considerations which merit setting them aside in any given case. It sets out strategic policies for managing development at Chippenham in accordance with the Wiltshire Core Strategy.

**Proposals**

That following recommendation by Cabinet at its meeting on 14 March 2017, Council:

- (i) Notes the content of the Inspector's Report into the examination of the Chippenham Site Allocations Plan (**Appendix 1**) and his conclusions regarding legal compliance and soundness and accepts the modifications in the Appendix of the Inspector's Report, which the Inspector considers are necessary to make the plan sound in accordance with legislation
- (ii) Adopts the Chippenham Site Allocations Plan, as amended as set out in **Appendix 2**, including the Additional Modifications set out in **Appendix 3**.
- (iii) Delegates authority to the Associate Director for Economic Development and Planning in consultation with the Associate Director for Legal and

Governance and the relevant Cabinet Member to amend the Policies Map as set out in **Appendix 5** and for further minor textual changes to be made to the Chippenham Site Allocations Plan prior to publication in the interests of accuracy and consistency.

- (iv) Subject to Council approval of (ii) above, delegates authority to the Associate Director for Economic, Development and Planning in consultation with the Associate Director for Legal and Governance and the relevant Cabinet Member, to undertake the final stages associated with the formal adoption and publication of the Chippenham Site Allocations Plan.

### **Reason for Proposals**

The Chippenham Site Allocations Plan will form part of the Council's Policy Framework. As the document has been found sound by the Inspector its adoption by the Council would help ensure up to date planning policy is in place at Chippenham and provide effective policies to ensure the sustainable development of Chippenham.

**Dr Carlton Brand**  
**Corporate Director**

## **Adoption of Chippenham Site Allocations Plan**

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### **Purpose of Report**

1. To:
  - (i) Consider the recommendations of Cabinet at its meeting on 14 March 2017 concerning the adoption of the Chippenham Site Allocations Plan (relevant extract of minutes attached at **Appendix 4**)
  - (ii) Inform Council of the Inspector's Report into the examination of the Chippenham Site Allocations Plan and his conclusions regarding legal compliance and soundness (**Appendix 1**).
  - (iii) Seek adoption of the Chippenham Site Allocations Plan, as amended by the Main Modifications in the Inspector's Report and other Additional Modifications that have arisen during the examination or been made in the interest of accuracy and consistency (**Appendices 2 and 3**).
  - (iv) Seek approval for the Associate Director for Economic Development and Planning, in consultation with the Associate Director for Legal and Governance and the relevant Cabinet Member, to undertake the final stages associated with the formal adoption by the Council of the Chippenham Site Allocations Plan.

### **Relevance to the Council's Business Plan**

2. Progression of the development plan for Chippenham is fundamental to realising the overarching aims of the Business Plan 2013-2017 of delivering stronger and more resilient communities. In identifying land to deliver new jobs, homes and community facilities in a way that seeks to minimise impact on the local environment and maximise benefits of development including accessibility to open space and new road infrastructure, it will help deliver a number of outcomes including:
  - Thriving and growing local economy
  - Everyone lives in a high quality environment
  - Healthy, active and high quality lives

## Background

3. On 14 July 2015, following consideration by Cabinet on 9 July, Council approved the submission of the draft Chippenham Site Allocations Plan (the Plan) together with proposed changes to the Secretary of State for examination. The proposed changes had arisen as a result of consultation on the Pre-Submission draft Plan in February 2015.
4. The Plan was subsequently submitted on 30 July 2015. The appointed Inspector, Patrick Whitehead, wrote to the Council on 18 September setting out his Initial Appraisal of the Plan to which the Council responded. On 5 October, the Inspector confirmed that on the basis of the Council's response he was content for the examination to proceed to the hearing sessions. The hearings opened on 10 November and were programmed to run until 19 November 2015.
5. On day two, the Inspector suspended proceedings when the Inspector raised concerns about the evidence supporting the Plan. The Inspector set out his concerns in letters to the Council of 16 and 30 November 2015. In response the Council wrote to the Inspector on 4 December 2015 and provided a Schedule of Work designed to address his concerns.
6. Cabinet on 19 April 2016 noted the progress being made with the Examination of the Plan and Schedule of Work. The outcome of this Schedule of Work was reported to Council on 10 May 2016 where approval was given for the Proposed Modifications to the Plan arising from it. Consultation on the Proposed Modifications to the Plan and the revised evidence base that was the outcome of the Schedule of Work took place over the period 23 May – 5 July 2016. At the same time, consultation was also undertaken on other proposed modifications that had been previously put to the Inspector as part of the examination process, where they still remained valid following the implementation of the schedule of work, and included the proposed changes approved by Council referred to in paragraph 3.
7. All comments received as part of this consultation were forwarded to the Inspector for his consideration. Following receipt of this information hearings were reopened between 27 September and 4 October 2016. As a consequence of these hearing sessions further changes were proposed to the draft Plan which were consulted on over the period 31 October to 12 December 2016. The response to this consultation was also sent to the Inspector for his consideration.
8. The Inspector issued his Report to the Council on 21 February 2017. This is attached at **Appendix 1**.
9. Communications between the Council and Inspector and all evidence submitted to the Examination are provided on the Council's website at: [http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/chippenhamsiteallocationsplan/chippenham\\_examination.htm](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/chippenhamsiteallocationsplan/chippenham_examination.htm)

## Main Considerations for the Council

10. The Chippenham Site Allocations Plan is a development plan document (DPD), therefore, once adopted, it will form part of the development plan for Wiltshire, alongside the adopted Wiltshire Core Strategy and saved policies in the former District plans. The process for the preparation of DPDs is prescribed by statute and regulation, including the examination stage by an independent Inspector appointed by the Secretary of State. The scope of the Inspector's Report is set out at paragraph 1 of his report:

*“This report contains my assessment of the Chippenham Site Allocations Plan (CSAP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.”*

11. **Appendix 1** of this report includes the Inspector's Report in full. In accordance with section 20 (7C) of the 2004 Act the Council asked the Inspector to recommend any main modifications (MM) necessary to rectify any matters in the submitted plan that made the Plan unsound. The recommended main modifications are set out in full as an Appendix to the Inspector's Report. In summary the key modifications, as highlighted by the Inspector in his 'Non-Technical Summary', are:

- The development strategy has been amended to update the housing requirement and include a revised methodology replacing references to first, second and third preferred areas - MMs 5 - 6;
- Policy CH1 and supporting text has been amended to include smaller extension sites and increase the total housing yield for the strategic area - MMs 7 - 17;
- Policy CH2 and supporting text has been amended to clarify the proposals and address concerns with deliverability - MMs 18 - 26; and
- Policy CH3 and supporting text has been deleted in its entirety - MMs 27 - 29.

12. The majority of the Main Modifications relate to those changes put forward by the Council which have been the subject of public consultation during the course of the examination as identified above. All public consultation responses have been taken into account by the Inspector in writing his report, as recognised at paragraph 3 of his report:

*“In arriving at my conclusion in this report I have had regard to the representations resulting from all of these consultations.”*

13. In addition to the Main Modifications that were consulted on either in May or October 2016 (see paragraphs 6 and 7, above), the Inspector has also now made a small number of other modifications to Policy CH2 (Rawlings Green) and its supporting text, as referred to in paragraph 98 of his Report.
14. The further amendments he has proposed relate to the timely delivery of transport infrastructure and mitigation of landscape impact in relation to the Rawlings Green site. These amendments are included in MM5, MM18 and MM26. In arriving at these conclusions he stated at paragraph 6:

*“I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of my amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken.”*
15. The Inspector’s own modifications do not alter the overall substance of the plan and its policies or undermine the conclusions of the Sustainability Appraisal and Habitats Regulations Assessment, both of which have been updated during the examination and take into account the Council’s proposed main modifications to the Plan (see paragraph 24 below).
16. Attached at **Appendix 3** is a list of Additional Modifications. Additional Modifications can be identified at the discretion of the Council under the Planning and Compulsory Purchase Act 2004 (as amended), s23, (3(b)<sup>1</sup>. These have been included for completeness and relate to typographical errors or minor factual updates which have been made in the interests of accuracy and clarity. The list of Additional Modifications includes some changes consulted on as Main Modifications during the May and October 2016 consultations. These are referred to at paragraph 6 of the Inspector’s Report. (The list of Additional Modifications may be amended further in the interest of accuracy and clarity should further typographical errors be identified before the Plan is published at the time of adoption).
17. The Chippenham Site Allocations Plan as proposed to be adopted is attached at **Appendix 2**. This incorporates the Inspector’s Main Modifications as set out in Appendix 1 and the Additional Modifications, set out in Appendix 3. The consequential changes to the Wiltshire Policies Map as explained in the Inspector’s Report at paragraphs 7-10 are attached at **Appendix 5**.

## **Overview and Scrutiny Engagement**

18. There has been no overview and scrutiny engagement at this stage.

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<sup>1</sup> “3) The authority may adopt the document - (b) with the main modifications and additional modifications if the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications.”

### **Safeguarding Implications**

19. There are no safeguarding implications arising from the proposal

### **Public Health Implications**

20. Planning for sustainable development to meet the employment, housing and infrastructure needs of communities helps foster their wellbeing. Well planned development, including appropriate infrastructure, supports health and well being of local communities, for example through the provision of green infrastructure and infrastructure to encourage walking and cycling as means of travel.

### **Procurement Implications**

21. There are no further procurement implications as a direct result of this proposal.

### **Equalities Impact of the Proposal**

22. The Chippenham Site Allocations Plan aims to positively manage growth and development at Chippenham. The public consultation processes and community involvement has ensured that everyone has had the opportunity to inform the preparation of the Plan.
23. The Plan has been subject to Equalities Assessment which was submitted to the Secretary of State as evidence to support the Plan.

### **Environmental and Climate Change Considerations**

24. Spatial Planning has implications for the natural, economic and social environment. A Sustainability Appraisal incorporating Strategic Environmental Assessment has been undertaken during the preparation of the Plan. The Sustainability Appraisal (SA) has been undertaken iteratively at all stages of preparation and has informed the evolution of the Plan. A Habitat Regulations Assessment has also been undertaken. Both have helped shape the Plan, ensuring that negative environmental impacts are avoided and sustainable development can be delivered. The Inspector concluded at paragraph 146 that the “SA, as amended, has been carried out and is adequate”. The SA is further discussed at paragraphs 29-33 of the Inspectors Report. The Inspector also concluded at paragraph 146 that the ‘Habitats Regulations Appropriate Assessment Screening Report, July 2015’ sets out why Appropriate Assessment of proposals of the Plan is not necessary.
25. The final Sustainability Appraisal Report and Habitats Regulations Assessment are available at:  
<http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/chippenhamsiteallocationsplan.htm>

## **Risks that may arise if the proposed decision and related work is not taken**

26. Once adopted, the Council can give full weight to the Chippenham Site Allocations Plan in planning decisions in order to deliver sustainable development at Chippenham and provide greater certainty to local communities and the development industry on where and how development should take place.
27. There is a considerable amount of developer interest around Chippenham. This means that the Council is already considering applications (and involved in appeals) on the edge of the town on a case by case basis impacting on the Council's ability to plan effectively for growth at the town. Adoption of the Plan will reduce this period of uncertainty, and will also help the Council maintain and demonstrate a five year supply of housing land, in accordance with the requirements of the Government's National Planning Policy Framework (NPPF), through the identification of sites for development.
28. Rejection of the Inspector's Report at this stage would leave the Council reliant on the wider policies in the Wiltshire Core Strategy and the NPPF when considering major planning applications at Chippenham at a time when the Government has stated its intention (paragraph 14, NPPF) to ensure that there is a presumption in favour of sustainable development in the absence of up to date local planning policies.
29. The Inspector discusses the option of withdrawing the Plan at paragraph 19 of his report concluding:

*"There is no public interest which would be served by the Plan's withdrawal. Indeed it can be argued that the opposite is true: that there is everything to be gained by having a plan in place to address the uncertainty which exists through the absence of an adopted Plan."*

## **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

30. See legal implications below. At the point of adoption of the Chippenham Site Allocations Plan by Council, there will follow a period of six weeks for legal challenge.
31. In addition Main Modification 37 introduces a section on Risk Management to the Plan and table of risks which will be monitored and managed as the Plan is implemented.

## **Financial Implications**

32. The financial implications of adopting, publishing and meeting future commitments in relation to the Chippenham Site Allocations will need to be met from within existing budget allocations for Economic, Development and Planning.



33. Adoption of the Plan will help bring forward new sites for housing, thereby enabling the Council to benefit from the Government's New Homes Bonus and by a contribution to the Council's Council Tax base. In addition, they will be subject to Community Infrastructure Levy that will help deliver specific infrastructure schemes in Chippenham and adjoining parishes.

### **Legal Implications**

34. Once adopted the Chippenham Site Allocations Plan will form part of the statutory development plan for the area and be used as such for the purpose of determining planning applications. Its preparation has involved ensuring compliance with procedural requirements including: duty to cooperate, Sustainability Appraisal and Habitats Regulations Assessment being undertaken at key stages during the preparation of the Plan, and consultation statements summarising how the Council has engaged with communities and other stakeholders during the process. The Inspector considered legal compliance of the Plan at paragraph 146 of his report and concluded:

*“My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.”*

35. The options open to the Council at this stage in the process are set out in the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) England Regulations 2004. If the Council rejects one or more of the Inspector's recommended modifications it cannot then proceed to adopt the Plan.
36. There are legal implications associated with the adoption of the document. These are limited to the potential for judicial challenge in accordance with legislation. Any such challenge would be limited in terms of scope and could only challenge whether a procedural step in the process of preparing the document has been missed or not complied with fully or is in some respect outside the scope of the powers under which it should have been made. Wiltshire Council Legal Services have been fully involved throughout the process.
37. Should the Plan be formally adopted by Council, an 'Adoption Statement' will be published in the local press advertising the availability of the Inspector's Report and the adopted Plan. If at this stage anyone wishes to lodge a judicial challenge to the document, they must do so within six weeks of the date it is adopted by the Council.

### **Options Considered**

38. The options open to the Council are limited by the legislation (see legal implications above). The Council can either:
- (i) Adopt the Plan with the modifications recommended by the Inspector;
- or

(ii) Resolve not to adopt the Plan.

In the case of (ii) the Council would need to withdraw the Plan and begin preparation of a new plan that would take a number of years to put in place. This would have repercussions for housing land supply in Chippenham specifically and Wiltshire generally, paving the way for speculative rather than plan led development.

39. As stated above the option of withdrawing the Plan was considered by the Inspector which he rejected as not in the public interest (see paragraph 29, above).

## **Conclusions**

40. The Chippenham Site Allocations Plan has been in preparation over a number of years and involved considerable public consultation with local communities and other stakeholders. It has now reached the final stage in the process and on adoption will have full weight in determining planning applications and provide certainty over how sustainable development can be delivered in Chippenham.

41. The Inspector's Report on the examination into the Plan states at paragraph 148:

*"I conclude that with the recommended main modifications set out in the Appendix the Chippenham Site Allocations Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework."*

42. The Council can now formally adopt the plan in line with the Inspector's recommendations. Adoption of the plan will provide an up-to-date development plan for Chippenham. This will enable the effective management of development and ensure that homes and jobs are provided at the town in the most sustainable way that maximises benefits for the local community.

## **Alistair Cunningham**

Associate Director for Economic Development and Planning

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Report Authors:

### **Georgina Clampitt-Dix**

Head of Spatial Planning

### **Carolyn Gibson**

Spatial Planning Manager

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## **Appendices**

**Appendix 1:** Report on the Examination of the Chippenham Site Allocations Plan including list of Main Modifications

**Appendix 2:** Chippenham Site Allocations Plan: Proposed Adopted Version, Council, May 2017

**Appendix 3:** List of Additional Modifications

**Appendix 4:** Extract from minutes of Cabinet on 14 March 2017

**Appendix 5:** Proposed changes to the Wiltshire Policies Map

## **Background Papers**

Available on the Council's web site:

- Chippenham Site Allocations Plan: Sustainability Appraisal - Final Report May 2017 (The Sustainability Appraisal Report comprises 8 documents)
- Chippenham Site Allocations Plan: Habitats Regulation Assessment: Update April 2017 (Habitat Regulations Assessment comprises 3 documents)