

## **VALE OF WHITE HORSE DISTRICT COUNCIL**

### **RADLEY NEIGHBOURHOOD DEVELOPMENT PLAN:**

### **FINAL DECISION STATEMENT**

**DATE OF PUBLICATION – 20 September 2019**

#### **1. Decision**

1.1. Following an Independent Examination and a positive referendum result Vale of White Horse District Council decided at the Council meeting on 10 October 2018:

1. To make the Radley Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To delegate to the Head of Planning, in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

#### **2. Background**

2.1 The parish of Radley was designated as a Neighbourhood Area on 17 June 2015.

2.2 Following the submission of the Radley Neighbourhood Plan Examination Version ('the Plan') to the Council, the plan was publicised and comments were invited from the public and stakeholders.

2.3 Vale of White Horse District Council appointed an independent Examiner, Andrew Ashcroft, to review whether the plan met the basic conditions required by legislation and whether the plan should proceed to referendum.

2.4 The Examiner's Report concluded, subject to the modifications proposed in his report, that the plan meets the Basic Conditions. The council determined on 9 July 2018 that the Plan, as modified by the Examiner's recommendations, should proceed to referendum.

- 2.5 A referendum was held on Thursday, 13 September 2018 and 87% of those who voted were in favour of the plan.

*Do you want Vale of White Horse District Council to use the Neighbourhood Plan for Radley to help it decide planning applications in the neighbourhood area?*

### **3. Reason for Decision**

- 3.1 Section 38A(4)(a) of the 2004 Act requires the Council to make the neighbourhood plan if more than half of those voting in the referendum have voted in favour of the plan being used to help decide planning applications in the neighbourhood area. Section 38A (6) of the 2004 Act states that the Local Planning Authority is not subject to the duty if it considers that the making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights.
- 3.2 The council determined on 9 July 2018 that the Plan, as modified by the Examiner's recommendations, meets the basic conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, is compatible with EU obligations and the Convention rights and complies with relevant provision made by or under Section 38A and B of the Planning and Compulsory Purchase Act 2004 as amended.
- 3.3 Bullet iv of the Introduction of the Basic Conditions Statement submitted in support of the Plan outlined the Qualifying Body's considerations to the European Convention on Human Rights (ECHR), in particular their regard to the fundamental rights and freedoms guaranteed under the ECHR and the Human Rights Act. The council is satisfied that the preparation of the Plan had regard to the fundamental rights and freedoms guaranteed under the European ECHR and that it complies with the Human Rights Act. The Council is satisfied that there has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.
- 3.4 The Parish Council has prepared a Strategic Environmental Assessment (SEA) that identifies, describes and evaluates the likely significant effects of implementing the Plan, and reasonable alternatives. Sections 1-4 of the SEA consider the background to the process of SEA, the plan's objectives and the scope of the SEA. The following sections (5-7) deal with the identification and appraisal of reasonable alternatives. The preferred approach is identified in section 8, whilst sections 9 and 10 of the plan identify and evaluate the 'likely significant effects' on the baseline, drawing on the sustainability objectives

identified through scoping. The final sections (11-13) address the remaining stages in the process of producing, and subsequently monitoring, the Plan.

- 3.5 The council produced a Habitats Regulations Assessment (HRA) Screening report on the impact of development proposed in the Plan on European sites, which was completed on 29 January 2018. The Screening Statement concluded that likely significant effects on the integrity of European sites in the Vale of White Horse District and adjacent Planning Authority areas from policies in the Neighbourhood Plan will not occur, and that an HRA would therefore not be required. This conclusion was endorsed by Natural England.
- 3.6 Subsequent to that Screening Statement on 12<sup>th</sup> April 2018, the European Court of Justice issued a judgement in *People Over Wind and Sweetman v Coillte Teoranta* (Case C-323/17). That judgement made clear that it was no longer appropriate to take mitigation measures into consideration when screening a Neighbourhood Plan under the HRA procedure. Any mitigation should only be taken into consideration at the Appropriate Assessment stage.
- 3.7 As a consequence, the District Council commissioned a new HRA of the Radley Neighbourhood Plan in June 2018. That report, produced by AECOM, concluded:

*“7.1 A previous HRA screening report was undertaken of the Radley Parish Council Neighbourhood Plan, and found the Plan would not result in likely significant effects on European sites. However, as this relied upon mitigation in drawings its conclusions as to likely significant effects on the Oxford Meadows SAC, this report was prepared and included a likely significant effects analysis covering all relevant European sites, and then an appropriate assessment of effects on Oxford Meadows SAC. The mitigation measures were taken into account during the appropriate assessment.*

*7.2 The initial screening exercise found there would be no likely impacts on Cothill Fen SAC, Hackpen Hill SAC or Little Wittenham SAC.*

*7.3 The appropriate assessment found that the existing policies within the Vale of White Horse Local Plan Part 1 and 2, the mitigation measures within the Local Plan Part 1 and Policy PP.10 within the Neighbourhood Plan were sufficient to conclude that there would be no likely significant effect on the Oxford Meadows SAC.*

*7.4 Therefore it is possible to conclude that no adverse effects on the integrity of European sites will arise from the Radley Parish Council Neighbourhood Plan, alone or in-combination with other plans and projects.”*

- 3.8 Natural England were consulted on the HRA on 25<sup>th</sup> June 2018. They responded on 4<sup>th</sup> July stating that they were satisfied with the outcomes of the new HRA.
- 3.9 Therefore, the Council is satisfied that the making of the Radley Neighbourhood Development Plan, incorporating the modifications recommended by the Examiner and accepted by the council, would not breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights.
- 3.10 A referendum relating to the adoption of the Radley Neighbourhood Development Plan was held on Thursday 13 September 2018.
- 3.11 The question which was asked in the Referendum was: *“Do you want Vale of White Horse District Council to use the Neighbourhood Plan for Radley to help it decide planning applications in the neighbourhood area?”*

3.12 The result was as follows:

Response	Votes	Per cent of total
Yes	455	87%
No	68	13%
Turnout	524	29.01%

- 3.13 The majority of local electors voted in favour of the plan; therefore, the Radley Neighbourhood Plan has become part of the council’s development plan.
- 3.14 As the plan was approved at the local referendum and the council is satisfied it would not breach and be otherwise incompatible with EU obligations or human rights legislation, the council is required make the Radley Neighbourhood Development Plan so that it continues to be part of the council’s development plan.
- 3.15 The Council decided at the Council meeting on 10 October 2018 to make the Radley Neighbourhood Plan part of the Development Plan for Vale of White Horse.

#### **4. Other Information**

- 4.1 In accordance with Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012, this Decision Statement and the made Radley Neighbourhood Plan can be viewed on the Council’s website:  
<http://www.whitehorsedc.gov.uk/services-and-advice/planning-and-building/planning-policy/neighbourhood-plans/radley-neighbourhood-p>

4.2 Copies of this Decision Statement and the Radley Neighbourhood Plan can be inspected at:

Reception <b>Vale of White Horse District Council</b> 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	Mon - Thurs, 8.30am - 5pm and Friday, 8.30am - 4.30pm
<b>St. James the Great Church</b> (porch area) Kennington Road, Radley, Abingdon, OX14 2JN	Mon to Friday - 8.00am to 6.00pm Saturdays - 8.00am to 2.00pm Sundays - 8.00am to 6.30pm

4.3 In accordance with Regulation 19(b) and Regulation 30 of the Neighbourhood Planning (General) Regulations 2012, a copy of this Decision Statement has been sent to:

- The qualifying body, namely Radley Parish Council
- The persons who asked to be notified of the decision

Adrian Duffield  
**Head of Planning**

Date: 20 September 2019