

North East District Council

Cabinet

29 October 2020

Local Plan Examination – Main Modifications for Public Consultation
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Report of Councillor C Cupit, Deputy Leader of the Council and Portfolio Holder for Environmental Services

This report is public

Purpose of the Report

- To outline the Main Modifications to the Council's Publication Draft Local Plan that the independent Inspector deems are necessary to make the Local Plan sound and legally compliant.
- To outline the findings of Sustainability Appraisal and Habitat Regulation Assessment on the Main Modifications.
- To secure approval of the Main Modifications and associated documents for the purposes of public consultation; along with arrangements for the public consultation.

1 Report Details

Background

- 1.1 Work commenced on the preparation of the Local Plan for North East Derbyshire in 2007 and has progressed through a number of stages of public consultation between 2009 and 2018 culminating in the Publication version of the Local Plan. Following a period of public consultation, the Publication Plan was submitted to the Secretary of State on 24 May 2018 and an independent Inspector was appointed to undertake the formal Examination of the Plan.
- 1.2 A series of Public Hearing Sessions were held over the periods 13 - 22 November 2018, 4 - 5 December 2018 and 13 - 14 March 2019. At the close of the last hearing session the Inspector set out that the next steps would involve targeted consultation on housing monitoring information and subsequently full public consultation on Main Modifications to the Plan. There then followed a pause in proceedings as the Council took time to consider the issues associated with housing numbers and Green Belt release and the options for the Local Plan. The process was un-paused on 27 February 2020, but progress was then delayed by the impacts of the Coronavirus (Covid-19) pandemic and associated restrictions. During this time the government issued revised legislation and planning guidance to enable Local Plans to progress through the pandemic in circumstances where social distancing measures would make it impossible for Council's to comply with national and local requirements concerning the availability of documents at public venues during periods of public consultation. With the easing of national lockdown restrictions in the summer,

targeted consultation was able to take place on the matter of the 'Five Year Housing Land Supply and 2018/19 Housing Monitoring Data' between 2 and 23 June 2020.

- 1.3 The next key stage of the Local Plan Examination is for the Council to consult on the Inspector's Main Modifications to the Plan. The Inspector will then consider the representations and decide whether it is necessary to hold further public hearing sessions, before setting out her recommendations for the Plan in her Report. Receipt of the Inspector's report concludes the Local Plan Examination process and the Council must then decide whether to adopt the Plan.

Main Modifications

- 1.4 Main Modifications are those changes to the North East Derbyshire Local Plan (2014 – 2034) Publication Draft that the Inspector considers are necessary to make the Local Plan sound and legally compliant.
- 1.5 The Main Modifications draw upon a combination of modifications put forward by the Council during the Examination; those put directly in response to challenges made by objectors to the plan (of which some have been agreed between the Council and Objector and set out in a Statement of Common Ground); those in response to questions from the Inspector following hearing sessions; and others are a result of direct instruction from the Inspector.
- 1.6 The Main Modifications are set out in full at **Appendix 1** to this report and cover a range of matters that vary in their extent from amending a single word to replacing an entire policy or section of text. Whilst all of the Main Modifications are necessary to make the Local Plan sound and legally compliant, some are of particular note and these are summarised by Chapter below (the MM/XXX references relate the corresponding Main Modification in the schedule at Appendix 1):

Chapter 3: 'Vision & Objectives'

- A change is proposed to Plan Objective D5 on housing to give explicit support to housing-led neighbourhood regeneration opportunities (MM/002 & MM/003).

Chapter 4: 'Spatial Strategy'

- Policy SS2: Spatial Strategy and the Distribution of Development is amended to reflect changes required by the Inspector to be less prescriptive in the approach to give priority to the four level 1 towns and strategic sites; to align with changes to employment sites in Chapter 6; and to clarify the approach to development in the countryside (MM009);
- Changes to Policy SS6: Coalite Priority Regeneration Area and supporting text to remove unnecessary restrictions to the development of the site and clarify the level and range of uses likely to be acceptable (MM015 & MM016);

Chapter 5: Living Communities

- Changes to Policy LC1: Housing Allocations and supporting text to reflect the latest housing monitoring data in housing completions and projected delivery timescales. This includes the removal of allocated housing sites from the Policies Map where development has been completed; and in cases where the Inspector has directed a change, i.e. the removal of the Green Belt sites at Eckington Road, Coal Aston (DR2) and Eckington South (EC1); and a

reduction in site area of the site at Sheffield Road, Dronfield (DR1) (MM/026 to MM/060).

- New Policy 'Allocation of Traveller Sites' and supporting text inserted to reflect two new Traveller Site allocations at The Old Potato Store, Dark Lane, Calow and Dark Lane, North Wingfield (MM/069 to MM/073).

Chapter 6: Working Communities and Economic Development

- This chapter has seen the most changes in relation to the re-writing, re-ordering and rationalisation of policies. Whilst the scale of change may appear significant, there is no overall difference in the approach, the changes simply improve clarity.

Chapter 9: Infrastructure & Delivery

- Introduction of a new Policy to identify 'Safeguarded Land for Education Facilities' and the identification of the following sites on the Policies Map at: Renishaw Primary School, Hague Lane; Lansbury Avenue, Pilsley; Mickley Infant School, Milton Avenue; Unstone Junior School, Main Road. These are notified sites, which means that Derbyshire County Council has identified that they are needed for either future expansion of an existing school, or for the provision of a new school or playing field (MM/118);
- Changes to Policy ID8: Chesterfield Canal and supporting text together with consequential changes to the Policies Map to reflect updated plans showing the extent of land required for the Chesterfield Canal including the canal towpath and associated land (MM119 & MM/120);

Chapter 10: Monitoring & Implementation:

- This Chapter has been rewritten to provide clarity on the instances when a Plan Review will be triggered. The monitoring framework at Table 10.1 has also been simplified to focus on a reduced number of key indicators (MM/125 and MM/126).

Throughout the Plan:

- Elsewhere the Main Modifications are not particularly significant and consist of changes to improve the clarity of a policy, to more closely reflect national planning guidance, to take account of recent monitoring data, or to take account of changing external factors, such as the Retail Price Index, which is used to calculate developer contributions towards open space, recreation and sports provision.

Policies Map Changes

- 1.7 The Policies Map illustrates geographically the application of policies within the Local Plan and is not subject to consultation in its own right. Where Main Modifications require corresponding changes to the Policies Map, these are clearly signposted in the Main Modifications Schedule and illustrated in a separate supporting schedule for clarity (see **Appendix 2** to this report).

Additional Modifications

- 1.8 Alongside the Main Modifications that are deemed necessary by the Inspector, there are a series of other minor changes to the Local Plan, called 'Additional Modifications'. These changes include the correction of typographical and factual errors and updating of matters of fact and in some cases result in changes to the Policies Map. In all cases these Additional Modifications have no material impacts on the policies of the Plan and do not fall within the scope of the Inspector during the Examination of the Local Plan.
- 1.9 It is however, proposed that the Additional Modifications and associated changes to the Policies Map are published alongside the Main Modifications material for completeness. This will be available for information purposes only and will not form part of the consultation exercise. The proposed Additional Modifications are included at **Appendix 3** to this report and would be made by the Council upon adoption of the Local Plan.

Sustainability Appraisal and Habitats Regulation Assessment

- 1.10 Sustainability Appraisal (SA) and Habitat Regulation Assessment (HRA) processes are two of the key legal tests for plan making. They are an integral and iterative part of Local Plan preparation and help to inform each stage of the process.
- 1.11 The Main Modifications and Policies Map Changes at Appendices 1 and 2 of this report have been subject to SA and HRA by independent consultants appointed by the Council. Interim findings have not identified any significant adverse impacts. An update on the findings of the final report will be provided at the meeting.

Other Documents

- 1.12 In addition to the documents mentioned above it is also necessary to make a number of other documents available alongside the Main Modifications for information purposes. This includes the Addendum to the Statement of Community Involvement (explained at paragraph 1.15 below); the 2020 Five Year Housing Land Supply Statement and the Rolling Five Year Supply Table Data that was subject to targeted consultation during the summer; and key items of correspondence and evidence recently provided at the Inspector's request in relation to the implications of the 2018 Household Projections and changes to the Use Classes Order.

Consultation Arrangements

- 1.13 Public consultation on the necessary Main Modifications is required for the Inspector to be satisfied that all interested parties, not just those who participated during the Hearing Sessions, have had a chance to comment on them. Comments are only invited on Main Modifications, which are put forward without prejudice to the Inspector's final conclusions on the plan. This is not an opportunity to re-open matters that were addressed or could have been addressed during the Hearing Sessions.
- 1.14 The scope and length of consultation is expected to reflect the procedure that was followed with the Publication Draft Plan, and should involve consulting for a minimum of six weeks, issuing a press release, notifying all persons registered on the Local Plan Consultation database alongside statutory consultees; making the consultation

material available to view on the Council's website and at deposit venues across the District; and enabling consultation responses to be made on line or in writing, all in line with the Council's Statement of Community Involvement.

- 1.15 However, the ongoing threat of Coronavirus (Covid-19) and its associated and variable restrictions means that it may not be possible to make documents publicly available at deposit venues throughout the consultation period. In addition, some individuals may not be able to access documents if they are self-isolating. This area of risk was anticipated and an amendment to the Council's Statement of Community Involvement (SCI) was approved by Cabinet on 10 September, 2020 (Minute No: CAB/ 29/2 0-21). This provides for the temporary suspension of the provisions of the SCI that relate to making copies of Local Plan documents available to view at key locations throughout the District and charging for hard copy documents; where this is necessary due to national or local restrictions that may be in place as a result of the Coronavirus (Covid-19) pandemic. It also allows for the following measures to be implemented where necessary:
- **Access to Documents** - hard copies of key consultation documents and material will be made available and posted out where possible (free of charge) on request to those individuals that are unable to view the consultation documents online and are unable to view hard copies at local deposit venues, either due to the closure of those venues, or due to social distancing/shielding restrictions.
 - **Making Representations** - should anyone be unable to submit a response online or by email and be unable to leave their home to post a response, the Council will consider bespoke measures on a case by case basis to enable people to respond, including arranging for the collection of the letter.
 - **Consultation Timescales** - consideration will be given to extending the time period for accessing documents and responding, with arrangements kept under review throughout the consultation period.

- 1.16 It is proposed that consultation should commence on the Main Modifications on Monday 2 November 2020. The usual 6 week consultation period would close on 14 December 2020 however, it is proposed to extend this by just over a week until 23 December due to the current uncertainty around the Coronavirus (Covid-19) pandemic. It may subsequently prove necessary to extend the consultation period still further should local lockdowns or additional shielding restrictions be put in place which trigger the special measures around access to documents and making representations as described above. To ensure we can effectively monitor and respond quickly to changing circumstances, it is recommended that responsibility for the detailed timing and nature of consultation arrangements is delegated to the Assistant Director of Planning in consultation with the Portfolio Holder for Environmental Services.

Next Steps

- 1.17 All representations received on the Main Modifications will be collated by the Council and sent to the Inspector for her consideration. It is generally expected that issues raised during consultation on main Modifications will be considered through written representations and further hearing sessions will only be scheduled by exception. Once the Inspector has considered the representations she will set out her recommendations in her Report, which the, the Planning Inspectorate will send to the Council for publication. The Council is then obliged by the Town and Country

Planning (Local Planning) (England) Regulations 2012 to publish the Report as soon as reasonably practicable.

- 1.18 The Local Plan will then be prepared for adoption, implementing the recommendations set out in the Inspector's Report. The Council will then need to take a decision on whether to adopt the Local Plan

2 Conclusions and Reasons for Recommendation

- 2.1 The independent Inspector appointed to examine the North East Derbyshire Local Plan (Publication Draft) has identified a series of changes to the plan that are necessary to make the Plan sound and legally compliant. These Main Modifications have been screened for any changes that might be deemed significant within the Sustainability Appraisal and Habitat Regulation Assessment processes and the interim findings have not identified any significant adverse impacts.
- 2.2 Public consultation on the Main Modifications is the next key step in the plan making process and must take place in order that the Inspector can publish her report. It is therefore recommended that Cabinet note the Inspector's judgement on the necessary Main Modifications to the Plan along with the findings of the Sustainability Appraisal and Habitat Regulation Assessment and authorises a public consultation exercise in line with approach detailed in this report.

3 Consultation and Equality Impact

- 3.1 Members of the Local Plan Steering Group are due to consider the content of this report at a meeting on 23 October, 2020. Feedback from this group will be reported to the meeting.
- 3.2 An Equality Impact Assessment was carried out to inform the Publication Draft Local Plan. The modifications have been screened for any changes that might be deemed significant within the Equality Impact Assessment process. It was found that the modified policies do not impact people differently to the Publication Draft policies, and that the new policies have positive impacts.
- 3.3 Similarly, the Health Impact Assessment which was carried out to inform the Publication Draft Local Plan has been reviewed. This has found no further health impact from most modifications and improved health benefits from the new policies.

4 Alternative Options and Reasons for Rejection

- 4.1 Main Modifications are changes that the Inspector deems necessary to make the Local Plan both sound and legally compliant. To not consult on the Main Modifications would fail to comply with the regulations governing Local Plan production and the Plan would not be able to progress to adoption. Failure to have an up to date Plan would put the Council at risk of government intervention. This effectively means that there is no reasonable alternative course of action.

5 Implications

Finance and Risk Implications

- 5.1 None. This is part of the existing work plan and is budgeted for. It also accords with the requirements of the Secretary of State, so minimising the risk of Government Intervention.

Legal Implications including Data Protection

- 5.2 The Council has a statutory duty to prepare and keep up to date a Local Plan. The Planning and Compulsory Purchase Act (2004) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out the statutory procedures for preparing planning policy documents. The Local Plan has been prepared in line with these regulations.
- 5.3 There are no specific data protection issues arising from this report. Consultation processes result in the Council handling personal data. This information is stored securely in line with the Council's procedures and provisions of the Data Protection Act.

Human Resources Implications

- 5.4 None.

6 Recommendations

- 6.1 It is recommended that Cabinet:
- i. Notes the Inspector's judgement on the Main Modifications to the North East Derbyshire Local Plan (Publication Draft) that are necessary to make the Local Plan sound and legally compliant; and the findings of Sustainability Appraisal and Habitat Regulation Assessment as set out in the report;
 - ii. Authorises a public consultation exercise on the Main Modifications and associated documents as outlined in this report; and
 - iii. Delegates responsibility for the detailed arrangements for public consultation to the Assistant Director of Planning in consultation with the Portfolio Holder for Environmental Services.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or	No
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<p>expenditure to the Council above the following thresholds:</p> <p><i>BDC: Revenue - £75,000 <input type="checkbox"/></i> <i> Capital - £150,000 <input type="checkbox"/></i> <i>NEDDC: Revenue - £100,000 <input type="checkbox"/></i> <i> Capital - £250,000 <input type="checkbox"/></i> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed?</p>	Yes
<p>District Wards Affected</p>	All but none affected with a significant impact.
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
1	Main Modifications Schedule
2	Policies Map Changes
3	Additional Modifications Schedule
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Sustainability Appraisal, Habitat Regulation Assessment, Equality Impact Assessment and Health Impact Assessment reports on necessary Main Modifications to the Local Plan (Publication Draft)	
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