

Bath & North East Somerset Council	
MEETING:	Council
MEETING DATE:	15 September 2022
TITLE:	B&NES Local Plan Partial Update: Main Modifications
WARD:	All
AN OPEN PUBLIC ITEM	
<p><i>These attachments are being finalised with the Inspector and will be circulated as soon as they're available.</i></p> <p>Attachment 1 – Main Modifications to the draft submitted B&NES Local Plan Partial Update including Policies Map changes</p> <p>Attachment 2 – Additional Modifications to the draft submitted B&NES Local Plan partial Update</p>	

1 THE ISSUE

- 1.1 The Council, in its statutory role as the local planning authority, has a duty to periodically review its Local Plan to determine whether it requires updating. In spring 2020 the Council commenced work on the Local Plan Partial Update (LPPU) which amends or updates parts of the adopted Local Plan (Core Strategy and Placemaking Plan) to better address Council priorities, in particular the climate and ecological emergencies. Following the submission of the draft LPPU in December 2021 to the Secretary of State for examination, the hearings took place before an independent Inspector in June/July this year. The Inspector has confirmed through his post-hearings letter that without prejudice to his final conclusions the LPPU is capable of being found legally compliant and sound subject to the incorporation of some Main Modifications.
- 1.2 At the Council meeting on 21st July 2021, delegated authority was granted to the Head of Planning, in consultation with the Cabinet Member for Planning and Licensing, to address any issues as they arise during the examination, but to bring any proposed modifications to the LPPU to Full Council to agree and to consult on if required by the Inspector. The Inspector's recommended Main Modifications need to be subject to public consultation. Therefore, Council is now asked to agree and consult on the Main Modifications, which are necessary to ensure the LPPU is sound.

2 RECOMMENDATION

The Council is asked to;

- 2.1 Agree the recommended Main Modifications to the submitted Local Plan Partial Update for public consultation and that public consultation should be undertaken for a period of six weeks.
- 2.2 Note the Additional Modifications to the submitted Local Plan Partial Update (see Attachment 2).
- 2.3 To approve the Local Plan Partial Update, incorporating the Main Modifications, for Development Management purposes.

3 THE REPORT

- 3.1 The B&NES Local Plan (the Core Strategy and the Placemaking Plan) needs to be updated in order to reflect the Council's Declaration of Climate and Ecological Emergencies and the commitment to securing net zero by 2030. Whilst it is a statutory process subject to an external examination, the Local Plan is allied to the council's corporate plan and the Planning Service is focused on delivering the key priorities of the Council.
- 3.2 The importance of the Local Plan is that by law, decisions on planning applications must be taken in accordance with the development plan unless material considerations indicate otherwise. The development plan will include the Local Plan, and the neighbourhood development plans which have been made in relation to that area. As the LPPU is an update to the existing Local Plan (Core Strategy and Placemaking Plan), and not a new Plan, the plan period was not altered (remains up to 2029) and the scope of the changes was confined to those areas that can be addressed without significantly changing the strategic policy framework of the adopted Plan. It therefore does not change the spatial priorities; the spatial strategy; or the strategic housing and job growth requirements in the Core Strategy & Placemaking Plan. The scope of the Local Plan Partial Update (LPPU) was therefore confined to:
 - Updating policies in order that they better address the climate and ecological emergencies
 - Replenish housing supply in order that the Core Strategy housing requirement can be met and the necessary supply of housing land maintained with an appropriate degree of flexibility
 - Addressing a limited range of other urgent local issues e.g. related to the 'green recovery'
 - Amending policies for clarity and to ensure they are aligned with up-to-date national policy
- 3.3 The submitted LPPU can be accessed from [here](#) and is also listed in the Background documents below.
- 3.4 Following the examination hearings that took place in June/July, the Inspector has now issued the Main Modifications which he considers are necessary to make the Plan sound and therefore, capable of adoption.
- 3.5 The Main Modifications to the LPPU, along with changes to the Policies Map, will be circulated as Attachment 1. It is only these changes that will be published for public consultation, not the unchanged parts of the LPPU or Policies Map. Alongside the Main Modifications to the LPPU a number of Additional Modifications have also emerged through the Examination

hearings. The Additional Modifications are minor in nature, primarily to the supporting text of the LPPU, and are not considered to be necessary for soundness. The schedule of Additional Modifications will be circulated as Attachment 2. They will be published for information alongside the Main Modifications, but they are not subject to public consultation.

- 3.6 Whilst The Main Modifications are necessary for the soundness they do not affect the purposes and substance of the LPPU. They primarily achieve greater clarity for decision makers and ensure the LPPU reflects supporting evidence and national policy. The modifications primarily relate to the following:
- a) Changes to Policy DW1 so that it outlines how the housing requirement will be met, including housing figures for designated Neighbourhood Plan areas, and references removing the Park & Ride sites from the Green Belt.
 - b) Amending references to Supplementary Planning Documents so that decision-makers have regard to them and the LPPU does not confer upon them Development Plan status.
 - c) Renewable energy – additional supporting text to more fully explain the policy approach. Policy amendments to ensure it is clearer regarding impacts of wind energy schemes to be considered, ensure the policy reflects national policy in respect of AONBs and that the role of community benefit in commercial schemes is not incorrectly articulated.
 - d) Modifications to better explain how carbon off-setting (only where necessary should a development scheme unable to be zero carbon on-site) will be calculated and delivered via the Sustainable Construction Checklist and Planning Obligations SPD.
 - e) Deleting from the zero carbon construction policy the requirement that development schemes of over 50 dwellings meet specified over heating targets, as this is now dealt with via Building Regulations.
 - f) Amendment to nature conservation policy (NE3) to ensure species are fully protected, as well as habitats.
 - g) Biodiversity Net Gain – amended text to clearly outline national exemptions (householder applications and changes of use of existing buildings) and that we will be seeking a minimum of 10% net gain.
 - h) HMO Energy performance rating – amendment to identify the exemptions to achieving EPC rating 'C' in LPPU Policy H2, rather than solely in the SPD.
 - i) PBSA – policy approach to continue to prioritise PBSA provision on-campus and limit off-campus PBSA to that which is needed with controls. Amendments to how PBSA providers demonstrate the 'need' for off-campus accommodation.
 - j) Bath Riverside – as proposed by the Council at the examination hearings reference to the need for a new primary school to be deleted from the

policy as it is not needed and retaining reference to providing a new community hub.

- l) RUH – modifications to the supporting text and policy to better reflect collaboration between the Council and RUH Trust on the estates plan and ensuring a sustainable transport strategy is developed to help guide development of the site to improve safe and active travel links within/through the site and to the wider neighbourhood.
- m) Sion Hill site – changes to the policy to ensure delivery of north-south walking and cycling route complements the Liveable Neighbourhood scheme for the Lansdown area as it is progressed.
- n) St Martin’s Hospital – modifications to ensure that the heritage significance of the Chapel is maintained and that provision of bird and bat boxes does not harm historic buildings.
- o) University of Bath – minor changes to the policy to make it clear that provision of a 3G pitch will satisfactorily mitigate the impacts of the loss of playing fields to enable development of PBSA and to more clearly articulate development proposals must address GI, ecological and landscape impacts and the active management of travel demand.
- p) Park & Ride sites – acceptance that exceptional circumstances exist to remove the sites from the Green Belt for their use as transport interchanges. Amendments to the policy to list the transport interchange uses acceptable on the sites (previously in the supporting text) and clarify the compensatory Green Belt improvements to be made.
- q) East Keynsham safeguarded land sites – policy to be amended to specify that the sustainable transport measures listed in the policy will be investigated further through the Development Management process and provided where necessary.
- r) Somer Valley Enterprise Zone – as proposed by the Council at the hearings amending reference to ‘some’ retail to ‘ancillary’ retail to give greater clarity on the scale and type of retail use envisaged.
- s) Amended identification of strategic policies so that they are not all defined as strategic, but in line with national policy they comprise those which set out the overall strategy/policy approach to meeting development needs, protecting/enhancing the environment and addressing climate change, as well as strategic site allocations.

3.6 Further Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications have been prepared for consultation.

3.7 Following consultation on the Main Modifications the comments received are forwarded to the Inspector for his consideration. The next step is then for the Inspector to issue his final report. Dependent on the Inspector’s conclusions the Council will then consider adoption of the LPPU.

4 STATUTORY CONSIDERATIONS

- 4.1 The Planning Acts require that any determination to be made like planning applications must be determined in accordance with development plan unless material considerations indicate otherwise.
- 4.2 In light of the UK plan-led planning system, Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires that Local Planning Authorities must review local plans every five years, starting from the date of adoption of the local plan. This is echoed in the National Planning Policy Framework (para 33) which states that reviews "...should take into account changing circumstances affecting the area, or any relevant changes in national policy".
- 4.3 The process for the preparation and review of local plans is governed by planning legislation, national planning policy (the National Planning Policy Framework 2019) and national guidance (National Planning Practice Guidance). A number of other statutes are also relevant to the review of the Plan such as the Climate Change Act 2008.
- 4.4 Under section 20(7c) of the 2004 Planning and Compulsory Purchase Act as amended, the Inspector has recommended 'main modifications' to make the submitted local plan sound and legally compliant. The Inspector requires the local planning authority to consult on all proposed main modifications.
- 4.5 In approving the LPPU for Development Management purposes the policies of the LPPU cannot, at this stage, be taken as policies that are adopted for the purposes of section 38(6) PCPA 2004. Indeed the weight to be applied to the LPPU policies in determining planning applications will, until the Plan is formally adopted, be a matter for the decision maker, on a case by case basis, according to the provisions of paragraph 48 of the National Planning Policy Framework. Paragraph 48 states:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given.*

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The Council's planning policy framework is critical to the delivery of the new Corporate Strategy. The formulation of planning policy requires extensive cross-service working to ensure a co-ordinated approach and an efficient use of resources.

- 5.2 The preparation of Planning Policies and Supplementary Planning Documents for the District is primarily funded by the Local Development Framework budget, Government grants and funding from WECA. The scope and progress of preparation of planning policy documents will depend on the available resources. The preparation of the Local Plan Partial Update is funded by the Local Development Framework budget.
- 5.3 The planning framework in B&NES has been particularly successful in bringing substantial income into the Council such as CIL, S.106 agreements, New Homes Bonus, and HIF relative to its size.

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance. Some of the main risks identified are;
- That the Inspectorate is not able to maintain the published timetable e.g. because the government publishes an update to the National Planning Policy Framework before the Inspector has issued his final Report and upon which the Inspector would seek views on its implications (if any) for the LPPU.
 - That there is a statutory legal challenge to the validity of the LPPU post adoption under Section 113 of the Planning and Compulsory Purchase Act 2004

7 EQUALITIES

- 7.1 An Equalities Impact Assessment (EqIA) has been undertaken for the draft LPPU (Regulation 19 Draft Plan) to consider proposed new policies and amended policies (not including minor amendments). The EqIA is now updated to assess the Main Modifications. As the Main Modifications primarily achieve greater clarity for decision makers and ensure the LPPU reflects national policy and the supporting evidence, they do not affect the purposes and substance of the LPPU and no further equalities issues are identified.

8 CLIMATE CHANGE

- 8.1 The scope of the Partial Update responds positively to the three immediate priorities for action and speed of ambition needed to achieve the 2030 target as identified in the Climate Emergency Progress Report to Council in October 2019. In summary, these are;
- energy efficiency improvement of the majority of existing buildings and zero carbon new build;
 - a major shift to mass transport, walking and cycling to reduce transport emissions; and
 - A rapid and large-scale increase in local renewable energy generation

9 OTHER OPTIONS CONSIDERED

9.1 The Council has a duty to ensure it has an up-to-date Local Plan place. Therefore, in this context it doesn't have the option not to prepare a Local Plan. The process of preparing and then adopting the LPPU is also very well advanced.

10 CONSULTATION

10.1 The Main Modifications to the submitted LPPU are recommended by the Inspector and subject to public consultation meeting requirements set out under section 20(7c) of the 2004 Planning and Compulsory Purchase Act.

10.2 The opportunity to comment on the Main Modifications will be publicised through a variety of means/media. The consultation on the LPPU will need to be co-ordinated with a number of other Council consultations being undertaken over the autumn.

10.3 As this is a formal consultation required by the Inspector, the public comments received will be sent directly to the Inspector.

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Background papers	<ol style="list-style-type: none">1. <i>Submitted Local Plan Partial Update</i> https://beta.bathnes.gov.uk/sites/default/files/2021-08/Schedule%20of%20changes_combined.pdf2. <i>Sustainability Appraisals for Main Modifications</i>3. <i>Habitat Regulation Assessment screening report</i>
Please contact the report author if you need to access this report in an alternative format	