

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Council	
MEETING/ DECISION DATE:	19 January 2023	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Bath & North East Somerset Local Plan Partial Update Inspectors Report and Adoption	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Please list all the appendices here, clearly indicating any which are exempt and the reasons for exemption Appendix 1: Schedule of Main Modifications to the B&NES Local Plan Partial Update Appendix 2: Schedule of Additional Minor Modifications to the B&NES Local Plan Partial Update Appendix 3: The B&NES Local Plan Partial Update incorporating the Main Modifications and Additional Modifications (as set out above)		

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 Core Strategy and Placemaking Plan (together comprising the Local Plan) to better address Council priorities, in particular the climate and ecological emergencies. The draft LPPU was submitted in December 2021 to the Secretary of State for examination by an independent Planning Inspector. The Inspector has completed his examination and has concluded that the submitted LPPU is legally compliant and can be made sound, subject to a schedule of 'main modifications' (Appendix 1). The Council now needs to consider and decide whether it accepts the Inspector's recommendation thereby enabling it to formally adopt the LPPU. If the Council does not accept all of the Inspector's recommendations then it cannot adopt the LPPU.

- 1.2 There are also a number of additional modifications, which are not necessary for soundness, but are needed to ensure consistency and clarity (see Appendix 2).

2 RECOMMENDATION

The Council is asked to;

- 2.1 Accept the Main Modifications listed in Appendix 1, which the Inspector considered are needed to make the Plan sound in accordance with section 20(5) of the Planning and Compulsory Act 2004 (as amended);
- 2.2 Agree the additional minor modifications listed in Appendix 2 to the B&NES Local Plan Partial Update, which are needed to ensure clarity, consistency and factual accuracy in the Plan;
- 2.3 Adopt the B&NES Local Plan Partial Update as modified in 2.1 and 2.2 above and as set out in Appendix 3, including for the purposes of section 38(6) of the Planning & Compulsory Purchase Act;
- 2.4 Agree the B&NES Policies Map is amended in line with 2.3 above;
- 2.5 Delegate responsibility to the Head of Planning Services, in consultation with the Cabinet Member for Planning and Licencing, to make minor textual amendments to the Local Plan Partial Update prior to publication

3 THE REPORT

- 3.1 Once adopted the LPPU, alongside the already adopted Core Strategy and Placemaking Plan, sets out the Council's corporate position on issues relating to the development and use of land in the District. The LPPU policies will have the full weight as Development Plan policies of s.38(6) of the Planning & Compulsory Purchase Act 2004 and will, as relevant, be the primary consideration in the determination of planning applications.
- 3.2 Through the LPPU the Council has updated parts of the already adopted Core Strategy and Placemaking Plan, together comprising the Local Plan. In so doing and if successfully adopted the LPPU will mean that some policies in the Core Strategy and Placemaking Plan are replaced or superseded, some Core Strategy and Placemaking Plan policies become obsolete and are deleted from the Local Plan, as well as introducing some new policies. The replaced, superseded and deleted Core Strategy and Placemaking Plan policies are clearly indicated in Appendix 1 of the LPPU.
- 3.3 Upon adoption of the LPPU the Council will have an up-to-date Local Plan. This means there will be a primary development plan led basis for determining planning applications under section 38(6) of the Planning & Compulsory Purchase Act, comprising:
 - 1) The Core Strategy
 - 2) The Joint Waste Core Strategy
 - 3) The Placemaking Plan
 - 4) The adopted Local Plan Partial Update

- 5) Made Neighbourhood Plans (for planning applications in areas covered by a made Neighbourhood Plan)

3.4 These are supplemented by a suite of adopted Supplementary Planning Document which are capable of being material considerations.

Scope

3.5 The LPPU is an update of parts of the already adopted Core Strategy and Placemaking Plan, together comprising the Local Plan, in order to reflect the Council's declaration of Climate and Ecological Emergencies and the commitment to securing carbon neutrality by 2030. As the LPPU is an update of the existing Local Plan and not a new Plan, the plan period was not altered (remains up to 2029) and the scope of the changes is 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 and Placemaking Plan. In summary the scope of the LPPU was confined to:

- Updating policies in order that they better address the climate and ecological emergencies
- Replenishing 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
- Amending policies for clarity and to ensure they are aligned with up-to-date national policy

3.6 As the LPPU is an update of parts of the existing Local Plan it is set out as a schedule indicating those parts of the Core Strategy and Placemaking Plan that have been updated. It is set out in the same order as the adopted Core Strategy and Placemaking Plan. If successfully adopted and to aid useability of the LPPU it is proposed publish a composite version of the Core Strategy and Placemaking Plan incorporating the LPPU changes.

Main Modifications

3.7 The LPPU was submitted in December 2021 for examination. The Inspector's role has been to ascertain whether the plan is legally compliant and sound as set out in the National Planning Policy Framework (NPPF). In summary, this means whether the LPPU is:

- a) Positively prepared – it seeks to at least meet objectively assessed development and infrastructure requirements;
- b) Justified – the most appropriate strategy, when considered against reasonable alternatives, and is based on proportionate evidence;
- c) Effective – it is deliverable over its period and is based on effective joint working on cross-boundary strategic matters; and
- d) Consistent with national policy

- 3.8 In accordance with section 20(7C) of the Planning 7 Compulsory Purchase Act 2004 the Council requested that, if necessary, the Inspector should recommend any main modifications needed to rectify any matters that make the plan as submitted for examination unsound and therefore, incapable of adoption. Through the examination hearings the Inspector indicated that some modifications would be necessary to make the Plan sound. The scope and wording of the main modifications necessary for soundness, along with other additional (minor) modifications were agreed by the Inspector. These modifications were agreed by Council in September 2022 for public consultation for a period of 6 weeks.
- 3.9 Public consultation on the main modifications took place between 21st September and 2nd November 2022. The Inspector has considered the representations received in preparing his Report. The Inspector has concluded that with the main modifications which were subject to consultation in September to November 2022 (with some additional minor and non-substantive wording changes) the LPPU is sound and capable of adoption. The main modifications required to the LPPU are set out in Appendix 1.

Additional Minor Modifications

- 3.10 Whilst not necessary for soundness it is recommended that a number of additional minor modifications to the submitted Plan are made for reasons of clarity, consistency or factual accuracy. Most of these additional minor modifications were published in September 2022 alongside the main modifications but were not subject to public consultation and comment because they are not necessary for soundness. These additional minor modifications are set out in Appendix 2.

4 STATUTORY CONSIDERATIONS

- 4.1 The Planning Acts require that any determination to be made like planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 The LPPU is a statutory Development Plan Document (DPD) and its preparation processes are prescribed by statute and regulations. Of particular relevance here is section 20 of the Planning & Compulsory Purchase Act 2004 (as amended).
- 4.3 All DPDs are subject to public examination by an independent Planning Inspector appointed by the Secretary of State who must ascertain if a plan is legally compliant and 'sound'. Soundness is defined in the NPPF.
- 4.4 The Inspector can make recommendations about how the LPPU must be modified in order to make it sound. It is also possible for the Council to make additional minor modifications which do not materially affect the policies in the LPPU.
- 4.5 In this case the Inspector has made recommendations for main modifications which he considers are necessary in order for the LPPU to be considered sound. Officers have also recommended additional minor modifications which are needed to ensure consistency and clarity.

- 4.6 Consideration has been given to the Human Rights Act and Equality Act implications. The adoption of the LPPU is a key part of the Council's function as the local planning authority and having an up-to-date Local Plan will enable the Council to perform that role more effectively.
- 4.7 The LPPU will ensure the Council's planning policy framework reflects and better address the Council's corporate priorities, including the climate and ecological emergencies. Its preparation has entailed ensuring compliance with a range of procedural requirements, including:
- Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) undertaken at each key stage of LPPU preparation
 - Consultation statement summarising how the Council has engaged with the general public and other stakeholders throughout the plan preparation process
- 4.8 Background papers to the report include the SA and HRA of the LPPU as proposed to be adopted.
- 4.9 Under section 33A of the Planning & Compulsory Purchase Act 20024 (as amended) the Council has a duty to co-operate (engage constructively, actively and on an on-going basis) with prescribed bodies on strategic cross boundary issues addressed by the Plan. Given the purpose, scope and remit of the LPPU such cross-boundary strategic issues were limited. The Inspector has concluded that the duty to co-operate has been met.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The Council's planning policy framework is critical to the delivery of the corporate priorities. The formulation of planning policy requires extensive cross-service working to ensure a co-ordinated approach and an efficient use of resources.
- 5.2 Preparation of the LPPU has been led by the Planning Policy Team and been funded from the LDF Budget, along with input from a range of services.
- 5.3 The planning framework in B&NES, of which the LPPU if adopted will form an important element, has been particularly successful in bringing substantial income into the Council such as CIL, S106 agreements, New Homes Bonus and Housing Infrastructure Fund 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.

7 EQUALITIES

- 7.1 An Equalities Impact Assessment (EqIA) has been prepared at each formal stage of preparing the LPPU, including of the draft LPPU submitted for examination and of the Main Modifications consulted on in September to November 2022. The EqIA has now been updated to assess the LPPU as proposed to be adopted. As the Inspector has not recommended any substantive

changes to the Main Modifications previously consulted upon no further equalities issues are identified.

8 CLIMATE CHANGE

8.1 The LPPU was prepared in order to ensure the Council's planning policy framework better addresses the climate emergency. Specifically, it includes policies that will secure zero carbon development, help facilitate the delivery of renewable energy installations of an appropriate scale in the most suitable locations and further encourage the shift towards more sustainable forms of transport (walking, cycling and public transport).

9 OTHER OPTIONS CONSIDERED

9.1 The Council must comply with the provisions set out in s.23 of the Planning & Compulsory Purchase Act 2004 regarding the adoption of local development documents. If the Council rejects one or more of the Inspector's recommended main modifications it cannot then proceed to adopt the LPPU. The Council therefore has three options:

- a) Adopt the LPPU with the main modifications recommended by the Inspector; or
- b) Adopt the LPPU with the main modifications recommended by the Inspector and additional minor modifications recommended by officers; or
- c) Resolve not to adopt the LPPU

9.2 In the case of c) the Council would need to withdraw the LPPU and progress preparation of the new Local Plan (as it is already doing). However, this would leave the Council with a policy framework that does not so well reflect the climate and ecological emergencies and more vulnerable to speculative non-development led planning applications in the absence of an up-to-date policy framework whilst the new Local Plan is prepared. The new Local Plan is not currently anticipated to be adopted until 2025.

10 CONSULTATION

10.1 Preparation of the LPPU has entailed considerable consultation and community engagement, both formal and informal. This has been undertaken in accordance with the Council's Statement of Community Involvement. The consultation and engagement undertaken are set out in the LPPU consultation statement.

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Background papers	<i>B&NES Local Plan Partial Update (LPPU) Inspector's report, December 2022</i> <i>LPPU Submitted Draft Plan</i>

	<p><i>Sustainability Appraisal of the LPPU as proposed to be adopted</i></p> <p><i>Habitat Regulations Assessment of the LPPU as proposed to be adopted</i></p> <p><i>Equalities Impact Assessment of the LPPU as proposed to be adopted</i></p> <p><i>Planning & Compulsory Purchase Act 2004 (as amended)</i></p> <p><i>Town & Country Planning (Local Planning) (England) Regulations 2012</i></p> <p><i>National Planning Policy Framework 2021</i></p>
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