

Report to Full Council – 17th February 2015

Lichfield District Local Plan Strategy and Local Development Scheme

Date: 17th February 2015

Agenda Item 16

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Key Decision YES

1. Summary

1.1 The Local Plan examination has now closed, and the Inspector's final report was issued on 16th January 2015. This concludes that, provided the Council makes the recommended Main Modifications to the submitted Local Plan Strategy (dated July 2012) it can be found Sound. This report sets out the details of the inspector's report, the Main Modifications required for the Plan to be judged sound together with other (minor) modifications required and the reasons for these.

1.2 The report also sets out a revised Local Development Scheme which specifies the documents which will form the rest of the statutory Local Plan for the District, what these documents are and the timescale for their preparation.

2. Recommendation

2.1 That Council:

Endorses the recommendations of the Inspector, and thus agrees to the Main Modifications to the submitted Local Plan Strategy 2012 (**Appendix A and B**);

Endorses the 'other' (minor) modifications being made to the submitted Local Plan strategy (**Appendix C**);

Resolves to adopt the Local Plan Strategy (including the associated Policies Maps) under Section 23 of the Planning and Compulsory Purchase Act 2004 (as amended) incorporating all Main and Other modifications as attached in **Appendices B and C** to this report;

and:

iv) Subject to the adoption of the Local Plan Strategy by resolution of this Council in accordance with the above, that Council agrees to the publication of a revised Local Development Scheme covering the period 2015 – 2018 under section 15 of the Planning and Compulsory Purchase Act 2004 (as amended) (**Appendix D**)

3. Background

3.1 The Local Plan comprising of a Strategy and associated Site Allocations is intended to shape the future development of Lichfield District to 2029. It will replace the existing adopted, yet increasingly out of date, Lichfield District Local Plan and set out a spatial planning strategy. The Local Plan could in due course be complemented by a number of statutory Neighbourhood

Planning Documents where local communities wish to help shape decisions locally. The Local Plan is intended to be supported by a suite of Supplementary Planning Documents that provide further guidance and interpretation of Local Plan policy. These are currently in preparation.

- 3.2 This report is concerned with the Local Plan Strategy. This sets out the long-term vision, strategic priorities and planning policies to deliver the vision and secure a sustainable future for the District. It has been informed by and draws upon other strategies produced by the District Council and our partners. It is accompanied by a suite of Policies Maps which show where policies have land use implications (for example, areas of environmental significance, strategic site allocations).
- 3.3 It is vitally important that an up-to-date planning policy framework is in place for Lichfield District to enable the Council to make informed decisions on major planning proposals and achieve our wider ambitions within the District. Local Plan policies of the 1998 Adopted Local Plan currently only carry weight where they are consistent with the National Planning Policy Framework (NPPF). The Local Plan Strategy was formally submitted for examination in March 2013. This can be viewed at: http://www.lichfielddc.gov.uk/downloads/file/4161/lichfield_district_local_plan_strategy_july_2012
- 3.4 Hearings relating to the Plan were held in June / July 2013, following which the Inspector issued his initial findings (September 2013). These findings concluded that the plan was unsound in that it had not made adequate provision for the objective assessment of housing need contained in the evidence base, but that this could be remedied by identifying a site or sites to accommodate the additional growth, along with extending the Plan period by a further year.
- 3.5 Further work was duly undertaken in Autumn 2013 to address the issues raised by the Inspector, and the proposed Main Modifications were endorsed by Full Council on 28th January 2014 along with a schedule of 'other' (minor) modifications which related to matters which did not materially affect policy but were considered necessary to correct errors or provide clarification. The full suite of papers to Full Council including all proposed modifications, and details of the appraisal work undertaken can be viewed via this link <http://www.lichfielddc.gov.uk/meetings/meeting/971/council>.
- 3.6 A six week consultation on the Main Modifications was undertaken during February and March 2014 and representations made were forwarded to the Inspector. These can viewed via this link <http://www.lichfielddc.gov.uk/mods>. During this time, a legal challenge was received from IM Properties which sought to quash the January Full Council decision to endorse the Main Modifications. This challenge – and its subsequent appeal - failed. Hearings were resumed in October 2014, focusing on the Main Modifications to the Plan.
- 3.7 The Inspector's final report was issued on 16th January 2015 which marked the end of the examination. The conclusions to the report recommend the final Main Modifications (**Appendix B**) to make the Plan sound and capable of adoption under Section 20 (5) of the 2004 Planning and Compulsory Purchase Act (as amended) and thus meeting the criteria for soundness defined by the National Planning Policy Framework.

- 3.8 Members should note that, since the meeting of Full Council on 28th January 2014, the schedules of both 'Main' and 'Other' Modifications have been updated to take account of issues arising through the resumed (October 2014) Hearings and to provide further correction and clarification, so the final Modifications at **Appendices B and C** should be carefully scrutinised. The further changes to the Main Modifications can be seen via the Core Document list, Document reference CD53¹ but in summary relate to how the plan will deal with an increase in Tamworth's identified 'overspill' needs (see MM1 **Appendix B**); providing flexibility to enable the Allocations Plan to consider its approach to Green Belt (MM19 **Appendix B**); to clarify the role that Neighbourhood Plans and community led plans can play in relation to the Green Belt² (M66 **Appendix C**³); to correct the site boundary at Deanslade Farm (MM22 **Appendix B**); and to modify Policy H2 (Provision of Affordable Homes) to bring it in line with a national policy change as explained in paragraph 3.21 of this report (MM25 **Appendix B**).

Inspector's Report: summary of main findings

- 3.9 **Duty to Co-operate:** The Inspector found that the Council has acted constructively, actively and on an ongoing basis and has thus discharged its duty under the Planning and Compulsory Purchase Act 2004. This emphasises the ongoing commitment and work to date of the Council and its neighbours in terms of addressing the housing shortfall across the Greater Birmingham and Solihull Enterprise Partnership (GBSLEP) area, and requires the making of Main Modification 1 (MM1) which commits the Council to an early review of the Plan should the conclusions of the work in relation to the shortfall require Lichfield District to accommodate additional growth. This is entirely consistent with the approach taken by Planning Inspectors in relation to other Local Authorities' Local Plans where this matter is of relevance. Lichfield District Council will therefore be required – as others are – to continue to be able to demonstrate constructive and active engagement in the process.
- 3.10 The Inspector also considers the Duty to Co-operate to be met in the light of the development needs of other authorities (see paragraphs 14-15 in relation to East Staffordshire, paragraph 24 regarding Walsall and paragraph 10 regarding Cannock), as well as in terms of the consideration of transport and infrastructure provision which was debated through the Local Plan examination hearings.
- 3.11 In terms of Tamworth and the Duty to Co-operate, the Inspector notes (paragraph 11) the increase of Tamworth Borough's unmet need from the original 1000 to 2000 dwellings plus 14ha of employment land. However, as a consequence of an updated Memorandum of Understanding⁴ (October 2014) between Lichfield District, Tamworth and North Warwickshire Borough Councils and through MM1 the Inspector considers the District Council's approach to be sound. In reaching this conclusion, the Inspector points to a commitment to undertake further work with North Warwickshire and also to look at the issue in terms of the wider GBSLEP area and then, once conclusions are reached to either address any potential issue through the subsequent Local Plan: Allocations document or a review of the Local Plan:

¹ See Core Document List reference CD5-33 at www.lichfielddc.gov.uk/localplanexamination

² Neighbourhood Plans do not have the legal powers to alter Green Belt Boundaries

³ This issue provides clarity in relation to national policy and thus is not a Main Modification

⁴ See Core Document List reference CD5-31 at www.lichfielddc.gov.uk/localplanexamination

Strategy depending on the scale of the matter to be addressed (see paragraphs. 10 – 13).

- 3.12 **Housing:** The Inspector found that in making provision for 8,700 homes, when the 1000 to meet Rugeley's and Tamworth's needs were discounted Lichfield District Council was only providing for 7,700 homes to meet its own objectively assessed needs which was not sufficient. This was raised in his Initial Findings report, and in his Final Report he has concluded that this can be remedied through the making of MM2 (expressing all housing growth as a minimum), MM10 (adding another year to the Plan period ie to 2029) and MM11 (amending the Housing Requirement to a minimum of 10,030 for the period 2008 to 2029).
- 3.13 **Sustainability Appraisal (SA / SEA):** The Inspector considered the SA in detail (paragraphs 61 – 102), commenting that it is not a simple document and can be hard to understand but is 'necessarily complex'. He did however conclude that the Sustainability Appraisal is a reliable piece of evidence.
- 3.14 **The appropriateness of the Spatial Strategy:** The Inspector has found the spatial strategy, which focuses development upon towns and key rural settlements to be sound. His report contains considerable detail in terms of his consideration of the selected Strategic Development Allocations (SDAs) (South of Lichfield, Streethay, East of Burntwood Bypass, East of Rugeley, Fradley and – as a result of Modifications, Deanslade Farm, Cricket Lane and additional housing at Fradley) and the North of Tamworth Broad Location together with the alternative / additional proposals being promoted throughout the process (the largest being the New Village / Watery lane proposal, Brookhay Villages and Twin Rivers Park and Fradley West amongst others).
- 3.15 Members are urged to read the Inspector's report in detail as a range of complex issues were dealt with throughout the Examination hearings which culminated in the Inspector finding the Council's proposed Main Modifications sound as set out in MM12 – 24. This includes finding that Exceptional Circumstances⁵ have been demonstrated to allow the release of Green Belt at Cricket Lane and Deanslade Farm to deliver 450 homes per site plus approximately 12ha of employment land at Cricket Lane due to these sites being the most sustainable options in the context of the spatial strategy. The Inspector also found the increase of housing provision from 1000 to 1250 dwellings at the Fradley SDA to be sound.
- 3.16 In terms of the north of Tamworth Broad Location, Members are referred to paragraphs 134 to 144 of the Inspector's report which set out the complex position clearly and in detail. At the hearings in 2013, Tamworth's 'overspill' needs amounted to 1000 homes which would be accommodated by both Lichfield District (500 homes) and North Warwickshire (500 homes). In terms of Lichfield District, those 500 homes were to be accommodated as part of a suggested 1000 home development north of Tamworth within a defined Broad Development Location, further details of which were to be developed at the Local Plan Allocations stage.
- 3.17 Since then, various planning applications have been submitted / considered relating to this area (see Inspectors Report paragraphs. 136 and 137). In summary, the Inspector has found that the Broad Location is a suitable and

⁵ Paragraph 83 of the National Planning Policy Framework states that established Green Belt boundaries should only be altered in exceptional circumstances through the preparation or review of the Local Plan.

sustainable location for an area of growth which could help to address Tamworth's needs: and if in future as matters develop this is found not to be the case then MM1 provides sufficient flexibility for matters to be reconsidered at the Local Plan allocations stage or through a review of the Plan (paragraph 144).

- 3.18 **Housing Supply:** the Inspector has found that the Council can achieve a 5 year supply of land in accordance with national policy, if the 'Liverpool' methodology is applied and states in paragraph 213 that this is the methodology that the Council should use. This leads to an annual requirement of between 581 and 653 homes over the first five years of the Plan period with a peak in delivery of some 800 dwellings early in the Plan period when many of the SDAs would be delivering housing. He concludes in paragraph 214 that a 5% buffer should be used as he does not consider the Council to have under-delivered on its requirements when the last 11 years are taken account of (a time frame he considers to be more robust than a shorter timescale). The Inspector finds that, with MM22 and MM23 (Deanslade Farm and Cricket Lane concept statements) and with MM4,5,6,7 and 8 which remove phasing restrictions from the SDAs, the Plan can be found sound in terms of supply and rates of housing delivery.
- 3.19 **Balanced Housing Market:** The Inspector has found Policy H1 to be sound.
- 3.20 **Gypsies and Travelling Showpeople:** The Inspector has found Policy H3 to be sound.
- 3.21 **Affordable Housing:** A late Main Modification (MM25) to Policy H2 was proposed by the Council to address a very recent change in Government policy relating to Affordable Housing, announced on 28th November 2014. Policy H2 originally stated that outside the main urban areas affordable housing should be sought on developments of 5 or more dwellings or sites of 0.2ha or more in size. However, a change in Government Policy means contributions cannot now be sought from residential developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1000 sq.m. The Inspector has supported the Council's request to modify Policy H2 to bring it in line with this national policy change.
- 3.22 **Green Belt:** The Inspector raises the issue of needing to consider safeguarding land to meet longer term development needs and considers the Local Plan: Allocations document is an appropriate mechanism for this. He does however state in Paragraph 235 that *'this document would be part of the local plan for the area and it is likely that when such a plan is prepared that it will be clearer what role Lichfield will play in accommodating Birmingham's shortfall in housing provision. Moreover, things have moved on since the Plan was submitted and an early review of the Plan is now likely (see MM1). It may well be therefore that in practice the question of whether or not to identify safeguarded land will be dealt with through that review'*.
- 3.23 Furthermore, the Inspector considers that, as originally proposed through the submitted Plan, limiting the possibility of safeguarding to just Lichfield City is unsound, but this is remedied through MM19.
- 3.24 **Employment:** The Inspector has found Employment policy CP7 to be sound.
- 3.25 **Renewable Energy:** The Inspector has found Policy SC2 to be sound with MM3 clearly referencing the policies map.

- 3.26 **Cannock Chase Special Area of Conservation (SAC):** The Inspector finds policy NR7 sound subject to modification MM9 which clearly defines the 15km Zone of Influence for the Cannock Chase SAC.

Next Steps

- 3.27 In terms of the next steps, subject to adoption of the Local Plan Strategy by this Council, the saved policies from the 1998 Local Plan would be superseded by the policies in the Local Plan Strategy. Exceptions to this are set out in the Appendix 1 of the Local Development Scheme (**Appendix D** to this report and also Appendix J of the modified Local Plan Strategy) and these will be replaced by policies in the Local Plan: Allocations document.
- 3.28 Following adoption of the Plan, and in accordance with regulations, the Council must make the following available: the Local Plan; the adoption statement; the sustainability appraisal report and associated adoption statement; and, details of where this information is available for inspection.
- 3.29 The Council must also send a copy of the adoption statement to those who have asked to be notified of the adoption of the Local plan and send a copy of the adoption statement to the Secretary of State.
- 3.30 Any person aggrieved by the adoption of the Local Plan may make an application to the High Court within six weeks on the grounds that the Plan is not within the appropriate power or that a procedural requirement has not been complied with.
- 3.31 Members should also be aware that in the letter from the Planning Inspectorate which accompanied the Inspector's report, the Council was advised as follows: *'The Council should consider whether adoption could have any effect on appeals currently being considered by the Planning Inspectorate. As you know, appeals must be determined on the basis of the development plan as it exists at the time of the Inspector's (or the Secretary of State's) decision, not as it was at the time of the Council's decision. If adoption changes the policy position, the relevant Inspector(s) will need to take that into account. In addition, please ensure that your new policy position is clearly explained when submitting your Questionnaire in relation to future appeals received after adoption. If the above circumstances apply, it would be very helpful if the Council could contact the relevant Case Officer(s) in the Planning Inspectorate dealing with any outstanding case(s) at the time of adoption.'* This is particularly apt given that the Council is due to defend shortly its position in respect of some key appeals.

Local Development Scheme

- 3.32 It is a legal requirement of the Planning and Compulsory Purchase Act 2004 (as amended) that the Council has an up to date Local Development Scheme (LDS). The LDS explains the various documents which form together the statutory Development Plan for Lichfield District (the Local Plan), the reasons for their production, their scope, how they link with other Planning Policies (the 'chain of conformity' for example how they conform to the National Planning Policy Framework), the timescales and resources for their production and the approach to consultation. The LDS also sets out accompanying or associated documents intended to guide interpretation of approved policy.

- 3.33 The LDS is a 3 year programme, which is monitored through the Annual Monitoring report (AMR). The current LDS was produced in March 2013 and can be viewed at http://www.lichfielddc.gov.uk/downloads/file/5016/local_development_scheme_march_2013 . It has not been updated since then due to the uncertainty over the timescales relating to the Local Plan Strategy Examination, as other documentation such as the Allocations Plan and the Supplementary Planning Documents (SPDs) all need to follow on from the adoption of the Local Plan Strategy to ensure that the chain of conformity is adhered to. Whilst the 2013 LDS is now out of date, the Council's website has been updated to explain this: it was not appropriate to update further until there was more certainty over timescales.
- 3.34 The 2013 LDS set a timetable of December 2013 for the adoption of the Local Plan Strategy, which was based on submission of the Plan to the Secretary of State in March 2013 (which was achieved), and commencement of hearing sessions timetabled for July 2013 (these started in June 2013). However, the anticipated adoption date was not achieved due to further work being undertaken regarding Modifications, ongoing uncertainty over Summer 2014 due to a Legal Challenge, and then hearings being resumed in October 2014.
- 3.35 The new LDS contains updated timescales assuming the Council adoption of the Local Plan: Strategy in February of this year and is attached at **Appendix D**.
- 3.36 In summary, the Scheme has been amended in the following ways:
- Updated narrative
 - Reflect changes to policy (national planning guidance)
 - Reflect changes to internal Council processes where applicable
 - Updates on Neighbourhood Plans
 - Updated information on the intention to update the Statement of Community Involvement in 2015
 - Updated timescales of the Plan to 2029 to reflect the Main Modifications
 - Updates to the Background evidence chapter
 - Updates to the Risk to Production section
 - Updated Appendix 1 (Saved Development Plan Documents and Local Plan Policies) to reflect the Adopted Status of the Local Plan Strategy (subject to Council Resolution to adopt at this meeting)
 - Updated Appendix 2 with new timescales for documents to follow on from the adoption of the Local Plan strategy i.e. Local Plan Allocations Document and SPDs on: Sustainable Development; Biodiversity; Trees; Historic Environment and Rural Development.
 - Introduction of a new SPD on Developer Contributions to provide guidance and clarity in the light of changing regulations on Section 106 and in the context of developing a Community Infrastructure Levy Charging Schedule.
 - Revised Appendix 3 to show the list of current SPDs to be replaced.
- 3.37 The Council is required to make the revised LDS publicly available along with a copy of any amendments made to the scheme and up to date information on the Council's compliance (or non compliance) with this.

4. Community Benefits

- 4.1 The Local Plan Strategy provides the policy basis for ensuring sustainable growth and the future development of the District in a manner that protects the built and natural environment. The LDS provides the detail, context and timing for the development of all Local Plan documents to be prepared.

5. Alternative Options

- 5.1 The implications of not adopting the Local Plan Strategy would be significant:
- The Council would not have an up to date Local Plan and so development decisions would be guided by the National Planning Policy Framework rather than locally relevant planning policy which has been prepared in line with a detailed and locally specific evidence base;
 - The Council would not be able to progress the Local Plan: Allocations document, and work on the Supplementary Planning Documents would not be able to be aligned with an up to date adopted Local Plan;
 - There would be no strategic context for further plan making in the District;
 - There would be no framework or up to date context for progressing a Community Infrastructure (CIL) charging schedule which, aligned with increasingly restrictive regulations in relation to Section 106 funding, would mean considerable difficulty in securing developer contributions particularly in relation to strategic infrastructure matters.
- 5.2 An up to date Local Development Scheme is a legal requirement of the Planning and Compulsory Act 2004 (as amended).

6. Consultation

- 6.1 A full public consultation on Core Strategy Issues & Options, Preferred Options, Policy Directions and Shaping our District has been undertaken as part of the Local Plan preparation. In addition further targeted community engagement took place in many local communities in 2011. This included consultation with local communities, Government agencies, and statutory non-statutory bodies.
- 6.2 Publication of the Local Plan Strategy in July 2012 allowed for a formal six week consultation, to consider issues of 'soundness' prior to submission for an Examination in Public.
- 6.3 Publication of the modifications to the Local Plan Strategy allowed for a formal six week consultation during February and March 2014 prior to submission to the Inspector.
- 6.4 Formal notification of the adoption of the Plan will be given to consultees⁶ and through public notices in accordance with the details set out in paragraphs 3.27 – 3.30 of this report and to comply with the appropriate regulations⁷.
- 6.5 The Local Development scheme will be published and made publicly available in accordance with statutory requirements⁸

⁶ In line with the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Environmental Assessment of Plans and Programmes Regulations 2004 and including those who have participated throughout the plan making process and who have provided their details in order to be kept informed of the process and in line with the Statement of Community Involvement.

⁷ The Town and Country Planning (Local Planning) (England) Regulations 2012 and the Environmental Assessment of Plans and Programmes Regulations 2004.

⁸ Section 15 of the Planning and Compulsory Purchase act 2004 as amended by the Localism Act 2011.

7 Financial Implications

- 7.1 The preparation of the Local Plan has financial implications, including the costs of the Examination in Public. These have been considered as part of a previous service and financial planning process and contained within agreed budgets.
- 7.2 The adoption of the Local Plan Strategy would allow for the introduction of a Community Infrastructure Levy to assist in the delivery of infrastructure within the District.
- 7.3 An up to date planning framework would provide more certainty for decision taking in Lichfield District.
- 7.4 The Local Development Scheme sets out future publications and the resources needed for these

8. Strategic Plan Implications

- 8.1 The Local Plan will be relevant to all of the Council's and District's ambitions identified in the Strategic Plan where they have a spatial dimension.
- 8.2 The process and content of the emerging Local Plan Strategy have been integrated with the Strategic Plan.

9. Equality and Diversity Implications

- 9.1 Equality Impact Assessment has been undertaken of the Plan and was updated to account for the Modifications to the Plan.

10. Human Rights/Legal Implications

- 10.1 The extensive consultation procedures provided for by the Planning & Compulsory Purchase Act 2004 cover human rights matters.

11. Crime and Safety Issues

- 11.1 Crime and community safety issues have been considered as an integral part of the Local Plan Strategy and policies developed accordingly.

Risk Management

Risk Description	Likelihood/ Impact	Status	Countermeasure
Local Plan: Strategy not formally adopted with reliance placed on national planning policy framework and other factors.	Low/High	Strategic/Financial/Reputational	Advise members of the importance of adopting Local Plan Strategy to provide clear strategic context for all other linked documentation and clear chain of conformity.

On adoption the Local Plan is challenged	Medium/High	Strategic, Financial, Reputational	In preparing the Local Plan the Council has sought to follow national planning policy and taken advice from professional bodies and legal advocates. In preparing his report to the Council, the Inspector has had to consider both issues of soundness and legal compliance and the judgements and recommendations reflect these considerations. If a legal challenge(s) are received they can only relate to matters of law in developing the Plan and its contents, they cannot relate to planning judgements made by the Council in its role as Local Planning Authority.
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Background documents

A list of background documents which have informed the development of the Local Plan Strategy is included in a Core Document List that is available and which was updated through the local plan examination website, This also includes links to other documents relevant to the process. www.lichfielddc.gov.uk/localplanexamination

- Planning and Compulsory Purchase Act 2004 (as amended)
- The Town and Country Planning (Local planning) (England) Regulations 2012
- The Environmental Assessment of Plans and Programmes Regulations 2004.
- The National Planning Policy Framework and National Planning Guidance
- The Lichfield District Local Plan Inspector's Initial Findings September 2013
- Report to Full Council 28th January 2014 (regarding the proposed Main Modifications to the submitted Local plan Strategy)
- Proposed submission Local Plan Strategy July 2012
- Inspector's Final Report and appendix (main modifications) January 2015
- Schedule of 'Other' Modifications December 2014
- Local Development Scheme March 2013

Relevant web links

- Copies of Local Plan/Core Strategy consultation documents, representations and technical evidence can be found at www.lichfielddc.gov.uk/localplanexamination
- Details of the Local Plan process, local plan documents and policies maps, the Local Development Scheme, sustainability appraisal etc at www.lichfielddc.gov.uk/localplan
- Representations and information relating to the main modifications at www.lichfielddc.gov.uk/mods
- Local Plan evidence base at www.lichfielddc.gov.uk/evidence
- Progress on Neighbourhood Plans at www.lichfielddc.gov.uk/neighbourhoodplans
- Community Infrastructure Levy at www.lichfielddc.gov.uk/cil