

Local Plan Allocations adoption

Report of the Cabinet Member for Investment, Economic Growth & Tourism
Councillor I. Eadie



Date:	9 th July 2019
Agenda Item:	4
Contact Officer:	Ashley Baldwin
Tel Number:	01543 308147
Email:	ashley.baldwin@lichfielddc.gov.uk
Key Decision?	Yes
Local Ward Members	ALL

Cabinet

1. Executive Summary

- 1.1 The Council is now in receipt of the Local Plan Allocations final Inspector's Report. The Council now has to determine whether they wish to progress to adoption of the Local Plan Allocations. This will require the Council to accept the Inspectors Main Modifications. This will mean the Council have a complete Local Plan in place consisting of the Local Plan Strategy (2015) and the Local Plan Allocations (2019).
- 1.2 Subject to adoption of the Local Plan Allocations the Council's saved policies from the 1998 Local Plan will be deleted.
- 1.3 The Council is subject to a six week period of legal challenge following the Local Plan Allocations adoption.

2. Recommendations

- 2.1 That Cabinet note the content of the Lichfield Local Plan Allocations Inspector's Report (**APPENDIX A**) and Schedule of Main Modifications (**APPENDIX B**).
- 2.2 That Cabinet recommend to Council the adoption of the Local Plan Allocations (**APPENDIX C**) as submitted and subsequently amended by the main and minor modifications.
- 2.3 That Cabinet recommend to Council the adoption Local Plan policy map (**APPENDIX D**) which was submitted alongside the submission version of the Local Plan Allocations and subsequently amended by the main and minor modifications.
- 2.4 That Cabinet note the final versions of the Strategic Environmental Assessment (SEA) / Sustainability Appraisal (SA) and Habitat Regulations Assessments (HRA) (**APPENDIX E and F** respectively) which accompany the final version of the Local Plan Allocations.
- 2.5 That Cabinet note the accompanying Local Plan adoption statement (**APPENDIX G**) and Sustainability Appraisal adoption statement (**APPENDIX H**).
- 2.6 That Cabinet note the list of polices being deleted from the 1998 Local Plan (**APPENDIX I**)
- 2.7 That Cabinet delegate to the Cabinet Member for Investment, Economic Growth & Tourism in consultation with the Head of Economic Growth authority to make any minor changes to the presentation of the final Local Plan Allocation documents.

3. Background

Local Plan Allocations overview of purpose and key strategic issues

- 3.1 A primary purpose of the Local Plan Allocations is to assist in encouraging appropriate development in Lichfield district which will contribute to sustainable and economic growth.
- 3.2 In considering the allocation of land to meet the growth requirements the Council had to grapple with issue of whether to release Green Belt land for the purpose of future growth. In early versions of the Plan there were proposals for Green Belt release in Burntwood, Fazeley Bonehill and Mile Oak, Shenstone and Whittington.
- 3.3 However following the Secretary of State's decision in relation to Land at Watery Lane Curborough officers undertook a land supply assessment. This assessment sought to understand the housing supply position within the district following the secretary of state's decision. This resulted in the Council being able to identify a supply sufficient to meet the requirements of plan without the need to identify sites within the Green Belt. The decision of the Secretary of State coupled with the commitment to sweat Brownfield supply where sound (in the context of the test of soundness which the Plan is measured against) resulted in allocations amounting to approximately 11, 515 dwellings (inclusive of the Strategy). The housing allocation distribution is detailed in Figure 1.

Figure 1 – Extract from Appendix C

Settlement	Sub Housing Market Area	Completions 2008 - 2017 (Gross) ⁽ⁱⁱ⁾	Committed supply (1-4 dwellings) 2017-2022 (Gross)	Strategic Development Allocations (SDAs)	Local Plan Allocation sites (LPAs) (Gross)	Totals (Gross)	Overall %
Lichfield City	City of Lichfield	660 (28%)	38 (13%)	2072 (56.5%)	1218 (24%)	3988	35%
Burntwood	Burntwood	389 (17%)	43 (15%)	240 (7%)	382 (7.5%)	1054	9%
East of Rugeley	Lichfield District North	573 (25%)	0 (0%)	49 (1%)	800 (16%)	1,422 ⁽ⁱⁱⁱ⁾	12.5%
North of Tamworth	Lichfield District South & East	36 (1.5%)	0 (0%)	0 (0%)	1129 (22%)	1,165 ^(iv)	10%
Fradley	Lichfield District North	34 (1.5%)	5 (2%)	1302 (35.5%)	80 (1.5%)	1421	12.5%

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Armitage & Handsacre		84 (4%)	9 (4%)	0 (0%)	200 (4%)	293	3%
Alrewas		46 (2%)	5 (2%)	0 (0%)	142 (3%)	193	2%
Fazeley	Lichfield District South & East	128 (5%)	15 (5%)	0 (0%)	107 (2%)	250	2%
Shenstone		48 (2%)	6 (2%)	0 (0%)	50 (1%)	104	1%
Whittington		19 (1%)	1 (0.5%)	0 (0%)	18 (0.5%)	38	0.5%
Other Rural	Lichfield District North, South & East	314 (13%)	163 (27%)	0 (0%)	945 (19%)	1422	12.5%
Approx. Total:		2331	285	3663	5071	11,350	100%
Windfall allowance (55 dwellings per annum)						660	
Demolitions/loss of residential (2008-2016), annualised demolition rate (5 dwellings per annum) & 5% non-implementation/discount rate applied to committed supply, windfall allowance and Local Plan Allocation sites						-495	
Approx. Total cumulative net dwellings:						11,515	

- 3.4 Figure 1 illustrates the breakdown of supply provided by the ADPD, which amounts to 5,071 dwellings. This helps to illustrate the importance of the ADPD from a housing supply perspective. The table also illustrates the geographical breakdown of supply. This was subject to lengthy discussion during the hearing sessions. Specifically there was challenge regarding the lack of alignment with the adopted Strategy which proposed approximate distributional breakdown compared with the ADPD breakdown. Fundamentally the settlements identified in paragraph 3.2 of this report were not supplying the proposed housing land allocations to meet their respective housing targets indicated within the Strategy. Officers defended to Council's position of protecting the Green Belt. The Inspectors Report (**APPENDIX A**) supports the approach taken by the Council with explicit reference to the Inspectors analysis at paragraphs 34, 36, 75, 78 and 79 finding the approach sound and deliverable.
- 3.5 Another area of focus during the hearing sessions related to the Council's five year land supply position. This is a fundamental area that an Inspector needs to assess, specifically the Council need to demonstrate that by progressing with the Plan they will have a five year supply of housing. This is addressed within the Inspector Report (**APPENDIX A**) at paragraphs 57 – 64 where the Inspector concludes the Council has demonstrated the ADPD is able to provide a five year land supply. At the time of examining the Plan the land supply served to meet 4,449 of the housing target (10,030) which provides the Authority with a supply of 5.62 years.

- 3.6 The above background serves to highlight the most critical areas of debate at the hearing sessions that officers defended. However Cabinet should also be cognisant that the ADPD deals with much more than housing. The length of debate relating to housing is typical at hearing sessions and reflects the area of pressure. It is important to note the wider and equally important components of the Plan that are set out within the ADPD ([APPENDIX C](#)) paragraph 1.3.
- 3.7 One of the other challenges the ADPD deals with relates to economic growth. The ADPD positively supports the Council's neighbouring planning authority, Tamworth Borough Council. The ADPD does this by incorporating 6.5 hectares of employment land need for Tamworth. This demonstrates the Council's positive approach to meeting the Duty to Cooperate requirements which is another test the Authority need to pass to be sound.

Local Plan Allocations adoption process

- 3.8 The Council has undertaken several rounds of public consultation on the Local Plan Allocations (these are set out in **Appendix J**). These consultations have assisted in producing the final version of the ADPD and the accompanying suite of supporting documents.
- 3.9 In addition to the consultation undertaken on the Plan the Planning Inspectorate have independently examined the Plan. This exercise is known as the Examination in Public. In conducting the examination a two week period of public hearings was undertaken during September 2018 (04.09.2018 – 13.09.2018). Following the hearing sessions the Inspector issued the Council with a series of main modifications to consider.
- 3.10 Members will be aware that Cabinet (20.11.2018) approved public consultation on the modifications for the ADPD. Following conclusion of the consultation a summary of the comments received and a set of Council responses was sent to the Planning Inspector.
- 3.11 The Inspector has issued his final report to Lichfield District Council (report dated 25.04.2019), having sent a draft for fact checking to the Authority on the 20th March 2019 (as permitted by the relevant regulations).
- 3.12 The Inspector's report was published soon after receipt in line with Regulation 25 of the Town and Country Planning (Local Planning) (England) Regulations 2012¹. It should be noted that the Planning Inspectorate do not publish the report, it is the Local Planning Authority's responsibility to do so. The report is available on the Council's website, the examination website and hard copies are available to view at the Council House. In addition those who responded at the Regulation 19 consultation stage have been notified of the reports publication. This is in line with Regulation 35.
- 3.13 Under the Planning and Compulsory Purchase Act 2004, (as amended) an Inspector, if finding the plan sound and having been prepared in accordance with the relevant regulations, must recommend that the document is adopted, and give their reasons. The Authority can then adopt taking into account the modifications that were recommended. In effect this means the Inspector's report is binding subject to minor changes (which the Authority has already consulted on). Alternatively the Authority can choose not to adopt the Plan.
- 3.14 The option of not adopting the Plan is not recommended. The Plan has been found sound subject to the recommended modifications. Adoption of the Plan provides the District with a comprehensive Local Plan framework. The Allocations and Strategy will then be given full weight in determining

¹ Further reference to Regulations within this report relate to the Town and Country Planning (Local Planning) (England) Regulations 2012 unless otherwise stated.

applications and appeal decisions. If the Plan is not adopted there is uncertainty over the planning framework for the District. In turn this will assist in facilitating unplanned development across the District and would represent poor strategic planning increasing the risk of inappropriate development.

- 3.15 In addition to the written document that has been examined the Council are required to produce a policies map. The policies map illustrates the geographical application of the Policies in the adopted development plan. There were minor changes to the Policies map consulted upon during the modification consultation stage. The final policies map can be viewed at [Appendix D](#).

Habitat Regulations Assessment and Sustainability Appraisal

- 3.16 The Local Plan Allocations needs to be supported by a Habitat Regulations Assessment (HRA) because of the District's proximity to a number of European designated sites. The HRA was updated (**APPENDIX F**) to take account of the main modifications and the minor modifications the Council had already agreed. The HRA concluded that there were no impacts arising from the changes that warranted amendment to the main and minor modifications. The final Inspector's Report did not materially alter the main modifications from those consulted upon previously meaning that there is considered no requirement to further update the HRA. The conclusion of the HRA process is that the Plan will have no significant effects alone or in combination upon European Sites and will have no adverse effect on the integrity of the European Sites.
- 3.17 The Sustainability Appraisal (SA) is a fundamental document for any Local Plan. It assists in ensuring the policies and allocations are appropriately developed when taking into account the agreed sustainability objectives. The final SA (**APPENDIX E**) focused on the main modifications and the minor modifications the Council had already agreed. The SA concluded that there were no impacts arising from the changes that warranted amendment to the main modifications and minor modifications.
- 3.18 The SA is accompanied by an adoption statement (**APPENDIX H**). The purpose of this Post adoption statement is to meet the legislative requirements of European Directive. Specifically the SA adoption statement includes information on:
- How sustainability considerations have been integrated into the Plan;
 - How the SA has been taken into account;
 - How the results of public consultation have been taken into account;
 - The reasons for choosing the Plan as adopted, in light of the other reasonable alternatives considered;
 - How any significant effects of implementation the Plan will be monitored.

1998 Saved Policies

- 3.19 In 2006 the Council decided to save a number of policies within the 1998 Local Plan (**APPENDIX I**). This was undertaken in consultation with the former Government Office for the West Midlands (GOWM). As part of the ADPD process there was a commitment to review the suitability of these saved policies. In doing so the policies that are contained within the 1998 Local Plan will be deleted upon adoption of the ADPD. This will not result in a policy vacuum because the policies have been reviewed and where feasible have been incorporated in the ADPD (where policies have been included in the ADPD they have been reviewed and updated to ensure they are fit for purpose).

Next steps

3.20 If Council adopt the ADPD, the Council are to:

- Make available:
 - The Local Plan (ADPD);
 - An adoption statement;
 - The Sustainability Appraisal and SA / SEA Adoption Statement; and
 - Details of where the ADPD is available for inspection and the places and times at which it can be inspected.
- Send a copy of the adoption statement to:
 - Any person who has asked to be notified of the adoption of the ADPD; and
 - The Secretary of State.

The Challenge period

3.21 Section 113(4) of the 2004 Act allows for an application to quash the development plan document to be made to the High Court within six weeks of adoption (the “legal challenge period”). The six weeks will commence from the 17th July 2019. During this period the full weight of the ADPD can be applied in decision making.

Local Plan Review

3.22 The Local Plan (Strategy and Allocations) is subject to a review which has already commenced. The review was established in the Local Plan Strategy and during the ADPD hearing sessions there was discussion regarding the Council’s review process. While the review process is under way (two rounds of public consultation have been undertaken) adoption of a revised Plan is not expected until 2022. Therefore the adoption of the ADPD is considered important to ensure the Council has a full suite of planning policy documents in place now.

3.23 Members should be aware that the Plan review will need to address the unmet need arising from the Greater Birmingham and Black Country Housing Market Area (GBBCHMA). This was another area of length discussions during the hearing sessions. The Inspectors Report (**APPENDIX A**) recognises the efforts of the Authority in demonstrating extensive and ongoing engagement with neighbouring authorities (paragraph 11). However at paragraph 91 the Inspector is clear that the Authority need to address this through the Plan review.

Alternative Options	Cabinet decide not to approve the ADPD for adoption. As set out in paragraph 3.14 this is not recommended. Adoption of the Plan provides the District with a comprehensive Local Plan framework. The Allocations and Strategy will then be given full weight in appeal decisions. If the Plan is not adopted there is uncertainty over the planning framework for the District. In turn this will assist in facilitating unplanned development across the District and would represent poor strategic planning increasing the risk of inappropriate development.
Consultation	1. Consultation has informed the development of the ADPD. The consultation stages are set out in Appendix J .
Financial Implications	1. There are no financial implications from this report.

Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> 1. Supports the priority of a vibrant and prosperous economy as it assists in the delivery of the planning function of the Council. 2. Supports the priority of Healthy and Safe communities by ensuring the provision of housing. 3. Supports the priority of clean, green and welcoming places to live by assisting in allocating land for affordable housing, as well as supporting the delivery of residential and commercial developments.
Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> 1. An Equality Impact Assessment accompanies the ADPD (Appendix K).
Crime & Safety Issues	<ol style="list-style-type: none"> 1. There are no crime and safety issues.
GDPR / Privacy Impact Assessment	<ol style="list-style-type: none"> 1. A privacy impact assessment has been undertaken.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	The ADPD does not progress to adoption and the Council are left with an incomplete Development Plan.	The Council would need to operate with a part complete Local Plan.	Yellow
B	Following adoption the ADPD is legally challenged.	If the Plan is subject to legal challenge officers will review the challenge and if necessary instruct legal representation. As part of the ADPD Giles Cannock QC was instructed to provide the Council with legal support.	Yellow

Background documents:

- Local Plan Strategy 2015
- Statement of Community Involvement
- Local Development Scheme
- Regulation 18 consultation
- Regulation 19 consultation
- Regulation 19 Focused changes consultation

Relevant web links:

- [Local Plan Strategy 2015](#)
- [Statement of Community Involvement](#)
- [Regulation 18 consultation](#)
- [Regulation 19 consultation](#)
- [Regulation 19 Focused changes consultation](#)