

SPECIAL COUNCIL - 4th June 2019

**RUGBY BOROUGH LOCAL PLAN –
ADOPTION OF THE LOCAL PLAN**

REPORT OF THE EXECUTIVE DIRECTOR

1. Introduction

This report seeks a resolution from Full Council to adopt the Local Plan 2011 – 2031, subject to the Main Modifications put forward by the Inspector in his report (see Appendix 1) and encompassing a number of minor modifications set out in Appendix 3. The report also seeks agreement to adopt the Policies Maps to accompany the Local Plan as shown in Appendices 8a-e.

- 1.1. On adoption the Local Plan will replace the Core Strategy that was adopted in 2011 (and other elements of the statutory Development Plan). The Plan outlines a strategic vision for Rugby Borough in response to the economic, social and environmental issues facing the area. Allocations and policies within the plan will direct development and support the growth of the Borough in the period 2011-2031.

2. Purpose of Report

Formal adoption is the final stage in the process of producing a new Local Plan. The Inspector's Report (see Appendix 1), examining the plan's soundness has been published. It concludes that the plan is sound, subject to Main Modifications. This report proposes that the Council adopts the Local Plan with the Inspector's Main Modifications (see Appendix 2) and the Council's Minor Modifications (see Appendix 3). A final version of the Local Plan, which incorporates all of the Inspector's Main Modifications and the Council's Minor Modifications, is included at Appendix 4.

3. Background

- 3.1 The receipt of the Inspector's Report marks the close of a twenty-month examination in public.
- 3.2 Rugby Borough Council submitted its Local Plan to the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) on 14 July 2017 following a full council decision on 21 June 2017.
- 3.3 The examination webpage can be viewed at:

<https://www.rugby.gov.uk/localplan>

- 3.4 The Secretary of State then appointed a Planning Inspector to carry out an independent examination of the Local Plan. The examination included a series of public hearings conducted by the Inspector, which took place in January, February and April 2018.
- 3.5 Following the hearings the Inspector wrote to the Council with interim conclusions on the 16 May 2018. In this the Inspector informed the Council he considered the Local Plan could be found sound and legally compliant, subject to a number of changes being made; so-called 'main modifications', which would require appropriate updates to be accompanied by an updated Sustainability Appraisal and Habitat Regulation Assessment, where necessary. Key interim conclusions the Inspector made at this stage included the removal of proposed housing allocations at Lodge Farm, Brinklow and Coton House.
- 3.6 The Inspector advised the Council to hold a public consultation on the proposed Main Modifications. Following approval by Cabinet at a meeting on the 13 August 2018 public consultation on the Main Modifications, accompanied by the Sustainability Appraisal and Habitat Regulation Assessment, took place from 14 August 2018 to 5 October 2018. At the close of the consultation, all of the representations received were passed to the Inspector in order for him to consider in finalising his report.

4. Inspector's Report and modifications

- 4.1 The Examination process is formally complete when the Planning Inspectorate issues the Inspector's final report. The Council formally received this on 27 March 2019. Upon receipt of the final report a decision was taken by the Executive Director to publish the Inspector's report on the 7 May.
- 4.2 The decision can be viewed at the webpage on the council website below:
https://www.rugby.gov.uk/downloads/download/367/decision_under_delegate_d_powers_-_publication_of_inspectors_report_in_respect_of_the_local_plan
- 4.3 Accompanying his report, the Inspector updated the Main Modifications table which had been subject to consultation in October 2018 to fully reflect the conclusions in his report. The Local Plan as appended to this report fully reflects all of the Main Modifications as appended to the Inspector's report. It is this document Full Council is being asked to adopt as Council policy. Appended to this report at Appendix 5 is a 'track change' version of the Local Plan, which identifies all of the main and minor modifications to the Local Plan since submission for examination in public in July 2017. This document is for information only, to show the modifications the Inspector considers necessary for the plan to be found sound. It is the document contained in Appendix 4 that council is being asked to adopt.
- 4.4 The Inspector's Main Modifications have remained largely as approved by Cabinet in August 2018 and consulted upon in August-October 2018.

- 4.5 The Inspectors report at Appendix 1 sets out his reasons for the conclusions he has reached. However, the main conclusions are that the Inspector finds the Local Plan provides an appropriate basis for the planning of the Borough, provided that the main modifications (MMs) contained in Appendix 2 are made to it. In respect of Duty to Cooperate (DtC) the Inspector found that the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan. The Inspector concludes that the DtC has therefore been met.
- 4.6 The Inspector was satisfied that the evidence that informed the housing and employment needs for the borough was sound.
- 4.6 The Settlement Hierarchy contained within the Local Plan is largely the same as that contained within the Core Strategy. Rugby town remains the top of the hierarchy as the most sustainable location within the Borough and as such is where the majority of development is directed through the allocations of Coton Park East and South West Rugby. The Inspector was satisfied with this approach.
- 4.7 As well as the urban extensions to Rugby the Inspector was satisfied that exceptional circumstances had been demonstrated for small scale Green Belt releases to seven of the Main Rural Settlements to support local communities and help deliver a five-year housing land supply.
- 4.8 In his Main Modifications the Inspector removed the proposed new Main Rural Settlement of Lodge Farm due to harm to the countryside, impact on landscape and relatively poor accessibility by sustainable transport modes. He also removed proposed allocations at Brinklow, primarily to concerns with the impact on landscape, and Coton Park East to impact on the setting of the Coton House Grade 2* listed building and being in an unsustainable location.
- 4.9 Concern was raised during the hearings about the impact the proposed allocation at South West Rugby would have on the Dunchurch Crossroads, which is already operating over capacity with resultant air quality issues. In his report the Inspector confirmed air quality at the crossroads would be improved by the provision of the 'Homestead' bypass provided as part of the South West Rugby allocation. He acknowledged that Dunchurch, whilst a satellite to Rugby, has its own distinct identity as a village community, which is visually and physically separated from Rugby by a narrow band of countryside within the allocation. His report confirms that it will be important to maintain a separation between Ruby and Dunchurch and a buffer is required as part of the allocation to prevent coalescence.
- 4.10 In his report the Inspector confirms on adoption of the Local Plan a five-year housing land supply can be demonstrated. Further detail on each of these points is contained in Appendix 1.
- 4.11 Appendices 8a-e show the policies maps updated to reflect the modifications to the Local Plan.

5. Adoption of the Local Plan

- 5.1 Now the examination process is complete, adoption is the final stage of putting a Local Plan in place. This requires confirmation by Full Council (regulation 4(1) and (3) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000).
- 5.2 While the Local Planning Authority is not legally required to adopt its Local Plan following examination, the plan has been found to be sound by the Inspector and it will have been through a significant and costly process to engage with communities and other interests in discussions about the future of the area. There is an expectation that the Authority will now proceed quickly with adopting a Local Plan that has been found to be sound.

6. Alternative Options & Implications if the Local Plan isn't adopted

- 6.1 Paragraph 12 of this report recommends the adoption of the Local Plan as appended.
- 6.2 It is worth noting that there are no proposed alterations or amendments to Appendix 1 for Council to consider. The Inspector's report is binding on Council if they wish to proceed to adoption.
- 6.3 The adoption of the Local Plan is a corporate objective for the Council. The Council has spent considerable time, resources and money on the preparation of this robust and well-evidenced Local Plan over the past five and a half years. If the Members decide not to adopt the Local Plan at the meeting on 4 June 2019, the Local Plan will need to return to the beginning of the plan process, which will incur considerable further time, resources and money (see paragraph 11 – Financial Implications).
- 6.4 A key reason for having an up to date and adopted local plan is to demonstrate that the Council has a five-year housing land supply. Being able to demonstrate a five-year housing land supply gives Members greater control over determining planning applications and delivering appropriate housing within the Borough. If Council chooses not to adopt the Local Plan then planning decision making will have to continue to rely on the increasingly dated policies contained within the Core Strategy, 2011 and 2006 saved Local Plan policies. Refusal of development which the Council believes is inappropriate development will be more difficult without up to date policies contained within a new Local Plan
- 6.5 The Local Plan demonstrates a supply of 6.1 years, however if the Local Plan is not adopted, the Council will not have a five-year housing land supply. This will lead to developers bringing forward speculative planning applications and, in practical terms this would mean that the planning committee would be put in the position of approving planning applications that it would ordinarily find unacceptable. In addition, where a planning application is refused, it is more likely that the applicant would be able to pursue a successful challenge of that decision at appeal.

- 6.6 Without the Local Plan, it will be very challenging to deliver the infrastructure required to support the growth of the Borough. Planning applications will be brought forward on a speculative basis rather than as part of a comprehensive suite of allocated sites. As such development may occur in locations that Members favour less than those set out in the Local Plan. In addition, it will be difficult to assess, ascertain or deliver the infrastructure required to support and mitigate the cumulative impact of these speculative applications.
- 6.7 It is likely that the large sites allocated in the Local Plan will still come forward (Coton Park East and South West Rugby). However, without a Local Plan, the Council will be unable to bring forward the supplementary planning documents ("SPD") to guide the comprehensive development of these sites. The SPDs' function is to expand on, and provide detail to, the policies in the Local Plan. Without a Local Plan there cannot be an SPD and without an SPD the large sites will also be brought forward on a piecemeal basis without the appropriate infrastructure being in place. A key concern here is the inability to secure the delivery of the Homestead Link as part of the South West Rugby site and therefore the impact on Dunchurch of the increased traffic.
- 6.8 Additionally, if the Local Plan is not adopted, the Secretary of State has powers under the Planning and Compulsory Purchase Act 2004 (as amended by the Housing and Planning Act 2016) to intervene in the Local Plan process. The Secretary of State may direct the preparation, examination and adoption of a local plan. If the Secretary of State exercises these powers, then the Council would be liable to reimburse the Secretary of State for any expenditure incurred.
- 6.9 The Secretary of State has previously exercised his powers to intervene. In respect of Bradford, Birmingham and North Somerset's local plan the Secretary of State intervened to examine housing targets that required the release of green belt. In all three of these cases the Secretary of State was satisfied with the housing target and the release of the green belt and decided not to reduce the housing targets.
- 6.10 As noted above, there is a requirement for the Council to have a local plan in place which is up to date and compliant with national planning policy. There is a clear reputational risk to the Council if Members decided not to adopt the Local Plan and the Secretary of State then intervenes in the process to carry out the Council's statutory functions on its behalf. Inevitably, any intervention from the Secretary of State, will lead to on-going scrutiny and potential intervention from central Government if it is perceived that the Council cannot carry out its statutory functions adequately.
- 6.11 In the consideration of the above factors there are no reasonable alternatives to not adopting the Local Plan as contained within Appendix 4.

7. On Adoption of the Plan

- 7.1 Once formally adopted by Full Council, as soon as is reasonably practical, it should be made available on the Council's website and at the Council offices along with an Adoption Statement, the Sustainability Appraisal and details of

where the documents can be inspected. The Council must also send copies of the Adoption Statement to interested parties and the Secretary of State.

8. Supersedes existing Planning Policies

- 8.1 The adoption of the Local Plan will replace all existing development plan policy contained within the Core Strategy and saved local plan policies. In doing so it will provide a new policy framework for development decisions through until 2031. Following adoption, the Local Plan as appended will have immediate effect.

9. Equality Impact Assessment

- 9.1 The Local Plan is accompanied by an Equality Impact Assessment. This was published alongside the Submission Local Plan and submitted as a supporting document to the Local Plan for Examination and considered by the Inspector. It was also made available during the Main Modifications consultation in August – October 2018.

10. Legal Implications

- 10.1 The Local Plan has been prepared and tested against the Planning and Compulsory Purchase Act 2004, as amended, and the accompanying Town and Country Planning (Local Planning) (England) Regulations, 2012; and has followed the guidance set out in the Framework, published in February 2019 and the Planning Practice Guidance (PPG). The revised Framework issued by the Government includes a transitional arrangement whereby local plans submitted for Examination on or before 24th January 2019 are examined in relation to the 2012 Framework. The Local Plan therefore has been prepared and examined in relation to the 2012 Framework.
- 10.2 The Council can only adopt the Plan with the main modifications recommended by the Inspector and cannot make any main modifications of its own or reject any made by the Inspector.
- 10.3 The validity of the Local Plan and its adoption may be challenged in the High Court, within a six-week period from the date of adoption by way of section 113 of the Planning and Compulsory Purchase Act 2004.

11. Financial Implications

- 11.1 There are no additional financial costs to adopting the Local Plan other than the administration of notifying of the adoption.
- 11.2 If the Council was not to adopt the Local Plan there would be significant cost implications in commencing this process again. To date the Council has incurred in excess of a £1 million pounds in undertaking the Local Plan process, and the Council would incur a similar cost if it was to commence the process again. As set out within the body of this report, if the Secretary of

State were to intervene then the Council would be liable for all costs in respect of the intervention.

- 11.3 There could be an additional cost incurred if the adoption of the Plan were subject to a legal challenge.

12. Recommendation

The Rugby Borough Local Plan 2011-2031 be adopted in accordance with Section 23 of the Planning and Compulsory Purchase Act 2004 and that this Local Plan supersedes the earlier policies as set out in Appendix C of the Schedule of Main Modifications. It is recommended that Full Council:

- a. adopts the Local Plan 2011 –2031, as contained in Appendix 4;
- b. adopts the Policies Maps to accompany the Local Plan as shown in Appendices 8a-e; and
- c. gives delegated authority to the Head of Growth and Investment to make further minor modifications to the Local Plan prior to it being published, where these modifications are confined to the correction of the attached Local Plan and policies maps, typographical errors, amendments to policy or paragraph reference numbers, and consequential cross referencing.