

Bolsover District Council

Planning Committee

5th June, 2019

Local Plan – Main Modifications

Report of the Planning Policy Manager

This report is public

Purpose of the Report

- To outline the Inspector’s judgement on the Main Modifications to the Submitted Local Plan for Bolsover District that are necessary to make the Local Plan legally compliant and sound.
- To outline the findings of Sustainability Appraisal and Habitat Regulation Assessment on the Main Modifications to the Submitted Local Plan for Bolsover District.
- To approve the Main Modifications and associated documents for the purposes of the required public consultation exercise.

1 Report Details

Background

- 1.1 Work commenced on the preparation of the Local Plan for Bolsover District in October 2014 and has progressed through stages of public consultation in 2015 and 2016 as various spatial options have been considered and then narrowed down with the selection of preferred options for the Local Plan.
- 1.2 This preparation work culminated in the Publication version of the Local Plan for Bolsover District being reported to Planning Committee in April 2018 for approval. At the meeting, it was resolved that:
- a) Planning Committee approve the Bolsover District Publication Local Plan, for a six week public consultation in accordance with Regulation 19 of the Town and Country Planning (Local Plan) (England) Regulations 2012,
 - b) following the Publication and Consultation period, the plan be submitted to the Secretary of State in accordance with regulation 22 of Town and Country Planning (Local Plan) (England) Regulations 2012,
 - c) authority be delegated to the Chief Executive Officer, in consultation with the Leader of the Council and Chair of Planning Committee, to approve:
 - i. minor changes to the Local Plan text prior to and post-consultation (including the insertion of maps and illustrations within the document);

- ii. details concerning the final arrangements and associated supporting documents for public consultation; and
- iii. submission of the Local Plan and associated supporting documents to the Secretary of State following consultation on the Publication Draft Local Plan.

(minute 0744 18/19 refers)

- 1.3 Based on these resolutions, the Council commenced the statutory Regulation 19 (Publication) public consultation stage on 2nd May 2018 and this consultation exercise ran until 15th June 2018.
- 1.4 Following this consultation exercise, the Local Plan was formally submitted to the Secretary of State on 31st August 2018 and this led to the appointment of an independent Government Planning Inspector to undertake the formal Examination of the Local Plan for Bolsover District.
- 1.5 The Local Plan Examination has progressed and the Local Plan Inspector held Hearing Sessions between 21st January to 6th February 2019 with an additional and final session on 12th March. Following this final session, the Inspector explained the next stages and outlined her timetable for providing her judgement on the necessary Main Modifications to make the Local Plan for Bolsover District legally compliant and sound. In accordance with this, the Inspector provided her judgement and the necessary Main Modifications on 14th May 2019.
- 1.6 The final stage of the Local Plan Examination is for the Council to consult on the necessary Main Modifications for a six week period and send any representations received on the Main Modifications to the Inspector. The Inspector will then consider the representations and then set out her recommendations in her Report, so concluding the Local Plan Examination.

Government Intervention

- 1.7 On 17th November 2017, the Council formally received a letter from the Secretary of State in relation to potential Government intervention into the Council's plan making process. The reason for the potential Government intervention was that the Council had yet to adopt a Local Plan since the enactment of the 2004 Planning and Compulsory Purchase Act. The letter outlined that the Council could make its case for avoiding intervention if this was provided by 31st January 2018.
- 1.8 In response, on 29th January 2018 the Council put forward a robust submission that explained the positive steps being made in the preparation of the Local Plan for Bolsover District and outlined the timetable for reaching Submission and Examination.
- 1.9 On 23rd March 2018, the Secretary of State replied to the Council advising:

“I note that your Council has made some progress since my letter of 16 November 2017. Whilst this is welcome, your Council still remains without an up to date Local Plan which undermines public confidence in the plan-led planning system.

Therefore I will hold you to account for your Council's actions. Your Council needs to continue to meet your published timetable. I will continue to monitor your progress closely and any further significant delays in meeting your timetable will cause me to have considerable doubt as to whether your Council is doing everything that is necessary in connection with the preparation of its Local Plan. I will not hesitate to consider how to use the full range of powers Parliament has given me to ensure that a Plan is in place."

- 1.10 As a result, the Council has continued to keep the officials at the Ministry for Housing, Communities & Local Government informed of the Council's efforts to get its new Local Plan in place. The progress to Submission and through the Examination has, to date, meant that the Government has not intervened.
- 1.11 However, it is clear that the Council needs to continue to move forward towards putting in place an up to date Local Plan to ensure that the Government does not decide to intervene and to take control away from the Council.

Main Modifications

- 1.12 Main Modifications are those changes to the Submitted Local Plan for Bolsover District that in the Inspector's judgement are necessary to make the Local Plan legally compliant and sound.
- 1.13 The Main Modifications draw upon the proposed modifications reported to the Council's Local Plan Steering Group on 21st November 2018 and those put forward by the Council during the Examination Hearing Sessions. In a large number of cases, the modification was sought by the Inspector to address a specific challenge to the Submitted Local Plan by an objector and has been agreed by the Council in a Statement of Common Ground.
- 1.14 The modifications cover a range of subjects and modify either the wording of the Local Plan's policies or supporting text. The modifications vary in their extent and can modify a single word or the thrust of the whole policy. Whilst all of the Main Modifications are necessary to make the Local Plan legally compliant and sound, the key areas to note are as follows:
- to set out the strategic policies of the Local Plan so that it is clear which policies address the Council's priorities for the development of Bolsover District [MM2];
 - to better explain the operation of Policy SS1: Sustainable Development [MM5];
 - to clarify that the amount of housing being planned for in the Local Plan is a minimum [MM6 & MM7];
 - to introduce a northern Transitional Zone to the former Whitwell Colliery Strategic Site Allocation to ensure that the housing development element reflects the need to respond positively to the countryside edge and the Important Open Break between Whitwell and Hodthorpe [MM19 & MM20];
 - to update the plan to reflect the latest position with regards to the restoration of the former Coalite site [MM23 & MM24];
 - to set out a commitment to maintaining the purposes of the Green Belt [MM27];
 - to update the Local Plan with regards to the amended housing 'completions' data [MM28];
 - to update the Local Plan with regards to the anticipated timescale for delivery of the housing allocations [MM31 to MM52];

- to advise that low cost entry level housing is generally well met across the district [MM54];
- to delete Policy LC4: Custom and Self Build Dwellings due to the lack of proven demand for custom and self-build dwellings [MM56 & MM57];
- to amend Policy LC9: Removal of Agricultural and Other Occupancy Conditions to change the minimum period for marketing from 18 months to 12 months [MM63];
- to update the plan to reflect the latest position with regards to the development of the former Sherwood Lodge site [MM69 & MM70];
- to amend Policy WC9: Hot Food Takeaways to delete the requirement that they should not be within 400m of an access point to any school or college due to there being no substantial evidence to support a link between childhood obesity and the siting of hot food takeaways within walking distance of schools in Bolsover District at present [MM73 & MM74];
- to accurately reflect the route of the Archaeological Way and to include an additional Multi User Trail [MM85 & MM86];
- to set out local parking standards to support Policy 11: Parking Provision within a new appendix to the Local Plan [MM92].

1.15 The full set of Main Modifications are set out within a consultation document which is attached as Appendix 1 to this report.

Associated documents

1.16 Alongside the Main Modifications are two associated documents, namely the:

- Policies Map Changes, and
- Additional Modifications

1.17 The Policies Map Changes document sets out the proposed changes to the Submitted Policies Map, which illustrates geographically the application of policies within the Local Plan for Bolsover District. The Policies Map is not defined in statute as a development plan document and so the Inspector does not have the power to recommend Main Modifications to it. However, a number of the proposed Main Modifications to the Plan's policies will require further corresponding changes to be made to the Policies Map and some changes will be required to more accurately reflect the geographical expression of the policies.

1.18 As a consequence, the Policies Map Changes are set out within a consultation document in order to provide clarity for interested parties which is attached as Appendix 2 to this report.

1.19 The Additional Modifications document sets out the proposed changes to the submitted Local Plan for Bolsover District which do not materially affect the Policies of the Local Plan, such as changes to correct typographical and factual errors.

1.20 As a result, the changes do not fall within the scope of the Inspector during the Examination of the Local Plan. However, the Additional Modifications are set out within a document that will be published for information during the consultation on the Main Modifications and the related Policies Map Changes for completeness. This document is attached as Appendix 3 to this report. The proposed Additional Modifications would be made by the Council upon adoption of the Local Plan.

Sustainability Appraisal and Habitats Regulation Assessment

- 1.21 The Sustainability Appraisal and Habitat Regulation Assessment processes are two of the legal tests for plan making. They are intended to be iterative with the findings of the Appraisal and Assessment considered at key stages so that this informs the preparation of a Local Plan.
- 1.22 The Main Modifications recommended by the Inspector have been passed to the consultants undertaking the Sustainability Appraisal and Habitat Regulation Assessment for the Council to screen for any changes that might be deemed significant. To reduce the risk of future challenge, this screening exercise has also considered the Policies Map Changes and the Additional Modifications for completeness.
- 1.23 This screening stage has identified that the majority of the Main Modifications and Policies Map Changes, and all of the Additional Modifications, are considered to not be significant changes in the context of the Appraisal and Assessment.
- 1.24 Where a Main Modification was considered to be a significant change, the modification in question has been subject to detailed appraisal. This exercise has confirmed that the conclusions of the Sustainability Appraisal and Habitat Regulation Assessment reports that informed the Publication Local Plan and were published alongside it in May 2018 remain valid.

Consultation Arrangements

- 1.25 Public consultation on the necessary Main Modifications is required in order for the Inspector to be satisfied that all interested parties, not just those who participated during the Hearing Sessions, have had chance to comment on them. However, the consultation is only about the necessary Main Modifications and is not a chance to re-open matters addressed during the Hearing Sessions to the Inspector's satisfaction.
- 1.26 The period of consultation is required to be at least six weeks in length and should approval be given the consultation exercise can commence as soon as all of the necessary preparatory work can be completed. It is intended that consultation will commence on Monday 10th June 2019 and run for 6 weeks until Monday 22nd July 2019 and will consist of:
- a) issuing a press release setting out details of when and where the Main Modifications and associated documents can be viewed, including on the Council's website;
 - b) contact everyone on the Local Plan consultation database either by email or letter making them aware of the consultation exercise and giving them an opportunity to comment on the Main Modifications;
 - c) preparing representation forms so that people can respond easily.

Next Steps

- 1.27 Any representations received on the necessary Main Modifications will be sent to the Inspector. The Inspector will then consider the representations and then set out her recommendations in her Report, so concluding the Local Plan Examination.

- 1.28 At this stage, it is expected that the Council would be in a position to send the representations received on the Main Modifications before the end of July 2019. There is no set time period for the Inspector to submit her Report, but practice indicates this can take on average around 3 months.
- 1.29 The Inspector will initially send her Report to the Council for fact checking. During this period, the Council may not question the Inspector's conclusions but may seek clarification on any conclusions that are considered to be unclear. This fact checking stage should be completed within two weeks.
- 1.30 Following this, the Planning Inspectorate will send the final Report to the Council for publication. Once received, the Council is obliged by the Town and Country Planning (Local Planning) (England) Regulations 2012 to publish the Report as soon as reasonably practicable.
- 1.31 The Council will then prepare the Local Plan for adoption, implementing the recommendations set out in the Inspector's Report.

2 Conclusions and Reasons for Recommendation

- 2.1 Receipt of the Inspector's judgement on the necessary Main Modifications to the Submitted Local Plan for Bolsover District enables the Council to move forward towards putting in place an up to date Local Plan as required by the Secretary of State.
- 2.2 These Main Modifications have been screened for any changes that might be deemed significant within the Sustainability Appraisal and Habitat Regulation Assessment processes and where necessary the changes have been subject to detailed appraisal. This exercise has confirmed that the conclusions of the Sustainability Appraisal and Habitat Regulation Assessment reports that informed the Publication Local Plan and were published alongside it in May 2018 remain valid.
- 2.3 This matter is scheduled to be reported to the Council's Local Plan Steering Group on 29th May 2019 for their consideration. At the time of writing, the meeting is yet to take place and thus the view of the Steering Group will be reported verbally at the Planning Committee meeting.
- 2.4 Subject to this, it is recommended that Planning Committee note the Inspector's judgement on the necessary Main Modifications to the Submitted Local Plan for Bolsover District and the findings of the Sustainability Appraisal and Habitat Regulation Assessment.
- 2.5 Furthermore, it is recommended that the Main Modifications and associated documents are approved for the purposes of the required public consultation exercise as detailed in the report.

3 Consultation and Equality Impact

- 3.1 Other Officers involved in the preparation of this report were: Head of Planning, Planning Policy Manager, Principal Planning Officers, Senior Planner and Planning Officer.
- 3.2 Members consulted during the preparation of the report: Members of the Local Plan Steering Group and Portfolio Holder.
- 3.3 An Equality Impact Assessment was carried out to inform the Publication Local Plan. The modifications have been screened for any changes that might be deemed significant within the Equality Impact Assessment process.

4 Alternative Options and Reasons for Rejection

- 4.1 As explained at paragraph 1.12 above, the Main Modifications are those changes to the Submitted Local Plan for Bolsover District that in the Inspector's judgement are necessary to make the Local Plan legally compliant and sound. To not consult on the Main Modifications would fail to comply with the Council's legal requirements. This means that there is no alternative course of action.

5 Implications

Finance and Risk Implications

- 5.1 None. This is part of the existing work plan and is budgeted for. It also accords with the requirements of the Secretary of State, so minimising the risk of Government Intervention.

Legal Implications including Data Protection

- 5.2 The Council has a statutory duty to prepare and keep up to date a Local Plan. The Planning and Compulsory Purchase Act (2004) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out the statutory procedures for preparing planning policy documents. The Local Plan has been prepared in line with these regulations.
- 5.3 There are no specific data protection issues arising from this report. Consultation processes result in the Council handling a customer's personal data. This information is stored securely in line with the Council's procedures and provisions of the Data Protection Act.

Human Resources Implications

- 5.4 None.

6 Recommendations

6.1 That Planning Committee:

- a) notes the Inspector's judgement on the Main Modifications to the Submitted Local Plan for Bolsover District that are necessary to make the Local Plan legally compliant and sound;
- b) notes the findings of Sustainability Appraisal and Habitat Regulation Assessment as set out in the report; and
- c) approves the Main Modifications and associated documents for the purposes of the required public consultation exercise as detailed in the report.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed?</p>	Yes
<p>District Wards Affected</p>	All but none affected with a significant impact.
<p>Links to Corporate Plan priorities or Policy Framework</p>	<p>The new Local Plan will identify suitable areas for development to help to deliver the Council's Growth Agenda. It will assist local residents, infrastructure providers and developers by providing certainty about the way the District will develop over the Plan period. It therefore contributes to the following Corporate Aims and their identified priority actions:</p> <ul style="list-style-type: none"> • Unlocking Our Growth Potential (main aim); • Supporting Our Communities to be Healthier, Safer, Cleaner and Greener.

8 Document Information

Appendix No	Title
1	Main Modifications to the Local Plan for Bolsover District
2	Policies Map Changes
3	Additional Modifications to the Local Plan for Bolsover District
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Sustainability Appraisal, Habitat Regulation Assessment and Equality Impact Assessment reports on necessary Main Modifications to the Local Plan for Bolsover District	
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