

## **BRECKLAND DISTRICT COUNCIL**

**Report of:** Cllr Gordon Bambridge, Executive Member for Planning  
**To:** Cabinet – 28 November 2019  
Council – 28 November 2019  
**Author:** Andrew D’Arcy, Planning Policy Manager  
**Subject:** Adoption of the Breckland Local Plan  
**Purpose:** To secure formal member approval to adopt the Breckland Local Plan 2011-36

### **That Cabinet recommends to Council:**

1. That the Breckland Local Plan, which incorporates the Inspector’s Main Modifications and the Council’s Minor Modifications, be adopted as part of the Council’s development plan to be used in the determination of planning applications;
2. That those policies contained in the 1999 Local Plan, The Core Strategy and Development Control Policies Document (2009), the Site Specific Policies and Proposals Development Plan Document (2012) and the Thetford Area Action Plan (2012) that are not being retained, as set out in the Local Plan: Strategy and Sites, be withdrawn;
3. That updates to the Breckland District Policies Map be adopted in line with the Breckland Local Plan: Appendix 5 to this report.

## **1 BACKGROUND**

### **Strategic Priorities**

- 1.1 The production of the Local Plan is a statutory requirement and will help the Council meet its strategic priorities. Once adopted, the Local Plan will form part of the development plan and enable the Council to provide the needs of the community, enhancing the rural and urban economy and protecting the district’s natural environment. The Local Plan will provide a framework for development in the District to seek to ensure that Breckland’s growth is sustainable and meets the needs of the existing and future populations. The plan allocates land for housing and employment growth, defines policies that will be used to shape the type of growth in the district, and sets out how the council wishes to see the district develop in spatial form over the next 16 years.
- 1.2 Preparation of the Local Plan began in 2014 and has been subject to a series of public consultations. These were:
  - Issues and Options consultation (17th November 2014 until 9th January 2015).
  - Preferred directions consultation (11th January 2016 until 22nd February 2016).

- Proposed sites and settlement boundary consultation (19th September 2016 and 31st October 2016).
  - Pre-Submission Draft (21 August until 2 October 2017).
- 1.3 The Plan was submitted to the Secretary of State for Communities and Local Government on 30th November 2017 for independent examination.
- 1.4 The Inspector was charged with assessing whether the Local Plan is 'sound'. under the 2012 National Planning Policy Framework (NPPF). The tests of soundness are as follows:
- **Positively prepared.** Providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
  - **Justified.** An appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
  - **Effective.** Deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
  - **Consistent with national policy.** Enabling the delivery of sustainable development in accordance with the policies in this Framework.

### The Examination

- 1.5 The examination process primarily consists of the consideration of written submissions in response to a series of questions published by the Inspector. These were directed solely at the Council and helped to inform the matters and issues for more detailed consideration at the Examination. Both the Council and other interested parties were then invited to submit hearing statements on the topics contained in the Inspector's questions. The Examination was structured around the issues that the Inspector identified were of crucial importance to the soundness of the plan.
- 1.6 Hearings took place on the Plan between April and June 2018 with additional hearings covering housing, gypsies, travellers and travelling show people, environment and infrastructure in September 2018. As part of the examination process, the Council specifically requested that the Inspector recommend any main modifications (MMs) necessary to enable the Plan to be found sound and capable of adoption. At the close of these hearing sessions, the Inspector made concluding comments that the plan could in principle be found sound subject to a number of Main Modifications.
- 1.7 The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared a schedule of the proposed modifications. The MM schedule was subject to public consultation on three occasions for six weeks (18 February to 1 April 2019, 3 April to 15 May 2019 and 30 May to 12 July 2019). The Council drafted the Main Modifications and, through an iterative process, agreed these for consultation with the Inspector.

### Additional / minor modifications

- 1.8 In addition to the MMs recommended by the Inspector, the Council can also put forward 'additional modifications' of its own to deal with minor matters (often referred to as "Minor Modifications"). These are modifications that (taken together) do not

materially affect the policies set out in the Local Plan. These Minor Modifications do not affect the soundness of the plan and consist of factual corrections and matters of consistency or clarity and they will form part of the plan on adoption. An initial schedule of Minor Modifications was published at the same time as consultation on Main Modifications was undertaken and the Plan has been amended to take account of these changes. A final schedule of Minor Modifications is contained at Appendix 3.

### **The Inspector's Report**

- 1.9 The examination process is formally complete when the Inspector produced his final report. The final Inspector's Report was received in October 2019 (dated 25 October 2019) and included at Appendix 1. The Inspectors Report concludes that the Local Plan meets the criteria for soundness in the NPPF, subject to a number of Main Modifications included at Appendix 2. Under Section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended), and in accordance with national guidance, the Inspector can recommend 'Main Modifications' (changes that materially affect the Plan) to make a submitted Local Plan sound and legally compliant.
- 1.10 Policies and designations that did not raise main issues and are considered sound were not referred to in the Inspector's report.
- 1.11 The Inspector recommended the inclusion of the MMs in the Plan after considering the representations made in response to all three consultations. In his report, the Inspector sets out the main issues upon which the soundness of the plan depends and recommends that with the MMs the Plan is sound and capable of adoption. And that the Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.
- 1.12 The MMs can be summarised as follows:
  - Insertion of Policy INF 03 that requires an immediate review of the Plan with regard to: Policy HOU 01 'Development Requirements'; Policy HOU 08 'Gypsies and Travellers'; Policy HOU 10 'Technical Design Standards for New Homes'; and Policy EC 01 'Economic Development';
  - Insertion of climate change into the vision and strategic objectives;
  - The removal of the stepped trajectory from Policy HOU 01 'Development Requirements';
  - Modifications to the housing trajectory in Appendix 1 of the Plan to reflect the removal of the stepped trajectory and use of the Sedgefield method to address backlog and to update supply;
  - Changes to Policy HOU 02 'Level and Location of Growth' to update its figures;
  - Alterations to Policy HOU 03 'Development Outside of the Boundaries of Local Service Centres';
  - The insertion of Appendix 5 to set out a housing target for settlements subject to Policy HOU 04 'Rural Settlements with Boundaries';
  - Changes to Policies HOU 04 'Rural Settlements with Boundaries' and HOU 05 'Small Villages and Hamlets Outside of Settlement Boundaries';
  - Alterations to Policies HOU 07 'Affordable Housing'; Policy HOU 08 'Provision for Travellers and Travelling Showpeople'; Policy HOU 09 'Specialist Housing'; Policy HOU 10 'Technical Design Standards for New Homes'; Policy HOU 11 'Residential Replacement, Extension and Alteration'; Policy HOU 12 'Conversion of Buildings in the Countryside'; Policy HOU13 'Agricultural Workers Exceptions'; and Policy HOU 14 'Affordable Housing Exceptions';
  - Modifications to Policy EC 01 'Economic Development'; EC 02 'Snetterton Heath'; Policy EC 03 'General Employment Areas'; Policy EC 04 'Employment

Development Outside General Employment Areas; and Policy EC 07 'Tourism Related Development';

- Changes to Policy EC 05 'Town Centre and Retail Strategy' and its supporting text to update figures;
- Alterations to the housing and employment site allocations and their criteria and supporting text;
- Amendments to the Plan to refer appropriately to not superseded policies and allocations of other Plans;
- Changes to the development management policies, in terms of transport, the environment, communities and design; and
- Modifications to the Council's Implementation and Monitoring Strategy

- 1.13 This report proposes that the Council adopts the Local Plan, with the Inspector's MMs and the Council's Minor Modifications. A final version of the Local Plan, which incorporates all of the Inspector's Main Modifications and all the Council's Minor Modifications, is included at Appendix 4. The final policies map will be produced after adoption. In the interim, the PDF maps previously contained in the Pre-Submission draft with amendments made as required by the Inspector, will be available for reference purposes. These are in Appendix 5.

## **2 Options now available to Council regarding the Local Plan**

- 2.1 In accordance with prevailing legislation, there are two options available to Council regarding a decision on the Local Plan at this point; a) that the plan may either be adopted with the Inspector's recommended main modifications or b) that the plan is not adopted. Officers consider that the adoption of the Local Plan is the most appropriate course of action from a planning perspective and the following paragraphs provide a basis for this recommendation.

### **Context**

- 2.2 The process of preparing the Local Plan took a significant amount of time and expense. It included substantial engagement including formal public consultations. The Inspector has now issued his final report, and the examining process is now formally complete. The Inspector concludes that, with recommended main modifications, the plan is sound and capable of adoption.
- 2.3 The law states that the Council cannot debate the findings of the report with the Inspector. Furthermore, the law confirms that the council is unable to accept some parts of the Plan whilst rejecting others. The Inspector's report determines that with his suggested Main Modifications, the plan can be considered sound.
- 2.4 If adopted (in accordance with the report recommendation, the plan will form part of the development plan and carry full weight in the determination of planning applications. Adopting the Local Plan would also formally replace a number of the existing Local Plan policies.

### **Benefits of adopting the plan**

- **Creating an environment of planning certainty**

2.5 Prompt adoption of the Local Plan will provide much greater planning certainty in the context of the current preparation of major planning applications, including for several strategic sites that make up a significant proportion of the housing supply identified in the Plan. Adoption of the Plan would provide a clear basis upon which these sites can be progressed with requisite certainty. The need for confidence in the Plan is considered to be very important, particularly in the light of the significant resources required to compile large scale planning applications and the lead-time necessary to do so.

2.6 Furthermore, planning policy officers are preparing Supplementary Planning Documents (SPDs) on Affordable Housing, Design and Developer Contributions to provide further guidance and certainty to the delivery of development schemes. The timely adoption of the Local Plan will enable progress toward adoption of these SPDs and the associated necessary guidance to the preparation of planning applications. .

- **Ensuring the plan remains up to date for decision-making in relation to planning applications**

2.7 The NPPF (paragraph 11) states that policies which are the most important for determining planning applications are considered out-of-date for applications involving housing where the Council cannot demonstrate a five year housing land supply, The Inspector concludes that with the Plan, the Council can demonstrate a five year supply of housing land. Under para 74 of the NPPF states:

*A five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:*

*a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and*

*b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.*

Footnote 38 states:

*For the purposes of paragraphs 73b and 74 a plan adopted between 1 May and 31 October will be considered 'recently adopted' until 31 October of the following year; and a plan adopted between 1 November and 30 April will be considered recently adopted until 31 October in the same year.*

2.8 Adoption of the Local Plan will secure a 5 year housing land supply until 31 October 2020 (unless this position is successfully challenged at appeal in the interim). This will allow the Council further time to continue to work with the development industry to increase the delivery of housing from sites with planning permission (including, for example, sites such as the Kingsfleet SUE in Thetford). It is important to note that it will also be important for the Council to continue to approve applications for new housing development where these are on suitable, available and deliverable sites.

2.9 Albeit that the draft Plan currently carries significant weight given its present status, its adoption would confirm its full weight as the sound basis for securing these benefits. Furthermore, and importantly, if not adopted, the draft Plan would swiftly carry little if any weight in the future as it would have no status.

### **Risks of not adopting the plan**

- 2.10 Clearly, a decision not to adopt would mean the benefits of adoption of this plan as outlined above would not be realised. Though not favoured, an alternative would be not to adopt the plan. Should the Council not adopt the Local Plan, there is the potential for Government intervention. In Breckland's case, intervention could be to direct the Council to adopt the current plan.

### **Preparing a new Local Plan**

- 2.11 The Inspector has instructed the Council to undertake a partial review of the Local Plan on a number of key topic areas and set a target date of November 2022 for the submission of this Plan for examination. In addition to this the context for preparation of the new local plan will be entirely different, as the transitional arrangements under which the emerging plan has been examined would no longer apply. This new plan will require at least one Regulation 18 consultation and one Regulation 19 consultation. These will likely generate significant levels of comment as was previously the case. The evidence base, which underpins the plan, would also need to be re-assessed as certain elements are likely to require a refresh. It will therefore be important for the Council to have a recently adopted Plan whilst the review is undertaken.

### **Sustainability Appraisal Adoption Statement**

- 2.12 The Sustainability Appraisal (SA) is an iterative process that has informed the Local Plan. Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives. The final step in the process involves preparing a statement at the time of a Local Plan's adoption.
- 2.13 The SA Adoption Statement (at Appendix 6) includes information on:
- Conclusions of the Habitats Regulations Assessment (HRA)
  - How sustainability considerations have been integrated into the Local 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 Local Plan as adopted, in light of the other reasonable alternatives considered;
  - How any significant sustainability effects of implementing the Local Plan will be monitored.
- 2.14 The SA Statement demonstrates that a robust SA process has been progressed alongside plan-making. Most importantly, in terms of compliance with both the SEA and Local Planning Regulations, the SA Report was published alongside the proposed submission version of the plan. An SA Report Addendum was then published in respect of the proposed main modifications to the plan. These reports served to inform representations on the plan, and then served to inform plan finalisation. The Inspector indicates that the Sustainability Appraisal has been carried out and is adequate.

### **Equality and Diversity Implications**

- 2.15 All public authorities are required by s.149 of the Equality Act 2010 (EA 2010) to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EA 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2.16 Policies, procedures and service delivery may have differential impacts on certain groups with protected characteristics, and these will be highlighted in the Equalities

Impact Assessment (EqIA) screening. Likely differential impacts must be highlighted, and described, as some may be positive. Where likely significant adverse differential impacts are identified, consideration should be given to opportunities to reduce or mitigate this through a full equalities impact assessment.

- 2.17 In preparing his Report, the Inspector had regard to the provisions of the 2010 Act. A final update to the EqIA screening has been undertaken to inform the adoption of the plan at Appendix 7).

### **3 REASONS FOR RECOMMENDATIONS**

- 3.1 The Local Plan provides a coherent approach to meeting future development needs and allocates sites to accommodate sustainable development in the District up to 2036. The recommendations above will enable the Local Plan: strategy and sites to become part of the Council's development plan and carry full weight in the determination of planning applications.
- 3.2 The second recommendation is to enable the Local Plan (date) policies that are superseded by new policies in the Local Plan: strategy and sites document to be withdrawn. The Local Plan (date) policies that are not superseded will be retained and continue to be used in determining planning applications.
- 3.3 The third recommendation allows for the update to the Breckland District Policies Map in line with, and as a consequence of, the proposed adoption of the Local Plan: strategy and sites.

### **4 IMPLICATIONS**

- 4.1 In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

#### **4.2 Corporate Priorities**

The adoption of the Breckland Local Plan will make a positive contribution to the delivery of the Breckland Corporate Plan, namely through contributing towards the following objectives;

##### *Your place*

- To deliver substantial and continued growth as proposed through our Local Plan, in conjunction with our key partners
- Work with our partners to ensure that key infrastructure such as roads including the A47, rail links, broadband and telecommunications in the district are improved enabling us to be a location of choice
- Enable the effective planning and delivery of housing solutions to meet local needs and aspirations to ensure that our residents including veterans have access to a range of housing options in the district

##### *Your Health and Wellbeing*

- Ensure that our residents are enabled to live in high quality housing no matter the tenure
- Maintain our current leisure provision but explore where we can enhance the provision of this across the district

#### *Your Opportunity*

- Develop and deliver a clear strategy for 'Invest in Breckland' with a view to supporting the growth of businesses located within the district, whilst also working proactively to attract new inward investment that can bring further prosperity to Breckland
- Work with our partners to stimulate housing and employment development in our major growth areas, with a particular focus on Thetford, Snetterton and Attleborough

#### **Stakeholders/Consultation/Timescales**

- 4.3 The Plan has been the subject of significant consultation throughout the preparation process. These began in 2014 and ended in 2019 with consultation on the Main modifications. Further information is in Section 1 of this report.

#### **Financial Implications**

- 4.4 The cost of undertaking the procedures relating to adoption is covered within the Planning Policy Budget. The adoption of an up to date plan will help facilitate growth which in turn could lead to economic benefits to the District and increased New Homes Bonus, business rates and S106 receipts.

#### **Legal Implications**

- 4.5 Following submission to the Secretary of State, the Local Plan was examined by an independent Planning Inspector. The Inspector concluded within his report that we have fulfilled our legal Duty to Cooperate and provides a summary of legal compliance with other statutory requirements in his report. The report concludes that, with the recommended Main Modifications, the Breckland plan satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 and meets the tests of the soundness as set out in the National Planning Policy Framework 2012.
- 4.6 If the Council does not adopt the Local Plan, it will have to rely on a dated Local Plan and would continue to face speculative planning applications, which are difficult to resist. The Council would also then find it difficult to successfully defend planning appeals, particularly in terms of demonstrating that it has a five year housing land supply. On the current position it would simply not be possible to do so.
- 4.7 Adoption of a Local Plan, which meets the criteria for soundness would provide the Council with the opportunity to focus development in areas that meet the wider strategic objectives as set out in the Plan.
- 4.8 The Secretary of State may use intervention powers in terms of the Planning and Compulsory Purchase Act 2004 including requiring the plan to be submitted to him for his approval, or issuing a temporary direction pending possible use of intervention powers.
- 4.9 In the absence of any intervention by the Secretary of State, although the Inspector's function is said by the 2004 Act to be one of recommending, it is in effect that of



determining. A local planning authority not minded to accept his recommendations has only one choice as a matter of law, which is not to adopt the plan.

- 4.8 If the Council resolves to adopt the plan, a six-week period will begin to run during which any person may bring an application for statutory review of the decision in the High Court. Such a challenge can only be brought on the basis that there is a material error of law in the Council's decision to adopt the plan. In such circumstances, and as currently advised, the Council would seek to robustly defend the plan and its validity.

## **5 WARDS/COMMUNITIES AFFECTED**

- 6.1 All

## **7 BACKGROUND PAPERS**

- 7.1 None

## **8 LEAD CONTACT OFFICER**

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## **9 KEY DECISION**

- 9.1 No

## **10 EXEMPT DECISION**

- 10.1 No

## **11 Appendices**

**Due to the size of Appendix 5 this Report and appendices can be viewed by clicking the 'ADOPTION' tab on the Council's website at the following link:**

<https://www.breckland.gov.uk/Emerging-local-plan>

- Appendix 1: The Inspector's Report (it incorporates and references Appendix 2)
- Appendix 2: Schedule of Main Modifications (which accompanied the Inspector's Report)
- Appendix 3: Schedule of Minor Modifications
- Appendix 4: Final version of the Local Plan, which incorporates all of the Inspector's Main Modifications and the Council's Minor Modifications
- Appendix 5: PDF's Local Plan policies maps
- Appendix 6: The Sustainability Appraisal Adoption Statement
- Appendix 7: The final updated Equalities Impact Assessment (EqIA)