

<b>Report To:</b>	<b>CABINET</b>
<b>Date:</b>	<b>27TH SEPTEMBER 2022</b>
<b>Heading:</b>	<b>EMERGING LOCAL PLAN REVIEW</b>
<b>Executive Lead Member:</b>	<b>COUNCILLOR SARAH MADIGAN - EXECUTIVE LEAD MEMBER FOR CUSTOMER SERVICES AND STRATEGIC PLANNING</b>
<b>Ward/s:</b>	<b>ALL WARDS</b>
<b>Key Decision:</b>	<b>YES</b>
<b>Subject to Call-In:</b>	<b>YES</b>

### **Purpose of Report**

To consider the options in relation to the emerging Local Plan.

### **Recommendation(s)**

**That Cabinet:**

- 1 Considers the recommendation of the Local Plan Development Panel of 23rd September 2022, regarding the options in relation to the emerging Local Plan.**
- 2 Determine which option is taken forward.**

### **Reasons for Recommendation(s)**

To determine what approach should be taken to the emerging Local Plan for the District.

### **Alternative Options Considered**

A number of alternative options in relation to the emerging Local Plan are identified in the Report.

## **Detailed Information**

The Local Plan sets out the level of growth which needs to be planned in Ashfield and identifies where that growth should be located and how it should be delivered. The Plan incorporates both strategic policies and development management policies which, the Council will use to determine planning applications in the District.

Cabinet should take account of the recommendation from the Local Plan Development Panel, which considered the options for the emerging Local Plan at the meeting of the Panel on 23rd September.

The current development plan for Ashfield is the Ashfield Local Plan Review 2002, saved policies (ALPR), together with the JUS't Neighbourhood Plan and the Teversal, Stanton Hill and Skegby Neighbourhood Plan within the neighbourhood areas. Given the period since the ALPR was adopted some of the policies are dated and the Plan may be silent on specific aspects. The Council wishes to guide development to the most appropriate locations to ensure good placemaking which recognises the specific characteristics of this District.

In March 2020, the Government set a deadline of December 2023 for all authorities to have up-to-date Local Plans in place. This deadline was reiterated by the Housing Minister's written statement to the House of Commons on the 19th January 2021. The Chief Planner at the Department of Levelling Up, Housing and Communities wrote to the chief planning officers of local planning authorities in November 2021 and strongly encouraged them to continue in the preparation and adoption of Local Plans.

A Local Plan has to be brought forward under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations, as amended. In basic terms, the Act/Regulations require that, before a plan can be considered for adoption, the Council has to:

- Consult under Regulation 18, which can take a variety of forms with Council taking account of the responses received. (This could be more than one consultation).
- Undertake a Regulation 19 consultation on the Local Plan it wishes to take forward for adoption. This is a more formal consultation under the Regulations with the responses being forward to the Inspector for consideration.
- Submit the Local Plan to the Secretary of State for an examination of the Local Plan before a Planning Inspector.

The Inspector's role is to consider the soundness of the submitted Plan and whether it has been prepared in accordance with the legal and procedural requirements. Currently, under National Planning Policy Framework (NPPF) paragraph 35, plans are sound if they are:

- 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 and other statements of national planning policy, where relevant.

A Plan can only be adopted where the Planning Inspector recommends that it is adopted as it is or with modifications that (taken together) do not materially affect the policies set out in it.

Under the Act, the Council is required to undertake a Sustainability Appraisal (SA) of the Local Plan to help guide the selection and development of the strategic approach, policies and proposals in terms of their potential social, environmental and economic effects. The SA incorporates the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations). The SA should inform the decision-making process to facilitate the evaluation of alternatives.

### Draft Local Plan

A replacement Draft Local Plan was consulted on under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations, as amended, from 4th October to 16 November 2021. All available and deliverable brownfield sites were included within the Draft Local Plan. The NPPF, 2021 set out that *‘To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals.’* The housing need identified in the Draft Local Plan reflects the formula for the standard method set out in National Planning Policy Guidance.

During the Consultation, the Prime Minister at the Conservative Party Conference stated:

*‘...you can also see how much room there is to build the homes that young families need in this country not on green fields not just jammed in the south east but beautiful homes on brownfield sites in places where homes make sense.’*

The Plan was paused to clarify the implications of meeting the housing need for Ashfield purely on brownfield sites. This reflected that the Council cannot meet the identified housing need derived from the Government’s standard method formula set out in national planning practice guidance on brownfield sites. Based on the housing need identified through applying the standard method formula and in order to meet future employment land requirements, it was identified that the Council had to take forward greenfield sites, including sites in the Green Belt. Subsequently, the Council has sought clarification from the Department for Levelling up Housing & Communities (DLUHC) regarding the issues around brownfield land, greenfield and Green Belt release, and the implications for the emerging Plan in Ashfield District. In addition, questions over infrastructure provision were raised together with the continuing ambiguity over the possible potential Special Protection Areas for Sherwood Forest in relation to the conservation of wild birds.

The responses from the DLUHC reflected the position set out in the current NPPF and national planning practice guidance. They identified that local circumstances and constraints, such as Green Belt, can be taken into account. However, it was also identified that each local plan is submitted for

rigorous independent examination by a Planning Inspector prior to adoption with the Inspector acting on behalf of the Secretary of State to make sure the Plan is sound and accords with national planning policy.

During the Conservative Party Leadership campaign, the two candidates set out their future approach to planning and housing delivery. The statements made by both parties' support that there will be future changes to the planning system. They gave significant emphasis to the economy and the need for growth, although potentially with different timescales.

In relation to housing targets, the Prime Minister, Elizabeth Truss, in press reports, set out that her intention is to "put power back in local councillors' hands who know far better than Whitehall what their communities want". She has also stated that "I want to abolish the top-down, Whitehall-inspired Stalinist housing targets," which "I think that's the wrong way to generate economic growth." From statements made during the campaign, she believes that one of the problems around housing "is that we've taken a one size fits all policy approach to housing and we need different policies in different parts of the country. The situation in Cornwall is very, very different to that in London; it is very, very different than that in the north of England, or Scotland".

The Prime Minister appears to have moved from proposing development on the Green Belt in 2019 to now protecting the Green Belt. She has stated that she believed that in cities "we should be building up more" and "make more of the space we have", while in the countryside she is a "supporter of allowing incremental expansion of villages rather than these massive targets that land on the back of local councils".

## Options

Within this context, the Council needs to consider what approach it should adopt to the emerging Local Plan. The broad alternatives are considered to be as follows:

- Option A – To continue to pause the emerging Local Plan.
- Option B – To take forward the Regulation 18 Draft Local Plan to a Regulation 19 consultation without significant changes.
- Option C – To take forward a revised Local Plan reflecting the recent national pronouncements on the Green Belt and housing numbers whilst continuing to emphasise the location advantages of Ashfield for employment and the skills growth associated with the Plan.
- Option D – Any other options previously considered in relation to the emerging Local Plan.

A risk in relation to the options is the uncertainty that arises from possible changes to the Draft Local Plan and in national policy guidance.

### **Option A - Continuing to pause the emerging Local Plan.**

The Local Plan is currently paused. There remains a high level of uncertainty regarding various aspect of the Local Plan process, which can be seen in the following:

- The uncertainty arising from the prospect of reforms to planning set out in the Levelling Up and Regeneration Bill. It is anticipated that parts of the Bill will come into effect from 2024. (A summary of the proposed changes in the Bill was set out in the report to the Local Plan Development Panel of 5<sup>th</sup> July 2022).
- The Government has stated it will set out its approach to revising the National Planning Policy Framework (NPPF) this year. The Government has also promised that it will subsequently consult on the proposed suite of National Development Management Policies. This may include a review of the soundness test, which Local Plans must successfully pass at examination in order to be adopted. It may also consider the possibility of the standard method of housing needs calculations being amended.
- The two candidates contending for the leadership of the Conservative Party have been critical of top-down housing figures which may indicate more imminent changes to the approach currently set out in the standard method of assessing housing need.

There are also risks associated with not proceeding with the Local Plan. These include:

- The Council does not have a 5-year housing supply. Under the NPPF, without a five-year housing supply, there is presumption in granting planning permission as the starting point in relation to planning applications for housing. This leaves the District vulnerable to speculative development, particularly in the Countryside as defined by the Ashfield Local Plan Review 2002. While the Green Belt is identified under NPPF paragraph 11 as a policy that provides a reason for refusing development, it does not prevent development if very special circumstances are met in relation to the application. Planning Inspectors typically give substantial weight to a low housing supply in determining the planning balance and whether very special circumstances exist in relation to proposed housing development in the Green Belt.
- Limited control over design aspects of development in the context of the five-year housing supply, due to the emphasis of boosting housing delivery in a timely manner.
- A reliance on generic national planning policy rather than Ashfield specific policies which may not be as beneficial to the District.
- Not having policy support for S106 contributions towards infrastructure provision, and an uncoordinated response to infrastructure delivery in respect of planning applications.
- Planning for future infrastructure requirements arising from future development set out in the emerging Local Plan.
- The NPPF requires that strategic policies should look ahead over a minimum 15-year period from a plan's adoption. The plan period is currently 2020 to 2038. Any additional delay will result in plan period being extended, which requires an addition requirement for 467 dwellings per year based on the minimum housing need set out by the standard method formula.
- If the Council refuses development which is then granted on appeal the Council could face significant costs, and it increases the potential for Government intervention in relation to planning applications.

- It will mean that the Council will not have a Local Plan in place by the Government stated date of December 2023 with the possibility that the Government could intervene in the Local Plan.

### **Option B - Take forward the Regulation 18 Draft Local Plan to a Regulation 19 consultation without significant changes.**

The draft Local Plan sets out policies and proposals for the delivery of development in the District. The housing requirement reflects the Government standard method formula with a minimum requirement of 8,226 new dwellings from 2020 to 2038 being identified in the Draft Local Plan. The Draft Local Plan is based on a spatial strategy of two new settlements, one in the Green Belt with further moderate Green Belt release around Hucknall. There are limited available brownfield sites and all those brownfield sites that are available, deliverable and in suitable locations have been allocated in the Plan. This has meant that the majority of housing allocations are on greenfield sites including sites within the Green Belt.

The responses to the Regulation 18 consultation included a significant number of objections to proposed housing sites. In broad terms, these included:

- Objection to the level of housing growth.
- Objections to sites in the Green Belt, particularly around Hucknall with concern in relation to growth already experienced and the heavy impacts on infrastructure not only from the Council's growth but growth that is occurring as a result of neighbouring authority proposals.
- Objections to various sites in the rest of the District with proposed housing development.
- It was not transparent on how the spatial strategy was developed and sites were selected.
- Concerns over infrastructure provision in relation to the proposed housing requirements.
- Impact on the local transport network from the growth.
- Brownfield sites should be used rather than greenfield and Green Belt sites.

Under Regulation 18, in preparing the Local Plan the Council must take into account any representations made to them in response to the consultation.

An option is to review the responses received and consider potential minor changes to the Draft Local Plan and proceed to a Regulation 19 consultation. One of the risks identified in relation to the Draft Local Plan was that this approach is heavily reliant on the release of Green Belt land. This remains the case under this Option as it still includes significant Green Belt release. Should Members choose to proceed with this Option, further clarity will be provided regarding the approach in the Local Plan and supporting documents.

### **Option C – To take forward a revised Local Plan reflecting the recent national pronouncements on the Green Belt and housing numbers whilst continuing to emphasis the location advantages of Ashfield for employment and the skills growth associated with the Plan.**

Elizabeth Truss, the new Prime Minister, has set out as part of the leadership campaign, that there are likely to be changes to the way that housing need is assessed. Potentially, this could result in a lower housing need for the District if the Prime Minister were to amend current planning practice guidance.

The response from DLUHC to the Council identifies that the standard method of assessing housing need is not mandatory. However, it stressed that authorities could expect this to be scrutinised more

closely at the Local Plan examination, and that any other method should be used only in exceptional circumstances. It also set out that it is local authorities who decide their own housing requirement, considering local circumstances and constraints such as the Green Belt.

Approximately 41% of Ashfield is in the Green Belt. However, there are a number of other aspects which constrain where development could be located. A substantial part of Ashfield comprises urban areas with limited opportunity for development on brownfield site. The strategic road network has a number of issues. There are national heritage assets within the District where the setting is an important consideration. Large areas of Ashfield are identified as national, local or priority habitat/biodiversity sites and there are substantial areas of woodland within parts of the District. In this context, this Option would need to consider the implications in relation to the harm to the Green Belt, and these other aspects. A heritage impact assessment has already been commissioned which would identify the potential level of harm arising from proposed development sites.

Option C would take account of the responses received from the Regulation 18 consultation as broadly summarised in relation to sites in Option B. If taken forward, it would require additional evidence to justify the approach and meet the tests of soundness set out in the NPPF paragraph 35. Any significant changes to the draft Local Plan would need to be considered in relation to the findings of the sustainability appraisal after it has reflected on those changes.

The Council has endorsed an Education and Skills Improvement Strategy with a view to having high-quality education and skills for residents in the District. To support this approach, the Local Plan identifies a number of employment allocations including in Green Belt at Junction 27 of the M1. The sites in question also provide opportunities for the logistic sector where there is a high level of demand along the M1 corridor in Nottinghamshire, but with a limited supply. The requirement to support these aspects needs to remain a significant factor in relation to this Option.

The implication of this Option is that some of the sites identified in the Draft Local Plan in the Green Belt would not be taken forward. It would be necessary to demonstrate there are significant constraints or a change of national policy which results in a lower housing need being identified. It is anticipated the Plan could be submitted for Examination in 2023. However, there are risks associated with taking this Option forward. These include:

- At the examination one of the key aspects the Inspector will be considering is whether the Plan will be providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and can be justified and meet national planning policy. (Test of soundness at NPPF paragraph 35). This would include the basis of the housing need and the justification of any constraints in meeting the housing need.
- The Council invests substantial time and resources in preparing the Plan. In submitting a Plan for examination, the onus is on the local planning authority to submit a plan that is 'ready for examination,' with a complete evidence base, and representations properly ordered and collated.
- One of the issues that the Inspector will consider is legal compliance. The Council is under a duty to cooperate under the Act in relation to strategic matters which the Inspector will consider at the examination. Compliance with the duty is achieved through a statement of common grounds signed with neighbouring authorities and, where considered necessary, infrastructure providers. This is an on-going duty through-out the bringing forward of the Local Plan. This means that possible strategic changes based on the developing evidence base need to be raised with neighbouring councils and infrastructure providers with any issues been resolved as far as this is possible.

- The NPPF paragraph 22 sets out that strategic policies should look ahead over a minimum 15-year period from adoption. Therefore, if a delay results in the progress of the Plan it may require extension of the Plan period to 2039.

### **Option D – Any other options previously considered in relation to the emerging Local Plan.**

Option D is to consider alternative spatial approaches to meet the Local Housing Need set through the standard method formula. The Sustainability Appraisal to the Draft Local Plan identifies a number of spatial strategy options together with an appraisal of these strategic alternatives. Any alternative option needs to be considered in relation to the reasons for withdrawing the Ashfield Local Plan 2017-2032 from Examination in 2018. This included that the Plan in question had a restrictive focus of concentrating development in and adjoining the urban and settlement areas.

The Draft Local Plan took forward as the preferred option (Option10), two new settlements with one in Hucknall's Green Belt with further moderate Green Belt release around Hucknall. The Council undertook a new settlement study to investigate locations for new settlements outside the Green Belt. This considered settlements at Kirkby Lane/Pinxton Lane and Cauldwell Road/Derby Road. While Cauldwell Road/Derby Road is identified in the Draft Local Plan, this only starts to deliver homes towards the end of the proposed Plan period. This is reflective of the findings of the Study with a number of aspect relating to delivery needing to be overcome. If taken forward, further work is likely to be necessary as it will be necessary to demonstrate to the Inspector at Examination of the Local Plan that the site is deliverable.

Similar issues were identified in relation to an alternative location at Kirkby Lane/Pinxton Lane at Kirkby-in-Ashfield. However, the key issues were the need for support from a number of landowners and the access onto Pinxton Lane. This has not been forthcoming to date and there remains no access to Pinxton Lane from the sites submitted to the Strategic Housing and Economic Land Availability Assessment. If it were to come forward, it would also be unlikely to be able to deliver any dwellings until the latter part of the Plan. Consequently, this would also require additional housing allocations to meet future needs as it would not offset the quantum of development no longer coming forward from Green Belt sites.

Under this Option there would be a requirement to meet the housing need identified in the Draft Local Plan. Given the scale of the proposed changes with the need to identify significant alternative housing allocations, it is considered that a further Regulation 18 consultation would be necessary. This would mean that the Plan would extend beyond December 2023 and the risks are reflective of those set out in Option A.

## **Implications**

### **Corporate Plan:**

Planning, and the Local Plan has a cross cutting role to play in helping to meet and deliver the 6 priorities identified in the Corporate Plan. In particular, the Local Plan has a key responsibility in delivering the outcomes around the supply of appropriate and affordable homes, improving town

centres, facilitating economic growth especially around transport hubs, improving parks and green spaces.

### **Legal:**

The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) sets out the legislative requirements in bringing a local plan forward. The Act includes a legal duty on local planning authorities, county councils and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters. Under Section 19, the Council is required to undertake a sustainable appraisal, which also takes into account the requirements set out in the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations). Whichever option is taken forward, it will be necessary to meet the statutory requirements set out in this legislation. [RLD 01/09/2022]

### **Finance:**

There are no financial implications arising as a result of this report, there is an existing budget identified to ensure the preparation and adoption of the Plan. [PH 31/08/2022].

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

### **Risk:**

<b>Risk</b>	<b>Mitigation</b>
The risks in relation to the emerging Local Plan and the options identified are set out within the report.	-

### **Human Resources:**

There are no direct Human Resource implications within the report.

### **Environmental/Sustainability:**

Sustainability is at the heart of the planning system and the Plan has been prepared with the aim of delivering sustainable development in the District in accordance with the requirements of paragraphs 7 and 8 of the National Planning Policy Framework (NPPF), 2021. The Local Plan is

informed by a Sustainability Appraisal considering the economic, social and environmental objectives of sustainability.

### **Equalities:**

An equalities impact assessment of the Draft Local Plan has been undertaken. The equality impact assessment is anticipated to be reviewed as part of the ongoing Local Plan process.

### **Other Implications:**

Not applicable.

### **Reason(s) for Urgency:**

Not applicable

### **Reason(s) for Exemption:**

Not applicable.

### **Background Papers**

Local Plan Development Panel Report 23rd September 2022 - Emerging Local Plan Review

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