

Report To:	CABINET
Date:	13TH DECEMBER 2022
Heading:	EMERGING LOCAL PLAN – NEXT STEPS
Executive Lead Member:	COUNCILLOR SARAH MADIGAN - EXECUTIVE LEAD MEMBER FOR CUSTOMER SERVICES AND STRATEGIC PLANNING
Ward/s:	ALL WARDS
Key Decision:	YES
Subject to Call-In:	YES

Purpose of Report

Further to the Cabinet decision of 27th September 2022 to take forward Option C, to consider the implications of a third scenario recommended by the Local Plan Development Panel of 15th November 2022 and the next steps regarding the emerging Local Plan.

Recommendation(s)

It is recommended that:

- The Council takes forward a housing requirement reflecting Scenario 2 set out in the Local Plan Development Panel Report of 15th November 2022, Emerging Local Plan - Next Steps. This scenario reflects the standard method of housing need, provides a minimum of a 10-year housing supply and the new settlements in the Green Belt (Whyburn Farm) and Cauldwell Road are not taken forward in the Local Plan.
- As recommended by the Local Plan Development Panel of 15th November 2022:
 - Strategic Policy S3 Location of Development is reviewed to include a spatial strategy within the Policy.
 - SHELAA (SJU043) adjacent to an existing allocation at Underwood H1vg Land North of Larch Close is included in the Local Plan.
 - Changes are made to the Main Urban Area boundary at Skegby subject to a masterplan/design brief being developed to protect the setting of the listed building at Dalestorth House.

Reasons for Recommendation(s)

To move forward the emerging Local Plan for Ashfield as the Government has identified a target for all local authorities to have an up-to-date Plan in place by December 2023.

Alternative Options Considered

In relation to the decision taken by the Cabinet on 27th September 2022, the Report sets out a range of potential options which are available to Members based on progressing the Plan. The Local Plan Development Panel of 15th November Emerging Local Plan – Next Steps, considered a number of scenarios for taking the Plan forward and recommended an alternative option which officers have further investigated. Please note that the recommendation to Cabinet is different to that proposed by the Panel and has been based on further research.

Detailed Information

Local Plan Development Panel (LPDP) Emerging Local Plan – Next Steps Report, 15th November 2022

The Cabinet at its meeting of 27th September 2022 considered a range of options in relation to the emerging Local Plan. It resolved to take forward Option C to progressing the Plan. Option C is reflective of the Prime Minister's statements during the leadership campaign on future housing requirements and defending the Green Belt. The implication of Option C for the Ashfield Local Plan is that the impact on the Green Belt from proposed housing allocations should be reduced and a lower number of houses should be taken forward.

In this context, a Report, Emerging Local Plan – Next Steps was submitted to the Local Plan Development Panel of 15th November 2022. The Report is set out in Appendix 1. The Report considered the implications arising from the Draft Local Plan 2021, recommending some changes to the emerging Local Plan, and set out two scenarios for taking the Plan forward, reflecting the Cabinet decision of 27th September.

The scenarios are based on a requirement of 467 dwellings per annum, which reflect the Government's standard method for assessing housing need (NPPF para. 61) but look to proceed on the basis there are housing allocations identified to meet the need for a minimum period of 10 years with a buffer. In summary:

Scenario 1: No new settlement in the Green Belt - Include all housing site allocations with the exception of Whyburn Farm. Housing supply would be reduced by 1,600 dwellings located in the Green Belt.

Scenario 2: No new settlements in Ashfield - Include all housing site allocations but excluding both new settlements. Housing supply would be reduced by 1,915 dwellings. All but 315 dwellings would have been in the Green Belt.

The scenarios are set out in detail in the Local Plan Development Panel Report with supporting information. The figures for the two scenarios were set out in Appendix 1 and Appendix 2 to that Report.

At the Local Plan Development Panel meeting of 15th November, after a lengthy discussion by Members, a third scenario was proposed and recommended to be taken forward:

“No new settlements to be taken forward and the remaining allocated housing sites would meet the requirements for the housing need over a 15-year Plan period.”

This scenario has implications for the emerging Local Plan. Therefore, additional information is set out for the Cabinet to consider before making a decision on the approach to be taken to the emerging Local Plan.

Scenario 1 and Scenario 2

The basis of these scenarios is set out in the LPDP Report of 15th November 2022 with supporting information set out in Appendix 1 and 2 to the LPDP Report.

Positive Aspects

- Both these scenarios are based on the Government’s standard method of housing need. They provide a 10-year supply of sites with a 10% buffer and a longer period of supply if a buffer is not applied.
- Under National Planning Policy Framework (NPPF) para 61, the requirement for exceptional circumstances for a lower housing need does not arise.
- Both scenarios meet the requirements to have a specific, developable sites or broad locations for growth, for years 1 to 5 and 6 to 10.
- Both scenarios result in more affordable housing coming forward from private sector development than would be seen in Scenario 3.
- Both scenarios substantially reduce the impact on the Green Belt by not taking Whyburn Farm forward as part of the Plan.
- If the Plan is adopted, it will give certainty to the local communities, infrastructure providers and developers. Key aspects of an adopted Plan are:
 - It enables planning for infrastructure based on the sites in the Plan. This is not possible where permissions arise through application by developers on appeal.
 - By providing a five-year housing supply, it will substantially enhance the Council’s ability to defend non-allocated sites against developer led planning applications.
- Both scenarios are considered to reflect the provisions set out in the NPPF. However, if at the Examination, issues of soundness or legal compliance emerge that cannot be resolved within the usual Examination timetable, the Inspector will explore the potential for pausing the Examination, in whole or part, so they can be addressed.

Negative Aspects

- Both scenarios do not meet the NPPF requirements to have a specific, developable sites or broad locations for growth, where possible, for years 11-15 of the plan.
- At Examination, the Inspector may raise why sites or broad locations have not been identified for years 11 – 15 of the Plan. This has some risk as the Inspector may require, as a minimum, broad locations for growth to be identified.

Other Aspects

- If the New Settlement at Cauldwell Road was included in the Local Plan, it would slightly increase the supply of houses over the period 11 to 15 years.

Scenario 3

This scenario takes forward all housing sites currently identified in the Draft Local Plan other than the new settlements sites at Whyburn Farm and Cauldwell Road. However, the sites are anticipated to be delivered over a 15-year period of the Plan. Some additional market testing with consultants is being undertaken and a verbal update will be given at the meeting.

Positive Aspects

- Scenario 3 will reduce the housing 'demand' side figure set out in the Plan for the 15 years period of the Plan from adoption.
- Scenario 3 will substantially reduce the impact on the Green Belt by not taking Whyburn Farm forward as part of the Plan.

Negative Aspects

- The NPPF standard method formula for Ashfield results in a housing need of 467 dwellings per annum (dpa). For the Plan period of 2020 to 2038 (18-year plan period) , based on the supply of sites in the draft Local Plan (excluding Whyburn Farm and Cauldwell Road), sites with planning permission since 1st April 2022 and sites already developed, the housing supply would translate into a figure of 411 dpa. Consequently, it does not meet the NPPF housing need utilising the standard method.
- Section 20(2) of the Planning and Compulsory Purchase Act (The Act) specifically states that the local planning authority (LPA) must not submit the Plan unless they think it is ready for independent examination. Having considered the Regulation 19 consultation responses, the LPA should only submit a Plan if they consider it to be sound. There is no provision in the legislation which allows the LPA to replace all or part of the submitted Plan with a revised Plan during the examination. The Council has currently completed the Regulation 18 consultation stage.
- At the Local Plan Examination, the Inspector, based on the current NPPF 2021, would have no option but to raise the question (under NPPF paragraph 61) of what the exceptional circumstances are which justify an alternative approach to that identified in guidance and why the Council is not reflecting current and future demographic trends and market signals. If this could not be established, in terms of the test of soundness, the Plan would not meet the requirements for being positively prepared nor would it be consistent with national policy. Consequently, under The Act, the Plan should not be submitted for Examination. If it were submitted, it is considered likely that the Inspector would require it to be withdrawn shortly thereafter. Effectively, this would mean that a revised or new Local Plan would be required. The implications of this are anticipated to be:
 - Additional costs reflected in the withdrawn Plan from Examination, the potential updating of the evidence base for the Plan and undertaking additional consultation.
 - The assessment of the five-year housing supply has to reflect the NPPF standard method of assessing housing need and is reflected in the Housing Delivery Test (NPPF para.76) until such time as it is replaced by an adopted Local Plan.
 - There is no certainty for local communities, infrastructure providers and developers resulting in an uncoordinated approach to infrastructure such as education and transport requirements - which currently, can only be considered in relation to current planning permissions and not to sites allocated in a Local Plan.
 - Sites both in the countryside and the Green Belt remain at risk from ad hoc planning applications.

- The Local Plan would be delayed beyond the Government proposed deadline for Local Plan to be in place by December 2023.
- Local planning authorities are under a duty to cooperate with each other on strategic matters. (The Act, Section 33A). This aspect is demonstrated through a statement of common grounds documenting the cross-boundary matters being addressed. As Ashfield will not be meeting its housing need as set out by the standard method, any shortfall will need to be taken into account by neighbouring councils in assessing their housing needs. (NPPF paragraph 61). Under this scenario, it is likely that Ashfield's proposed housing figure will be contested by neighbouring councils both as part of the statement of common grounds and at any Examination Hearing.
- In practical terms, the sites identified to substantially bring housing forward in the years 11 to 15 were the new settlements, which would no longer form part of the Plan. Dependent on conditions in the housing market, the Local Plan trajectory anticipates that the remaining housing allocations would substantially come forward in the first 10 years. There is a strong possibility that sites would be developed so that in practice, the 411 dpa would be exceeded on an annual basis. This would mean that in practice, the supply of sites would not cover a period 15-year period. Under the NPPF paragraph 33, policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every 5 years and should then be updated, as necessary. Under these circumstances, the Council would have no option but to replace the Plan or fall back into a situation where NPPF para 11, the 'Tilting balance', applied.

Reflecting on Option C determined by Cabinet on the 27th of September and the discussion of Members at the Local Plan Development Panel of 15th November, it is recommended that neither new settlements at Whyburn Farm and Cauldwell Road are taken forward in the emerging Local Plan. However, Members are requested to consider the implications set out in the Report of Scenario 3 identified by the Local Plan Development Panel. It is recommended that Scenario 2 is taken forward, which is based on the standard method of housing need, reflects at least a 10-year housing supply (including a buffer) and excludes the new settlement sites of Whyburn Farm and Cauldwell Road.

It is stressed that any recommendations are subject to consideration of the proposals through the Sustainability Appraisal to consider the social, environmental, and economic effects of a Plan and inform the decision-making process. The Council is also under a legal duty to engage constructively on strategic cross boundary matters with neighbouring Local Planning Authorities and other bodies in the preparation of a Local Plan. Any amended strategy for the Local Plan, which potentially has cross boundary issues, will need to be reflected in changes to the Statement of Common Ground.

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 sustainability appraisal, which also take into account the requirements set out in the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations). Under Section 20, an authority must not submit a Local Plan unless they have complied with any relevant requirements contained in regulations under this Part, and they think the document is ready for independent examination. Whichever option is taken forward, it will be necessary to meet the statutory requirements set out in this legislation. [RLD 23/11/2022]

Finance: There are no direct financial implications arising as a result of this report. [PH 22/11/2022].

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
<p>Scenario 3 This scenario reflects a very high risk as it does not meet the Government standard method of assessing housing need or identify exceptional circumstances justifying an alternative approach which also reflects current and future demographic trends and market signals. As identified in the Report, it is anticipated to result in a number of negative aspects. It is considered that the Scenario will not meet the tests of soundness, (NPPF paragraph 35) which form the basis of the Local Plan Examination.</p> <p>Scenario 1 and 2 The Draft Local Plan 2021 identified that risk stemmed from the Plan's strategy being heavily reliant on the release of Green Belt land in the vicinity of Hucknall and particularly</p>	<p>It is not anticipated that this risk could be mitigated unless it could be established that there are exceptional circumstances justifying an alternative approach which also reflects current demographic trends and market signals.</p> <p>In order to seek to address this risk, the strategy would need to optimise the density of development in line with the policies in NPPF chapter 11 including</p>

<p>a new settlement. Scenarios 1 or 2 reduce this risk by taking the new settlement out of the Plan, which substantially reduces the area of the Green Belt that would be developed. It is also takes account of the Regulation 18 consultation responses. Nevertheless, there are still inherent risks with the housing allocations and employment land in Green Belt but there is clear evidence of lack of supply for employment land for logistics at key transport corridors and hubs.</p> <p>There is a risk associated with providing sites for only a 10-year period. However, this approach provides certainty with specific sites for the 10 years and is in general compliance with the NPPF.</p>	<p>whether policies promote a significant uplift in minimum density standards in town centres and other locations well served by public transport, something which the Plan encourages.</p> <p>The Strategy will need to be justified with robust evidence, for example Green Belt and transport infrastructure constraints, with a commitment to an early review of the Local Plan.</p> <p>The proposed scenarios reflect a Plan which would reflect a supply of housing site for a period of 10 years and consideration should be given to trying to identify broad locations for growth for the years 11-15 of the Plan.</p>
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Human Resources: There are no direct Human Resource implications within the report. [KB 21/11/2022]

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, 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 was undertaken and was made available as part of the consultation documentation. The equalities assessment will be updated to take account of any changes proposed to the emerging Local Plan.

Other Implications: None.

Reason(s) for Urgency: Not applicable

Reason(s) for Exemption: Not applicable

Background Papers

The Draft Local Plan and consultation documents are available on the Council's website.

The evidence that supports the emerging Local Plan is available on the Council's website.

Report Author and Contact Officer

Neil Oxby

FORWARD PLANNING OFFICER

neil.oxby@ashfield.gov.uk

01623 457381

Christine Sarris

ASSISTANT DIRECTOR PLANNING & REGULATORY SERVICES

christine.sarris@ashfield.gov.uk

01623 457375

Sponsoring Director

Robert Docherty

DIRECTOR OF PLACE & COMMUNITY

robert.docherty@ashfield.gov.uk

01623 457183