

# **EXTRAORDINARY MEETING OF FULL COUNCIL**

**27<sup>TH</sup> SEPTEMBER 2017**

## **REPORT OF THE HEAD OF REGULATORY SERVICES**

### **MELTON LOCAL PLAN NEXT STEPS, SUBMISSION AND DELEGATIONS**

#### **1.0 PURPOSE OF REPORT**

- 1.1 This report is to outline the remaining steps of the Local Plan preparation process, inform the Council about what the Council needs to do when it submits the Local Plan for examination, and to explain why delegated powers will be needed by officers to ensure that the Council can participate efficiently and effectively during the Examination. The report seeks Council's agreement to submit the Pre-Submission Draft Local Plan, as amended by the Focused Changes, to the Government for independent Examination. It also seeks agreement for certain powers to be delegated to officers, to complete all the necessary documents needed for submission, and to operate effectively and efficiently during all phases of the Local Plan Examination.

#### **2.0 RECOMMENDATIONS**

##### **2.1 It is recommended that Council :**

- (i) Notes the contents of this report; and**
- (ii) Agrees that the Melton Local Plan Pre Submission, as amended by the changes outlined in the Addendum of Focused Changes, be submitted to the Government for Examination as soon as possible; and**
- (iii) Delegates authority to the Head of Regulatory Services to :**
  - a) complete all the documents required to fulfil the regulatory requirements at Local Plan submission, as set out in the Town and Country Planning (Local Planning)(England) Regulations 2012 and to meet the best practice advice of the Planning Inspectorate and Planning Advisory Service; and**
  - b) agree actions and make decisions that are necessary during the Local Plan Examination to ensure that the Local Plan can be found sound and that any legal compliance issues are resolved; and**
  - c) if needed, provide an updated list of suggested minor modifications to the inspector conducting the local plan examination; and.**
  - d) Correct any typographical, numbering and formatting errors in the local plan.**
- (iv) Agrees that Members be kept informed of any significant issues that the Council has to respond to and the response that has been made during the Examination on the Council's behalf , with details**

## **to be agreed by the Melton Local Plan Working Group.**

### **3.0 BACKGROUND**

- 3.1 Work on preparing the Melton Local Plan is now at an advanced stage. Members will recall receiving reports about key stages in its preparation from 2014 onwards, and most recently in October 2016 when the Pre Submission Draft Local Plan was agreed and in July 2017 when an Addendum of Focused Changes was agreed. Consultations on the latest stage have now been completed (see Item 3A and 3B above).
- 3.2 Members will also be aware of the significant amount of evidence that has been prepared that underpins the policies and proposals of the Local Plan, and the sub-regional planning and national planning context of local plan preparation. This include significant pieces of evidence such as the Leicester and Leicestershire Housing and Economic Development Needs Assessment, 2017(HEDNA), and the Council's own Towards a Housing Requirement for Melton (January 2017) and its addendum (June 2017), but also proportionate evidence covering all the other matters that the local plan deals with, such as consultants studies on viability, employment land, retail, Gypsies and travellers accommodation, landscape, green infrastructure, flood risk, heritage, open space and sports facilities, and infrastructure. All the underpinning evidence for the plan has been published and can be viewed on [www.meltonplan.co.uk](http://www.meltonplan.co.uk) via the 'evidence base' tab or the focused changes evidence base tab found there.
- 3.3 The evidence base is now as comprehensive and up to date. It represents a significant investment of staff time and fees to consultants already made. The return on the investment needs to be realised now, before the value of that investment declines with the passage of time and the publishing of more up to date new information by others that could undermine it.

### **4.0 MELTON LOCAL PLAN NEXT STEPS AND SUBMISSION**

- 4.1 The remaining steps in Local Plan preparation can be summarised as follows:
- Submission - to the Government for independent examination
  - Examination - by a Planning Inspector, including Public Hearings. The Inspector may recommend modifications to the Local Plan so that it can be found sound, and these may need to be agreed by Council and be consulted on during a suspension of the Examination, prior to the Inspector issuing his/her final report.
  - Inspector's Report – the Council is the only party that will have two weeks to 'fact check' a preliminary version of this. The final Inspector's Report is then provided to the Council and the Council can decide when to publish it. This is normally published with the Council papers when the resolution to agree to adopt the Local Plan is being sought, but can be as soon as it is received, if there are perceived advantages to doing so, e.g. so that it can be referred to in making decisions on planning applications, or responding to consultation on other plans.
  - Adoption – by the Council at an Extraordinary meeting. Full weight cannot be given to the local plan, and it does not form part of the statutory development plan for the area until this stage is reached.

- 4.2 Now that the consultation on the Focused Changes has been completed and Members have considered the responses to them, the next step is for the Local Plan, as amended by the Focused Changes, to be submitted to the Government for independent examination. When a plan is submitted for Examination, the Council must consider it sound. A sound plan is one that is positively prepared, justified, effective and consistent with national policy. It is considered that the focused changes and the publication of new evidence to underpin the Local Plan have addressed the outstanding soundness issues that were identified earlier this year, and that the responses received to the focused changes do not raise any issues of soundness that cannot be resolved during the Local Plan Examination (see agenda item 3B). As such it is recommended that the Local Plan, as amended by the Focused Changes, be submitted for examination promptly (paragraph 2.1(ii) above).
- 4.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 set out all the documents that need to be submitted alongside the draft local plan. These include things like a Duty to Co-operate Statement, a Consultation Statement (see item 3A on this agenda), a statement of main issues raised and summaries of 'duly made' representations received and the Council's responses to them (see Item 3B on this agenda). The required documents also include full copies of all of the 'duly made' representations received at pre submission draft and focused changes stage.
- 4.4 In other guidance, the Planning Inspectorate and the Planning Advisory Service indicate further documents, such as a 'soundness self assessment' that it is good practice to submit alongside a submitted plan. If there are any suggested minor or main modifications to the plan (see item 3B on this agenda) these need to be submitted too.
- 4.5 The items to complete identified in paragraphs 4.3 and 4.4 above do not raise any new policy issues and are largely administrative in nature. Because of this, and the advantages of submitting the plan promptly It is recommended that completion of these regulatory requirements and best practice documents be delegated to the Head of Regulatory Services (see recommendation 2.1(iii)(a) above).
- 4.6 If the delegation at recommendation 2.1(iii)(a) is agreed, it is anticipated that submission of the Local Plan will take place in the first week in October. As soon as reasonably practicable after this, the Council must publish all the documents that have been submitted for Examination, on a dedicated Local Plan Examination webpage, and provide notice and publicity of the submission and availability of documents. This will be the first time that people will be able to see all the representations that they and others have made at Pre Submission Draft and Focused Changes stage, and what the Council thinks the main issues raised by the representations comprise.

## **5. THE EXAMINATION PROCESS AND THE NEED FOR DELEGATION**

- 5.1 Once the Local Plan has been submitted for Examination, the timetable is largely in the hands of the Inspector, and is managed on his/her behalf by a Programme Officer. Before the Public Hearings, there will be time to try and resolve objections with representors and where this is not possible, agree statements of common ground, e.g. Historic England has already indicated it wants to work with the Council on the latter. Also in the lead up to the examination, the Council and other interested parties will have about 2-3 weeks to provide statements that respond to

the main issues questions posed by the Inspector. These statements can be similar to documents that are prepared for Section 78 appeals.

- 5.2 The Council will also have to respond to the statements made by others and to any also, new information that may be submitted or come to light prior to during or after the public hearings have closed. Examples of new information that is expected are changes to the National Planning Policy Framework (expected in November), a draft Strategic Growth Plan (expected in November), and any Neighbourhood Plans that reach an advanced stage of preparation. The Inspector's Report into the examination of the North West Leicestershire Local Plan (expected early autumn) may also warrant consideration, as the HEDNA evidence that underpins that Local Plan is the same.
- 5.3 During and in the lead up to Examination, the Inspector may request that the Council gives immediate consideration to suggested modifications proposed by him/herself or another party, or may ask the Council to propose a modification on its own or in agreement with other parties that can be brought back to a later session of the hearings or submitted at the end of the hearings stage.
- 5.4 Given the tight turnaround for responding to requests from the Inspector for actions and decisions, it will often be impractical to consider the responses through meetings of Council. It is in the Council's interest to ensure that the Local Plan Examination proceeds as efficiently and effectively as possible, to keep the costs to a minimum, to get through the stage (and hence to adoption) as quickly as possible, and to ensure that the Inspector forms a positive impression of the Council and the exercise of its planning functions.
- 5.5 In the light of the above, it is proposed that during the Examination, authority is delegated to the Head of Regulatory Services to agree actions and make decisions that are necessary to ensure that the Local Plan can be found sound and that any legal compliance issues are resolved expeditiously.
- 5.6 All documents sent to and by the Inspector during the Examination, including any necessary suggested modifications and agreements as outlined above, have to be published on the Local Plan Examination webpage as soon as practicable. It is the role of the Programme Officer, who is independent of the Council, to do this. Notwithstanding that, through circulation to at least the Chair of the Melton Local Plan Working Group, Members will be kept informed of any significant issues that the Council has to respond to and the response that has been made during the Examination on the Council's behalf (see recommendation 2.1(iv) above).
- 5.7 Main modifications should only be suggested if they are considered critical to the soundness of the plan, and not just to make the plan better. If the Council suggest too many modifications, it may appear that it doesn't consider the plan it is submitting for examination to be sound. Main modifications that were agreed by the Council in July are listed in **Appendix 1**. No further main modifications are being suggested now.
- 5.8 There will also be a number of minor modifications that the Council should suggest be made to the plan to clarify elements of it or to make factual corrections; they should not change the thrust of a policy and/or extend the range of development to which a policy applies, delete a policy or introduce a new policy. Some suggested minor modifications have already been agreed by Council in July 2017 when it considered the responses to representations made on the

Pre Submission Draft. Further minor modifications may need to be suggested during the Examination, so it is suggested that authority is provided to the Head of Regulatory Services to complete and update the list of suggested minor modifications as necessary and to devise any requested by the Inspector in due course.

- 5.9 Before the plan is adopted, there will be a number of typographical, paragraph numbering and formatting changes that should be made to improve the presentation of the local plan and aid the reading and understanding of it. The Council can do these without involving the local plan inspector. It is therefore suggested that the Head of Regulatory Services is authorised to do this in advance of any Council agreement to adopt the Local Plan.

## **6. CONTINGENCIES AND REDUCING RISK**

- 6.1 The 'next steps' outlined in paragraph 4.1 above assume the process will proceed as intended through all the remaining stages to adoption. However, not all local plans achieve this, some for reasons that are within the Local Planning Authority's (LPA) control, and some that are not. At worst, an Inspector can inform a LPA at any stage from his/her initial sight of submitted material that there are sufficient concerns about soundness of legal compliance that suggest the plan should be withdrawn from Examination. Significant delays can arise if the Inspector suspends an Examination to allow the Council to do more work on a particular issue before re-opening it, and there are also examples where an Inspector has had to reopen an Examination after he/she has received the responses to any proposed modifications consultation.

- 6.2 Examples of specific actions that have been taken in the preparing this local plan to help ensure its smooth progress include publishing the Addendum of Focused Changes, which address significant soundness issues that without action, could have caused 'showstopper' issues at Examination. In addition, a legal advisor has been engaged to support officers on all relevant matters up to and during the Examination.

## **7.0 POLICY AND CORPORATE IMPLICATIONS**

- 7.1 Speedy progress through the final stages towards adoption of the Melton Plan will help to ensure that a plan that helps to deliver corporate and wider strategic priorities is in place as soon as possible. By agreeing to submit the plan now, the Council is helping to ensure it will have reached the Examination Hearings stage at least by the time the business case for the Melton Mowbray Distributor Road, which is a key component of the strategy to support economic growth, has to be submitted to the Government by the County Council. In so doing, the Council will be helping to strengthen that case substantially.

- 7.2 In accordance with the Local Development Scheme agreed by the Council in July, there is a reasonable prospect of the local plan being capable of adoption in summer 2018. This should help to avoid the risk of intervention or New Homes Bonus penalties being imposed by the Government, should it strengthen its intentions to incentivise Councils to get an up to date plan in place quickly.

## **8.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

- 8.1 There are no financial implications arising from these reports that are not already

accounted for in the budget for the local plan agreed earlier this year. There are longer term financial benefits that could accrue to the local economy and the Council as a whole if the plan is adopted and successfully implemented (e.g. Council tax receipts, new Homes Bonus, business rates) and it will help to secure the very significant infrastructure investment needed for the MMDR.

## 9.0 LEGAL IMPLICATIONS/POWERS

9.1 The preparation of the Local Plan is governed by legislation (The Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011) and also Regulations (The Town and Country Planning (Local Planning) (England) Regulations 2012). Submission of the local plan is under Section 20(3) of the Planning and Compulsory Purchase Act 2004.

## 10.0 COMMUNITY SAFETY

10.0 There are no community safety implications as a direct result of this report.

## 10.0 EQUALITIES

10.1 The Local Plan has been the subject of equalities impact assessment during its preparation and the assessment has been published as part of the evidence base.

## 11.0 RISKS

<b>L I K E L I H O O D</b>	<b>A</b>	<b>Very High</b>				
	<b>B</b>	<b>High</b>				
	<b>C</b>	<b>Significant</b>			2.	
	<b>D</b>	<b>Low</b>			1.	
	<b>E</b>	<b>Very Low</b>				
	<b>F</b>	<b>Almost Impossible</b>				
			<b>Negligible 1</b>	<b>Marginal 2</b>	<b>Critical 3</b>	<b>Catastrophic 4</b>

**IMPACT**

<b>Risk No</b>	<b>Risk Description</b>
1	All the regulatory and legal compliance requirements have not been met.
2	The local plan is not found sound because it is not positively prepared, justified, effective, or consistent with national policy.

- 11.1 A soundness self assessment will be submitted alongside the Local Plan to show how all the regulatory and legal compliance requirements have been met. They are set out across several pieces of legislation and can be complex to interpret. This, together with the possibility of administrative errors arising from a high volume of material has increased the risk to 'low'. If the Plan fails legal compliance, the Inspector will ask the Council to withdraw it prior to Examination.
- 11.2 This risk is considered significant for two main reasons:
- 11.3 As the Government has recently (14<sup>th</sup> Sept) signalled that revisions to the NPPF are to be published in early 2018. The Local Plan is likely to still be at Examination at that time. However, it is anticipated that as far as possible the Inspector will work with the Council to devise modifications to the plan to ensure that it can be found sound against the 'consistent with national policy' test.
- 11.4 To be 'positively prepared', the local plan should meet objectively assessed development requirements, including unmet requirements where it is reasonable to do so and consistent with achieving sustainable development. The unmet housing requirement from elsewhere in the housing market area have not yet been quantified or redistributed. If the Strategic Growth Plan, where this is to be facilitated, is finalised and agreed whilst the Local Plan is being examined, and the plan has insufficient land to accommodate the Melton share of unmet needs, this could result in the plan being found unsound. This timing issue would only arise if the Local Plan Examination does not proceed as anticipated, and is subject to a significant suspension.

## 12.0 **CLIMATE CHANGE**

- 12.1 The local plan has specific policies to reduce the factors leading to climate change and includes measures to mitigate against its effects.

## 13.0 **CONSULTATION**

- 13.1 This has been set out in earlier reports to Council and most recently, in Item 3A on this agenda.

## 14.0 **WARDS AFFECTED**

- 14.1 All.

Contact Officer V Adams, Local Plans Manager

Date: 15<sup>th</sup> September 2017

Appendices : None

Background Papers: Previous Council papers regarding the pre-submission draft Local Plan and the Addendum of Focused Changes, 9<sup>th</sup> October 2016 and 4<sup>th</sup> July 2017.  
Housing and Planning Ministerial Speech , 14<sup>th</sup> September 2017