

Local Plan Submission: Proposed Modifications (Site Allocations)

Summary: This report seeks to agree a schedule of modifications to the Local Plan which the Authority will request the Inspector to incorporate as part of the Local Plan examination process. It considers the requests for such modifications made by respondents to the recent Regulation 19 consultation on the proposed submission version of the Plan. The appointed Inspector will determine if these modifications should be made when the Plan is examined.

The report covers the proposed site allocations section of the Plan and any consequential amendments to the Proposals Map.

A deferred item from the previous meeting relating to employment land provision is also considered.

- Recommendations:**
- 1. Members of the Planning Policy & Built Heritage Working Party recommend to Cabinet that the appended Schedules of proposed modifications along with the Proposed Submission version of the Local Plan be submitted for independent examination.**
 - 2. To delegate minor amendments in the finalisation of the submission version & Schedules and associated documents to the Planning Policy Manager and Policy Team Leader in conjunction with the Portfolio Holder.**

Cabinet Member(s) Cllr Andrew Brown	Ward(s) affected All
All Members	All Wards
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1. Deferred Item from previous meeting – Employment land provision

1.1 At the December 2022 Planning Policy and Built Heritage Working Party concerns were raised about the Plans approach towards the designation of employment land and specifically if the approach would be sufficiently flexible to meet future needs. A decision was deferred at the request of Officers to allow for this area of policy to be considered in further detail.

1.2 The evidence of historic employment land development rates in the District has been used to review the total supply of designated and allocated employment land in the District. These designations and allocations essentially protect sites from other forms of development and reserve it for employment generating uses. This evidence does not justify extensive new designations or allocations. The Plan nevertheless allocates new employment land and mixed allocations in some locations and retains the majority of the employment land designations contained in the current Core Strategy in order to provide a broad distribution of available sites. The Plan also recognises that there are sometimes difficulties with matching the specific requirements of developers, which are often very localised, with the available supply of land. To address this concern policies SS2 and E3 of the Plan both allow for employment growth on unallocated sites, including those in the designated Countryside Policy Area, provided it is first demonstrated that the designated sites are not suitable. The purpose of this approach is to ensure that the designated sites are prioritised over other locations whilst also ensuring that employment creating developments are not lost to a community by virtue of a lack of suitable land. This approach is entirely consistent with the NPPF which states at para 85:

‘Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist’.

1.3 As drafted in the Plan, Policy E3 (attached at Appendix 4), whilst allowing for employment developments outside of boundaries, includes a further list of qualifications limiting the categories of employment to ones which require a rural location. The types of use permitted by the policy are listed as permissible examples rather than an exclusive list and the policy makes this clear by using the term ‘not limited to’ when describing the permitted uses. Nevertheless, representations make the case that these additional qualifying criteria are too restrictive and there should be no need to limit the types of employment development to the listed uses if the applicant has already demonstrated that designated sites are not suitable. Officers concur that the policy, as drafted, could potentially operate in a more restrictive manner than its intended purpose. Therefore, a minor modification, under reference PMIN/E3/01 to the policy is proposed in order to remove any ambiguity. The impact of this modification would be to make clear that all types of employment creating developments could in principle be located outside of adopted development boundaries if the applicant has first demonstrated that

allocated sites are not suitable. It would remain the case that such proposals would need to comply with other aspects of adopted policies relating to issues such as highway safety, amenity and the protection of designated heritage and wildlife sites.

- 1.4 It is also recommended that this proposed minor modification should be reflected in the wording of the 'purpose of the policy' included in the Plan.
- 1.5 The case was also made at the last meeting that this flexibility may not be sufficient and any policy should also support mixed use developments as a mechanism to encourage land owners to release land. An example at Hoveton was referenced where permission had been granted for both a small housing scheme and an associated job creating development and in that case it was suggested that it was unlikely that the employment aspects of the proposal would have preceded without the 'enabling' housing development.
- 1.6 The principle of 'enabling development' has been established/accepted for many years. The term is used to describe those circumstances where it is shown to be necessary to allow development which would otherwise be contrary to policy as a mechanism to provide finance to fund another development which should be delivered in the public interest but is not in itself viable or deliverable.
- 1.7 Whilst not disagreeing that such enabling approaches may be necessary in some circumstances, Officers do not support the inclusion of enabling development provisions within the policy itself. The acceptance of such approaches within the policy is likely to lead to all employment proposals being promoted with 'enabling' development as landowners are likely to simply adopt the stance that land would not be made available for employment development *unless* housing was included. Such an approach is also likely to further undermine the delivery of allocated sites as these would risk being viewed as less desirable. The absence of enabling development principles within the policy itself does not prevent the case being made for such proposals as was the case with the Hoveton example but it is considered that the onus should remain with the applicant to demonstrate on a case-by-case basis why such approaches are essential. Consequently, no further modification to the policy is recommended.

2. Schedule of modifications -Sites Allocations

- 2.1 In December 2021 Members of the Planning Policy and Built Heritage Working Party resolved that the Local Plan sites section be agreed as the basis for undertaking the Regulation 19 consultation of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).
- 2.2 The Plan underwent public consultation at Regulation 19 Publication Stage between January and March 2022. Before submitting a Draft Plan for examination, the Local Authority must under Regulations 20 and 22 provide a summary of the main issues raised in those representations and supply a copy of the representations upon submission along with supporting documentation which in the opinion of the local planning authority is relevant to the preparation of the Local Plan.

- 2.3 The Regulation 19 consultation sought views around legal compliance and soundness of the proposed submission version of the Local Plan and gave respondents the opportunity to suggest modifications for the Inspector to consider. The Council received a total 697 representations from 190 respondents. A proportion of the responses received were not made using the prescribed consultation response form and did not request modifications. A large number of responses related to multiple topic areas, policies, or sites in the Plan, or to other supporting documents and or included additional uploaded PDF documents to explain and support the representations. In order to review the representations, Officers undertook an exercise to split such comments and append them to the relevant section of the Plan on the consultation portal.
- 2.4 All the representations remain publically available through the Councils Planning Consultation portal and on submission this will be signposted to the appointed inspector. In addition, all the representations have been compiled into a single PDF version. This Schedule of Representations, Schedule 1, details all the representations received during the consultation period, in Local Plan section order, and will also be made available at submission, as per the requirements of the regulations.
- 2.5 In advance of the January Working Party meeting, Members of the PPBHPW received a copy of Schedule 1, (4.11.22).
- 2.6 It is not possible to make changes to the pre submission document at this stage in the process as the Local Plan has been subject to consultation and is the intended submission document. Representations made at Regulation 19 Stage are considered by the appointed Inspector who will determine if the Plan is legally compliant and sound. Prior to formal submission for examination, the Authority may however consider the representations and invite the Inspector to modify the Plan as part of the examination process.
- 2.7 Officers have now reviewed the consultation feedback and any requested modifications that have been put forward. A summary of the requested modifications along with the Council's response in relation to each section of the Plan is attached as Schedule 3. Where a modification is accepted and proposed by Officers, these are transposed in to the attached Schedules 4 and 5 as proposed modifications. The Inspector will be invited to accept and make these changes as part of the examination process.
- 2.8 Schedule 3 contains only a summary of the requested modification(s) and details a short and often standardised response(s). At this stage, it is not the intention of the schedules to formulate detailed rebuttals or reasoned arguments. Similarly, it is not the purpose of these schedules to summarise the wider feedback received from those who objected or supported the Plan but did not seek specific modifications. Such wider representations will be considered by the Inspector.
- 2.9 Both schedules, once finalised, along with a tracked change version of the proposed submission version of the Plan incorporating the requested modifications will form part of the submission documentation. It will be up to the Inspector to agree to any proposed modifications and the detail and reasoning for such changes will be discussed during the examination

process. Overall, there is merit in agreeing to request the recommended modifications for reason of clarity, consistency, and correction of facts at this stage as this is beneficial to the overall examination process.

- 2.10 In the regulations, modifications are classified as either **minor** or **main**. Minor modifications comprise clarifications, corrections, presentational changes and small adjustments to policies or the supporting text of the Plan or Proposals Map. Main modifications are those which are necessary for the Plan to be found sound and/or materially affect the policies or proposals. If agreed by the Inspector, it is likely that the main modifications will be subject to an additional consultation as directed by the Inspector as part of the examination process. It is possible that further modifications, both minor and main, will be proposed during the examination and therefore this list is subject to on-going change and why, following examination, the Plan will require full Council approval for adoption in line with the constitution.
- 2.11 The majority of modifications are considered minor in nature and consist of typing corrections, punctuation and factual updates. A number of others bring clarity and consistency to the policies and supporting text and help address issues raised in interpretation and the intent of the policies. Where representations seek modification to particular policies where the requested modification is addressed adequately elsewhere in the Plan, no modifications are proposed, as proposals will be assessed against the Local Plan and any relevant Neighbourhood Plan as a whole. There is no need for individual policies to repeat requirements included in policies elsewhere in the Plan.
- 2.12 Depending on how the submitted Draft Plan advances, and the pace of national policy change it may be necessary to propose further substantive modifications at the examination and/or add additional consultation stages to the overall timetable. Members may be aware that government has published a revised National Planning Policy Framework prospectus for consultation. If it transpires that there is a need for further substantive modification(s), due to legislative change ahead of the examination this will be reported to the Working Party.

3. Regulation 19 proposed modifications – Site Allocations

- 3.1 The key areas of requested modifications are broadly outlined below and covered in schedules 3,4, and 5 attached.
- **Promotion of alternative sites** – Site owners and promoters of sites which have been discounted at previous stages of plan preparation seek reinstatement of sites either on grounds that the Plan allocates insufficient growth or that a discounted alternative is preferable or more deliverable than one of the proposed allocations. These modifications have not been recommended.
 - **Seeking deferral of policy requirements for negotiation at later planning application stage.** Each of the proposed site allocations is subject to specific policy requirements which must be complied with in order to secure planning permission. Some representations seek to argue for less prescription in some of the site allocation policies

particularly in relation to amounts of open space, specialist elderly homes provision and other criteria on the basis that these can/should be considered at application stage when the specific nature of any development proposal is being considered. In the main, requests for such modifications are resisted as they would dilute the intention of the Plan and introduce uncertainty.

- **Seeking additional policy criteria in the site allocations policies.** These representations fall into three categories, the first making the case for the inclusion of 'missing' criteria which have been applied to some sites but not to others (these have been largely recommended), those seeking to add new requirements to the site allocation policies which are already included elsewhere in the Plan (largely rejected on the basis of unnecessary repetition), and those which seek new or modified criteria within the policies to improve their effectiveness (largely accepted).
- **Deletion of Holt Employment Land.** The Plan includes a new allocation of employment land at Hempstead Road, Holt. The site owner has withdrawn this site and made clear that it will not be made available for development during the period covered by the Plan. As such, the proposed allocation would not be deliverable and should be deleted for that reason. No alternative or suitable site was put forward.
- **Increase the site sizes at Cromer, Hoveton, Wells and Stalham (Maps included as Appendix 5).** The following are recommended;
 - Site HOV1, Hoveton – A significant increase to the size of the site put forward by the site promoters in order to improve layout and site viability. The modification would ensure that drainage, highways, and landscaping issues could be addressed in a more comprehensive manner. It is not proposed to increase the quantum of development.
 - Site C22, Norwich Road, Cromer – minor alterations to the site area to ensure that the likely full extent of highway access works are included within the allocated area.
 - Site ST23, Yarmouth Road Stalham – enlargement of proposed allocation to include the garden area of an adjacent property. The garden is already within the development boundary of Stalham and hence development would be policy compliant but its inclusion within the allocated area may facilitate more comprehensive development by allowing for vehicular access to the garden via the wider allocation.
 - Site W07/1 in Wells - updating to include an access point to Mill Road within the area allocated.

4. Recommendations

Members of the Planning Policy & Built Heritage Working Party recommend to Cabinet that the Schedules of proposed modifications along with the Proposed Submission version of the Local Plan be submitted for independent examination.

To delegate minor amendments in the finalisation of the submission version & Schedules and associated documents to the Planning Policy Manager and Policy Team Leader in conjunction with the Portfolio Holder

5. Legal Implications and Risks

- 5.1 The Council must produce a Local Plan which complies with various regulatory and legal requirements and in determining its policy approaches must be justified and underpinned by up to date and proportionate evidence, be informed by appropriate sustainability appraisals and take account of and demonstrate how public feedback, national policy & guidance have been used to inform the production through the application of a consistent methodology.
- 5.2 The statutory process requires plan production to accord to the statutory requirements as set out in The Town and Country Planning (Local Planning), (England) Regulations 2012 (as amended). Failure to undertake Plan preparation in accordance with the regulations and NPPF is likely to render the plan 'unsound' at examination and result in the need to return to earlier stages. Substantial additional costs would be incurred.
- 5.3 There remains a residual risk of planning reform which, could undermine the production of the Plan to date through the proposed white paper along with further changes to the National Planning Policy Framework, either through incremental changes or substantive changes leading to wholesale replacement. Early submission reduces the risks associated with changes in government policy and puts the authority in a stronger position to take advantage of any subsequent transitional arrangements should they be introduced. If production is extended there remains an increased risk of early Plan review, further evidence gathering and substantial time and costs along with increased pressure and challenge on the continued use of existing adopted policies.

6. Financial Implications and Risks

- 6.1 Failure to undertake plan preparation in accordance with the regulations is likely to render challenge and result in less weight being given to the evidence documents and would result in further officer resources and associated costs. If production is extended there remains an increased risk of early Plan review and substantial costs along with increased pressure and challenge on the continued use of existing adopted policies

Appendix 1 – Schedule 3 – Summary of requests for modifications and officer responses

Appendix 2 – Schedule 4 – Recommended requests for Minor modifications

Appendix 3 – Schedule 5- Recommended requests for Main modifications

Appendix 4 – Employment Policy E3

Appendix 5 – Policies Map modifications (map extracts)