

Part I
Main authors: Matthew Wilson
Executive Member: Cllr Stephen Boulton
All Wards

WELWYN HATFIELD BOROUGH COUNCIL
CABINET PLANNING & PARKING PANEL – 15 DECEMBER 2022
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)
LOCAL PLAN – INSPECTOR’S LETTER AND PROPOSED MODIFICATIONS TO THE PLAN

1. Executive Summary

- 1.1 The purpose of this report is to consider the Inspector’s response to the Council following the decision relating to the Local Plan in July 2022. His response is published as Local Plan Examination Document reference [EX290](#).
- 1.2 The Inspector has indicated that the strategy delivering a ten-year supply of 8,517 dwellings would not be sound but has indicated that a plan based on approaching 9,200 dwellings could be made sound. Appendix A to this report provides a schedule of sites necessary to achieve the identified requirement.
- 1.3 In considering the Council’s response to the Inspector’s letter, a number of factors are weighed-up, including; the impacts of not continuing to a consultation on main modifications, the housing supply required by the Inspector to be included in the consultation, the context of the current planning system, and the options available to the Council.
- 1.4 The council has continued to engage with the Inspector since he provided his conclusions on the Full Objectively Assessed Need for the borough in June 2021. The council expressed its view in July 2022 and the Inspector has confirmed his position in his letter of September 2022 which did not align with the Council’s position. The council will now seek member agreement to consult with the public to consider the most appropriate way forward and anticipate that the consultation will take account of the Government’s recent announcements (December 2022), on which we await additional detail in the forthcoming consultation.

2 Recommendations

- 2.1 That Members consider the response of the Local Plan Inspector to the strategy put forward by Council in July 2022 and agree to recommend to Cabinet and Council a main modifications consultation based on a housing supply of 13,392 dwellings with a ten year supply of 9,209 dwellings against a FOAHN of 15,200 dwellings as set out in Table 4; and, that the public consultation takes place on Main Modifications to the Local Plan at the earliest opportunity once the Inspector has confirmed the content of the Main Modifications required to make the Plan sound. This will not prejudice the Council’s future decision in relation to adoption of the Plan following receipt of the Inspector’s report, which will be brought back to CPPP and full Council once the results of the consultation have been received and considered.

3 **Background**

- 3.1 On 21st July 2022, this Panel considered a report which presented options for meeting the Full Objective Assessment of Housing Need (FOAHN) of 15,200 dwellings for the Local Plan period 2016-36. Options were presented based on identifying sites for the ten year period following adoption, with a commitment to undertake an early review of the plan. The review would also be undertaken in the context of housing need, national policy, and other relevant circumstances prevalent at the time of the review.

Table 1: Options presented in July 2022 to meet Housing Need

	Total Supply	Total Years 1-10	Total Years 1-5
Option to meet Liverpool Approach (making up shortfall over years 1-13)	13,723	9,465	5,812
Option to meet Alternative Approach (making up shortfall in years 6-10)	14,147	9,889	5,912

- 3.2 The options were not accepted by Members. A strategy resulting in a supply of 12,775 dwellings, which over the 10 year period would equate to 8,517 dwellings and a five year land supply of 5,292 dwellings, was put forward to the Local Plan Inspector. The identified supply included a reduction of 600 dwellings at the Wheat Quarter, Welwyn Garden City.
- 3.3 The subsequent letter to the Inspector noted that the supply it has identified, of 12,775 dwellings, results in 26% growth of dwellings in the borough. It also noted that this does not reflect its proportionate share of the government's 300,000 dwellings per annum target based on its current population. Whilst it is recognised that there is an urgent need for additional housing the Council felt that there was no case for it to meet more than its share at this time, particularly when this would require the release of high harm land from the Green Belt.
- 3.4 The Inspector's response to the Council's submission of sites equating to 12,775 dwellings is published on the Council's website as [EX290](#). It can be summarised as follows:
- Accepted the principle of identification of a 10-year supply of housing (9,460), rather than the FOAHN figure, with the plan to be reviewed after 5 years.
 - Considered that an identified supply of 9.5 years (9,200) could be found sound, as it is preferable to have a plan that is close to 10-years rather than no plan.
 - With the exception of three-sites as identified above, agreed the supply put forward by Council in July 2022, including the reduced number of dwellings at the Wheat Quarter.
- 3.5 In EX290 he first addresses that he considers the FOAHN of 15,200 to still be appropriate, a position which has been consistently challenged by the Council. He concludes that it is not appropriate to keep examining the housing need figure with suggested new inputs. He then sets out that despite the Green Belt harm that will result from this level of provision he does not consider the circumstances warrant a lower housing requirement. In some cases, the harm has been identified as high harm.

- 3.6 He then sets out that there is a requirement for at least 9,460 dwellings, to meet a ten-year post-adoption period beginning in April 2023. That, during that period approaching 9,200 dwellings could be accommodated on sites that the Council has submitted to the Examination and which, following examination, he has concluded could be made sound.
- 3.7 To achieve the Inspector's identified 9,200 dwellings over ten years requires the addition of three sites to the supply that were in the submitted draft Local Plan, submitted to the examination in May 2017 and have been found sound in that context. The three sites are:

Table 2: Additional required sites included in the Submitted Draft Local Plan

Settlement	Ref	Site	Capacity
Brookmans Park	BrP4/4a (HS22)	Land West of Brookmans Park Station	428
Cuffley	Cuf12 (HS29)	Land North of Northaw Road East	73
Cuffley	Cuf7 (HS30)	Wells Farm, Northaw Road East	75
Total			576

- 3.8 In an earlier letter ([EX283](#)), the Inspector notes that there is no provision within local plan examination procedures for a Council to withdraw sites from a plan once it has been submitted for examination. Sites may only be removed if the Inspector finds them to be unsound. The Inspector indicates that as the three sites HS22, HS29 and HS30 have been found sound, if the Council no longer wishes to proceed with these sites the only option would be to withdraw the plan.
- 3.9 In the most recent letter, the Inspector highlights that the Examination has been progressing for over five years, during which time, along with a number of years previously, the Borough has a significant under-provision of land for housing development. This is to the extent that there has already been a shortfall of over 1,800 dwellings (nearly 40% of the requirement) since the start of the revised plan period in 2016. In addition, there was under-delivery in some years immediately prior to 2016.
- 3.10 The Inspector states that a plan should provide at least ten years supply from adoption, but if that is not possible, a plan that comes relatively close to this is to be preferred to no plan at all. Consequently, he finds that an adopted plan that allocates sufficient land to provide more than 9.5 years of supply, and which will enable the local building industry to begin to meet some of the pent-up housing needs of the Borough in the short term, to be preferable to a situation where the Local Planning Authority does not have an up to date plan and where the severe housing shortage and affordability problems persist and without any prospect of early resolution.
- 3.11 The approaches to calculating the housing requirement were discussed in the report and appendices presented to CPPP in July 2022 and are presented again in the housing note attached to this report (Appendix C). The housing requirement is based on adoption of the Local Plan in 2023/24. The housing note concludes that the Liverpool approach to calculating housing land supply (which spreads the past shortfall over the entire plan period) is the most appropriate for Welwyn Hatfield's circumstances.
- 3.12 Under the above assumptions, the housing requirement for the ten-year period post adoption is 9,462 dwellings, of this 5,472 dwellings are required to be identified for the first five years.

Table 3: Housing Requirement by plan period (Liverpool approach)

	Estimate Completions 16/17 - 22/23	Years 1-5 (2023/24 - 2027/28)	Years 6-10 (2028/29- 2032/33)	Total Years 1-10 (2023-2033)	Years 11-13 (2033/34- 2035/36)	Total Plan period
Dwellings Required	3,344	5,472	3,990	9,462	2,394	15,200

- 3.13 Table 4 presents the updated housing supply including sites HS22, HS29 and HS30. It also includes Barbraville which was in the submitted Draft Plan for 4 Gypsy and Traveller pitches. Appendix A provides the full breakdown of sites within the supply.
- 3.14 The supply over the ten years would amount to 9,209 dwellings, just 253 dwellings below the 9,462 requirement. This would exceed the 9.5 years which the Inspector has indicated could be found sound. The five year supply of 5,481 dwellings would also be just above the requirement for this period (of 5,472 dwellings).

Table 4: Updated Supply (July 2022 agreed sites + HS22, HS29, HS30)

Supply	Total Supply 2016-36	Total Years 1-10	Total Years 1-5
Completions 2016-22	2,731	0	0
Estimated completions 22/23	613	0	0
Commitments*	486	486	462
Windfall	1,529	1,112	417
Small Sites	13	13	5
Proposed Site Allocations *	8,020	7,598	4,597
Sub-total	13,392	9,209	5,481

Relevant Considerations

Housing Supply

- 3.15 The Local Plan Inspector has confirmed he is supportive of the Council's strategy to identify sites sufficient to meet the ten year supply with the remaining need being the subject of an early review of the plan. This means a supply to meet the FOAHN of 15,200 is not required at this stage. The future review of the plan would be undertaken in the context of housing need, national policy, and other relevant circumstances at the time. To date, the Council has not accepted that 15,200 is necessary or acceptable in relation to the existing number of homes in the Borough.
- 3.16 Subsequent to the decision of Council in July 2022, the Inspector has also confirmed that the final supply, to meet the ten-year period, could be less than the requirement (9,460 dwellings) and that if the plan comes close it is preferred to no plan at all. He goes on to set out that a supply approaching 9,200 dwellings could be sound.
- 3.17 As stated, a ten year supply of 8,517 dwellings was agreed by Council in July 2022, this included a reduction of 600 dwellings at the Wheat Quarter. To achieve a supply of 9,200 required the addition of HS22, HS29 and HS30. Three sites included in the Local Plan submission draft 2017, as agreed by Council on 10 April 2017, and subsequently found sound by the Inspector.
- 3.18 As stated in paragraph 4.4, only the Inspector can remove sites from the Submitted Local Plan if he considers them to be unsound. The removal of Symondshyde from the supply

is an example of the Inspector concluding that a site was unsound. Although the Council has not included HS22, HS29 and HS30 in its supply since 2020, the Inspector has rejected the Council's case for their removal (made most recently in July through their non-inclusion in the supply) and has found the sites sound. There is not considered to be a mechanism for their removal by the Council other than for the Council to withdraw the Plan and start again.

- 3.19 The Local Plan is being examined under the NPPF 2012 transitional arrangements. Since 2018 Local Planning Authorities must follow the standard method when developing their Local Plan. Should the Council start again the standard method would be the starting point in deciding how many homes need to be planned for. The current approach to calculating the requirement for 2022/23 results in a requirement of 888 dwellings per year (dpa) and is likely to result in a requirement for 892 dpa for 2023/22. Supply from completions/expected completions since 2016 would no longer count, and as seen in Table 4 completions and commitments make up a sizable amount of the proposed Housing Supply. A plan based on Standard Method is not currently considered preferable to progressing the current plan as set out.
- 3.20 The development plan is at the heart of the planning system. A Local Plan is key to the Council being able to identify a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing against their local housing need. The NPPF makes it clear that the presumption in favour of sustainable development should apply where an authority cannot demonstrate a 5 year supply of deliverable housing sites. The Council's current 5 year housing land supply is 2.63 years. The lack of a 5 year housing land supply renders some policies important for the determination of applications out-of-date. It does not mean they do not apply, rather the weight they are afforded is balanced against the benefits providing homes.
- 3.21 Increasingly, substantial weight is being given to the provision of homes in decisions by Planning Inspectors at Appeals. Limited weight is also being given to the draft Plan due uncertainty around its progress towards adoption. Consequently, there is an increased risk of unfavourable appeals decisions. Defending appeals continues to represent a significant cost to the council and there remains a risk of costs being award against the Council. Planning applications have been submitted for proposals on sites that are both aligned with the draft Local Plan and sites not identified in the plan. The continuation progression of the Local Plan examination (to main modifications) continues to allow the draft Plan to be material in the determination of planning applications/appeals.
- 3.22 The pre-election period, previously known as 'purdah', describes the period immediately before elections or referendums when specific restrictions on activity are in place. There is an opportunity to commence and conclude consultation on the Main Modifications in January and February 2023. Should consultation take place after the Local Elections it would be no longer be possible to have the post-adoption period beginning April 2023. This would result in the ten year requirement increasing beyond 9,460 dwellings and the opportunity to identify a supply of 9,200 dwellings as set out by the Inspector would be lost. In the event the requirement increases additional sites would be required beyond those examined by the Inspector.

The proposed Main Modifications

- 3.23 The legal framework for the preparation of Local Plans confers powers on the appointed Inspector to, at the request of the local planning authority, recommend modifications to the Plan to ensure that it meets relevant legal requirements and is sound.
- 3.24 A draft of the Inspector's schedule of proposed Main Modifications to the Welwyn Hatfield Local Plan is attached as Appendix B to this report where the proposed changes can be seen in full.
- 3.25 Modifications have been grouped together and range from the insertion or substitution of single words to the introduction of wholly new or replacement policies. The Main Modifications are too numerous and wide-ranging to be individually explained within this report. However, some of the key changes and themes arising include:
- Modifications to reflect the proposed strategy of identifying a ten year housing supply with a review of the plan within five years
 - Additions/deletions/amendments to reflect the schedule of sites (appendix A)
 - Site-specific considerations that will be required to be taken into account in the determination of planning applications (e.g. requirements for planting and landscaping and infrastructure mitigation)
 - Revisions to the strategy for the delivery to meet Gypsy and Traveller sites and pitch provision to reflect the deletion of Symondshyde
 - Additional requirements in terms of type and mix of housing to reflect local needs
 - Additional infrastructure requirements, including new school provision
- 3.26 The Main Modifications have been subject to a Sustainability Appraisal to test their likely social, economic and environmental effects and to comply with relevant legislation. The Sustainability Appraisal report is provided as Appendix D. Given the general nature of the changes in the proposed Main Modifications, and the fact that the Local Plan has been subject to Sustainability Appraisal throughout the process this latest appraisal does not necessitate substantive further changes to the Plan. Some minor additions have been made to the detailed site criteria following the assessment.

Next Steps

- 3.27 Subject to the agreement of Council to the recommendations above, a consultation will be held on the proposed Main Modifications. This will be hosted and administered by the Borough Council.
- 3.28 The consultation will be available on the Council's website with a prominent link from the homepage throughout the consultation period. Copies of the proposed modifications will be provided to each Parish/Town Council and made available at libraries. The consultation will be publicised through use of the Council's social media channels, press releases and adverts in the local papers.
- 3.29 Subject to approval of the recommendations of this report, the aim is to commence consultation on Wednesday 4 January 2023.
- 3.30 The length and format of the consultation is not prescribed in regulations. Guidance issued by the Planning Inspectorate is that consultation on the Main Modifications should generally reflect that undertaken at the proposed submission stage. It is therefore

recommended that consultation should run for a period of six weeks, closing on Wednesday 15 February 2023.

- 3.31 As already set out, the Main Modifications consultation is upon the proposed changes to the Plan only. The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan.
- 3.32 Alongside the main modifications consultation, respondents will also be able to comment on the Housing Requirement Note, appendix C.
- 3.33 All representations received during the consultation will be collated by the Council and sent to the Inspector. At this point it is for the Inspector to determine what additional actions (if any) are required to address the issues raised in the consultation responses. This could include asking the Council to provide additional information on certain points or holding additional hearing sessions on particular issues. The progress of the examination remains at the Inspector's discretion.
- 3.34 Once any such further steps have been completed to the Inspector's satisfaction, he will complete and issue his final report. This will set out his findings on key issues relating to the Plan and his recommendations. Subject to a positive outcome and recommendation, the Plan (incorporating any modifications required by the Inspector) will be brought to Full Council for a decision on adoption or withdrawal.
- 3.35 Where the Inspector recommends that Main Modifications are required to the Plan, the authority can only adopt the Plan with those Modifications. In this regard, Members do not have the discretion to amend or otherwise change the Inspector's Main Modifications either as contained in the attached schedule or at any future adoption of the Plan. If Members wish to propose any alterations at this point they would need to resolve to not proceed with the consultation and separately notify the Inspector of their intentions. A local planning authority may at any time before a local development document is adopted (under section 23 of the Planning and Compulsory Purchase Act 2004) withdraw the document, including following a Main Modifications consultation.
- 3.36 A Progression to Main Modifications in January/February 2023 would:
- Continue the progression of the Local Plan examination
 - Afford greater material weight to the draft Plan in the determination of planning applications and at appeals
 - Facilitate the first public consultation on the plan since 2016
 - Set a path towards adoption but not prejudice a future decision on adoption
 - Plans for the delivery of 13,392 (not 15,200) dwellings, including just over 9,000 in the first 10 years, with a commitment for a review
- 3.37 To not progress the Local Plan to Main Modification consultation based upon the identified supply (as set out in Table 4 and in appendix A) risks rendering the plan unsound. At a national level The Levelling-up and Regeneration Bill continues its passage through Parliament but reforms to the system for generating local housing numbers remains to be put into legislation and national planning policy. Withdrawing the plan and commencing a new plan based on the standard method is not considered preferable at this stage. However, it should be noted that since July 2022 the Planning Inspectorate has been directed not to find any Local Plan unsound until further direction is given by the Secretary of State.

- 3.38 In July 2021, following the conclusion of the Stage 9 Hearings, the Inspector set out his views on the Full Objectively Assessed Need for the borough. The council has continued to engage with the Inspector and in August 2022, following the decision of Council, set out its view. The Inspector has subsequently confirmed his position in his letter of September 2022 and set out the requirements necessary to secure a sound local plan.
- 3.39 The Government has set out draft proposed amendments to the Levelling Up and Regeneration Bill and committed to a consultation to explore changes to the National Planning Policy Framework. For the reasons set out in paragraph 3.36, it is recommended to progress to Main Modification consultation based on the supply identified. This will allow the public to consider the proposed modifications and make representations to the Inspector. The representations to the consultation, together with the Government's recent announcements (December 2022), will inform the Inspector's final report, this report will be considered by the council and a decision made on whether the plan is adopted. The decision to progress to Main Modifications does not prejudice the decision of the council to adopt the local plan and the council may still withdraw it at any time.

Alternative Options Considered

- 3.40 The Levelling-up and Regeneration Bill was published in May 2022 and is the scaffolding for a new planning system, the Bill continues to make its way through Parliament. In December 2022, The Secretary of State for Levelling up Housing & Communities set out a series of reforms with the intention of them being enshrined within the Bill alongside policy changes for National Planning Policy Framework. Further details are to be put out for consultation by Christmas 2022. The Secretary of State's announcement included:
- National housing numbers being a starting point, not a mandatory target
 - Instruction that Planning Inspectorate should not override sensible local decision-making
 - Councils can take account of constraints, including environmental designations and green belt
 - No five year housing land supply requirement where councils have up-to-date local plans
 - Allow councils to refuse planning permission for developers who have built-out slowly in past
 - Allow councils to consider character of developer when deciding whether to grant planning permission
 - Infrastructure Levy amounts to be set by councils
- 3.41 The letter states that the effect of these changes will be that Local Housing Need should always be a starting point (but no more than that) and that areas will not be expected to meet this need where they are subject to genuine constraints. Inspectors will be required to take a more reasonable approach to authorities that have come forward with plans that take account of the concerns of the local community, by taking a more pragmatic approach at examination.

Option – Members agree to write to the Inspector reaffirming the July 2022 position considering recent Government announcements on planning reforms

- 3.42 Considering the proposed reforms set out by the Secretary of State, an option that has been considered is to write to the Inspector reiterating the views of the Council as agreed in July 2022. However, this would result in a further pause in the examination and to do so would mean the earliest that the Main Modifications consultation could take place is after the Local Elections, and it would no longer be possible to have the post-adoption period beginning April 2023. The implication of this would be to have a longer period of time where the Council does not have an up to date local plan, during which the Council is in a weaker position to defend itself against speculative planning applications. It also means that the positive elements of the emerging new policies would continue to be afforded reduced weight in decision making. Should the Inspector continue to not be supportive of the Council's view on supply, the delay would result in the ten year requirement increasing beyond 9,460 dwellings and the opportunity to identify a supply of 9,200 dwellings as set out by the Inspector would be lost. In the event the requirement increases, additional sites would be needed in addition to HS22, HS29 and HS30.
- 3.43 There is also the risk the Inspector would conclude there is no prospect of progressing to Main Modifications and consider the plan unsound. Although the proposed reforms suggest the strengthening of Green Belt protections which could assist defending speculative planning applications on Green Belt sites, the risks of speculative applications would continue. It is considered that the urban areas, including employment land would be at particular risk and the weight given to the draft local plan by appeal inspectors would continue to be at a reduced level. However, proceeding with the consultation at the present time gives the council more time to consider, and act upon, the proposed changes described in the reform letter.

Option – Members agree to the withdrawal of the emerging Local Plan and to start again.

- 3.44 A local planning authority may at any time before a local development document is adopted (under section 23 of the Planning and Compulsory Purchase Act 2004) withdraw the document. The withdrawal of the Local Plan will result in the Borough being without an up to date strategic policy framework to meet its identified housing and other development needs for longer than would be the case than if the present Local Plan were pursued. The policies in the withdrawn Local Plan will have no weight in determining planning applications or planning appeals. The recent Government announcements on proposed reforms are for consultation and inclusion in a Bill still to be enshrined in Law. It is not considered in the interest of the Council to withdraw the plan at this stage, but it may do so if, following consultation, members consider that it would be in the best interest of the Council.

4 Legal Implications

- 4.1 The legal framework for the preparation, submission, examination and adoption of Development Plan Documents is set out in the Planning & Compulsory Purchase Act 2004 (as amended). Detailed regulatory requirements are contained in the Town & Country Planning (Local Planning) (England) Regulations 2012.
- 4.2 The powers of the Inspector to recommend modifications at the request of the Local Planning authority are established in Section 20 of the Planning & Compulsory Purchase Act 2004 (as amended). The Council requested that the appointed Inspector exercise these powers when the Plan was submitted on 15 May 2017.

- 4.3 At this stage, Members are only being asked to approve the carrying out of a consultation on the proposed Main Modifications. Upon receipt of any future positive Inspector's report, it will be a function of Council to adopt the new Local Plan (incorporating any required Main Modifications) as part of the Council's policy framework.
- 4.4 The Inspector has made it clear that only he can remove sites from the Submitted Local Plan if he considers them to be unsound. Should Members no longer wish to proceed with all the sites considered to be sound in the submitted plan the only option would be for the Council to withdraw the Plan and start again.
- 4.5 The Council can only lawfully adopt the Local Plan if the Examining Inspector finds it "sound" and only in the form which the Inspector has found it sound (i.e. the Council would not be able to make material changes to the version of the Plan which the Inspector has found sound). Should the Inspector find the Plan to be unsound the Council would be unable to adopt the Plan and, in this eventuality, the Council would not have an up-to-date Plan.
- 4.6 Whilst it would be open to the Council to bring a case in court to challenge the validity of the Inspector's conclusions it is unlikely that such a challenge would succeed as the court intervenes only in clear cases of legal error. Given that the decision whether a Plan is "sound" is, inherently, one of planning judgment the courts heavily incline to leaving things in the hands of the examining inspector.
- 4.7 The Local Plan process could be subject to legal challenge if any party considers that it has not been prepared in accordance with legislation and national guidance.

5 Financial Implications

- 5.1 The financial implications of not having a sound Local Plan are that the Council would have to start the process again. This would require updated evidence, another call-for-sites exercise, updated site appraisal, updated sustainability appraisal and habitats assessment and further public consultation.
- 5.2 In the meantime, the Council is likely to continue to receive speculative planning applications for both urban and green belt sites (both those that are currently favoured in the plan and those that have been rejected) and could face costs if these were successfully appealed and the Council was held to have acted unreasonably.

6 Risk Management Implications

- 6.1 The Inspector has made it clear that unless the Council adds in more sites to the Local Plan it will be found unsound. He has also made it clear that decisions upon which sites to add into the Plan need to be based on sound planning grounds which are applied consistently and transparently.
- 6.2 The current adopted District Plan is considered to be out-of-date, particularly with regard to policies relating to new residential development. If this Plan is withdrawn or found unsound then the Council would have to rely on policies in the NPPF for decision making. Emerging policies in the Local Plan would no longer have any weight in decision making.
- 6.3 Without an adopted Local Plan the Council's five year land supply figures will continue to be based on the Government's standard methodology, which is currently 888 homes per

year. Because the Council does not have a five year land supply the presumption in favour of sustainable development already applies. Even with the recent announcements from the Government, this would remain the case for an unknown interim period at least. As a consequence, policies seeking to protect areas from residential development would carry less weight and the Council is more likely to lose decisions on appeal. This will impact on the Council's performance figures, which could place it at risk of government intervention.

6.4 At present, the Housing Delivery Test results in a requirement for a 20% buffer being added to the five year land supply figures. In future years, without an adopted plan, it is likely that performance will fall below 45%, resulting in a risk of special measures.

6.5 Regulations now require a plan to be reviewed every five years and particularly where there are significant changes in the housing need figure. Paragraph 74 of the NPPF 2021 states:

“The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- a) 5 % to ensure choice and completion in the market for land; or*
- b) 10 % where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement **OR recently adopted plan** (Footnote 40), to account for any fluctuations in the market during that year; or*
- c) 20 % where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply (Footnote 41)”.*

Footnote 40 states: *“For the purposes of paragraphs 74b and 75 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**”.*

Footnote 41 states: *“This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85 % of the housing requirement”.*

6.6 Should housing completions not increase the Council will come under pressure to carry out an immediate review of the Local Plan. Members should note how short the period is for an up-to-date adopted plan to count towards a five year housing land supply figure. New demographic and household projections are published every two years. The results of the 2021 census will also be used to inform projections in the future.

6.7 Members should also note that because the plan is being examined against the 2012 NPPF it may, once adopted, need to be updated to bring it in line with the 2021 NPPF. Wherever possible Officers will seek to ensure there is not likely to be a conflict.

6.8 In proposing modifications to the plan, the Council has to ensure that it has not proposed so many changes that it is, in essence, a different plan, which even if found sound might make it subject to legal challenge. Nevertheless, the Council is allowed to make changes to make the plan sound and these must by definition be substantive otherwise they would not be needed to make the plan sound. Substantive changes which are not required to make the plan sound cannot be made.

7 Security & Terrorism Implications

7.1 There are no security and terrorism implications arising from this report.

8 Procurement Implications

8.1 There are no procurement implications arising from this report.

9 Climate Change Implications

9.1 There are climate change implications arising from the identification of land for housing and employment. The Sustainability Appraisal judges that there will be greater energy use and emissions of greenhouse house gases and reductions in air quality.

9.2 The effects of this will be mitigated through the implementation of policies in the plan on sustainable design and construction and delivering sustainable development.

9.3 Minimising the need to travel by locating development in accessible locations close to a range of facilities and services and/or where they are close to public transport and cycle paths will assist in this or, alternatively, requiring through Section 106 or Community Infrastructure Levy (CIL) to improvements to public transport infrastructure, cycleways and footpaths.

9.4 Ensuring the balance of employment provision alongside housing will also help to address this.

10 Link to Corporate Priorities

10.1 The subject of this report is linked to the Council's Business Plan 2018-21 and, in particular, Priority 3 Our Housing - to plan for current and future needs and Priority 4 Our Economy – sustainable growth.

11 Health and Wellbeing Implications

11.1 Providing sufficient housing and jobs have health and wellbeing benefits for residents as does the quality of the environment.

12 Human Resources Implications

12.1 Should the Council decide to progress with Main Modifications the Council will need to ensure the policy team is fully staffed to meet the timetable. The Local Plan will continue to be prepared by the policy team. Regardless of whether the Plan is found sound, withdrawn or found unsound, it is likely to increase the number of planning applications and the caseload for development management officers.

13 Communications and Engagement Implications

13.1 Officers will work closely with communications colleagues to ensure that Local Plan progress is communicated to the public through newsletters, information on the website, press briefings, etc.

13.2 Public consultation has been carried out in accordance with the Statement of Community Involvement.

14 Equality and Diversity Implications

14.1 All of the policies in the Submitted Local Plan were subject to equality impact assessment.

14.2 Any policies which are subsequently proposed for main modification will be subject to an updated equality impact assessment.

Author

Matthew Wilson, Planning Policy and Implementation Manager

December 2022

Appendices

Appendix A Schedule of Sites

Appendix B Draft Schedule of Main Modifications

Appendix C Housing Note: Supply and Requirement

Appendix D Sustainability Appraisal Update

Appendix E Habitats Regulations. Assessment Update

Background Documents

Committee papers for Cabinet Planning and Parking Panel 13th January 2022

Committee papers for Cabinet Planning and Parking Panel 21st July 2022