

## Planning Policy Executive Advisory Panel 14 December 2022

Report Title	Proposed Modifications to the East Northamptonshire Local Plan Part 2
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Relevant Executive Member	Cllr David Brackenbury – Growth and Regeneration

### List of Appendices

**Appendix A – Main Modifications Schedule**

**Appendix B – Policies Map Modifications Schedule**

**Appendix C – Sustainability Assessment of the Proposed Modifications**

**Appendix D – Additional (minor) Modifications Schedule**

### **1. Purpose of Report**

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- 1.1. To inform Members of the Executive Advisory Panel of the proposed modifications to the East Northamptonshire Local Plan Part 2 in advance of undertaking public consultation on proposed modifications early in 2023

### **2. Executive Summary**

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- 2.1 Local Plans are prepared by local planning authorities (“LPA”), which are usually the council or national park authority for an area. North Northamptonshire Council (“the council”) is the LPA for the North Northamptonshire area following local government reorganisation in 2021. It consequently became responsible for the processes commenced by the predecessor authorities.
- 2.2 East Northamptonshire Council resolved to submit the Part 2 Local Plan on 21 January 2021. Following submission in March 2021, the Secretary of State for Housing, Communities and Local Government (now the Department for Levelling Up, Housing and Communities) appointed a planning inspector to undertake an independent examination of the plan. The local plan examination process assesses whether a plan has been prepared in accordance with legal and procedural requirements, and whether it is “sound” by applying the 4 tests set out in the National Planning Policy Framework (“NPPF”).
- 2.3 The council facilitated and participated in the public examination of the Local Plan which involved hearing sessions between 6 April and 5 May 2022. The outcome of the examination was a judgement by the Planning Inspector that the

plan produced by the council is likely to be capable of being found legally compliant and sound subject to recommended modifications being made.

- 2.4 In order to progress to adoption, the council is required to publish a schedule of the proposed main modifications for consultation as recommended by the Inspector.
- 2.5 The full schedule of the proposed main modifications is set out in the appendices to this report, whilst the key issues, raised by the Inspector and requiring modification to ensure the soundness of the Plan are set out in the main body of the report.
- 2.6 Subject to the endorsement of the proposed schedule of main modifications this will be subject to consultation for a period of 6 weeks, commencing early in the new year.

### **3. Recommendations**

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- 3.1 That Members note the content of this report and that any comments or observations raised be taken into consideration via a delegated decision-making process, made through the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place & Economy, to progress the main modifications to consultation.

#### Reason for Recommendation

- 3.2 To provide Member input into the preparation of the main modifications schedule of proposed changes to the East Northamptonshire Local Plan Part 2 and to agree, through a delegated decision, the undertaking of a statutory public consultation on the proposed modifications to allow the Plan to progress to adoption.

### **4. Report Background**

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- 4.1 The East Northamptonshire Local Plan Part 2 was approved for statutory public consultation (Regulation 19) and its subsequent submission to the Secretary of State at the meeting of the former East Northamptonshire Council Planning Policy Committee held on 21 January 2021. Following the conclusion of the consultation period the Local Plan, together with the submitted representations were then in March 2021 submitted to the Secretary of State for examination.
- 4.2 A public examination of the Local Plan, conducted by an independent Government appointed Inspector, commenced on 6 April 2022, and the hearing sessions completed on 5 May 2022.
- 4.3 This process followed the legislative requirements set out in the Town and Country Planning (Local Planning) (England) Regulations 2012, requiring the council to 'submit' its Local Plan for examination. The 'submitted' document must be the same version of the Plan that was consulted upon prior to its submission. In other words, the council is not permitted to make further changes to the Local Plan following the Regulation 19 consultation, and all the

representations made at Regulation 19 are considered by the Inspector through the examination.

- 4.4 However, to ensure the “soundness” of the Plan Sections 20 and 23 of the Planning and Compulsory Purchase Act 2004 (as amended) makes provision for “modifications” to be made to a submitted Local Plan before its adoption. (The modifications effectively arise from the Regulation 19 representations, discussions at the examination hearing sessions and requests from the Inspector’s subsequent action points).
- 4.5 There are two categories of modifications to a Plan, termed main and additional modifications, with the latter addressing minor alterations such as factual updates and typographical errors.
- 4.6 Only the Inspector can recommend main modifications, though in reality these recommendations constitute requirements, proposed to ensure the submitted Plan can be found sound and subsequently adopted. A council, however, must ask the Inspector to recommend such main modifications and that request was made prior to the commencement of the Local Plan examination, knowing that the Plan would require main modifications to be made to it.
- 4.7 Many of the main modifications arising from the examination have resulted from suggestions made by officers to the Inspector, setting out how policies could be revised, responding to issues arising during the hearing sessions of the examination, to ensure they are clear and sound in what they propose.
- 4.8 A schedule of the main modifications is set out at Appendix A to this report, based on discussions with the Inspector. Whilst these are suggested main modifications following the public hearings, it is recognised that these are necessary to ensure that the Plan is found sound through its examination.
- 4.9 The main modifications schedule is accompanied by a schedule of proposed changes to the Policies Map - Appendix B and an addendum to the Local Plan Sustainability Appraisal, which has assessed the impact of the revised policy modifications – Appendix C.
- 4.10 The addendum to the Sustainability Appraisal concluded that several of the modifications resulted in slight improvements or slight reductions to positive impacts but these did not significantly alter the findings of the SA. The most significant change related to the deletion of Policy EN17, which related to the new specialist school at Chelveston Road, Higham Ferrers, this is now complete, (hence the deletion of the policy) However, the SA addendum noted that, while the predicted effects of the plan have reduced from significant positive effect in relation to economy, education and skills to minor positive effects, as this site has now been delivered the outcomes for communities will be similar.
- 4.11 The modifications are being brought to the attention of this Advisory Panel for information and are to be agreed through a delegated decision-making process via the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place & Economy, which will then allow the modifications to be published for consultation early in the new year.

- 4.12 Responses made to this consultation will then be forwarded to the Inspector to enable her to produce her final report on the examination. It should be made clear that this consultation is only concerned with the proposed main modifications identified to make the Local Plan 'sound' and is not a consultation on the Local Plan as a whole. Consultation on the proposed main modifications, and the proposed Policies Map modifications, together with the accompanying Sustainability Appraisal will run for a statutory 6-week period.
- 4.13 Following consultation, the Inspector will consider the attached main modifications along with any representations made and will then determine the final list of main modifications which are necessary to make the Local Plan 'sound', and therefore adoptable. It is anticipated that the receipt of the Inspector's final report will provide the council with the opportunity to adopt the Local Plan.
- 4.14 In addition to the above, legislation also allows the council to prepare a schedule of 'additional (minor) modifications' and include such modifications in the final Local Plan which it adopts. These minor modifications are not considered or approved by the Inspector, and do not require consultation.
- 4.15 Additional modifications must not materially affect the policies that are set out in the Local Plan. It is however, completely at the discretion of the council to prepare a list of 'minor modifications', and to take responsibility for ensuring that such modifications are indeed 'minor' (i.e. do not materially affect the policies). In practice, 'minor modifications' tend to be very minor indeed relating to typographical errors, factual updates and presentational improvements for example.
- 4.16 A schedule of the additional modifications is attached to this report (Appendix D). Again, a decision to endorse the additional modifications will be delegated to the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place & Economy.
- 4.17 There are 91 main modifications proposed to the Local Plan, which affect a significant number of the Plan's policies, as well as parts of the supporting text. However, many of the modifications provide a strengthening or clarity in the policy approach, rather than a change in policy direction. Key issues to be addressed that were raised by the Inspector, requiring modification to ensure the soundness of the Plan, can be set out as follows:
- a) The spatial development policies EN1-4 have been re-written to provide greater clarity as to how development proposals will be assessed across the various settlements of the former East Northamptonshire area. The Plan advocates a clear settlement hierarchy through Policy EN1 and recognises the ability for larger villages to contribute to the council's future housing land supply.
  - b) Policy EN2 has similarly been re-written to consolidate, the Submission Plan policies EN2, 3 and 4. This sets out the policy direction for assessing development proposals in and around villages to inform where there may be deemed appropriate locations for delivering sustainable growth.

- c) Policy EN2 is also supplemented by a proposed new paragraph of text (MM8 in Appendix A refers) which helps to define how the built-up area of a settlement is defined.
- d) Policies EN10 (Enhancement and provision of open space) and EN11 (Enhancement and provision of sport and recreation) have been revised to provide greater clarity on the approach to future requirements. (MM21-23, Appendix A refers). This sets out proposed changes to the supporting text and both policies, recognising the need to provide Supplementary Planning Documents (SPDs) to give a more detailed guide to calculating open space, sports and recreation facilities provision, and to inform developer contributions alongside longer term management and maintenance agreements.
- e) In respect of Policy EN29 (Wheelchair accessible housing) it is recognised through the proposed policy revision that the requirement for wheelchair accessible housing can only be required for dwellings where the council is responsible for allocating or nominating a person to live in that dwelling, rather than that being applied to 5% of all new dwellings, targets will however continue to apply on all qualifying sites.
- f) Policy EN32, in relation to Self and Custom Build housing, proposes a detailed change to reduce the marketing period for such proposals from 12 to 6 months, based on discussions at the hearing sessions and recommendations of the Inspector.
- g) Policy EN33 (Rushden East SUE) requires a significant revision in response to the Inspector's recommendations. Effectively, the policy has been rewritten to incorporate the key delivery principles for the development, which were previously set out in the Masterplan Framework Document (MFD) that was appended to the Local Plan (MM65, Appendix A refers). The Inspector also recommended that the MFD contained too much detail for a Local Plan, and that its "revised version" should be decoupled from the Plan and progressed as a separate document. It is proposed that could take the form of an SPD, which would require separate consultation to adopt, to ensure its future status in guiding planning applications for the delivery of the SUE was clear.
- h) Policy EN40 (Former Rushden and Diamonds site), there is a requirement to recognise the need to provide mitigation for the loss of playing pitches and ancillary facilities in the proposed modification to the policy to meet an objection raised by Sport England (MM76, Appendix A addresses this through an additional criterion to the policy).

#### Next Steps

- 4.18 Once an endorsement of the recommendations made by the Inspector has been agreed, officers will prepare the schedule of proposed modifications to be published for a statutory 6-week period of consultation to take place early in 2023.
- 4.19 Any representations received will be sent to the Inspector to enable her to consider the responses to the consultation, and provide the council with her final

report which will be reported back to the Advisory Panel in due course in order to progress the East Northamptonshire Local Plan Part 2 to adoption.

## **5. Issues and Choices**

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- 5.1 Following the completion of the hearing sessions of the Local Plan the council now has the opportunity to make modifications to the Plan in line with the Inspector's recommendations, as set out through sections 20 and 23 of the Planning and Compulsory Purchase Act 2004 (as amended), which makes provision for "modifications" to be made to a Local Plan from the Submitted Plan before it is adopted. These are modifications which are necessary to make the Submitted Plan sound and therefore enable it to be adopted by the council.
- 5.2 The council can now either:
- Endorse the schedule of proposed modifications to be published for consultation or;
  - Resolve not to endorse the proposed schedule of modifications
- 5.3 Endorsement of the proposed schedule of modifications in line with the recommendations of the Inspector would help to ensure that the Plan would progress to adoption and is likely to be capable of being found legally compliant and sound.
- 5.4 If the proposed schedule of modifications isn't agreed in line with the recommendations of the report, this would put at risk the delivery of the key policies and developments contained within the Plan. It would also result in there being an incomplete and out of date local planning policy framework to guide future development decisions in the East Northamptonshire area.

## **6. Implications (including financial implications)**

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### **6.1 Resources and Financial**

- 6.1.1 There are no significant resources or financial implications arising from the proposals. The costs associated with the production of the East Northamptonshire Local Plan Part 2 are provided through the East Northamptonshire Area Planning Policy budget. The remaining steps needed to adopt the Part 2 Local Plan can be financed from this budget. Thereafter, there will be no ongoing cost to the Council from the adoption of the Local Plan.

### **6.2 Legal**

- 6.2.1 There are no direct legal implications arising from this report, other than the statutory requirements for producing the Local Plan in line with the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Planning and Compulsory Purchase Act 2004 (as amended, inter alia, by the Localism Act 2011), which are set out in the body of the report.

### **6.3 Risk**

- 6.3.1 The greatest risk is that progression towards the adoption of the Part 2 Local Plan for East Northamptonshire is challenged through the consultation process to the modifications. To mitigate this risk, the preparation of the plan has followed a robust process, and this is reflected in the positive conclusions of the Inspector's post hearings letter which states that *"overall, at this stage of the Examination, I consider that, subject to main modifications, the Plan is likely to be capable of being found legally compliant and sound"*
- 6.3.2 To help mitigate any risk, the preparation of the Plan has followed a robust process which should minimise the grounds for challenge. Further, the Council has relied upon specialist legal advice throughout the process to ensure that the prospect of successful challenge is minimised.

### **6.4 Consultation**

- 6.4.1 The Council has complied with its obligations to undertake appropriate consultation at all points in the development of this plan in line with legislative requirements, including those requirements set out in the council's Statement of Community involvement.

### **6.5 Consideration by Scrutiny**

- 6.5.1 Not required at this stage in the process.

### **6.6 Climate Impact**

- 6.6.1 The Part 2 Local Plan for East Northamptonshire, in combination with the Joint Core Strategy includes policies designed to secure that the development and use of land in the former East Northamptonshire area contributes to the mitigation of, and adaptation to, climate change. These include policies setting out the policy direction on the sustainable approach to the location of future development, renewable and low carbon energy, water resources and sustainable drainage, health and wellbeing and green infrastructure.

### **6.7 Community Impact**

- 6.7.1 Upon adoption, the Local Plan Part 2 will ensure that the council will have a clear up to date statutory planning policy framework to inform decisions on future planning applications, which take account of the needs of local communities, particularly in respect of addressing housing, employment and community infrastructure needs, including the provision of recreation and open space. It would also help improve the quality of future planning permissions by ensuring that planning policies reflect both national guidance and reflect local aspirations.

## **7. Background Papers**

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- 7.1 The council's website provides an examination page which contains the latest information and evidence base supporting the Local Plan.

[https://www.east-northamptonshire.gov.uk/info/200193/adopted\\_local\\_plan/65/development\\_plan\\_documents/15](https://www.east-northamptonshire.gov.uk/info/200193/adopted_local_plan/65/development_plan_documents/15)