

Full Council 1st December 2021

Report Title	Adoption of the Kettering Site Specific Part 2 Local Plan
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List of Appendices

- Appendix A – Kettering Site Specific Part 2 Local Plan incorporating Main Modifications, Additional Modifications and changes to the Policies Map
- Appendix B – Inspectors’ Report (including appendices 2, 3 and 4)
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1. Purpose of Report

- 1.1. This report seeks a resolution from Full Council to adopt the Kettering Site Specific Part 2 Local Plan as recommended by the Executive.

2. Executive Summary

- 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 Kettering Borough Council resolved to submit the Site-Specific Part 2 Local Plan on 21 May 2020. Following submission on 28 May 2020, the Secretary of State for Housing, Communities and Local Government appointed a planning inspector to undertake an examination of the plan. The local plan examination process assesses whether a plan has been prepared in accordance with legal and procedural requirements, and also whether it is “sound” by applying 4 tests set out in the National Planning Policy Framework (“NPPF”).
- 2.3 The Council facilitated and participated in the public examination which involved hearing sessions between 8 October and 16 October 2020. The Council was represented at the hearing by Mr Rob Jameson, a specialist Town and Country Planning solicitor. The outcome of the examination was a judgement by the Planning Inspector that the plan produced by the Council was acceptable provided that certain modifications were made to it.

- 2.4 Formal adoption is the final stage in the process of producing an up-to-date development plan for making planning decisions and to guide development in the Kettering area. The report recommends that Council adopts the Kettering Site Specific Part 2 Local Plan with Main Modifications identified by the Inspector and the Council's Additional Modifications. It is proposed that any further factual, grammatical, or procedural amendments or requirements are delegated to the Executive Member for Growth and Regeneration in consultation with the Executive Director of Place and Economy. It is also recommended that a similar delegation be made in relation to the preparation and publication of an adoption statement, a sustainability statement, and any other duties necessary to bring the local plan into being.

3. Recommendations

- 3.1 Following consideration at its meeting held on 30th September 2021, the Executive recommends that Council:
- a) Adopt the Kettering Site Specific Part 2 Local Plan (set out in Appendix A to this report);
 - b) Delegate authority to the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place and Economy, to make any further Additional Modifications to the Kettering Site Specific Part 2 Local Plan or its accompanying Policies Map that relate exclusively to factual updates, grammatical corrections and formatting for the purposes of publishing the plan to presentation standard; and
 - c) to delegate authority to the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place and Economy, to prepare and publish the Adoption Statement (draft as Appendix F) and the Sustainability Appraisal Statement and fulfil any other duties required under Regulation 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Reason for Recommendations

- 3.2 The NPPF states that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area and a framework for addressing housing needs and other economic, social, and environmental priorities.
- 3.3 The Plan drawn up by Kettering Borough Council was subject to thorough examination and has been modified as a result of recommendations made by the Inspector, as set out at Appendix C to this report. The Council also made non-substantive modifications to the plan during the course of the examination, which are set out at Appendix D to this report. Corresponding changes to the policies map are set out in Appendix E.
- 3.4 In the event that the Plan is adopted for the Kettering area of North Northamptonshire, it will supersede all of the existing saved policies and allocations in the 1995 Local Plan for Kettering Borough.

4. Report Background

- 4.1 All councils are required to have a plan for development in their area, which is known as a Local Plan. The plan is expected to set out a range of development proposals as well as planning policies and should support the delivery of the Council's vision for the area.
- 4.2 The North Northamptonshire Joint Core Strategy (JCS) was adopted in July 2016 by all of the borough/district councils that now form the North Northamptonshire local government area and Northamptonshire County Council. The strategy is the overarching strategic local plan, commonly referred to as the Part 1 Local Plan – it outlines the big picture to be developed in more detail through Part 2 Local Plans prepared by each former borough/district council and any neighbourhood planning groups.
- 4.3 The Part 2 Local Plan is expected to set out the non-strategic development allocations and detailed policies to manage development in line with the strategic policies of the JCS.
- 4.4 The decision to submit the Kettering Site Specific Part 2 Local Plan was made by Kettering Borough Council on 21 May 2020. The completed submission was received by the Secretary of State on 28 May 2020.
- 4.5 The Secretary of State appointed an independent Planning Inspector (Elaine Worthington MTP MUED MRTPI) to examine the Site-Specific Part 2 Local Plan submitted by Kettering Borough Council. The purpose of the examination was for the Inspector to ensure the relevant legal and procedural requirements have been followed and to test the plan for its soundness as set out in paragraph 35 of the NPPF. Only if the plan is considered sound by the planning inspector can it be capable of legal adoption by the Council.
- 4.6 The Inspector identified eight main issues in the draft plan that were material to her assessment of the soundness of the Plan:
- i) Whether the Plan's overall spatial strategy, including the approach to the settlement hierarchy and settlement boundaries, is consistent with the JCS and national policy, justified and effective.
 - ii) Whether the Plan is justified and effective in meeting the requirements set out in the JCS in relation to housing provision.
 - iii) Whether the Plan will meet the requirements set out in the JCS and Framework in terms of meeting housing needs.
 - iv) Whether the housing allocations in the plan are reasonable and justified and deliverable over the plan period, and whether the specific requirements of the site allocation policies are justified and consistent with national policy and the JCS.
 - v) Whether the approach to employment and town centres in the Plan is robustly based and consistent with the JCS and national policy.

- vi) Whether the environmental and other spatial designations in the Plan are effective, justified and consistent with national policy and the JCS.
- vii) Whether the other individual policies in the Plan are clear, effective, justified and consistent with the JCS and national policy, and whether there are any omissions.
- viii) Whether effective arrangements are in place for the monitoring of the Plan.

4.7 The examination was a rigorous and public process, involving consideration of all the relevant matters (including all issues in the written representations) and the supporting evidence base together with examination hearing sessions conducted between 8 October and 16 October 2020 (a total of 6 hearing days). The hearings were run by the Inspector and included council representatives and invited participants. Mr Rob Jameson, a specialist Town and Country Planning solicitor, advised the Council during the examination. The hearings covered matters and questions which the Inspector considered required further exploration and they allowed those with concerns about the plan to provide further information linked to the matters and issues determined by the Inspector for further examination. Further statements and information were produced as part of the examination process at the request of the Inspector and made available on the examination website. These were some of the first virtual local plan examination hearing sessions to be held in the UK. The hearings were livestreamed on the internet.

Main Modifications to the submitted plan

- 4.8 An inspector can recommend changes to the plan (known as 'Main Modifications') during the examination to make a submitted plan sound and legally compliant only if asked to do so by the local planning authority under section 20(7C) of the 2004 Planning and Compulsory Purchase Act ("the 2004 Act"). Such a request was agreed at the Kettering Borough Council Planning Policy Committee on 21 May 2020.
- 4.9 During the examination, the Inspector identified a number of issues that she considered affected the soundness of the plan. Throughout the hearing sessions a number of potential main modifications were produced. After the hearings closed in October 2020, the Council drafted a composite list of main modifications and, through an iterative process, agreed these with the Inspector as follows:
- 1) Deletion of Policy HOU3 – Retirement Housing and Care Homes as the requirements of the policy are adequately addressed by the JCS.
 - 2) Deletion of Policy TCE1 – Town Centre Boundaries as the policy is unnecessary because Policies BLA1, DES1 and ROT1 all also refer to the town centre boundaries.
 - 3) Deletion of Policy KET9 – McAlpine's Yard, Pytchley Lodge Road as due to unresolved issues relating to flood risk the Policy was not appropriate or justified.
 - 4) Incidental amendments resulting from the deletion of policies, for example policy numbers have been amended.

- 5) Deletion of a large number of Historically and Visually Important Local Green Spaces. Where spaces were removed the Inspector did not consider that the requirements of the NPPF had been met, particularly in relation to demonstrating that sites had been identified and put forward by the community, and the reasons why the local community considered them demonstrably special.
- 6) Removal of the allotment site at Thorpe Malsor from the policies map as the Inspector did not consider the designation to be justified because, while the site is publicly available, it is not publicly accessible.
- 7) Amendments to address the September 2020 changes to the Use Classes Order, reference to previous Use Classes have been removed and replaced with a description of the uses, for example 'A1' has been amended to 'retail'.
- 8) An amendment to the Introduction to provide certainty on the preparation of the Gypsy and Traveller Site Allocation Policy.
- 9) Amendments to Policies HOU1 (Windfall and Infill Development: Principles of Delivery), HOU2 (Older Persons Housing) and HOU5 (Single Plot Exception Sites for Self-Build) to provide clarification and to remove repetition of the JCS.
- 10) Amendments to Policies EMP1 (Safeguarding Employment Land), EMP3 (Non-Employment Uses in Safeguarded Employment Areas) and EMP4 (Live Work Units) to ensure consistency with the JCS, provide clarification and to reflect amendments to the Use Class Order. Amendments to Policy EMP1 to provide clarification on the approach to expansion or modernisation of existing businesses. Amendments to the supporting text in this chapter to provide information on strategic employment sites.
- 11) Additional text in the town centres chapter to set out the role of District and Local Centres at SUE's in the retail hierarchy. Amendments to policies in the Town Centre chapter to remove repetition of the JCS and to provide clarification.
- 12) Amendments to Policy HWC1 (Health and Well-being) to ensure the policy sets out more clearly for developers what is required. Amendments to Policy HWC2 (Protection of Community Facilities and Proposals for New Facilities) to provide clarification and amendments to Policy HWC3 (Sport, Recreation and Physical Activity) which provide a comprehensive update to the policy to remove repetition and to set out more clearly what is expected of proposals and on how contributions will be calculated and spent.
- 13) Amendments to Policy NEH1 (Local Flood Risk Management Policy) to clarify requirements. Amendments to NEH2 (Borough Level Green Infrastructure Network) to re-order the policy, set out the approach to offsite/ onsite contributions and to clarify the mechanism for determining contributions. Amendments have been made to the heritage section to remove unnecessary text. Amendments to NEH3 (Historically and Visually Important Local Green Space) to clarify the exceptional circumstances when development may be allowed, to provide further context to the designations and to list the Local Green Spaces in the policy. Amendments to Policy NEH4 (Open Spaces) which provide a comprehensive update to

the policy to provide clarification, set out more detail on contributions and how these will be applied and to provide an update on the studies.

- 14) All site allocations policies, opportunity for redevelopment policies, environmental improvement policies and development principles policies have been amended to remove repetition with the JCS, national policy and between the tiers of policy included in the SSP2 and to make reference to the heritage test set out in the NPPF, amendments have also been made to ensure policy wording is consistent. An amendment to Policy STA2 (Land to the south of Harborough Road, Stoke Albany) to increase the yield of the site following detailed discussions on the design following the submission of an application on the site.
 - 15) Amendments to the supporting text in the Rural Area chapter to provide clarification on the approach within each of the categories of village. Amendments to policies RS1 and RS2 to provide a consistent approach to policy wording and provide clarification. Amendments to Policy RS3 (Category C Villages) to remove the differentiation between scattered settlements and the open countryside. Additional supporting text to Policy RS5 (Rural Area Development Principles) to clarify the relationship between policies and to explain the purpose of the various tiers of policy.
 - 16) Amendments to the monitoring chapter to provide clarification and to remove unnecessary wording.
 - 17) Amendments to Appendix 1 – Housing Trajectory to update the trajectory to the most up to date monitoring period and to reflect the deletion of Policy KET9 and the increase in yield proposed for Policy STA2.
- 4.10 These Main Modifications concern matters that were discussed at the examination and are essentially the same as those that were subject to public consultation and considered by members of Kettering Borough Council in March 2021.
- 4.11 Given the nature of the modifications proposed by the Council and accepted by the Inspector, further public consultation was deemed appropriate, and this took place from 19 March to 30 April 2021. The comments received about the amendments through public consultation on the proposed modified draft plan were sent to the Inspector for consideration. This consultation was accompanied by a Sustainability Appraisal and Habitats Regulations Assessment.
- 4.12 The Inspector considered the results of the public consultation on the modified draft plan and issued her report into the soundness of the plan on 2 July 2021 (See Appendix B). This stated in the section entitled Overall Conclusion and Recommendation that:

“196. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

197. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that the duty to

cooperate has been met and that with the recommended MMs set out in Appendix 1, the Kettering Site Specific Part 2 Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.”

- 4.13 The report was published on the Council’s website. All contributors to the plan process have been notified of its availability, and a copy deposited in the Council Offices, Bowling Green Road, Kettering and Burton Latimer, Desborough, and Rothwell libraries for inspection by the public. Receipt of the Inspector’s report marks the completion of the examination.
- 4.14 Appendix A to this report confirms the Main Modifications made to the draft local plan to make it sound for adoption, it also includes the Additional Modifications and changes to the policies map.

Minor Modifications to the Plan

- 4.15 In preparing the local plan for adoption, additional minor modifications can be made to it by the Council provided they do not materially affect the plan’s policies. These include such things as correcting typographic errors, changes which are consequential to the Main Modifications and factual updating. The Council has authority to make minor modifications without reverting to the Inspector or carrying out consultations on them. The changes that have been made to the Plan approved by the Inspector under this provision are set out in Appendix D.

5. Issues and Choices

- 5.1 The Council has now reached the adoption stage of the development plan preparation process. In accordance with section 23 of the 2004 Act, the Council can now either:
- 5.1.1 adopt the Kettering Site Specific Part 2 Local Plan with the recommended modifications; or
- 5.1.2 resolve not to adopt the Kettering Site Specific Part 2 Local Plan.
- 5.2 Adoption of the Kettering Site Specific Part 2 Local Plan would represent a major milestone in the development of a comprehensive planning framework for the Kettering area. It would be the culmination of a number of years of work by officers, councillors, partners, and the local communities, including significant public involvement in the process.
- 5.3 If the local plan is not adopted as modified, this would put at risk the delivery of the key policies and developments contained in it. It would also result in there being an incomplete and partially out of date local planning policy framework to guide future development decisions in the Kettering area.
- 5.4 If Council is content to adopt the Kettering Site Specific Part 2 Local Plan, the plan will be finalised for publication. Council is therefore requested to delegate to the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place and Economy, the ability to finalise the document

by resolving the formatting and presentation of the content of the document prior to publication.

- 5.5 If adopted, the Kettering Site Specific Part 2 Local Plan would carry full weight in the determination of planning applications for the area and become part of the development plan alongside the JCS, the Kettering Town Centre Area Action Plan and any relevant Neighbourhood Plans. The adopted Plan would supersede the 1995 Kettering Borough Local Plan.
- 5.6 The adoption process also requires the Council to prepare and publish an Adoption Statement to accompany the Local Plan in accordance with regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Adoption Statement (Appendix F) sets out:
- Date which the Local Plan was adopted
 - Modifications following the Pre-Submission Publication Draft; and
 - Notice that any person aggrieved by the process can make an application to the High Court within 6 weeks from the date of adoption.
- 5.7 The Policies Map maintained by the Council illustrates geographically on an Ordnance Survey base where the policies and proposals of the development plan apply. In the event that the local plan is adopted, the Policies Map would need updating (a minor modification) to reflect the change in policy. As soon as possible after adoption, a Policies Map reflecting the adopted Kettering Site Specific Part 2 Local Plan will be available to view on the Council's website, with paper copies of the map and local plan being made available once the appeal period expires.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 The costs associated with the production of the Kettering Site Specific Part 2 Local Plan have been met through the Kettering 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 Kettering Site Specific Part 2 Local Plan.

6.2 Legal

- 6.2.1 The adoption of the Local Plan has to comply with legal and regulation requirements set out in Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012. The Inspector has approved the process by which the Kettering Site Specific Part 2 Local Plan has been produced and has confirmed within her report that:
- a) The Plan has been prepared in accordance with the Council's Local Development Scheme (LDS). An updated version of the LDS was prepared by the Council in September 2020 to reflect revised timescales;

- b) Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement (SCI). Representors raised concerns about the timing of the availability of a number of evidence base documents relating to sport, recreation, and open space. These were published after the Regulation 19 consultation period and the submission of the Plan. Nevertheless, the Inspector concluded she was satisfied that these documents were provided on the Council's website for a number of months prior to the hearings and flagged up in the Matters Issues and Questions relating to the examination. As such, interested parties had the opportunity to consider them in advance of the hearings and she was satisfied that no prejudice has been suffered as a result;
- c) A Sustainability Appraisal has been carried out and is adequate;
- d) The Habitats Regulations Assessment (May 2020) meets the necessary regulatory requirements and concludes that the Plan will have no likely significant effects on the Upper Nene Valley Gravel Pits Special Protection Area and Ramsar site. Based on additional information provided by the Council (letter dated 30 June 2020) Natural England are satisfied with this conclusion;
- e) The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area;
- f) The Development Plan, taken as a whole, includes policies designed to ensure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. JCS Outcome 2 concerns Adaptability to Future Climate Change and paragraph 2.16 of the Plan sets out how the Plan will contribute to this outcome. MM2a to paragraph 2.10 of the Plan is necessary to acknowledge that a Climate Change Emergency was declared in the borough of Kettering in 2019 in the interests of effectiveness;
- g) The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations. It is consistent with the JCS except in one very minor instance in relation to Policy DES6 (employment allocation) which is justified for the reasons set out in the report.

6.3 Risk

- 6.3.1 The greatest risk is that the adoption of the Kettering Site Specific Part 2 Local Plan is challenged post adoption. To mitigate this risk, the preparation of the plan has followed a robust process, and this is reflected in the positive conclusions of the Inspectors Report. This should minimise the grounds for legal challenge after adoption. 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 As confirmed above in the main body of the report, the Council has complied with its obligations to undertake appropriate consultation at all points in the development and adoption of this plan.

6.5 Consideration by the Executive

6.5.1 The Adoption of the Kettering Site Specific Part 2 Local Plan was considered by the Executive on 30th September 2021. The Executive recommend to Council:

- (i) That the Kettering Site Specific Part 2 Local Plan (set out in Appendix A to the report), be adopted;
- (ii) Delegated authority to the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place and Economy, to make any further Additional Modifications to the Kettering Site Specific Part 2 Local Plan or its accompanying Policies Map that relate exclusively to factual updates, grammatical corrections, and formatting for the purposes of publishing the plan to presentation standard; and
- (iii) Delegated authority to the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place and Economy, to prepare and publish the Adoption Statement (draft as Appendix F to the report) and the Sustainability Appraisal Statement and fulfil any other duties required under Regulation 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

6.5.2 Following the Executive meeting, the Kettering Site Specific Part 2 Local Plan has been reformatted using NNC Corporate Branding Guidelines, in addition a small number of additional modifications have been made to the introduction to reflect the stage in plan making and throughout the document to update NPPF paragraph numbers following the publication of the revised NPPF of 20th July 2021, a small number of typo graphical errors have also been corrected. The additional modifications and formatting changes included in the document attached at Appendix A have been agreed with the Executive Member for Growth and Regeneration in consultation with the Executive Director for Place and Economy.

6.6 Consideration by Scrutiny

6.6.1 None as yet, however the matter is a Key Decision and therefore is eligible for call-in.

6.7 Climate Impact

6.7.1 The Kettering Site Specific Part 2 Local Plan in combination with the JCS includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. These include policies setting out the approach to renewable and low carbon energy, water resources and sustainable drainage, health and wellbeing and green infrastructure.

6.8 Community Impact

- 6.8.1 There are wide-ranging beneficiaries for the Local Plan, potentially including all residents, employees, businesses, visitors, and service providers across the Kettering area. This is because of the wide scope of the Kettering Site Specific Part 2 Local Plan which will affect the environment of the area's stakeholders. One of the major benefits will be providing residents, employees, and visitors etc. with a greater range of e.g., housing choices, shops, employment opportunities, recreation, and open space facilities.

7. Background Papers

- 7.1 Background papers relating to the preparation of the plan are available on the former Council's website:

www.kettering.gov.uk/SSP2Exam