



Council

Tuesday, 8 October 2019

Rushcliffe Local Plan Part 2: Land and Planning Policies

Report of the Executive Manager - Communities

Portfolio Holder for Housing Councillor R Upton

1. Purpose of report

- 1.1. The Council published the final draft of the Local Plan Part 2 in May 2018 and then submitted it for examination by a Planning Inspector in August 2018. The report of the Inspector, following his examination of the Plan, was received by the Council on 20 September 2019. The Inspector has concluded that the Plan, as submitted for examination, is legally compliant and sound, subject to a number of modifications which he has recommended.
- 1.2. The Council now has to consider whether to accept the Inspector's recommended modifications and adopt the Local Plan Part 2 as part of the Borough's Development Plan.
- 1.3. This report recommends that the Council adopts the Local Plan Part 2 incorporating the Inspector's recommended modifications.

2. Recommendation

It is RECOMMENDED that Council:

- a) adopts the Rushcliffe Local Plan Part 2: Land and Planning Policies incorporating the main modifications recommended by the Inspector to make the Plan sound and legally compliant;
- b) deletes 'saved' policies ENV15, H1, E1, E7 and E8 of the 1996 Rushcliffe Local Plan;
- c) approves the Local Plan Policies Map incorporating the amendments as a consequence of adopting the Local Plan Part 2 and the deletion of the 'saved' policies ENV15, H1, E1, E7 and E8 of the 1996 Rushcliffe Local Plan; and
- d) delegates authority to the Executive Manager – Communities, in consultation with the Cabinet Portfolio Holder for Housing, to make any necessary final minor textual, graphical and presentational changes required to the Local Plan Part 2 and adopted Local Plan Policies Map.

3. Reasons for Recommendation

- 3.1. To ensure that the Council is able to fulfil its statutory function as the Local Planning Authority for Rushcliffe. Legislation requires the Council to produce a Local Plan. In Rushcliffe Borough, the Local Plan will comprise the Local Plan Part 1: Core Strategy (adopted December 2014) and, on adoption, the Local Plan Part 2: Land and Planning Policies.

4. Supporting Information

- 4.1. The Local Plan Part 2 (Land and Planning Policies) is the second part of the Local Plan. It identifies non-strategic allocations and designations in the Borough. It also sets out more detailed policies (sitting below the 2014 Local Plan Part 1: Core Strategy's more strategic level policies) for use in the determination of planning applications.
- 4.2. The first formal consultation stage in the preparation of the Plan was undertaken in January 2016. This was followed by a number of further preparatory stages and associated public consultations before the Plan was agreed by Council in April 2018. It was then published in May 2018 in order to allow representations to be made either in support or against its policies and proposals. Published alongside the Plan in May 2018, were associated proposed amendments to the Local Plan Policies Map.
- 4.3. The Plan, all its supporting evidence and the representations received when it was published in May 2018, were submitted to the Secretary of State for Housing, Communities and Local Government in August 2018 in order for it to be examined by a Planning Inspector. The hearing sessions as part of the examination took place between 27 November and 13 December 2018.
- 4.4. Following discussions at the hearings sessions and in subsequent correspondence with the Inspector it became clear that a number of 'main modifications' to the Plan were likely to be required before it could be found 'sound' by the Inspector. The Council also identified a number of 'additional modifications' to the Plan (generally factual changes or corrections which do not materially alter the policies of the Plan). A number of modifications to the Local Plan Policies Map were also identified, which were generally consequential amendments associated with the main modifications. The Council consulted on all of the proposed modifications between 22 May and 5 July 2019.
- 4.5. In total, 140 individuals and organisations submitted representations in respect of the main modifications and, as required, all of these representations were forwarded to the Inspector for him to consider as part of finalising his report to the Council. A number of representations were also received in relation to the additional modifications and the modifications to the Local Plan Policies Map. These have all been considered and it is judged that no further changes to either the Plan or the Local Plan Policies Map are warranted, particularly in light of the Inspector's conclusion (as referred to

below) that all the Local Plan Part 2's proposed site allocations are acceptable.

The Inspector's report and main modifications

- 4.6. The Inspector issued his final report on Friday 20 September 2019 and it is attached as Appendix 1. The report concludes that, subject to his recommended main modifications, the Local Plan Part 2 would meet the criteria for soundness in the National Planning Policy Framework and it would meet all legal requirements. This means that if the Plan incorporates all of the Inspector's recommended main modifications it is fit for adoption by Council in accordance with section 23 of the Planning and Compulsory Purchase Act 2004.
- 4.7. The Inspector's main conclusions can be summarised as follows:
- the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the Duty to Cooperate has therefore been met;
 - the Council has followed the adopted Statement of Community Involvement (SCI) in the preparation of the Plan and consultation on the Plan and the main modifications were carried out in compliance with the Council's SCI;
 - the Sustainability Appraisal for the Plan has been undertaken in a proportionate and equitable way, has considered reasonable alternatives and sets out the reasons why alternatives have been rejected, has followed the Regulations and is adequate;
 - the Plan would help to provide sufficient housing land to meet the minimum housing provision for the plan period set out in the Council's Core Strategy, which due to the rate of delivery from the strategic allocations would not be met;
 - the approach to providing new homes through non-strategic allocations in excess of the minimum figures set out in the Core Strategy is justified;
 - whilst the allocation of housing sites to the 'other villages' goes somewhat beyond what can be termed solely for 'local needs', this is justified and broadly consistent with the Core Strategy as a whole;
 - the policies of the Core Strategy, the slippage in the delivery of the strategic sites, the need to significantly boost the supply of housing and the lack of sustainable alternatives mean that the release of Green Belt land in the Plan to meet development needs is justified in principle;
 - the proposed site allocations are justified, effective and consistent with national policy and where necessary exceptional circumstances have

been demonstrated to justify releasing land from the Green Belt for the uses proposed;

- the provision of new employment allocations through the Plan would be made in sustainable locations in accordance with the settlement hierarchy and is consistent with Policy 5 of the Core Strategy and is justified. Exceptional circumstances have been demonstrated to justify the removal of the sites from the Green Belt; and
- subject to the Inspector's recommended main modifications, all the individual policies of the Plan are clear, justified and consistent with national policy and will be effective.

4.8. The main modifications that the Inspector has recommended for inclusion in the Plan are set out in the appendix to his report and summarised in the report's non-technical summary (Appendix 1 of this report). The Inspector has summarised his recommended main modifications as follows:

- To make clear that the remaining saved Local Plan policies will be superseded by Local Plan Part 2 Policies;
- To clarify how dwelling capacity figures for the housing allocations have been calculated and that the final figures for new dwellings provided will be determined at the planning application stage;
- Adjusting and clarifying the site-specific development requirements of the proposed site allocations;
- Adjusting the development mix for the proposed mixed-use development Policy 5.1 land north of Nottingham Road, Radcliffe on Trent, to ensure that the allocated site would make the necessary financial contributions towards health and education capacity improvements;
- To remove the proposed requirement for M4(2) standards for accessible and adaptable dwellings from Policy 12;
- To delete the requirement for self-build and custom build plots on sites of more than 10 dwellings [Policy 13];
- To adjust Policies 28 and 29 in respect of the historic environment to accord with national policy;
- To adjust policy for recreational open space so that contributions would only be sought where necessary [Policy 32]; and
- To amend Policy 39 relating to the health impact assessments of development to make it effective.

Adoption of Local Plan Part 2

4.9. The Plan is, therefore, in a position to be adopted but only if the Inspector's recommended main modifications are incorporated in full. The Council cannot legally make any further material modifications, nor can it seek to delete one of the Inspector's recommended main modifications, and still then adopt the Plan.

4.10. The Inspector's report and his recommended modifications were considered at a meeting of the Local Development Framework Group on 25 September

2019. The Group has recommended that the Council adopts the Rushcliffe Local Plan Part 2, incorporating the main modifications recommended by the Inspector to make the plan sound and legally compliant.

- 4.11. The final version of the Plan, which comprises the Plan as published in May 2018 and then submitted for examination in August 2018, and including all the main modifications recommended by the Inspector, is at Appendix 2. It also includes a number of minor changes (including the additional modifications consulted on in May 2019) such as necessary typographical corrections, grammatical changes and factual updates. Further such minor changes may be necessary prior to final publication of the adopted Plan. None of these changes would materially affect the policies or proposals contained within the Plan, either individually or collectively.
- 4.12. The adoption of the Local Plan Part 2 would result in the remaining 'saved' policies of the 1996 Rushcliffe Local Plan being superseded, meaning they would no longer form part of the Borough's Development Plan. These are policies ENV15 (Green Belt), H1 (Housing Allocations), E1 (Employment Land Provision), E7 (Redevelopment of Employment Sites) and E8 (Langar Airfield).
- 4.13. The final version of the Local Plan Policies Map, which illustrates geographically both the policies of the Local Plan Part 2 (subject to adoption) and the already adopted Local Plan Part 1: Core Strategy, is at Appendix 3. It may be necessary to make minor changes to it for presentation purposes and to correct any errors prior to final publication.
- 4.14. Following adoption, the Plan, along with relevant formal notices and the sustainability appraisal report, must be published and made available for public inspection. Relevant parties involved in the process will also be notified. There will be a period of six weeks for legal challenge. In the event of a challenge, the Plan would remain in effect pending any decision by the courts to the contrary.

5. Alternative options considered and reasons for rejection

- 5.1. The alternative option is to not adopt the Local Plan Part 2. This option would leave the Council without a complete and up to date set of local planning policies, albeit that strategic policy would be provided by the Core Strategy. This would result in local planning policies becoming increasingly out of date.
- 5.2. The National Planning Policy Framework (NPPF) puts in place a 'presumption in favour of sustainable development'. This means that in determining planning applications, where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless: firstly, the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or, secondly, any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies

in the NPPF taken as a whole. Given this national policy, to not adopt the Plan would considerably restrict the Council's ability to resist unwanted speculative development proposals.

- 5.3. In particular, the NPPF sets out that in the case of applications involving the provision of housing relevant polices will be considered out of date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with an appropriate buffer) or where the Government's annually published Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. The Borough's current supply of deliverable housing sites is below this minimum requirement of five years of supply and there would be limited prospect of reversing this situation if the Local Plan Part 2 is not adopted, as additional sites would not be allocated for housing development to meet the Council's objectively assessed housing need as set out in the Core Strategy.
- 5.4. Without the Local Plan Part 2 in place the Council would also be less able to provide certainty for investors, co-ordinate the delivery of infrastructure and seek funding to support infrastructure and growth. This would harm the Borough Council's ability to deliver on its strategic objectives by delaying the delivery of new homes and holding back economic growth.

6. Risks and Uncertainties

- 6.1. Failure to prepare, and then adopt, the Plan would result in the Borough not having a complete and up-to-date Local Plan. The absence of which would increase the risk of speculative unplanned development in Rushcliffe and could restrict the Council's ability to effectively deal with planning applications.

7. Implications

7.1. Financial Implications

There are no direct financial implications arising from this report.

7.2. Legal Implications

7.2.1. It is a statutory requirement for the Council to adopt a Local Plan. The Local Plan Part 1: Core Strategy was adopted in December 2014. The Local Plan Part 2: Land and Planning Policies will, when adopted, mean that the Council has a complete and up to date Local Plan in place.

7.2.2. Following adoption of the Local Plan Part 2, under Section 113 of the Planning and Compulsory Purchase Act 2004, any person may make an application to the High Court to challenge it. Such an application must be made within six weeks of adoption of the plan.

7.3. Equalities Implications

Equality Impact Assessments have been produced throughout the preparation of the Local Plan Part 2 in order to inform its policies and proposals.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no direct community safety implications arising from matters covered in this report.

8. Link to Corporate Priorities

8.1. The adoption of the Rushcliffe Local Plan is a key element of the Council's corporate priorities of Quality of Life and Sustainable Growth.

9. Recommendations

It is RECOMMENDED that Council:

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- d) delegates authority to the Executive Manager – Communities, in consultation with the Cabinet Portfolio Holder for Housing, to make any necessary final minor textual, graphical and presentational changes required to the Local Plan Part 2 and adopted Local Plan Policies Map.

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Background papers available for Inspection:	Local Plan Part 1: Rushcliffe Core Strategy, December 2014 http://www.rushcliffe.gov.uk/media/rushcliffe/media/documents/pdf/planningandbuilding/planningpolicy/corestrategyexamination/9%20Local%20Plan%20Part%201%20Rushcliffe%20Core%20Strategy.pdf Local Plan Part 2: Land and Planning Policies Publication version, May 2018 https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents

	<p>/pdf/planningandbuilding/planningpolicy/lapp/publication/RBC%20LP2%20Publication_draft_web%20version.pdf</p> <p>Proposed Main Modifications to Local Plan Part 2 https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/planningpolicy/lp2examination/modifications/LP2%20main%20mods%20schedule%20May%202019.pdf</p> <p>Proposed Additional Modifications to Local Plan Part 2 https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/planningpolicy/lp2examination/modifications/LP2%20additional%20mods%20schedule%20May%202019.pdf</p> <p>Proposed Local Plan Policies Map Modifications https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/planningpolicy/lp2examination/modifications/LP2%20policies%20map%20mods%20schedule%20May%202019.pdf</p>
<p>List of appendices:</p>	<p>Appendix 1: Local Plan Part 2 examination Inspector's report</p> <p>Appendix 2: Rushcliffe Local Plan Part 2 (final version)</p> <p>Appendix 3: Rushcliffe Local Plan Policies Map (final version)</p>