

Appendices: 1



**NORTHAMPTON**  
BOROUGH COUNCIL

## CABINET REPORT

<b>Report Title</b>	<b>Northampton Borough Local Development Scheme - Update</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	8 <sup>th</sup> February 2017
<b>Key Decision:</b>	Yes
<b>Within Policy:</b>	Yes
<b>Policy Document:</b>	Yes
<b>Directorate:</b>	Regeneration, Enterprise & Planning
<b>Accountable Cabinet Member:</b>	Councillor Tim Hadland
<b>Ward(s)</b>	All wards

### **1. Purpose**

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- 1.1 The purpose of this report is to consider an update of the Northampton Local Development Scheme.

### **2. Recommendations**

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It is recommended that Cabinet

- 2.1 approves the revised Northampton Borough Local Development Scheme as attached to this report.

## **3. Issues and Choices**

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### **3.1 Report Background**

#### **The Importance of the Development Plan**

- 3.1.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the adopted development plan unless material considerations indicate otherwise.
- 3.1.2 In March 2012 the Coalition Government published the National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions. The NPPF states that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF states that it is highly desirable that local planning authorities should have an up-to-date plan in place.
- 3.1.3 The NPPF stresses the importance of having a planning system that is plan led. It states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. Where the development plan is absent, silent or the relevant policies are out of date, the NPPF requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified (see Paragraph 14 of the NPPF).
- 3.1.4 The importance of the development plan was emphasised in the Government's Productivity Plan which was published as part of the July 2015 Budget. The Productivity Plan set out the Government's long-term strategy for tackling the issues that matter most for productivity growth. One of the issues identified was building enough homes to keep up with growing demand. In relation to planning powers the Productivity Plan stated that it is vital that local authorities use their powers to put in place local plans that set the framework for the homes and jobs local people need. In cases where no Local Plan has been produced by 2017 the Secretary of State for Communities and Local Government will use powers set out in the Housing and Planning Act 2016 to intervene in order to accelerate production of a local plan.

#### **The Existing Development Plan for Northampton**

- 3.1.5 The Development Plan can comprise either a single document or a number of documents that set out the spatial planning strategy for the area.
- 3.1.6 For the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004 the adopted Development Plan for Northampton Borough currently comprises the following:
- Northampton Local Plan Saved Policies - Adopted 1997

- Northampton Central Area Action Plan - Adopted 2013
- West Northamptonshire Joint Core Strategy Local Plan Part 1 - Adopted 2014
- Northamptonshire Minerals and Waste Local Plan – Adopted 2014 and currently being reviewed by Northamptonshire County Council.

## **Reasons for Preparing the Northampton Local Plan Part 2**

- 3.1.7 The Local Plan Saved Policies were adopted in 1997 which pre-dates the existing planning system, the NPPF and the adopted Joint Core Strategy. This means that there is a need to review and update these policies. It is important to have an up to date plan in place to positively guide development decisions. An up to date plan will also replace extant interim guidance that does not constitute a formal part of the Development Plan. In addition, there is a need to consider how the Local Plan Part 2 policies will relate to emerging and future Neighbourhood Plans.
- 3.1.8 The continuing regeneration and growth of Northampton's Central Area coupled with recent planning reforms, such as the prior notification system for changes of use from business use to residential use, means that it is also necessary to review the Central Area Action Plan's (CAAP) policies and proposals. The Local Plan Part 2 will contain those policies which remain up to date and any CAAP policies which need updating. Once adopted the Local Plan Part 2 will replace the CAAP.

## **Northampton Local Development Scheme**

- 3.1.9 The Local Development Scheme (LDS) is a rolling business plan for the preparation of key planning policy documents that will be relevant to future planning decisions. It outlines the programme and resources for completion and adoption of each relevant planning document. It is a requirement of the Planning and Compulsory Purchase Act 2004 (as amended by Section 111 of the Localism Act (2011)) that the Council prepares and maintains an LDS.
- 3.1.10 The LDS must specify:
- The local development documents which are to be development plan documents;
  - The subject matter and geographical area to which each development plan document is to relate;
  - Which development plan documents (if any) are to be prepared jointly with one or more other local planning authorities;
  - Any matter or area in respect of which the authority have agreed (or propose to agree) to the constitution of a joint committee;

- The timetable for the preparation and revision of the development plan documents; and
- Such other matters as are prescribed.

3.1.11 Development Plan Documents must be prepared in accordance with the LDS.

3.1.12 The existing LDS covering Northampton Borough was brought into effect by Cabinet in September 2015 and covered the three year period January 2015 to July 2018.

## **3.2 Issues**

### **Progress on the Northampton Local Plan Part 2 to Date**

3.1.13 To date the preparation of the Northampton Local Plan Part 2 has broadly accorded with the timetable set out in the existing LDS. An initial stage of public consultation was undertaken on the Scope and Issues of the new Local Plan between 27 April and 10 June 2016. Public consultation was undertaken on the Options for inclusion in the new Local Plan between 21 September and 2 November 2016.

### **Northampton Local Plan Part 2 Next Stages**

3.1.14 The next programmed stage is publication of the draft Plan in March 2017. This would include the preferred sites that the Council proposes to allocate for development as well as other area designations and policies against which planning applications will be considered. Due to the expected nature and volume of these sites it is considered essential that public consultation is held specifically on potential sites for allocation as well as rejected sites before the decision is made to include them in the draft Plan. Consequently it is proposed to include an additional public consultation on potential sites for allocation in the timetable for the Northampton Local Plan Part 2. It is proposed that this consultation would be held in April – June 2017. The LDS needs to be updated to include this additional stage of public consultation and to amend the rest of the timetable accordingly. The new timetable will be:

- Publication of the Draft Plan - September 2017
- Submission of the Plan - January 2018
- Examination of the Plan - April 2018 (Subject to the Planning Inspectorate)
- Adoption of the Plan - September 2018

### **Travellers' Accommodation Needs Study**

3.1.15 In August 2015 the Government published a revised version of the Planning Policy for Traveller Sites (PPTS). This included a change to the definition of travellers for planning purposes. The key change that was made was the removal of the term “persons ... who have ceased to travel permanently”, meaning that those who have ceased to travel permanently do not now fall under the planning definition of a traveller for the purposes of assessing accommodation need in a gypsies and travellers accommodation assessment.

- 3.1.16 In 2016 the Council jointly commissioned with Daventry District Council, South Northamptonshire Council and the West Northamptonshire Joint Planning Unit an updated Travellers' Accommodation Needs Study to provide a robust assessment of current and future need for gypsy, traveller and travelling showpeople accommodation in each administrative area. This Study has now been completed.
- 3.1.17 The updated Travellers' Accommodation Needs assessment for Northampton shows less need than previously anticipated. 27 gypsy and traveller households were identified but none of them meets the planning definition so there is no need for any additional pitches. A further 10 households were identified but it was not possible to determine their travelling status so they may meet the planning definition. If these households prove to meet the planning definition it is estimated that they could generate a need for up to three pitches. There are no travelling showpeople in Northampton.
- 3.1.18 Consequently it is no longer considered necessary to prepare a specific Local Plan to allocate sites for gypsies, travellers and travelling showpeople. This means that the existing Local Development Scheme needs to be updated to remove the preparation of this specific Local Plan.

### **Updated Local Development Scheme**

- 3.1.19 A new Northampton Borough LDS covering the period 2015 to 2018 has been prepared and is attached as Appendix A to this report.
- 3.1.20 This LDS reflects discussions regarding future partnership working that have taken place with Daventry District and South Northamptonshire Councils following the adoption of the West Northamptonshire Joint Core Strategy in December 2014.
- 3.1.21 Subject to Cabinet's approval this new Northampton Borough LDS will be brought into immediate effect, i.e. from 8<sup>th</sup> February 2017.

## **3.3 Choices (Options)**

### **Option 1: Agree**

- 3.3.1 Cabinet can decide to update the LDS to amend the Local Plan Part 2 timetable by adding a public consultation stage on potential allocated sites and updating the rest of the timetable accordingly, and to remove the reference to the Gypsies, Travellers and Travelling Showpeople Allocations Local Plan.
- 3.3.2 It is a requirement of the Planning and Compulsory Purchase Act 2004 (as amended by Section 111 of the Localism Act (2011)) that the Council prepares and maintains a LDS. One of the tests at Public Examination is a legal compliance test which includes whether the Local Plan has been prepared in accordance with the LDS. Failure to maintain the LDS could result in the Local Plan Part 2 failing the legal compliance test and not proceeding to adoption. Failure to prepare a Local Plan as set out in the LDS could also place the Council at risk of High Court Challenge.

3.3.3 Failure to provide adequate opportunity for the public to comment on potential sites for allocation as well as sites rejected for allocation could result in the Local Plan Part failing one of the four soundness tests at Public Examination which is that the Plan is **Justified** – the Plan should be the most appropriate strategy when considered against the reasonable alternatives based on proportionate evidence. Failing the soundness tests could result in the Local Plan Part 2 not preceding to adoption. Failure to provide adequate opportunity to comment could also place the Council at risk of High Court Challenge.

#### **Option 2: Do not agree**

3.3.4. Cabinet could defer or decide not to update the LDS, however, this would mean that the Council would not have an up to date LDS and would not be providing adequate opportunity for the public to comment on potential sites for allocation. This would place the Council at risk of the Local Plan Part 2 being found to be unsound at Examination and not preceding to adoption, or at risk of High Court Challenge. This option is therefore not recommended.

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

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#### **4.1 Policy**

4.1.1. The Local Plan Part 2 will review and update the Local Plan Saved Policies, the Central Area Action Plan and replace extant interim guidance. An up to date plan will provide greater certainty and allow policies at the local level to address local issues and be fully compliant with up to date requirements. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 planning applications will be determined in accordance with the development plan, including the Local Plan Part 2, unless material considerations indicate otherwise.

#### **4.2 Resources and Risk**

4.2.1 Sufficient resources are available for the preparation of the Local Plan Part 2 within this year's resources. The inclusion of an additional stage of public consultation in relation to potential sites for allocation as well as rejected sites is not expected to require any additional resources. The consequential change to the rest of the Local Plan Part 2 timetable will require that £120,000 of the additional £150,000 resources which were incorporated into the 2017/18 Planning Policy budget for the Public Examination as part of the draft budget reported to Cabinet in December 2016 will need to be rephased into 2018/19 as the Examination will move to April 2018. Adoption of the Plan will move from March 2018 to September 2018. This will be reflected in the final proposed budget presented to Cabinet in February 2017.

4.2.2 The Northampton Gypsies, Travellers and Travelling Show People Allocations Local Plan preparation, consultation and examination costs were to be met from within existing resources with no additional provision having been made for this specific Plan.

## 4.3 Legal

- 4.3.1 The Local Plan is a statutory document and has to be prepared in accordance with the Planning and Compulsory Purchase Act 2004, as amended; the Town and Country Planning (Local Planning) (England) Regulations 2012, as amended; the Environmental Assessment of Plans and Programmes Regulations 2004; and the Conservation of Habitats and Species Regulations 2010.
- 4.3.2 It is a requirement of the Planning and Compulsory Purchase Act 2004 (as amended by Section 111 of the Localism Act (2011)) that the Council prepares and maintains an LDS. One of the tests at Public Examination is a legal compliance test which includes whether the Local Plan has been prepared in accordance with the LDS. Failure to maintain the LDS could result in the Local Plan Part 2 failing the legal compliance test and not preceding to adoption. Failure to prepare a Local Plan as set out in the LDS could also place the Council at risk of High Court Challenge. In addition, under Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Housing and Planning Act 2016) the Secretary of State now has the power to prepare a LDS and direct that a local planning authority bring that LDS into effect.
- 4.3.3 Failure to provide adequate opportunity for the public to comment on potential sites for allocation as well as sites rejected for allocation could result in the Local Plan Part 2 failing one of the four soundness tests at Public Examination which is that the Plan is **Justified** – the Plan should be the most appropriate strategy when considered against the reasonable alternatives based on proportionate evidence. Failing the soundness tests could result in the Local Plan Part 2 not preceding to adoption. Failure to provide adequate opportunity to comment could also place the Council at risk of High Court Challenge.
- 4.3.4 Queen’s Counsel has advised that an additional public consultation on potential sites for allocation in the Local Plan Part 2 should be held to provide the opportunity to comment on potential sites before the decision is made to include them in the draft Plan.

## 4.4 Equality and Health

- 4.4.1 The Local Plan Part 2 will be subject to full Community Impact Assessment.

## 4.5 Consultees (Internal and External)

- 4.5.1 The Cabinet Advisory Group was established in February 2016 and has held regular meetings to consider the issues and options stages relating to the Local Plan, informed by officers and key evidence. CAG will continue to meet regularly to inform and advise Cabinet in reaching decisions in relation to the Local Plan Part 2 including consideration of potential sites for allocation and policy content.
- 4.5.2 Ward Councillors are involved in the preparation of the Local Plan Part 2 through a variety of measures including the opportunity to attend Councillor Briefings at key stages and a regular Local Plan Part 2 Newsletter.

4.5.3 The Statement of Community Involvement (SCI) sets out how communities and stakeholders can expect to be engaged in the preparation of planning documents and in the consideration of planning applications in Northampton Borough. Community involvement and consultation will be undertaken in accordance with the SCI and the relevant Regulations.

#### **4.6 How the Proposals deliver Priority Outcomes**

4.6.1 The preparation of an up to date Local Plan Part 2 will assist in all aspects of the Corporate Plan and guide and influence many of the Council's and its partners' strategies.

#### **4.7 Other Implications**

4.7.1 None.

### **5. Background Papers**

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5.1 Northampton Borough Council Local Development Scheme (September 2015)

West Northamptonshire Travellers' Accommodation Needs Study (January 2017)

Department for Communities and Local Government – Planning Policy for Traveller Sites (August 2015)

Department for Communities and Local Government – National Planning Policy Framework (March 2012)

**Appendix A – Northampton Local Development Scheme (February 2017)**

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