



**Committee and Date**

Item

**Cabinet 19<sup>th</sup> July 2023**

Public



## Local Plan Examination in Public – Response to Inspectors Stage 1 Interim Findings

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<b>Cabinet Member (Portfolio Holder):</b>	Richard Marshall		

### 1. Synopsis

- 1.1. This report seeks Cabinet approval to submit additional material to the Local Plan Examination as a response to the Inspectors' Interim Findings into the Local Plan.

### 2. Executive Summary

- 2.1. The purpose of this report is to seek Cabinet approval for the submission of additional material to the Local Plan Examination in Public.
- 2.2. The additional material has been prepared specifically to respond to the Inspectors' Interim Findings into the Local Plan following the Stage 1 hearing sessions in July 2022 and January 2023. These Interim Findings are included as Appendix 1 to this report.
- 2.3. The additional material specifically being sought for approval to submit are: Shropshire Council Response to Interim Findings (Appendix 2); Additional Sustainability Appraisal Report (Appendix 3); the Housing and Employment Topic Paper (Appendix 4); the Green Belt Topic Paper (Appendix 5); the revised Local Development Scheme (LDS) (Appendix 6); and the Updated Schedule of Main Modifications (Appendix 7).

- 2.4. It is recommended that Cabinet agree Appendices 2-7, allowing officers to submit this to the Examination for consideration by the Inspectors.
- 2.5. This new information provides further technical assessment work, principally through additional Sustainability Appraisal (SA), and provides a reasoned and justified response on a number of key points. Importantly, the new material provides a justification for why it is felt the Council does not need to amend its previously agreed housing and employment land requirements, and therefore that we do not believe it necessary to identify any additional site allocations for development.
- 2.6. It has been confirmed by the Inspectors that the Council has met the legal Duty to Cooperate, and therefore the Examination can proceed. It is anticipated the submission of the new material will allow for the future timeframe for the Examination to be agreed. The revised Local Development Scheme (LDS) (Appendix 6) sets out the likely future timeframe for the remainder of the Examination process.

### **3. Recommendations**

- 3.1. That Cabinet approve the response to the Local Plan Inspectors' Interim Findings (Appendix 2), alongside the additional Sustainability Appraisal Report (Appendix 3); the Housing and Employment Topic Paper (Appendix 4); the Green Belt Topic Paper (Appendix 5); the revised Local Development Scheme (LDS) (Appendix 6); and the Updated Schedule of Main Modifications (Appendix 7), and agree that these documents can be submitted to the Local Plan Examination.
- 3.2. That Cabinet agree that if through further discussions with the Inspectors it is considered appropriate to do so, that the additional material provided in Appendices 2-7, alongside any other necessary material, can be consulted on in line with the Council's Statement of Community Involvement (SCI), and relevant national regulations.

## **Report**

### **4. Risk Assessment and Opportunities Appraisal**

- 4.1. It is a statutory responsibility for Councils to maintain an up-to-date Local Plan. Under the Government's 'plan-led' approach to development, the Local Plan is a key component of the overall Development Plan for the area, and should provide a positive strategy to enable an area to grow in a sustainable manner.
- 4.2. The Local Plan is a key part of the Development Plan for an area. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In dealing with planning applications, section 70(2) of the Town and Country Planning Act 1990 requires a planning authority to have regard to the provisions of the Development Plan so far as it is

material to the application. Other parts of the Development Plan for an area include Neighbourhood Development Plans usually prepared by Town and Parish Councils.

- 4.3. It is the purpose of the Local Plan Review to ensure that Shropshire's Development Plan remains up to date for the purposes of decision making. One of the key elements of ensuring that a Development Plan is up to date is ensuring it has at least a five years' supply of deliverable housing sites against an up-to-date housing requirement. Whilst the Council's current housing land position shows a supply of 5.64 years' supply of deliverable housing land against the housing requirement within the adopted Development Plan, and 7.20 years supply of deliverable housing land against the housing need identified within the Local Housing Need Assessment undertaken using government's standard methodology, this position needs updating at least annually, and is at risk of challenge by potential applicants. The most effective way to ensure a plan-led sustainable housing land supply in excess of five years is to have an up to date and adopted Development Plan in place which provides a range of sustainable and deliverable housing allocations.
- 4.4. The Examination in Public (EiP) is an integral part of the Plan making process, and is the point in the process where the draft plan, alongside its evidence base, is assessed by an independently appointed Planning Inspector(s). The Council submitted the Local Plan to the Secretary of State in September 2021. Stage 1 hearing sessions into the Local Plan took place in July 2022 and January 2023. Whilst the Council can present reasoned and justified evidence to support its position, decisions on timescale and regarding the need to amend the Plan in any way are with the Inspectors. This is a normal procedural part of plan making, but one that does present some risk to the Council. To counter this risk it is important the Council continues to present an evidenced and justified approach to the plan, and seeks to respond to any Inspector's concerns in a timely and efficient manner.

## 5. Financial Implications

- 5.1. Planned growth provides the best possible opportunity for Shropshire Council to harness growth potential by providing a stable platform for investors and developers (from both the public and private sectors). Growth also provides an opportunity to secure contributions to help maintain and improve local facilities, services and infrastructure. New growth simultaneously imposes an additional burden on local services and provides opportunities to secure investment to improve local facilities which are the responsibility of Shropshire Council and other public service providers.
- 5.2. The Local Plan process is subject to a number of costs, both during preparation principally due to the need to commission evidence base documents to inform both site allocations and development management policies, and through the EiP, principally through the cost of the Planning Inspectorate. This expenditure is both necessary and unavoidable in the pursuit of a 'sound' Plan. The Council has been incurring costs of the Examination since 2021 when the Plan was submitted and Inspectors appointed. However, attempts have been made to reduce the cost to the Council with support from the Inspectors, such as holding public hearing sessions virtually.

- 5.3. There is also a financial risk to the Council of not pursuing a review of the Local Plan in a timely manner, most notably through the likelihood of increased levels of planning appeals as a result of increased challenges to the integrity of the currently adopted Core Strategy and SAMDev Plan.
- 5.4. The EiP has a significant cost implication to the Council, most notably through the cost of the Inspectorate, the need to appoint a Programme Officer to support the role of the Inspector and the cost of hiring rooms for the public hearing sessions. The estimated costs of the EiP have been included within the budget of Planning Policy and Strategy, although it should be recognised that the final cost of the EiP is not known.

## 6. Climate Change Appraisal

- 6.1. The recommendations propose that Cabinet agree to submit additional information to the Examination in Public to support the progression of the Local Plan through Examination and eventually to adoption. The proposed Local Plan includes new policies SP3 – Climate Change and DP11 – Minimising Carbon Emissions. In combination these policies provide a more robust local policy framework for supporting the transition to a zero-carbon economy through future masterplanning work and ultimately decisions on planning applications, and relate to energy and fuel consumption, renewable energy generation, carbon offsetting and mitigation and climate change adaptation.

## 7. Background

- 7.1. Following a period of plan preparation and several stages of public consultation since 2017, Shropshire Council submitted the Local Plan to the Secretary of State on 3<sup>rd</sup> September 2021. This commenced the Examination in Public (EiP) stage.
- 7.2. It is the role of government appointed independent Planning Inspector(s) to examine the soundness and legal compliance of the Local Plan, having regard to a number of factors including the Planning and Compulsory Purchase Act 2004 (as amended); the National Planning Policy Framework (the NPPF); associated national guidance (NPPG); and representations made to the Plan at the Regulation 19 stage of the plan preparation phase.
- 7.3. Paragraph 35 of the NPPF sets out how Local Plans are examined. Plans are considered ‘sound’ if they are:
  - a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
  - b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
  - c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

**d) Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

- 7.4. In addition, the Inspectors need to be satisfied the Council has met other procedural requirements, including the legal Duty to Cooperate (DtC), regarding how the Council has cooperated on strategic cross boundary issues with neighbouring and closely related authorities and other relevant stakeholders.
- 7.5. Stage 1 hearing sessions were held in July 2022 and in January 2023. These sessions dealt with the strategic elements of the Plan, as well as legal and procedural issues. The Inspectors subsequently published their Interim Findings (ID28) on 15<sup>th</sup> February 2023, and this is included as Appendix 1 to this report.
- 7.6. It is a normal part of the examination process for Inspectors to identify the need for modifications to the Plan in order to make it ‘sound’. These can either be Additional Modifications which are generally minor in nature and don’t impact on overall ‘soundness’, or Main Modifications which are more significant in nature, such as changes to policy wording. By definition, where Inspectors find there is a need to make Main Modifications, the current version of the Local Plan cannot be considered ‘sound’. However, it is important to stress that one of the roles of the Examination process is to provide the appropriate mechanism and process for Main Modifications to be identified and to be agreed.
- 7.7. Through the course of preparing the Local Plan for submission to the Secretary of State in September 2021, and through ongoing discussions with the appointed Inspectors through the Examination, a composite list of Main Modifications has been developed. The Inspectors Interim Findings required that further Main Modifications were agreed at the direction of the Inspectors. For instance, this includes the deletion of the proposal to remove RAF Cosford from the Green Belt. Through the preparation of the additional material requested by the Inspectors, there has been a need to propose further Main modifications to this schedule. The updated list of all proposed Main Modifications to the Plan, including those agreed with the Inspectors as part of the recent hearing session into the Mineral and Waste elements of the Plan, are captured in the Updated Schedule of Main Modifications, included as Appendix 7 to this report. It is considered these Modifications are necessary in order to make the Plan sound, and addresses the comments raised by the Inspectors at the Stage 1 hearing sessions. However, it is likely this will need to be revisited again as the Examination continues.
- 7.8. One area which cannot be rectified by the inclusion of additional Main Modifications, is the legal aspect of the Duty to Cooperate, covered by the Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended). This places a legal duty on a local planning authority to co-operate with other local authorities and other prescribed bodies to engage constructively, actively and on an ongoing basis when preparing a Development Plan Document, such as a Local Plan. This cooperation is intended to identify genuinely strategic cross boundary matters in order to maximise the effectiveness of plan preparation.
- 7.9. Through the course of the Stage 1 hearing sessions, the issue of the Duty to Cooperate was discussed in a number of Matters. This discussion focussed extensively on the cooperation the Council has had with the four local authorities of Dudley, Sandwell, Walsall and Wolverhampton, through the Association of

Black Country Authorities (ABCA), and in particular the agreement reached between Shropshire and these four authorities for the Local Plan to accommodate an element of the Black Country's forecast unmet housing and employment need over the plan period. As a result of these discussions the Inspectors requested additional evidence from the Council showing the activity around these duty to cooperate discussions, which the Council provided in September 2022, and which led to an additional hearing session in January 2023.

- 7.10. Resulting from these discussions and evidence, the Inspectors have concluded the Council has met its legal Duty to Cooperate, and as such the Examination can continue. This outcome is clearly welcomed and supported. Indeed, it is notable the Inspectors in their Interim Findings have also stated that "in principle, the Council's intention to address some of the ABCA unmet needs (1,500 homes and 30ha employment land) aligns with the spirit of the Duty to Cooperate". They add, "It is clear that the Council and the ABCA authorities are all content with the contribution and this is set out in a Statement of Common Ground".
- 7.11. It is therefore considered the Inspectors Interim Findings have provided endorsement to the agreement made between Shropshire Council and the Black Country authorities concerning the level of forecast unmet housing and employment need from the Black Country to be accommodated in the Shropshire Local Plan up to 2038.
- 7.12. However, the Inspectors interim findings also raises questions about how the Local Plan is seeking to accommodate this unmet need. This relates primarily to the Council's position that the 1,500 homes and 30ha of employment land (the unmet need) is to be accommodated within the wider Local Plan housing and employment requirements. The Inspectors have raised concerns about this approach, and have asked the Council to respond to the issues raised. The Inspectors have also asked the Council to confirm more precisely on which proposed housing and employment land allocations in the Plan the Council anticipate the unmet need to be accommodated.
- 7.13. Whilst it is not the role of the Inspectors to dictate how the Council responds to these issues, the interim findings are quite clear that the Council prepare additional Sustainability Appraisal (SA) material and that the unmet need is specifically reflected in this process. One of the options which the Inspectors have asked the Council to assess is higher housing and employment growth options for County in the Plan period, where the unmet need is effectively added on top of these Shropshire based requirements. Given a higher housing and employment land requirement would result in a need for additional supply to be identified over the plan period, under this scenario there would be a need for the Council to consider proposing to allocate additional land in the Local Plan above that already included.
- 7.14. For the avoidance of doubt, the SA process is intended to assess the likely environmental, social and economic impacts of the reasonable options considered, and is a specific requirement in Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004. Importantly, however, whilst the Inspectors have quite rightly considered the selection of a preferred strategy should have regard to this additional SA, they have confirmed it is for the Council to present an appropriate strategy, and for this to be assessed for soundness through the Examination process.

- 7.15. The additional SA work and its outcomes are included as Appendix 3 to this report. In responding to the Inspectors comments, this has included assessing options for growth which exceed the housing and employment land requirements currently included in the Local Plan, as well as reassessing the previously considered SA options, with the specific inclusion of the Black Country forecast unmet need element. In assessing the options in this manner, it is considered this meets the expectations of the Local Plan Inspectors with regard to this aspect of their initial findings.
- 7.16. In response to the Inspectors request, the Council have prepared a new Housing and Employment Topic Paper included as Appendix 4 to this report. The key purpose of the Topic Paper is to show how the Council has considered the conclusions of the new SA work, alongside other material considerations, and to arrive at a planning judgement on the preferred strategy for the Local Plan.

*Proposed Housing and Employment Land Requirement 2016-2038*

- 7.17. With regards to the housing requirement of the Local Plan, as currently drafted this is 30,800 dwellings over the plan period 2016-2038. This represented a 'high' growth option in the original SA of options during the earlier stages of plan preparation. In incorporating explicitly the 1,500 dwellings from the Black Country over the plan period, the same housing requirement of 30,800 represents a 13% increase on defined local housing need. The Council considers this uplift continues to constitute a 'high' growth option and is now referred to as High Growth Variation 1.
- 7.18. In seeking to respond effectively to the Inspectors interim findings, four other options are considered in the additional SA. Two of these options provide a housing requirement in excess of 30,800 dwellings, whilst two provide options lower than 30,800 dwellings. The highest option proposed is 32,300 dwellings over the plan period, which is the sum of the 30,800 plus in addition 1,500 dwellings for the Black Country. This option was specifically requested to be assessed by the Inspectors.
- 7.19. Following the careful consideration of the conclusions of the new SA, alongside a number of other material considerations, **it is considered the Local Plan's housing requirement should be maintained at 30,800 dwellings over the plan period (2016-2038)**. It is considered this continues to represent the most sustainable option for the County, and one which is:
- responsive to the principle of and will deliver high growth, providing increased opportunities to deliver the wider Council strategic aspirations, including the Shropshire Plan and the Economic Growth Strategy, and will support increased delivery of additional affordable housing;
  - sufficient to meet local housing need, whilst providing appropriate flexibility to changing need over the plan period; and
  - includes a specific contribution of 1,500 dwellings towards the unmet housing need forecast to arise in the Black Country.

- 7.20. The proposed housing requirement is consistent with that previously proposed within the draft Shropshire Local Plan. As such, Shropshire Council considers that the strategy for achieving the proposed housing requirement proposed within the draft Shropshire Local Plan remains appropriate. It is considered this outcome responds positively to the Interim Findings of the Inspectors, and is evidence based.
- 7.21. **As such, only minimal modifications would be required to reflect this proposal, and there is no requirement to identify any additional site allocations at this stage.**
- 7.22. With respect to the employment land requirement of the Local Plan, as submitted this is 300 hectares over the plan period 2016-2038. The Housing and Employment Topic Paper provides the Councils conclusion on this following the consideration of the additional SA material as well as other relevant considerations.
- 7.23. In seeking to respond effectively to the Inspectors interim findings, five reasonable options for the employment land requirement were identified and assessed within the additional SA assessment work. Each of the five options explicitly incorporates the contribution of 30 hectares as Shropshire's contribution towards the unmet employment land need forecast to arise in the Black Country.
- 7.24. Following the careful consideration of the conclusions of the new SA, alongside a number of other material considerations, **it is considered the Local Plan's employment land requirement should be maintained at 300 hectares over the plan period (2016-2038).**
- 7.25. **As such, only minimal modifications would be required to reflect this proposal, and there is no requirement to identify any additional site allocations at this stage.**
- 7.26. It should be noted that one of the interim findings of the Inspectors was to require the Local Plan's housing and employment land requirements to be addressed as minimum requirements. This is not unusual for Local Plans, and whilst this does require a Main Modification to Policy SP2 it is considered appropriate to include.
- 7.27. In seeking to respond positively to the Inspector's request, it is considered the following three sites are appropriate to be specifically identified in the Plan as making a combined contribution of 1,500 dwellings to the Black Country's forecast unmet housing need:
- **BRID030, Tasley Garden Village, Bridgnorth** – 600 dwellings from total of 1,050 dwellings proposed;
  - **IRN001, Former Ironbridge Power Station, Ironbridge** – 600 dwellings from a total of 1,000 dwellings proposed;
  - **SHR060,158 &161 – Land between Mytton Oak Road and Hanwood Road, Shrewsbury** - 300 dwellings from a total of 1,500 dwellings proposed.



7.28. The following site is considered to be appropriate to be specifically identified in the Plan as making a contribution of 30ha to the Black County's forecast unmet employment land need:

- **SHF018b/SHF018d – Land East of Shifnal Industrial Estate, Upton Lane, Shifnal** – 30 ha from a total of 39ha proposed.

7.29. These four sites have been identified as being appropriate to make a specific contribution to the Black County's forecast unmet needs, primary due to their close geographical relationship and functional linkages, including via a direct train service in the case of Shifnal and Shrewsbury.

7.30. A new Green Belt Topic Paper (Appendix 5) has also been prepared in response to the Inspectors Interim Findings. To avoid any doubt, no additional Green Belt land is being proposed to be released in response to the Inspector's Interim Findings.

7.31. Appendix 2 to the report provides the Council's comprehensive response to the wider issues addressed by the Inspectors in their Interim Findings.

7.32. These include:

- A proposed new policy to address the Inspectors comments regarding ensuring sufficient housing for older people (the draft policy wording is included within Appendix 2 to this report).
- Confirmation that it is considered the start of the plan period should be maintained at 2016;
- A proposed approach to 'saving' parts of the existing SAMDev Plan, specifically those allocated Site Allocations which are not fully delivered;
- Confirmation that the Council's evidence for the Gypsy and Traveller Accommodation Assessment (GTAA) remains up to date and the approach proposed in the Local Plan remains appropriate;
- That the Strategic Infrastructure and Investment Network will support ongoing discussions regarding strategic infrastructure resulting from planned growth;
- Confirmation that it is felt appropriate for the Inspectors to take a view on the five year housing land supply position, whilst acknowledging they will not be able to 'fix' this for a set period.

7.33. The revised Local Development Scheme (LDS) (Appendix 7) sets out a new programme for the remainder of the Examination and the adoption of the Local Plan. This anticipates that, subject to the agreement of Cabinet, following the submission of the additional material to the Inspectors it is anticipated the Stage 2 hearing sessions will take place in November 2023. Subject to the conclusion of the Examination and the conclusions of the Inspectors it is anticipated the Local Plan could be subject to adoption in June 2024.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

**Local Member:** ALL

**Appendices**

Appendix 1 – Inspectors’ Interim Findings Following Stage 1 Hearing Sessions (ID28)

Appendix 2 – Shropshire Council Response to ID28: Inspectors’ Interim Findings Following Stage 1 Hearing Sessions

Appendix 3 – Shropshire Local Plan Additional Sustainability Appraisal Report

Appendix 4 – Housing and Employment Topic Paper

Appendix 5 – Green Belt Topic Paper

Appendix 6 – Revised Local Development Scheme (LDS) June 2023

Appendix 7 – Updated Schedule of Main Modifications June 2023