

| | |
|---|--|
| Report Title: | Borough Local Plan – Next Steps |
| Contains Confidential or Exempt Information | No - Part I |
| Lead Member: | Councillor Coppinger, Cabinet Member for Planning, Environmental Services and Maidenhead |
| Meeting and Date: | Cabinet - 27 May 2021 |
| Responsible Officer(s): | Andrew Durrant, Executive Director of Place Services & Adrien Waite, Head of Planning |
| Wards affected: | All |

www.rbwm.gov.uk



REPORT SUMMARY

1. This report provides an update on the Borough Local Plan (BLP), which is currently at its Examination Stage. Following the Stage 2 hearings held in late 2020, the Inspector has issued a post hearings advice letter. The Inspector has agreed with the council's proposals to amend some policies; has proposed that three allocations previously removed are reinstated and that one current allocation is deleted. However, the letter raises no 'showstopper' issues.
2. The Inspector explains that the purpose of the advice is to allow the Council to complete the Schedule of Proposed Main Modifications (MM) for public consultation. To reduce the risk of delay, delegated authority is sought for the Head of Planning in consultation with the Lead Member for Planning, Environmental Services and Maidenhead to agree the detailed wording of the MM schedule under the direction of the Inspector. It is anticipated that the consultation on MMs will take place in late summer, with adoption estimated to take place towards the end of 2021.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet notes the report and:

- i) **Delegates authority to the Head of Planning in consultation with the Lead Member for Planning, Environmental Services and Maidenhead, to publish the Schedule of Proposed Main Modifications to be agreed with the Inspector for public consultation.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

| Option | Comments |
|--|---|
| To delegate authority to the Head of Planning in consultation with the Lead Member for Planning, Environmental | This would reduce the risk of delays to the proposed timetable for the next stages, including |

| Option | Comments |
|--|---|
| <p>Services and Maidenhead, to approve and publish the Schedule of Proposed Main Modifications to be agreed with the Inspector for public consultation.</p> <p>This is the recommended option</p> | <p>consultation on Main Modifications to the plan and adoption, making it more likely that the BLP can be adopted before the end of 2021.</p> |
| <p>To not delegate authority to the Head of Planning in consultation with the Lead Member for Planning, Environmental Services and Maidenhead, to publish the Schedule of Proposed Main Modifications for public consultation.</p> | <p>Not agreeing to delegate authority would mean that a report would need to be taken to Cabinet after the Schedule of Proposed Main Modifications is agreed by the Inspector. This would increase the risks of delays to the proposed timetable, including the consultation on MMs and adoption and make it unlikely that the plan could be adopted in 2021.</p> |

Background

2.1 The Borough Local Plan (BLP) is currently at its Examination Stage. The key milestones have been as follows:

- 31 January 2018 – BLP submitted to the Government for independent Examination,
- June 2018 - Stage 1 hearings held
- November 2018 - Examination entered a ‘pause period’ whilst the Council undertook further evidence gathering work to address the Inspector’s concerns.
- 23 October 2019 - Full Council approved the [Proposed Changes version](#) of the Plan for six-weeks’ public consultation. Further details on the early stages of the BLP preparation process are provided in the [report](#) taken to that meeting.
- November and December 2019 - public consultation on the Proposed Changes version of the BLP.
- June 2020 - Inspector published her Stage 2 Matters, Issues and Questions (MIQs) for the Council and other parties to respond to.
- 5 October to 9 December 2020 - Fifteen days of Stage 2 hearings held. Due to the COVID-19 pandemic, these hearings were held remotely via Zoom. These sessions each received up to 700 views on the council’s YouTube channel.
- 9 December 2020 - At the end of the final session, Ms Phillips advised the Council that changes to the Plan submitted on 31 January 2018 would be

required to remedy issues of soundness in the form of Main Modifications (MMs).

2.2 On 26th March 2021, the Council published the Inspector's [post-hearings advice letter](#). In summary, the Inspector's letter makes the following points:

- The Inspector has agreed with the council's proposals to amend the detailed wording and approach for some of the policies (for example, in relation to accessible and adaptable dwellings, and in relation to affordable housing on former business sites).
- The Inspector is content with the further flood risk assessment work undertaken.
- The Inspector has proposed that we reinstate three allocations removed at the proposed changes stage. The Osbourne's Garage site (HA16), and the Gas Holder Site (HA35), Sunninghill, have planning permission, but in case these permissions are not implemented, the Inspector suggests we keep the Local Plan policies for these sites. The Coppermill Road site (HA45) is the third site the inspector proposes we reinstate.
- The Inspector has suggested modifications are needed in relation to several other sites including: AL3 (St Mary's Walk), remove the requirement for housing; AL7 (Maidenhead Railway Station), look again at the tall building element and impact; AL25 (Spencer's Farm), look at how the new Green Belt boundary will be formed; and AL23 (St Marks Hospital), reduce housing capacity.
- The Inspector supports a Supplementary Planning Document (SPD) for the Ascot area (with some clarifications regarding the scope). She has also suggested some changes to the proforma requirements for sites AL16 (Ascot Centre), AL20 (Heatherwood Hospital) and AL32 (Sandridge House). The Inspector has suggested that site AL19 (Englemere Lodge) should be deleted from the Local Plan.

2.3 The Inspector's letter raises no 'showstopper' issues and it is notable for what it does not say, as much as what it does. The Council's BLP counsel has advised that the absence of any mention of the largest site allocation, AL13 (Desborough, Shoppenhangers and Harvest Hill Roads, South West Maidenhead), which is proposed for about 2,600 homes and supporting infrastructure and other large allocations such as AL21, Land west of Windsor, provides a strong indication that the Inspector has no in-principle soundness concerns. The Council's BLP counsel has advised that the absence of any mention of this site (and other large allocations such as AL21, Land west of Windsor), strongly indicates that the Inspector has no in-principle soundness concerns over this allocation.

2.4 In her letter, the Inspector explains that the purpose of the advice in the post hearings advice is to allow the Council to complete the Main Modifications (MM) Schedule for consultation. The Inspector has explained that where the changes made to the BLP at the Proposed Changes stage do not require amendment, no further consultation is necessary. Where they do require amendment, or new modifications are required, these must be consulted on. To be clear, because the Council has asked the Inspector to recommend modifications of the submission

version of the BLP to make it sound, and thus capable of adoption, the form and content of the Schedule will, ultimately, be a matter for the Inspector to decide.

- 2.5 At the end of the letter, the Inspector asks the Council to provide an estimate of when the draft Schedule is likely to be available. Officers have now responded with an indicative proposed timetable for the next stages, although it should be noted that the Examination is under the control of the Inspector.
- 2.6 It is anticipated that the draft Schedule of Proposed MMs would be sent to the Inspector in the early Summer for her review. The preparation of the Schedule will be an iterative process involving the Council sending the Inspector draft versions of the schedule upon which will provide informal advice. Once this has been finalised, it would be published for consultation in late summer 2021. It is expected that her report would be received from the Inspector in late autumn and on the assumption that no further hearing sessions are needed and the Plan is found sound, it is anticipated that a report would be taken to Full Council before the end of 2021 recommending adoption. Once adopted, the Plan would have full weight for planning decisions.

3. KEY IMPLICATIONS

- 3.1 In order to minimise the risk of any unnecessary delays to this timetable, officers recommend that authority to publish the Schedule of Proposed Main Modifications (under the direction of the Inspector) for public consultation is delegated to the Head of Planning in consultation with the Lead Member for Planning, Environmental Services and Maidenhead.
- 3.2 A long delay to the consultation on MMs and subsequent adoption of the Plan would have consequences for development management as it would be harder to resist speculative planning applications. This would also increase the risk that the delivery of key development sites would be delayed, which would have financial implications for the Council. Furthermore, any delay would affect the delivery of much needed affordable housing and vital infrastructure in the Borough.

Table 2: Key Implications

| Outcome | Unmet | Met | Exceeded | Significantly Exceeded | Date of delivery |
|---------------------------------|--|--|--|-------------------------------|--|
| Cabinet supports recommendation | MMs published in Autumn or Winter 2021 | MMs published for consultation in late Summer 2021 | MM published for consultation in early Summer 2021 | n/a | BLP anticipated to be adopted before end of 2021 |

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 Work on the Borough Local Plan commenced in around 2013 and it has now reached an advanced stage of production, with adoption expected to take place later this year. The cost of producing the BLP to date (to March 2020) has been

about £2.0m (including evidence studies, legal advice and Inspector and programme officer costs).

4.2 The work within this report is funded from existing budgets.

5. LEGAL IMPLICATIONS

5.1 The Planning and Compulsory Purchase Act 2004, as amended ("the 2004 Act") requires local planning authorities to prepare Local Plans. The Town and Country Planning (Local Planning) (England) Regulations 2012, as amended, ("the 2012 Regulations") set out the procedures to be followed in the preparation of such Plans.

5.2 The planning system is plan-led, which means that planning applications should be made in accordance with the adopted development plan unless material considerations indicate otherwise. Making a development plan for a local authority area is a statutory duty and the Minister of State for Housing has set a deadline of December 2023 for all councils to have up to date Local Plans in place. The Council's Adopted Local Plan (1999) is not considered to be up to date for the purposes of development management decisions. The Minister has the power to intervene in plan making; this includes power to notify or direct the Inspectorate to take certain steps in relation to the examination of a plan (section 20(6A) of the 2004 Act), or to intervene to direct modification of the plan, or that the plan be submitted to the Secretary of State for approval (sections 21 to 21A of the 2004 Act).

5.3 The powers of the Inspector to recommend modifications at the request of the Local Planning Authority are set out in Section 20 of the 2004 Act.

5.4 Pursuant to regulation 4(4) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the function of amending, modifying or varying any relevant plan or strategy shall be the responsibility of the executive of a local authority to the extent that this is recommended by the person carrying out an independent examination of a Development Plan Document under section 20 of the 2004 Act.

6. RISK MANAGEMENT

6.1 As a key corporate project, the BLP is noted on the Corporate Risk Register and also has a risk register for the project. This register is kept up to date and the risk profile has changed as the project has progressed.

6.2 The headline risks are set out in Table 3 below.

Table 3: Impact of risk and mitigation

| Risk | Level of uncontrolled risk | Controls | Level of controlled risk |
|---|-----------------------------------|-----------------------------------|---------------------------------|
| The consultation on Main Modifications does not take place until Autumn due to a delay in gaining | Very high | Actions set out in recommendation | Low |

| | | | |
|---|--|--|--|
| approval from Cabinet, resulting in adoption of the BLP taking place in 2022 with associated impacts as set out in paragraph 3.3. | | | |
|---|--|--|--|

7. POTENTIAL IMPACTS

- 7.1 Equalities. The Equality Act 2010 places a statutory duty on the council to ensure that when considering any new or reviewed strategy, policy, plan, project, service or procedure the impacts on particular groups, including those within the workforce and customer/public groups, have been considered. A [EQIA \(Equalities Impact Assessment\) Screening](#) has been completed and is available as a background document.
- 7.2 Climate change/sustainability. Sustainability Appraisal (SA) has been undertaken at every key stage of the BLP preparation. The adoption of the BLP will have a positive impact on the Council's ability to deliver the Environment and Climate Strategy. It will provide the policy basis for a new Sustainability SPD as well as strengthening current policies on both climate change and biodiversity.
- 7.3 Data Protection/GDPR. No impacts.

8. CONSULTATION

- 8.1 As stated in Section 2 above, the Borough Local Plan has been subject to extensive public consultation over several years. Following approval by the Head of Planning in consultation with the Lead Member, and also the Inspector, the Schedule of Proposed Main Modifications will be published for public consultation. After this, the Inspector will consider responses received and finalise her report, along with a final list of Main Modifications to the Plan. This will report then be publicised in accordance with the 2012 Regulations.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 Implementation date if not called in: Immediately. The full implementation stages are set out in table 4.

Table 4: Implementation timetable

| Date | Details |
|-------------------|---|
| Early Summer 2021 | The Schedule of Main Modifications is agreed by the Inspector and then approved under delegated authority by the Head of Planning in consultation with Lead Member for Planning, Environmental Services and Maidenhead. |
| Late Summer 2021 | Main Modifications published for six weeks public consultation |

| | |
|-------------------------|---|
| Late Autumn (estimated) | Inspector's Report received |
| Late 2021 (estimated) | Report to Full Council recommending adoption of BLP |

10. APPENDICES

10.1 None

11. BACKGROUND DOCUMENTS

This report is supported by 1 background document

- [Equality Impact Assessment Screening](#)

12. CONSULTATION (MANDATORY)

| Name of consultee | Post held | Date sent | Date returned |
|-------------------|--|--------------------|---------------|
| Cllr Coppinger | Lead Member for Planning, Environmental Services and Maidenhead. | 26/4/21 | 15/5/21 |
| Duncan Sharkey | Managing Director | 26/4/21 | 27/4/21 |
| Adele Taylor | Director of Resources/S151 Officer | 26/4/21 | 27/4/21 |
| Andrew Durrant | Director of Place | 26/4/21 | 28/4/21 |
| Kevin McDaniel | Director of Children's Services | 26/4/21 | 27/4/21 |
| Hilary Hall | Director of Adults, Health and Housing | 26/4/21 | 27/4/21 |
| Andrew Vallance | Head of Finance | 26/4/21 | |
| Elaine Browne | Head of Law | 26/4/21 | 29/4/21 |
| Emma Duncan | Deputy Director of Law and Strategy / Monitoring Officer | 26/4/21 26/4/21 | |
| Nikki Craig | Head of HR Corporate Projects and IT | 26/4/21 | 29/4/21 |
| Louisa Dean | Communications | 26/4/21 | |
| Karen Shepherd | Head of Governance | 26/4/21 | 28/4/21 |
| Chris Joyce | Head of Infrastructure, Sustainability and Economic Growth | 26/4/21 | 27/4/21 |

REPORT HISTORY

| Decision type: | Urgency item? | To follow item? |
|------------------|---------------|-----------------|
| Non-key decision | No | No |

| |
|---|
| Report Author: Adrien Waite, Head of Planning |
|---|