



**AGENDA ITEM: 4(a)**

**CABINET: 16 May 2013**

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**Report of:** Assistant Director Planning

**Relevant Managing Director:** Managing Director (Transformation)

**Relevant Portfolio Holder:** Planning & Development

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**SUBJECT: WEST LANCASHIRE LOCAL PLAN 2012-2027**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To bring Cabinet up to date on progress with the Local Plan Examination and seek delegated authority for key actions that may need to be undertaken in a very short timescale at the request of the Inspector of the Local Plan Examination.

**2.0 RECOMMENDATIONS**

2.1 That Cabinet endorse the request made by the Assistant Director Planning to the Local Plan Examination Inspector, in accordance with Section 20(7C) of the Planning and Compulsory Purchase Act 2004, to recommend such modifications to the Local Plan that are necessary to ensure that it is sound and legally compliant.

2.2 That Cabinet endorse the proposed modifications to the Local Plan already raised and discussed with the Inspector at Examination as part of this request and delegate authority to agree further modifications at the request of the Inspector to the Assistant Director Planning in consultation with the Portfolio Holder.

2.3 That Cabinet delegate authority to undertake any public consultation on modifications to the Local Plan required by the Inspector during the Examination to the Assistant Director Planning in consultation with the Portfolio Holder.

- 2.4 That Cabinet approve the updated Local Development Scheme 2013 provided at Appendix B, including the preparation of a separate Development Plan Document for the Provision of Travellers' Sites, and resolve that the Local Development Scheme 2013 have effect from 17 May 2013.
- 2.5 That Call In is not appropriate for this item as this matter is one where urgent action is required in order to maintain progress of the Local Plan towards adoption in 2013.
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### **3.0 BACKGROUND**

- 3.1 The Local Plan Examination Hearings ended on 7 March 2013. In the lead up to, during and after the Hearings, a number of Main and Minor Modifications to the Local Plan were proposed to the Inspector to correct minor errors in the Local Plan, address key changes in evidence in relation to waste water treatment in the Borough and to respond to comments and advice from the Inspector seeking to improve the development management aspects of policies in the Local Plan. These Main and Minor Modifications are provided in Appendix C.
- 3.2 None of these Modifications affect the thrust of policy or proposals in the Local Plan, but merely improve the policies to ensure their compliance with the National Planning Policy Framework and so better enable their robust implementation in planning decisions and, in the case of development proposals on the allocated sites to be released from the Green Belt, no longer restrict development of these sites until after 2020.
- 3.3 In the last session of the Hearings, the Inspector set out broad timescales for his reporting on his initial findings on the soundness and legal compliance of the Local Plan, as follows:
- He would report on the Strategic Matters in approximately 6 weeks of the end of the Hearings (i.e. by the end of April). The Strategic Matters reflect those matters most central to the Local Plan and where any serious concerns of the Inspector would be most likely to cause delay in the adoption of the Local Plan. These matters are:
    - Housing (in terms of overall quantum, supply of land, phasing of the target and the Plan B);
    - Gypsies & Travellers and Travelling Showpeople (in relation to a way forward in the absence of any specific allocations for this use); and
    - Employment Land (in terms of overall quantum and supply of land)
  - He would report on the Development Management Matters approximately 4 weeks after the Strategic Matters (i.e. by the end of May). The Development Management Matters are those aspects of policies that address the detail needed to help assess applications, and it is in relation to these matters that the majority of the Modifications in Appendix C have been proposed to the Inspector.

3.4 Following this, if he felt it would be required, the Inspector indicated that there would need to be a six-week period of public consultation on the Modifications to the Local Plan that he proposed back to the Council within his initial findings, before he could finalise his report on the Local Plan.

#### **4.0 CURRENT POSITION**

4.1 Since the conclusion of the Hearings, there have been several key developments which affect the Local Plan and have slightly altered the Inspector's timescales for responding with his initial findings.

4.2 Firstly, the Inspector provided his initial feedback specifically on the matter of provision for travellers' sites, which he had already suggested during the Hearings was a matter where he had some serious concerns regarding the submitted policy (Policy RS4). In his initial feedback, the Inspector outlined his concerns with the soundness of the submitted Policy RS4 given its inconsistency with the latest national policy on this matter (which was only published very late on in the preparation of the Local Plan). He expressed concern that the Policy does not identify a deliverable supply of sites to meet the targets set for traveller provision in the Policy, and therefore would not be able to find it sound in its current format.

4.3 This conclusion was not unexpected as officers were already aware of the change in national policy and the potential implications of this, and had briefed Members on this risk prior to Publication and Submission of the Local Plan.

4.4 The Inspector therefore provided two alternative ways forward on this matter. The first would involve delaying the entire Local Plan while further work was undertaken to identify a deliverable supply of sites to meet the targets and public consultation was undertaken on these sites, in order to inform a Modification to Policy RS4. Such an approach would have caused a significant delay in the adoption of the Local Plan, likely of the order of 12 months.

4.5 The second alternative proposed by the Inspector followed a suggestion put forward by Council officers at the Hearings once it became clear that the Inspector had serious concerns about Policy RS4. This alternative involves modifying the Submitted Local Plan by deleting Policy RS4 in its entirety and the Council committing to preparing a separate Development Plan Document (DPD) specifically on provision for travellers' sites. By separating the travellers' site matter from the Local Plan, this alternative enables the remainder of the Local Plan to proceed to adoption without delay (assuming the Inspector does not identify any further serious concerns) even while further work is still required on provision for travellers' sites.

4.6 This second alternative was similar to an anticipated response to this issue that officers had already discussed with Members prior to Publication and Submission, in that, following the change in national policy, it was always anticipated that further work would need to be done to allocate sites for travellers but that this must be done in a way that did not hold up the adoption of the remainder of the Local Plan.

- 4.7 Officers' original suggestion was a Single Issue Review of Policy RS4, thereby allowing the submitted Policy RS4 to be adopted on the proviso that it would be reviewed at the earliest opportunity to incorporate site allocations. The Inspector's second alternative goes one step further by removing Policy RS4 entirely while further work is done on site allocations, but, crucially, it retains the ability to adopt the rest of the Local Plan while this matter is resolved through a separate DPD.
- 4.8 Therefore, the Council has responded to the Inspector and identified the second alternative proposed by the Inspector as the direction the Council would like to take on this matter. To this end, an updated Local Development Scheme (LDS) 2013 (see Appendix B) has been prepared to reflect the need to prepare a separate DPD on Provision for Travellers' Sites, and Cabinet are asked to authorise this LDS in recommendation 2.4 above.
- 4.9 The second matter to have arisen since the conclusion of the hearings has been the Government announcement on 27 March 2013 of the imminent revocation of the North West Regional Spatial Strategy (RSS), which was confirmed through an Order laid in Parliament on 24 April 2013 and will come into force on 20 May 2013. While this Order had been expected for some time, and while the Local Plan has been prepared in such a way that it is not affected by the revocation of the RSS, given that the RSS is a part of the development plan, the Inspector was obliged to consult on the impact of this revocation and so invited further representations on this matter from Publication representors on 12 April 2013, requiring responses by 12 May 2013.
- 4.10 The final matter that has thus far arisen since the conclusion of the hearings has been the publication of the Interim 2011-based Household Projections on 9 April 2013. Again, these had been expected for some time and are significant in that they provide the most up-to-date evidence on the anticipated growth in the number of households in West Lancashire based on the demographic evidence collected through the 2011 Census, with the new household projections effectively superseding the 2008-based Household Projections upon which the Local Plan housing target is based.
- 4.11 The new Interim 2011-based Household Projections show a level of household growth because of anticipated demographic need in West Lancashire between 2011 and 2021 that is very similar to, if not slightly less than, that demographic need which the Local Plan is based on. Therefore, the publication of these new projections, combined with the revocation of the RSS, appears to support the Council's stance regarding the housing target in the Local Plan and strengthens our case for them.
- 4.12 However, the publication of these new projections constitutes quite a significant new area of evidence, and so the Inspector has invited further representations on the impact of these projections on the Local Plan from those participants involved in the Matter 1 session of the Hearings, which covered housing targets. The responses he has received on this matter will be factored into the Inspector's deliberations regarding his initial findings on the Strategic Matters.

- 4.13 As a result of these matters, the Inspector's anticipated timescales for providing his feedback on his initial findings on the soundness and legal compliance of the Local Plan have shifted somewhat, as set out in the following section of this report.
- 4.14 During the course of writing this report, the Inspector has shared his initial findings and proposed Modifications in relation to the Development Management matters with Council officers. These are provided at Appendix D. These Modifications effectively take those already put to the Inspector by the Council (in response to the Inspector's own comments at the Hearings) and tweak them a little where the Inspector felt necessary and added a few additional Modifications.
- 4.15 Council officers have responded to the Inspector regarding two of his proposed Modifications (which are amendments to Modifications MM24 and MM39), querying the need for those amendments, and are awaiting his response on this query, but officers are content that the remaining Modifications to the Development Management Policies (provided at Appendix D) should be endorsed by Cabinet under the recommendation at 2.2 above, and will be able to advise further on the Inspector's position regarding MM24 and MM39 at the Cabinet meeting.

## **5.0 NEXT STEPS**

- 5.1 Based on correspondence with the Inspector regarding his timescales for producing his initial findings on the Local Plan, it now appears that he will be able to provide his initial findings for the Strategic Matters in mid-May, once he has received and considered the further representations submitted on the new household projections and the revocation of the North West RSS.
- 5.2 The Inspector's initial findings will involve him recommending Modifications to the Local Plan that he sees necessary to make the Local Plan sound and legally compliant. These Modifications will include those already proposed to him by the Council that he agrees with, as well as any further Modifications he deems necessary.
- 5.3 It is likely that, even if the Inspector only recommends to the Council those Modifications he has already raised with the Council, he will require that the Modifications are publicly consulted upon for six weeks before he makes his final recommendations on the Local Plan in his Inspector's Report.
- 5.4 Therefore, in order to maintain the progress of the Local Plan and see adoption of the Local Plan in 2013, Cabinet are being asked to endorse the Assistant Director Planning's Section 20(7C) request of the Inspector (see recommendation in 2.1 above), to endorse those Modifications already raised by the Inspector and to delegate authority to agree further Modifications that the Inspector proposes as necessary to make the Local Plan sound to the Assistant Director Planning (see recommendation in 2.2 above). It will also be necessary to delegate authority to publicly consult on those Modifications to the Assistant Director Planning (see recommendation in 2.3 above).

- 5.5 By granting these delegations, officers will be able to move quickly to public consultation once the Inspector's initial findings have been received, and so undertake the consultation before the main summer holiday season. This will in turn mean that it is likely that the Inspector will be able to finalise his Report by mid-September and officers will then be able to bring the finalised Local Plan to Council in October, seeking authority to adopt the Local Plan as the Development Plan for the Borough.

## **6.0 SUSTAINABILITY IMPLICATIONS / COMMUNITY STRATEGY**

- 6.1 Although the Modifications proposed to the Local Plan are unlikely to have any significant additional sustainability impacts compared to those already assessed within the Submitted Local Plan, if any are ultimately identified by the Examination Inspector, a further Sustainability Appraisal (SA) will be undertaken to assess the impacts. However, in relation to crime and disorder, there are no significant impacts. The report does have significant links with the Sustainable Community Strategy in that the delivery of the Local Plan will also help progress the implementation of key aspects of the Sustainable Community Strategy.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There are no significant financial or resource implications arising from this report as budgetary provision has been made for the Examination of the Local Plan, including any potential in-examination public consultation.

## **8.0 RISK ASSESSMENT**

- 8.1 The purpose of this report, and the need for the recommendations set out in section 2.0, is to reduce the risk associated with the timescales that may be required to respond to the Inspector's initial findings regarding the Local Plan. There is a risk that, without the approval of these recommendations, progress of the Local Plan may be slowed, especially if a public consultation exercise is required by the Inspector.
- 8.2 There is a significant risk in not working with the Inspector to arrive at Modifications to a Local Plan that he considers sound and legally compliant, as without including such Modifications as he considers necessary he would have to find the Local Plan unsound. Therefore, any delay in responding positively to the Inspector's requests, including any for further public consultation, will delay the adoption of the Local Plan.
- 8.3 Any delay in adopting the Local Plan has potential risks associated with having to determine planning applications against an out-of-date Development Plan, which limits the ability of the Council to respond to development proposals in the Borough and manage such development in line with the local context and local need, especially in relation to applications for housing development.
- 8.4 It is this concern that has also led to the recommendation in 2.5 above, as any call-in of the decisions associated with this report could prevent a speedy

response to the Inspector and / or delay any public consultation on the Modifications, thereby ultimately delaying the adoption of the Local Plan. However, it should be noted that all Members will still be able to have their say in relation to the Modifications, as the modified Local Plan will still need to go before Council, once the Inspector has finalised his report, in order to approve the Local Plan for adoption.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

There is a direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

### **Appendices**

- A. Equality Impact Assessment
- B. Local Development Scheme 2013
- C. Proposed Modifications to the Local Plan (March 2013)
- D. Inspector's Proposed Modifications to the Development Management Policies within the Local Plan (received 29 April 2013)





<p>1. Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people:</p> <p><i>People of different ages – including young and older people</i>  <i>People with a disability;</i>  <i>People of different races / ethnicities / nationalities;</i>  <i>Men;</i>  <i>Women;</i>  <i>People of different religions/beliefs;</i>  <i>People of different sexual orientations;</i>  <i>People who are or have identified as transgender;</i>  <i>People who are married or in a civil partnership;</i>  <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i>  <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p><b>No</b></p>
<p>2. What sources of information have you used to come to this decision?</p>	<p><b>The Local Plan Evidence Base</b></p>
<p>3. How have you tried to involve people / groups in developing your service / policy / strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p><b>The Local Plan has been consulted upon extensively and report relates to a potential public consultation exercise that may be required by the Local Plan Inspector</b></p>
<p>4. Could your service / policy / strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:</p> <p><i>Eliminate discrimination, harassment and victimisation;</i></p> <p><i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people); and</i></p> <p><i>Foster good relations between people who share a protected characteristic and those who do not share it.</i></p>	<p><b>Help – an improved Local Plan document will seek to deliver development, infrastructure and environmental improvements that benefit all and endeavour to support a more equal society</b></p>
<p>5. What actions will you take to address any issues raised in your answers above?</p>	<p><b>N/A</b></p>