

CABINET
5TH JULY 2018

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

MID DEVON LOCAL PLAN REVIEW - EXAMINATION

Cabinet Member: Cllr Richard Chesterton
Responsible Officer: Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report: Preliminary hearings for the examination of the Mid Devon Local Plan Review will take place on 20th and 21st September 2018. There is now a need to give delegated authority to the Head of Planning, Economy and Regeneration and officers to follow instructions from the appointed Inspector to assist with the examination of the Local Plan Review.

RECOMMENDATIONS:

That Cabinet recommends to Council

That Council delegates authority to:

- i) Officers to follow instructions from the appointed Inspector to assist with the examination of the Local Plan Review.**
- ii) The Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration to agree upon a set of proposed main modifications if arising during the examination process (most likely at the very end of the examination process) and if asked by the Inspector to do so, and seek approval from the Council to consult on these together with any updated Sustainability Appraisal.**
- iii) The Head of Planning, Economy and Regeneration the ability to make any presentational improvements or other consequential minor changes (e.g. correcting typographical errors or factual inaccuracies and matters of clarification) to the Local Plan or its Policies Map prior to the consultation on proposed main modifications commencing.**

Relationship to Corporate Plan: The Local Plan Review will help meet the Corporate Plan priorities: 'Economy', 'Homes', 'Community' and 'Environment'.

Financial Implications: The report itself has no direct financial implications. There is currently a budget for the examination of the Local Plan Review.

Legal Implications: The Council is required by legislation to prepare a development plan which has to be monitored and kept up to date. Failure to replace out dated policies would mean the Council would be failing in this duty.

Risk Assessment: Failure for the Local Plan Review to be found sound at its examination will prevent its adoption and could leave the Council's planning decisions being challenged which would waste significant Council resources. The lack of delegated authority being granted to the Head of Planning, Economy and Regeneration in the way requested will hamper the Council's ability to respond in a timely and appropriate way to the evidence, discussion and Inspector's requests during the examination to the detriment of the Council's case and the smooth operation of the examination process. This is therefore a precautionary approach to ensure that the relevant delegated powers are in place should they be required.

1.0 Introduction

- 1.1 The Mid Devon Local Plan Review 2013 – 2033 Proposed Submission (incorporating proposed modifications) was submitted to the Secretary of State on 31st March 2017 for its independent examination.
- 1.2 Following a deferment to allow for an independent assessment of the Sustainability Appraisal of proposed modifications made to the submission plan, dates have now been reset for initial examination hearings.
- 1.3 The Inspector has confirmed that preliminary hearings into Policy J27 Land at Junction 27 and associated Policies SP2 Higher Town, Sampford Peverell and TIV16 Blundell's School, will take place on 20 and 21 September 2018. After that, the Inspector will clarify the situation in relation to those Policies and how the Examination will then proceed.

2.0 Examination process

- 2.1 The examination process commences following the submission of the Local Plan Review. The purpose of the examination is to focus on the main issues that the Inspector considers are fundamental to the soundness of the plan, including legal compliance and the duty to co-operate.
- 2.2 The Planning Inspectorate has published details for the procedural practice in the examination of local plans. This makes clear that the Inspector takes control of the examination process from start to finish, including hearing sessions and exploratory or procedural meetings if necessary.
- 2.3 Throughout the course of the examination the Inspector may ask for the Council (and other participants) for additional information. This could include papers and statements with responses on specific issues.
- 2.4 Council officers will be required to attend hearing sessions, engage in discussions led by the Inspector and provide responses to the Inspector's questions. This could include responses to supplementary questions not previously responded to in hearing statements. It is feasible that the Inspector may ask officers to undertake additional work and also engage with other

participants in providing information to assist Inspector's examination of the local plan.

- 2.5 Officers have recently attended hearings for the Plymouth and South West Devon Joint Local Plan, and the North Devon and Torrington Local Plan. It is evident the examining Inspector can request discussions between officers and participants throughout the hearings and can request that the Council assists in note-taking that the Inspector can use as an 'aide-memoire'.

3.0 **Main modifications and minor changes to the plan**

Main modifications

- 3.1 The Council has submitted for examination what it believes to be a sound plan and that subject to the outcome of the examination it intends to adopt the Local Plan as approved for submission.

- 3.2 The Planning Inspectorate's guidance indicates that

"if at any stage during the course of the examination the Inspector considers that main modifications are likely to be required to the plan to address potential unsoundness or legal compliance matters, the Council will be asked if it wishes to invite the Inspector to recommend the necessary main modifications."

- 3.3 The Planning Inspectorate's guidance also states that the majority of plans are subject to such a request from Local Planning Authorities for main modifications to be recommended by the Inspector where necessary to make the plan sound.

- 3.4 Should the Inspector consider main modifications are necessary to make the plan sound, officers will work with the Inspector on drafting the proposed main modifications. The Planning Inspectorate's guidance indicates the nature and likely extent of the main modifications should be fully discussed at the hearings. These may consist of redrafted text, the omission of a policy or section of text (or the inclusion of a new one). The purpose of the discussions at the hearings is for the Inspector, the Council and participants to gain the fullest possible understanding of any modifications that may be required to make the Local Plan sound and legally compliant.

- 3.5 As such there is a need for the Council to delegate authority to the Head of Planning, Economy and Regeneration, in consultation with the Cabinet Member for Planning and Economic Regeneration, 'to negotiate' possible modifications with the Inspector during the examination process, to enable the smooth running of the examination.

- 3.6 At examination stage any proposed main modifications are not formally agreed by the Inspector. Should the Inspector consider that main modifications are necessary to make the plan sound the Council will be

requested to produce a schedule of proposed main modifications and will be required to undertake Sustainability Appraisal (as necessary) on these. The Council will undertake public consultation on the schedule of main modifications and the Sustainability Appraisal (minimum 6 weeks) and then provide these documents and the consultation responses received to the Inspector. The Inspector will take these documents and the consultation responses into consideration and determine whether further hearing sessions are necessary in order to help prepare a draft report in which he will include a final set of main modifications.

- 3.7 The draft report will be subject to a fact check by the Council before the Inspector issues a final report. Where the Inspector recommends a final set of main modifications in his report these will be binding on the Council if it wants to adopt the Local Plan.
- 3.8 It should be noted that the Policies Map is not a development plan document and as such it should not be subject to any main modifications made by the Inspector. However, since the Policies Map illustrates graphically the application of policies in the Local Plan the Council will be responsible for updating it to ensure consistency with the adopted local plan.

Minor changes

- 3.9 Minor changes, known as additional modifications, can be made by the Council on adoption of the local plan, without the need to be examined. They may become necessary as a result of the Inspector's recommended main modifications to the Local Plan. Minor changes could include presentational improvements or other consequential alterations (e.g. correcting typographical errors or factual inaccuracies, and matters of clarification) to the Local Plan or its Policies Map.
- 3.10 As such there is a need for the Council to delegate authority to the Head of Planning, Economy and Regeneration the ability to make any minor changes as necessary.

4.0 Reporting to Council Members

- 4.1 Officers expect to advise all Council Members by email how the hearings have progressed, the main issues arising and how the delegated authority has been used.
- 4.2 Should the Inspector consider that main modifications are necessary to make the plan sound, officers will report a schedule of proposed main modifications and a Sustainability Appraisal (as necessary) to the Council and seek approval for public consultation on these documents.
- 4.3 The purpose of this report is to ensure relevant delegated authorities are in place to support the smooth running of the examination process. By

presenting this report there is no suggestion that the Council considers the plan as submitted to be unsound, not legally complaint or to require major modification. The intention is to allow officers to respond in a timely and appropriate way to the examination process as led by the Inspector. Having such delegated authorities in place should they be needed is a normal and robust step taken by Councils in anticipation of the examination process and precautionary.

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Circulation of the Report: Cllr Richard Chesterton, Cabinet Member for Planning and Economic Regeneration

List of Background Papers: “Procedural Practice in the Examination of Local Plans” (Planning Inspectorate, June 2016 4th Edition v.1)
<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>