



Key Decision [Yes/No]

Ward(s) Affected: All
Cabinet Portfolio: Regeneration

Local Plan Adoption with Additional Modifications

Report by the Director for the Economy

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Executive Summary

1. Purpose

- 1.1. Worthing Borough Council must prepare a Local Plan to establish local planning policies for the Borough. After a number of years of preparation the Worthing Local Plan is entering the final stages towards adoption. The Local Plan was Submitted for Examination in June 2021, the Hearing Sessions were held in November 2021 and a Schedule of Modifications was consulted on during 2022.
- 1.2. The Local Planning Inspector issued his Report to the Council. This summarised the Inspector's key findings and his conclusion within the Report was that the Plan, as modified, was sound and legally compliant confirming the steps for formally adopting the local plan.
- 1.3. The Local Plan was thereafter referred for adoption to the December 2022 Full Council Meeting.

- 1.4. Prior to Full Council, Officers became aware of a factual misrepresentation in the information that had been submitted to the Planning Inspector when considering his final report which is referred to in more detail at Paragraph 3 below.
- 1.5. As result of the Misrepresentation the referral to Full Council for adoption in December was postponed to enable Officers to consider how best to resolve the Misrepresentation.
- 1.6. The purpose of this Report is to seek Member authority to correct the Misrepresentation.
- 1.7. This Report therefore:-
 - References under background papers the Report previously considered by The Joint Strategic Committee Sub-Committee on 8th November 2022 and approved for referral to Full Council;
 - Repeats the Recommendations for adopting the Local Plan to be referred to Full Council subject to the additional modifications proposed in this Report; and
 - Attaches Exempt Appendix A

2. Recommendations

The Committee is being asked to:-

- 2.1. Approve the additional modifications referred to in this Report at Paragraph 5.1 (a) and delegate authority to the Director for the Economy to make the additional modifications to the Local Plan.
- 2.2. To refer the the Local Plan together with the additional modifications to full Council for approval, repeating the recommendations from the November Report to the JSC Sub-Committee which read as follows:-

- (a) Note the Inspector's Report containing the Inspector's main modifications to be made to the submitted Worthing Local Plan in order for it to be found sound (Appendix 1);
- (b) Note the process of Sustainability Appraisal that has been followed and the likely significant effects of the Local Plan (together with Main Modifications);
- (c) Note the schedule of Main Modifications (Appendix 2) to the Worthing Local Plan;
- (d) Recommend to Full Council the adoption of the Worthing Local Plan and Policies Map (including main modifications and additional modifications relating to presentational improvements, factual updates, grammatical and typographical corrections at Appendix 3);
- (e) Note that if the Local Plan is adopted a copy of the Final Sustainability Appraisal report, including a Sustainability Appraisal Post-Adoption Statement, will be made available for inspection alongside the Local Plan.
- (f) To approve use of the Capacity Issues reserve to fund the additional £15,000 cost of the examination

3. Context and Issues

- 3.1 The Submission Draft of the Local Plan was published in January 2021 and allocated part of the Camping and Caravan Club site for 100 dwellings with land to the north of the site to be retained as a camping and caravan site. The text to the Plan stated that the Council was negotiating the surrender of the lease with the Camping and Caravan Club (now known as the Camping and Motorhome Club). The wording for this policy had not changed from the earlier Consultation Draft version of the Plan.
- 3.2 Five representations were received in connection with this site allocation during consultation on the Submission Draft. Areas of concern included: loss of visitor accommodation; potential impact on Local Wildlife Site, ancient woodland, biodiversity, tranquillity, impact on the National Park and local highways. All of these matters of

concern were subsequently addressed by the Planning Inspector at the Examination in Public (EiP) and in his report and the Main Modifications.

- 3.3 In July 2021 the Council was put on notice that the Camping and Caravan Club wanted to vacate the entire site and negotiations proceeded with the Council on Heads of Terms. In response to the Inspectors pre-examination questions the Council updated the Inspector with the latest position on the lease, mistakenly confirming that the lease had been surrendered (the Misrepresentation).
- 3.4 Following the Examination in Public (EiP) this Misrepresentation was carried forward to the Main Modifications with the policy also amended by the Inspector to address some of the other environmental issues identified during the Consultation on the Submission Draft Plan and during the EiP. The revised policy text was the subject of consultation with the other main modifications to the Plan. The amendments are shown in bold print below:

Main Modifications

*'The site is owned by Worthing Borough Council **and was previously leased to the Caravan Club. As reflected in this allocation, the Council and the Caravan Club had been working towards the grant of a new long term lease to the Club for approximately 3 hectares of the northern part of the site. This would have allowed for the remainder of the site (the southern portion – 2.7 ha) to be allocated for residential development whilst at the same time ensuring that the existing use is retained and improved. Circumstances have since changed and the Caravan Club has surrendered their lease and intend to vacate the site by the end of 2022. As a consequence, the Council is now considering options for the northern part of this site including the potential for additional housing and further evidence will be gathered to help inform future decisions.***

- 3.5 The Main Modification also deleted criteria (g) which stated that a development requirement of any housing development would be to protect, and where possible, support the continued use of the land to the north as a caravan site. The plan attached to the policy was also amended removing cross hatching that indicated the retained caravan park.
- 3.6 At its meeting on the 8th November 2022 JSC recommended to Full Council that the Plan should be adopted, as modified by the Inspector. Full Council was to consider adoption of the Local Plan at its meeting

on the 13th December 2022 but the matter was withdrawn from the meeting when the Misrepresentation in the Plan was brought to Officer attention. Further information is available in Exempt Appendix A.

- 3.7 In December 2022 the Council informed the Planning Inspector of the Misrepresentation and the correct position which is, that the lease is not surrendered although the Council remains in negotiations with the lessee. As a result of that contact the Council has now written to the Planning Inspector to confirm that it intends to make additional modifications pursuant to s23 of the Planning and Compulsory Purchase Act 2004 (as Amended).
- 3.8 Section 23 of the Planning and Compulsory Purchase Act 2004 (as Amended) allows the authority to either; adopt the Plan with the main modifications; or, adopt the Plan with the main modifications and additional modifications, subject to the authority being satisfied that the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications, but no other modifications. After due consideration including discussions with the Planning Inspectorate, it is considered that the necessary changes to the supporting text to address the misrepresentation may be made under this section of the Act.

Proposed Additional Modification

- 3.9 This report therefore recommends that the text to this policy is amended as set out below as a track change to make it clear that at the EiP the lease had not been surrendered and that negotiations were ongoing:

*'The site is owned by Worthing Borough Council and ~~is~~ was ~~previously~~ leased to the Caravan Club. As reflected in this allocation, the Council and the Caravan Club have been working towards the grant of a new long term lease to the Club for approximately 3 hectares of the northern part of the site. This would have allowed for the remainder of the site (the southern portion – 2.7 ha) to be allocated for residential development whilst at the same time ensuring that the existing use is retained and improved. Circumstances have since changed and the Caravan Club **has indicated that it intends to surrendered** their lease and intend to vacate the site by the end of*

2022. As a consequence, the Council is now considering options for the northern part of this site including the potential for additional housing and further evidence will be gathered to help inform future decisions.'

4. Additional Considerations

- 4.1 In carrying out all due diligence on how best to correct the Misrepresentation, the Council has considered the options, risks and consequences of correcting the Misrepresentation by making the proposed additional modifications. These considerations are detailed within the attached **Exempt Appendix A**

5. Financial Implications

- 5.1 Other than a consideration of the cost implications set out in **Exempt Appendix A**, the additional modification to the Local Plan would not have any additional financial implications other than those outlined below.
- 5.2 The Examination of the Local Plan represented a significant additional one-off cost. The exact amount will not be known until the Examination has completed. However, officers have previously estimated this to be circa £70,000 and in January 2022 Members agreed to the release of this funding from the Capacity Issues Reserve. To date, the cost of the Examination has been circa £85,000. The additional £15,000 will need to be met from reserves. There are not expected to be any further significant costs relating to the Examination.

6. Legal Implications

- 6.1 The Planning and Compulsory Purchase Act 2004, The Localism Act 2011, The Housing and Planning Act 2016 and associated regulations (including the Town and Country (Local Planning) (England) Regulations 2012 (the 2012 Regs)), set out the statutory framework for the production of local plan documents by the Local Planning Authority and the requirements for a Local Development Scheme. National policy in relation to the production of local plan documents is provided through the NPPF, supported by Planning Practice Guidance.

- 6.2 As indicated in the main body of the report, the Council is under a statutory duty to produce a Local Plan. The preparation and adoption of a Local Plan is subject to various statutory requirements and procedures (set out above) which have been followed. Adoption of the Local Plan is reserved to Full Council.
- 6.3 Once adopted there is scope for challenge on the grounds of legal or procedural irregularity however such challenge can only be brought by a person aggrieved by the Plan and there is only a six week period in which they may seek permission from the Court to do so.
- 6.4 The adopted Local Plan will become the starting point for determining any planning applications that are submitted to the Council for consideration. Planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 6.5 Further Legal Advice is set out in **Exempt Appendix A**

Background Papers

- Report submitted to the JSC SC in November 2022 with appendices

Sustainability & Risk Assessment

1. Economic

- When adopted, the Local Plan will be a key tool for protecting employment sites and meeting the ambition for sustainable economic growth.

2. Social Matters

2.1 Social Value

- When adopted, the Local Plan will be a key tool for meeting the ambition for our communities' prosperity and wellbeing.

2.2 Equality Issues

- The Local Plan was subject to an equalities impact assessment, which confirms that there are no inequalities identified that cannot be easily addressed or legally justified.

2.3 Community Safety Issues (Section 17)

- The Local Plan considers community safety issues and requires development to incorporate the principles of securing safety and reducing crime through design in order to create a safe and secure environment.

2.4 Human Rights Issues

- Matter considered and no issues identified.

3. Environmental

- The Government requires that all Development Plan Documents (including Local Plans) be subject to a formal Sustainability Appraisal. The WLP promotes sustainable development. The UN Sustainable Development Goals are embedded in the Plan and will be used to monitor its effectiveness.

4. Governance

- The new Local Plan aligns with many of the Councils' priorities, specific action plans, strategies and policies.
- The delivery of a new Plan will help to meet the spatial needs of the Borough and therefore have a positive impact on the reputation of the Council.

- Failure to adopt a new Plan could impact on a number of this Council's priorities. In addition, failure to get a new Development Plan in place in a timely manner may impact on local control when determining applications and increase the risk of speculative development proposals.