

Further Main Modifications to the Remitted Leeds Site Allocations Plan

Date: 14th December 2022

Report of: Director of City Development

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The Leeds Site Allocations Plan was adopted in 2019 and identified sites for housing and employment needs between 2012 and 2028, as well as providing protection to green spaces and requirements for new infrastructure, such as the delivery of new schools. Following a High Court Order in 2020, specific elements of the SAP dealing with the release of Green Belt land for housing were re-examined in a process called the SAP Remittal. The Council submitted that, having looked at the most up to date housing and employment evidence, there was sufficient land outside the Green Belt to avoid releasing further sites for housing from the Green Belt. Additionally, there was insufficient land outside the Green Belt to meet employment needs, which warranted release of a single site from the Green Belt.

The Inspector's preliminary findings accepted the Council's submitted case, however following further public consultation and objection in relation to the relevance and impact of the Government's Integrated Rail Plan on the Council's evidence base, the Inspector held further hearings to consider this. The Inspector's preliminary view has now changed, and she has proposed further draft Main Modifications to the SAP Remittal, which delete the employment site at Barrowby Lane, Manston. These further Main Modifications are set out in this report and will require a further six-week consultation period.

Recommendations

Executive Board is requested to:

- a) approve public consultation on the schedule of Inspector's additional proposed Main Modifications to the Site Allocations Plan (at **Appendix 2**) and supporting material (at **Appendices 3 and 4**) for a period of 6 weeks from the 16th December 2022 to the 27th January 2023, and
- b) delegate authority to the Chief Planning Officer, in consultation with the Executive Member for Infrastructure and Climate, to approve the detail of any updates or corrections to the consultation material and any technical documents and supporting evidence required.

What is this report about?

- 1 This report seeks Executive Board approval to undertake public consultation on further proposed Main Modifications to the Site Allocations Plan Remittal in relation to site EG-37, land at Barrowby Lane, Manston also known as Brown Moor.
- 2 The Leeds Site Allocations Plan was adopted on 10 July 2019. The SAP plays a key strategic role in taking forward the spatial and land use elements of the Best City Ambition by balancing sites for around 50,000 homes, 830,000 sqm of office space, 235 ha of employment land, as well as over 1,600 green spaces and 63 retail designations. The SAP forms part of the Local Plan for Leeds, alongside the Core Strategy, the Unitary Development Plan, the Aire Valley Leeds Area Action Plan and the Natural Resources and Waste Plan and made neighbourhood plans.
- 3 The SAP operates for the plan period 2012 to 2028 and ensured full plan coverage of the whole of the Leeds area against the Government's National Planning Policy Framework. It ensured that the Council had a 5-year housing land supply and could resist speculative development. The SAP also plans for sustainable infrastructure (e.g. school places and highways infrastructure) and through the management of flood risk, ecology and public transport measures, contributes to the mitigation of and adaptation to climate change, as part of a co-ordinated approach against the strategic framework of the Adopted Core Strategy.
- 4 Following a challenge by Aireborough Neighbourhood Development Forum in relation to SAP housing allocations on Green Belt land, the High Court ordered that all parts of the SAP which allocate sites for housing, including mixed use allocations that were in the Green Belt immediately before the SAP's adoption, be remitted to the Secretary of State for independent examination. Furthermore, the Court directed that these parts of the SAP be treated as not having been adopted or approved and that they would not be so adopted unless adoption followed the recommendations of an Independent Inspector following a further independent examination. The High Court Order was clear that the remainder of the SAP remained adopted.
- 5 The result of the Order was that 37 former Green Belt housing allocations (including one mixed used allocation) be treated as not adopted and were returned to the green belt until such a time that the Council referred them back to the Secretary of State for further examination by the Planning Inspectorate. This selective process, known as the SAP Remittal (SAPR), focussed only on the 37 sites.
- 6 Supported by up-to-date evidence at the time and a Sustainability Appraisal of reasonable alternatives, the SAPR sought to delete 36 housing sites from the SAP and retain the land as Green Belt on the basis that sufficient non-Green Belt land existed to meet housing needs and to allocate 1 site for employment use on the basis that insufficient non-Green Belt land exists to meet needs for employment. The evidence on need for employment land was supported by the sterilisation, of circa. 50ha of employment allocations, by the Government's safeguarding directions for the purposes of future rail plans (including High Speed 2 and Northern Powerhouse Rail).
- 7 The SAPR was submitted to the Secretary of State on 26 March 2021 and examination hearings were held in public between 14 and 17 September 2021. The Council formally requested the Inspector (Louise Gibbons BA Hons MRTPI) to recommend any MMs to the SAP, that she considered be required to satisfy legal compliance and tests of soundness.
- 8 The SAPR Inspector wrote to the Council on 17 November 2021 confirming her proposed draft Main Modifications (MMs) to the SAP i.e. that 36 housing sites and 1 mixed use site be deleted from the SAP and returned to the Green Belt and 1 site (EG2-37 Barrowby Lane, Manston) be

released from the Green Belt for employment use; the Council's submitted position. The consultation on the draft MMs, alongside some additional technical MMs to those proposed by the Council, was held from 17 December 2021 to 28 January 2022.

- 9 Following the close of the consultation, the Inspector wrote to the Council on 8 February 2022 seeking further clarification on several matters relating to the Integrated Rail Plan (IRP) for the North and Midlands and other matters raised by the consultation on the MMs.
- 10 The IRP was published by the Government on 18 November 2021 outlining how major rail projects, including High Speed 2 (HS2) and Northern Powerhouse Rail would be delivered. It confirmed that the Department for Transport (DfT) was committed to look at the most effective way to run HS2 trains to Leeds, including whether the current Leeds station can provide additional capacity, alongside starting work on the West Yorkshire Mass Transit System. The IRP did not detail a timetable for that work but noted that until that study was completed the current safeguarding across the Eastern Leg of HS2 would continue to apply to ensure that options remained available. The Council, including as a result of continued contact with DfT, estimated that the completion of this study could be up to 3 years from outline business case. At the time of writing, there remains no further clarity from Government nor any progress on outline business case. It is noted that the Autumn Statement on the 17 November confirmed the government's commitment to the core elements of Northern Powerhouse Rail and the Safeguarding Directions for the proposed HS2 route remain in place at the current time, which encompasses some 1,000 acres of land in Leeds.
- 11 The Council provided a response to the Inspector's letter on 22 February, which included confirmation that the Council's position remained unchanged notwithstanding the IRP, that the employment land evidence demonstrated a need for further release of land and thus exceptional circumstances existed for Green Belt release of land at Barrowby Lane. The Inspector subsequently wrote to the Council on 25 March advising that a further hearing was necessary to consider the exceptional circumstances required to justify the permanent release of Green Belt land at Barrowby Lane, Manston and the uncertainty regarding the Safeguarding Directions. Only the Council, representors who specifically raised the matter of HS2 in response to the MMs consultation and the promoter of the Barrowby Lane site were invited to attend. The hearing took place on 18 May.
- 12 Following the close of the hearing on 18 May, the Inspector wrote to the Council on the 18 July, setting out her draft findings on the Barrowby Lane site. In this she confirmed that she was now minded to not accept the Council's case and considered that if alternative ways of bringing HS2 to Leeds were proposed there was the potential for employment sites covered by the Safeguarding Direction to be released within the plan period. She also noted that the employment land supply could increase as a result of windfall sites (i.e., sites not subject to allocation) contributing to land supply within the plan period. Her provisional conclusion had changed and she was now of the view that exceptional circumstances (required by paragraph 83 of the NPPF (2012)) to change the green belt boundary did not exist at this point in time and therefore the release of the Barrowby Lane site from the Green Belt was not justified.
- 13 The Council wrote to the Inspector on the 22 July to seek further clarity on her changed stance as the Council was not clear as to the Inspector's reasons and was concerned that the public would also not be clear. The Council made two points:
 - a) that the Inspector had no evidence in front of her to rely on a windfall supply for employment land

b) further reasoning on her understanding of the 'potential' created by the IRP for release of the safeguarding directions, as this was not clear

14 The Inspector provided a response to the Council's letter on 8 and 29 November (attached at **Appendix 1**) as a supplementary to her letter of the 18 July. She clarifies the points made by the Council around clarity and reasoning.

a) regarding windfall sites, she confirms that the employment land "*supply figure against the requirement could increase further if other sites gain planning permission*".

b) regarding the employment sites subject to the Safeguarding Direction, she considers that:

"5...Whilst there was no absolute certainty regarding the effect of delivery of HS2 in the Leeds area, in my judgement the Integrated Rail Plan (IRP) means there is now significantly greater potential for these allocated sites to become available for employment development during the plan period if they are not required for the delivery of HS2 (thus contributing towards meeting the identified need for development) than there was before the publication of the IRP.

6. Consequently, the IRP has therefore tipped the balance in my conclusion as to whether or not exceptional circumstances exist to delete proposed site EG2-37 from the Green Belt, notwithstanding the site's locational and other advantages. In these circumstances, where altering the boundary of the GB undermines its permanence and the release of site EG2-37 from the Green Belt is not justified, the allocation should be removed from the SAPR, and its geographic illustration should not be shown on the policies map..."

15 The Council notes that this fuller reasoning around the matters of concern will be of benefit to the public consultation as the Inspector has clearly set out the material factors to which she is minded to apply weight to and her provisional in balance view that they do not pass the NPPF bar of exceptional circumstances to release green belt at this time for this SAP Remittal process. It is noted that in her letter the Inspector does not take a view on the suitability of the site for employment and suggests that the Council could consider the site through a future plan review process.

16 The Inspector considers that her preliminary draft proposed Main Modifications relating to Barrowby Lane, Manston (namely MM10, MM19 and MM20) consulted on from December 2021 to January 2022 are now not necessary for soundness and need amending within the SAPR. The practical impact of which is to not allocate the site for employment use and to delete the former mixed use allocation. An additional six week consultation on amending these MMs from the Council's submitted plan is required together with modifications to the Policies Map reflecting the removal of the site as an employment allocation (EG2-37). The Inspector will consider any representations made before reaching her final conclusions and issuing her Report.

An addendum to the Sustainability Appraisal and the Habitats Regulations Assessment is provided at **Appendix 4** which sets out the wider impacts of the site being deleted from the SAP.

What impact will this proposal have?

17 The approval of a 6 week consultation on the further proposed Main Modifications, will allow the Council to progress towards the final stage of the SAP Remittal process. Following the consultation process the Inspector will consider any responses received and prepare her Report. Subject to the conclusions in the Inspector's Report, a recommendation to Council to Adopt the remitted part of the SAP will be made.

18 Adoption of the remitted part of the SAP will result in a fully adopted and up to date SAP which carries full weight in the determination of planning applications. The conclusion of the lengthy SAP Remittal process will also enable the Council to focus its limited planning resources on the Local Plan Update (1 and 2).

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

19 There is a clear role for planning in delivering against all of the Council's key pillars as established through the Best City Ambition. Once adopted, the SAP Remittal will enable a fully Adopted SAP (between 2012-2028) as follows:

- Health and Well-being Strategy – the SAP remittal provides sufficient housing to meet the needs of people in Leeds, without incursion into the Green Belt and in areas where housing waiting list needs are strongest;
- Climate Emergency – the SAP remittal has minimised the impact of development on Green Belt in some of the outer areas of Leeds, which can be less accessible by a range of means of transport than locations closer to the main urban area;
- Inclusive Growth Strategy – if the Inspector's provisional conclusions remain, the SAP remittal will have been unable to positively allocate further employment land, which the District needs, in line with the Core Strategy requirements due to a lack of clarity around the safeguarding of sites elsewhere. Until such a time as either the safeguarding is removed and/or the Council can allocate more employment land sites through its Local Plan Update 2 process, there will be a short fall of allocated employment land. However, the Development Management function of the Council will continue to be able to assess application received.

20 In the preparation of the SAP Remittal, due regard has been given throughout to Equality, Diversity, Cohesion and Integration (EDCI) issues. This has included the completion of EDCI Screenings of the SAP Remittal at relevant stages. An EDCI was provided to accompany the Council's Proposed Main Modifications (Executive Board 16/12/20). In addition, issues of Equality, Diversity, Cohesion and Integration, are embedded as part of the objectives of the Sustainability Appraisal.

What consultation and engagement has taken place?

Wards affected: All

Have ward members been consulted?

Yes

No

21 Subject to Executive Board approval, a 6 week consultation will be undertaken on the Inspector's further proposed Main Modifications (**Appendix 2**). Material at **Appendix 3** (consequential changes to the Policies Map) and **Appendix 4** (addendum to the Sustainability Appraisal) will also be made available for clarity. It is anticipated that the consultation will commence on the 16th December 2022 until the 27th January 2023. It is noted that this 6 week period lies across the Christmas period, but this is considered to be appropriate given the very focussed nature of the consultation and is in line with the Council's Statement of Community Involvement which sets a minimum of 4 weeks consultation.

What are the resource implications?

22 The consultation of the proposed Main Modifications has implications for resources in terms of cost, time and staffing, at a time of increased budget pressure. In general, costs will be met from within existing provisions.

What are the key risks and how are they being managed?

- 23 The High Court decision and the relief ordered is a process that the Council is bound to follow. There are no key risks identified in the proposed consultation process.
- 24 If the Inspector's provisional conclusions remain the SAP remittal will have been unable to positively allocate further employment land, which the District needs, in line with the Core Strategy requirements due to a lack of clarity around the safeguarding of sites elsewhere. Until such a time as either the safeguarding is removed and/or the Council can allocate more employment land sites through its Local Plan Update 2 process, there will be a short fall of allocated employment land. However, the Development Management function of the Council will continue to be able to assess applications received.

What are the legal implications?

- 25 The remittal of the SAP is being undertaken pursuant to section 113(7)(b) and 113(7C)(a) of the Planning and Compulsory Purchase Act 2004 (PCPA), The consultation required on the MMs is undertaken in accordance with s.20 PCPA and the Town and Country Planning (Local Planning) Regulations 2012. The consultation will be in accordance with the Council's Statement of Community Involvement.
- 26 . In accordance with the Council's budget and policy framework, decisions relating to the SAP Remittal (as it is part of the Council's Local Development Framework) are reserved to Full Council. As such, the recommendation is not a key decision and is not subject to call in as the SAP Remittal is a matter that will ultimately be determined by Full Council.

Options, timescales and measuring success

What other options were considered?

- 27 The Council remains within the examination stage of the SAP Remittal and is therefore required to respond to the Inspector's proposed Main Modifications. It is considered, therefore that there are no other options to consider at this stage.

How will success be measured?

- 28 Success will be measured by the adoption of the remitted part of the SAP. This will enable the Council to provide clarity to residents and investors of Leeds as to the housing and employment allocations that are being relied upon between 2012 and 2028.

What is the timetable and who will be responsible for implementation?

- 29 Subject to Executive Board approval, a 6 week consultation will be undertaken on the Inspector's proposed Main Modifications (Appendix 1) and supporting material at Appendices 2 to 4. It is anticipated that the consultation will commence on the 16th December 2022 until the 27th January 2023.
- 30 Consultation responses will be forwarded directly to the Inspector for her consideration. She will then prepare a Report, which concludes on the soundness and legal compliance of the SAPR. The Council can then be recommended to adopt the remitted part of the SAP.

Appendices

31 Appendix 1 – Letter of 8th November and Addendum of 29th November 2022 from Inspector to Leeds City Council

32 Appendix 2 - Inspector's Proposed Main Modifications

33 Appendix 3 – Council's Proposed Policies Map Changes

34 Appendix 4 – Revised Sustainability Appraisal and Habitats Regulations Assessment Addendum

Background papers

35 None.