

County Council

21 October 2020

County Durham Plan Adoption



Report of Corporate Management Team

Amy Harhoff, Corporate Director of Regeneration, Economy and Growth

Councillor Carl Marshall, Cabinet Portfolio Holder for Economic Regeneration

Electoral division(s) affected:

Countywide.

Purpose of the Report

- 1 The purpose of this report is to seek Council's approval to the adoption of the County Durham Plan, including the Policies Map, following its Independent Examination by a planning inspector appointed by the Secretary of State.

Executive summary

- 2 The County Durham Plan seeks to ensure that County Durham is a successful place to live, work, invest and visit by focussing on supporting and creating vibrant communities by delivering:
 - more and better jobs and sustained economic growth;
 - a wide choice of high quality homes that supports economic growth and meets the needs of all people;
 - a high quality built and enhanced natural environment; and
 - the necessary supporting infrastructure including transport, health and educational needs.
- 3 The Plan has been through a number of stages of consultation and was subsequently submitted for examination on 28 June 2019. Planning Inspector William Fieldhouse was then appointed by the Secretary of

State to examine the Plan. Public hearings took place between 22 October and 5 December 2019 with one additional hearing to discuss housing matters on 6 February 2020.

- 4 On 20 February 2020 the Inspector wrote to the Council to state that following the hearings he had concluded that the plan was likely to be capable of being found sound subject to a number of Main Modifications being made. A public consultation on all of the proposed modifications took place between 26 May 2020 and the 21 July 2020 with additional measures in place to ensure the consultation could proceed during the Covid19 pandemic. 503 comments were received on the modifications from 102 respondents including one petition relating to the Barnard Castle relief road.
- 5 Following consideration of the full responses to this consultation the Inspector published his final report on the local plan examination on 21 September 2020. The Inspector concluded that the County Durham Plan was sound subject to Main Modifications being made to the Plan prior to adoption.
- 6 This report recommends that the Council, as local planning authority, adopts the County Durham Plan incorporating all modifications. On adoption of the Plan it will replace all saved policies from the former district local plans and a number from the minerals and waste local plans.
- 7 As soon as reasonably practical following adoption of the Plan, regulations require the Council to make available the County Durham Plan, an Adoption Statement, the Sustainability Report, the Sustainability Appraisal Post Adoption Statement and Habitats Regulations Assessment Adoption Note.
- 8 On 16 July 2020 the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 changed the requirements relating to making copies of the development plan documents available for inspection at Council buildings as set out in Regulation 35 of The Town and Country Planning (Local Planning) (England) Regulations 2012. Councils can now comply with Regulation 35 by making development plan documents available on their website. This change applies from 16 July 2020 until 31 December 2020.
- 9 Following adoption of the Plan, a person aggrieved by the Plan, may under Section 113 of the Planning and Compulsory Purchase Act 2004, make an application to the High Court to challenge it. Such an application must be made within six weeks of adoption.

Recommendations

10 Council is recommended to:

- (a) consider the content of the Inspector's Final Report into the Examination of the County Durham Plan, presented in Appendix 2;
- (b) adopt the County Durham Plan 2016-2035, presented in Appendix 3, incorporating the Main Modifications as set out in the Inspector's Final Report and other Additional Modifications, presented in Appendix 4. In doing so, this will replace the saved policies from the former district local plans and a number of policies from the existing Minerals and Waste Local Plans;
- (c) subject to recommendation (b), that Council approves the updated Policies Map, presented in Appendix 5 incorporating the Main Modifications as set out in the Inspector's Final Report;
- (d) authorise the Corporate Director of Regeneration, Economy and Growth in consultation with the Portfolio Holder for Economic Regeneration to make any necessary minor textual, presentational or layout amendments to the County Durham Plan 2016-2035 (Appendix 3);
- (e) note the content of the Adoption Statement attached at Appendix 6 prepared in accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) Post Adoption Statement (PAS), attached at Appendix 7, prepared in accordance with Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004.

Background

11 All Local Planning Authorities have a statutory requirement to prepare and maintain an up to date development plan for their area. The County Durham Plan has been prepared during a time of significant change, including a revised National Planning Policy Framework (NPPF) and a new standard approach to assessing housing need. The Plan seeks to ensure that County Durham is a successful place to live, work, invest and visit by focussing on supporting and creating vibrant communities by delivering:

- more and better jobs and sustained economic growth;
- a wide choice of high-quality homes that supports economic growth and meets the needs of all people;
- a high quality built and enhanced natural environment; and
- the necessary supporting infrastructure including transport, health and educational needs.

12 Specific policies and proposals in the Plan include:

- 300 hectares of employment land distributed across the county's economic markets ensuring the right type of land is available in the places where businesses wish to locate;
- 24,852 new homes distributed in accordance with the Plan's 'Sustainable Communities' spatial strategy, which will ensure a balance of housing across the county taking into account the most sustainable locations, market attractiveness and the prospects for regeneration to meet our need for housing;
- Removal of land from the Green Belt at Sniperley Park, Sherburn Road and the Former Police Skid Pan at Aykley Heads, which will enable sustainable patterns of development, provide good quality housing to meet needs, help address economic under-performance and maximise the delivery of affordable housing and other infrastructure;
- a flexible approach to support town centres and links to the Council's work on improving our towns and villages;
- supporting rural communities to meet housing and employment needs and improve their vitality and viability including through supporting the modernisation and diversification of existing activity; and

- enhancing and protecting the natural, built and historic environment and addressing the challenges and impacts of climate change.
- 13 The preparation of the new County Durham Plan began when the Issues and Options was approved for consultation in June 2016. This was followed by the Preferred Options, which was approved for consultation in June 2018.
 - 14 Following Cabinet approval on 16 January 2019 the Pre-Submission was published under Regulation 19 of the Town and Country Planning (Local Planning) Regulations 2012. The Regulation 19 stage was a formal stage where stakeholders and members of the public were able to make representations on the plan. The consultation ran from 25 January until 8 March 2019 and a total of 2,877 comments from 1,003 different respondents were received.
 - 15 A meeting of Full Council on 19 June 2019 authorised formal submission of the County Durham Plan and associated submission documentation (including the representations received and the council's responses) to the Secretary of State for consideration at public examination. The County Durham Plan was subsequently submitted on 28 June 2019. Planning Inspector William Fieldhouse was then appointed by the Secretary of State to examine the Plan. Public hearings took place between 22 October and 5 December 2019 with one additional hearing to discuss housing matters on 6 February 2020.
 - 16 On 20 February 2020 the Inspector wrote to the Council to state that following the hearings he had concluded that the plan was likely to be capable of being found sound subject to a number of Main Modifications being made. He then invited the Council to prepare precise wording for the modifications and organise a consultation on them. At this time the Council also compiled a list of Additional Modifications to make to the Plan attached at Appendix 4. The additional modifications do not materially alter the policies of the plan and are generally minor clarifications, consequential amendments associated with the Main Modifications and corrections of factual errors in the supporting text of the plan. A number of changes to the policies map were also identified. A public consultation on all of the proposed modifications took place between 26 May 2020 and 21 July 2020 with additional measures in place to ensure the consultation could proceed during the Covid19 pandemic. 503 comments were received on the modifications from 102 respondents including one petition relating to the Barnard Castle relief road.
 - 17 Following consideration of the full responses to this consultation the Inspector published his final report on the local plan examination on 21

September 2020. The Inspector concluded that the County Durham Plan was sound subject to Main Modifications being made to the Plan prior to adoption.

- 18 On 14 October Cabinet agreed to recommend Council agree the recommendations set out in this report.
- 19 It should be noted there is one additional document, the Minerals and Waste Policies and Allocations Document, which will be prepared to complement the minerals and waste policies of the County Durham Plan. It will contain detailed development management policies and any non-strategic minerals and waste allocations which are considered necessary to meet the future needs of County Durham. Work on the Minerals and Waste Policies and Allocations document will commence once the County Durham Plan is adopted and will be undertaken in accordance with a timetable to be set out in a forthcoming revised Local Development Scheme (LDS). The LDS will also include timescales for a number of supplementary planning documents which will support the implementation of the Plan.

The Inspector's Report and Main Modifications

- 20 The Inspector's Report was published on 21 September 2020 and is included as Appendix 3 to this report. The Inspector concluded that the County Durham Plan was legally compliant and sound subject to making Main Modifications to it prior to adoption. The Main Modifications required are listed in the appendix to the Inspector's Report and are summarised below:

- deletion of proposals for northern and western relief roads around the city of Durham from policy 23;
- deletion of reference to a corridor of interest for a possible future Barnard Castle relief road from policy 24;
- changes to policy 22 to set out principles that will be used to determine cycle and car parking provision in developments;
- changes to policy 3 relating to the strategic employment site at Aykley Heads in terms of the range of uses; car parking; sustainable transport; playing field re-provision; and Green Belt boundaries;
- changes to policy 4 relating to the housing allocation at Aykley Heads to ensure the provision of permanent Green Belt boundaries and compensatory improvements to remaining Green Belt;

- changes to policy 5 relating to the Sniperley Park urban extension to ensure the provision of landscaped open space, playing fields, safe and suitable access, and compensatory improvements to remaining Green Belt;
- changes to policy 5 relating to the Sherburn Road urban extension to protect the character and appearance of the area and the setting of the Castle and Cathedral World Heritage Site and create a permanent Green Belt boundary;
- changes to various elements of housing land supply and the housing trajectory to reflect up to date evidence and to ensure that assumptions about windfalls, lapse rates for commitments, and the timing of development on some sites are justified;
- changes to policy 6 relating to the development of unallocated sites and an increase in the windfall assumption from 1,120 to 1,400 dwellings;
- changes to the requirements for various housing allocations including with regard to protection of heritage assets; playing field re-provision; and Green Belt boundaries;
- changes to policy 1 and associated indicators to ensure that they are effective in terms of monitoring housing delivery to achieve a net minimum of 24,852 new homes in the period 2016 to 2035 (1,308 homes per year);
- changes to policy 26 relating to planning conditions and planning obligations;
- increasing the proportion of accessible and adaptable homes from 10% to 66% to meet the needs of older people and people with disabilities on future developments;
- changes to policy 11 relating to rural exception sites for affordable and specialist housing;
- changes to part 3 of policy 16 so that it applies to extensions to houses in multiple occupation;
- changes to policy 20 to ensure consistency with national policy relating to development in the Green Belt;
- retention of land in the Green Belt at Fernhill, Durham and the former Lumley Boys' School, Great Lumley;

- changes to various other development management policies to ensure that they are sound.

Adoption

- 21 Section 23 of the Planning and Compulsory Purchase Act states that if a planning inspector finds a local plan sound subject to Main Modifications, a local planning authority may adopt that local plan with the Main Modifications which the Inspector concludes are necessary for the plan to be sound and any Additional Modifications. The Council is not permitted to adopt the local plan without the Main Modifications. The alternative is for the local planning authority not to adopt the local plan. Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 also requires an Adoption Statement to be prepared to accompany the Plan, a copy is attached at Appendix 6.
- 22 This report recommends that the Council, as local planning authority, adopts the County Durham Plan incorporating all modifications as presented in Appendices 3 and 4. On adoption of the Plan it will replace all saved policies from the following documents:
- City of Durham Local Plan;
 - Chester-le-Street Local Plan;
 - Derwentside District Local Plan;
 - Easington Local Plan;
 - Sedgefield Borough Local Plan;
 - Teesdale Local Plan;
 - Wear Valley District Local Plan;
 - County Durham Minerals Local Plan¹;
 - County Durham Waste Local Plan²; and
 - The Interim Policy on Student Accommodation.
- 23 Following adoption of the Plan, a person aggrieved by the Plan, may under Section 113 of the Planning and Compulsory Purchase Act 2004,

¹ With the exception of the following policies which will remain extant until replaced by the Minerals and Waste Policies and Allocations document – M13, M16, M17, M37, M38, M40, M41, M42, M43, M45, M46, M47, M50, M51 and M52.

² With the exception of the following policies which will remain extant until replaced by the Minerals and Waste Policies and Allocations document – W6, W26, W27, W29, W31, W32, W34, W35, W46, W47, W50, W54 and W55.

make an application to the High Court to challenge it either on the grounds that it is not within the appropriate power or a procedural requirement has not been complied with. Such an application must be made within six weeks of adoption.

- 24 Having an up to date adopted local plan promotes sustainable development and allows us to apply an effective plan-led approach with a plan that is sound, based on up to date evidence and is consistent with national policy. It will also aid the county's recovery from coronavirus and provide relative certainty to businesses and communities to facilitate appropriate development to support the local economy and meet housing needs and resist inappropriate development.
- 25 Members will be aware that the Government has recently published a white paper which is proposing radical changes to the planning system including local plans. The white paper is currently a consultation and any resulting legislation will take months or years to come into force. There is therefore no reason to delay adoption of the current local plan as a result.

Other Issues

- 26 Sustainability Appraisal (SA) is an integral part of the plan making process and this has been undertaken during the preparation of the Plan. To inform and support the Plan a SA Report has been prepared to demonstrate how sustainability, including the consideration of alternative strategy, site and policy options, have informed the document and the policies within it.
- 27 The Plan has also been subject to a Habitat Regulations Assessment (HRA). This assesses the likely impacts on European protected sites. The assessment concludes that effects arising from the Plan can be mitigated such that the integrity of European protected sites will not be adversely affected.
- 28 The SA and HRA findings have fed into decision-making on the Plan at numerous stages, and a comprehensive set of reports have been published for consultation alongside the Plan. In his report, the Inspector concludes that the SA is suitably comprehensive and legally compliant and that the HRA is appropriate. A SA and HRA Post Adoption Statement is attached at Appendix 7.
- 29 The Council has a duty under Section 149 of the Equality Act 2010 when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimization and any other conduct that is prohibited under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected

characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. In this regard, an Equality Impact Assessment and Health Impact Assessment have been undertaken to inform the Plan as it progressed. The Equality Impact Assessment was reviewed and updated throughout the Plan process. No negative impacts on equality are identified in the Equality Impact Assessment which indicates that the Plan is likely to have a positive impact across all of the protected groups. Relevant stakeholders have been consulted and where possible, their comments used to shape the Plan and ensure that the Council meets its Public Sector Equality Duty. The Plan has been developed, consulted on and independently examined in accordance with relevant legislation and having had due regard to all relevant factors, it is not considered that any issues have been identified which would prevent the adoption of the Plan from an Equalities perspective. A copy of the Equality Impact Assessment is appended to this report at Appendix 8.

- 30 The Plan has also been informed by a large number of supporting documents which help justify the strategy, policies and sites within the Plan. All documents are available on the Council's website.

Next Steps

- 31 As soon as reasonably practical following adoption of the Plan, provisions of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the Planning and Compulsory Purchase Act 2004 (as amended) require the Council to make available:
- (a) The County Durham Plan;
 - (b) An Adoption Statement;
 - (c) The Sustainability Report; and
 - (d) Details of where the Local Plan is available for inspection and the places and times at which the document can be inspected.
- 32 The Council is also required to send the Adoption Statement to anyone who requested to be kept notified of the Plan adoption, and the Secretary of State for Housing, Communities and Local Government.
- 33 In accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004, as soon as practicable following adoption of the Plan, the Sustainability Appraisal and Habitats Regulations Assessment Post Adoption Statement will be made available alongside the Plan.

- 34 On 16 July 2020 the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 changed the requirements relating to making copies of the development plan documents available for inspection at Council buildings as set out in Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Councils can now comply with Regulation 35 by making development plan documents available on their website. This change applies from 16 July 2020 until 31 December 2020. Similar arrangements are in place for inspection requirements, set out in the Environmental Assessment of Plans and Programmes Regulations 2004.

Background papers

County Durham Plan – Main Modifications (2020)
County Durham Plan – Pre-Submission Draft (2019)
County Durham Plan – Preferred Options (2018)
County Durham Plan – Issues and Options (2016)

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Appendix 1: Implications

Legal Implications

Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) and the National Planning Policy Framework (NPPF). The NPPF gives guidance to local authorities in drawing up their local plans. The Inspector has determined that the County Durham Plan conforms to the NPPF. The preparation of the Plan has been informed by a continuous dialogue with the Council's legal team.

Finance

The County Durham Plan has a continuing budget commitment for appropriate evidence gathering, consultation, printing and EIP costs, including the fees for the Inspector now that the EIP is concluded.

Consultation

The programme of consultation was agreed with the Council's Corporate Communications Team and the Council's Consultation Officers Group and was undertaken in accordance with the Statement of Community Involvement and the 2012 Local Plan Regulations.

Equality and Diversity / Public Sector Equality Duty

The Council acknowledges that, in exercising its functions, it has a legal duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. This duty applies to all people defined as having protected characteristics under that legislation.

The Council has carefully considered the likely impacts of the Plan on persons with a protected characteristic at each stage of the process. An Equality Impact Assessment has been prepared in partnership with the community engagement team at each stage of the preparation of the Plan including the Main Modifications. The additional modifications made in the final Inspector's Report were sufficiently minor that a further assessment was not required.

Human Rights

Protocol 1 Article 1: Every natural or legal person is entitled to the peaceful enjoyment of his possessions, including their property. The Plan allocates land for development which will affect landowners' rights to develop their land. It is noted, however, that rights afforded under this Article are not absolute but

qualified. Therefore, any interference with landowner's rights must be balanced against the wider public interest in having an up to date development plan. It is lawful for a local planning authority to take action if that action is clearly necessary and proportionate. In this instance, such measures are necessary and proportionate in the public interest to ensure that a local plan is in place to guide development across the county to 2035.

Crime and Disorder

The Sustainable Design policy includes a criterion which seeks to reduce vulnerability, increase resilience and ensure public safety and security.

Staffing

None.

Accommodation

None.

Risk

Not having an up to date adopted local plan makes it more difficult to provide the necessary certainty to facilitate appropriate development to support the local economy and meet housing needs and to resist inappropriate development. Also, failure to have an adopted local plan risks Government intervention.

Procurement

When required, consultants have been commissioned to deliver evidence studies, in accordance with the Council's procurement rules/procedures.

Climate Change

Climate change is a golden thread running through the Plan. The importance of tackling and adapting to climate change is recognised in the Plan's Vision, Objectives, Sustainable Development Statement, spatial strategy and a number of policies. The Sustainability Appraisal also considered the significant effects and overall sustainability of the Plan against the aim of reducing the causes of climate change and responding and enabling adaptation to the inevitable impacts of climate change. The SA concluded that the cumulative impact of the Plan was significantly positive.