

Council

Date of Meeting: 19 April 2021

Report Title: Site Allocations and Development Policies Document –
Submission

Senior Officer: Frank Jordan – Executive Director of Place

1. Report Summary

- 1.1. The Site Allocations and Development Policies Document (SADPD) forms the second part of the Council's Local Plan. The Council published a Revised Publication Draft SADPD between 26 October and 23 December for public representations. This report now seeks the Council's agreement to submit the Plan to the Secretary of State for examination.

2. Recommendations

- 2.1. That Council:
 - 2.1.1. approves the submission of the Revised Publication Draft Site Allocations and Development Policies Document to the Secretary of State for examination, accompanied by its supporting documents and evidence base published with the Plan in October 2020;
 - 2.1.2. approves the submission of the Regulation 20 Representations Statement to the Secretary of State, appended to this report (Appendix 1) and a copy of all the representations made under Regulation 20;
 - 2.1.3. approves the completion of the Duty to Co-operate Statement of Common Ground published with the Revised Publication Draft Plan and its submission to the Secretary of State;
 - 2.1.4. authorises the Head of Planning to write to the Inspector at the start of the examination requesting them, under section 20(7C) of the Planning and Compulsory Purchase Act 2004, to recommend any main modifications necessary to make the Plan sound and legally compliant;

- 2.1.5. authorises the Head of Planning to respond to questions raised by the Inspector during the examination; and
- 2.1.6. authorises the Head of Planning to approve any non-material changes to the Revised Draft Site Allocations and Development Policies Document or within its supporting documents as necessary.

3. Reasons for Recommendations

- 3.1. To enable the SADPD to progress towards adoption following the further period that has been given for residents, organisations and others to make representations about it.

4. Other Options Considered

- 4.1. There is no other realistic option other than to submit the SADPD for examination. The Plan that the Council has recently published for representations should be its final version, which is considered ready for examination; this means sound and legally compliant, and therefore capable of adoption.

5. Background

- 5.1. The first part of the Council's Local Plan, the Local Plan Strategy (LPS), was adopted in July 2017. It sets out the vision and overall spatial strategy for the borough to 2030. It includes strategic policies and allocates 'strategic sites' for development.
- 5.2. The SADPD is the second part of the Local Plan. Its purpose and scope are limited to making provision for additional sites, where necessary, to accommodate the level of growth anticipated for specific uses and areas within the settlement hierarchy left over from the adopted Local Plan Strategy. It allocates a limited number of additional, generally smaller-scale sites for development and, in the north of the borough, designates parcels of safeguarded land around Local Service Centres. It also follows the strategic lead of the LPS and sets out more detailed, non-strategic policies to guide planning application decision-making. The SADPD does not supersede policies in the LPS.
- 5.3. The preparation of the SADPD commenced in 2016 and has been shaped by the feedback received through public consultation and relevant evidence. The key stages in its preparation to date are listed in the table below.

Stage	Details
<p>Issues Paper (Regulation 18)</p> <p>February 2017</p>	<p>Consultation on the SADPD Issues Paper took place for 6 weeks between February and April 2017. It was the first opportunity for residents, developers and other organisations to give their views on the scope of the SADPD and the direction that its policies should take.</p> <p>The Issues Paper identified a range of matters and issues that the SADPD was likely to address and asked a series of questions to encourage feedback on them. In parallel, consultation also took place on a draft sustainability appraisal scoping report, setting out the proposed environmental, economic and social issues against which SADPD policies and proposals would be tested.</p> <p>The consultation also included a ‘call for sites’ exercise, through which landowners and developers were invited to submit sites for consideration, to inform the allocation and designation of land in the SADPD for potential future development.</p> <p>A Report of Consultation, summarising the 1,478 responses to the Issues Paper was published on the Council’s website.</p>
<p>First Draft SADPD (Regulation 18)</p> <p>September 2018</p>	<p>The First Draft SADPD was published for consultation between 11 September and 22 October 2018. It was close to a full draft Plan.</p> <p>During the consultation, a further ‘call for sites’ took place specifically to address Gypsy, Traveller and Travelling Showpeople accommodation needs.</p> <p>A Report of Consultation, summarising the 3,042 responses made to the First Draft Plan was published on the Council’s web site.</p>
<p>Publication Draft SADPD (Regulation 19)</p> <p>August 2019</p>	<p>The initial Publication Draft version of the SADPD was subject to a six-week period for representations from 19 August to 30 September 2019.</p> <p>A Report of Consultation, summarising the 2,698 responses made to the initial Publication Draft Plan was published on the Council’s web site in May last year.</p>
<p>Revised Draft SADPD Publication (Regulation 19)</p>	<p>On 6 October last year, the Cabinet agreed a number of changes to the Plan. Because these were significant, a further period to allow public representations to be made to the Plan was necessary ahead of its submission for examination. Further</p>

<p>19) October 2020</p>	<p>background about the changes is included in the Cabinet report:</p> <p>https://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=241&MId=7927&Ver=4</p> <p>The representations period ran from 26 October to 23 December 2020. This included an extension of the deadline for submitting comments by just over two weeks in response to libraries closing for a time during the representations period because of the Covid-19 situation.</p>
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Representations received

- 5.4. A total of 1,711 representations from 598 respondents have been received to the Revised Publication Draft Plan. The respondents include residents, town and parish councils, developers, landowners and key bodies such as Historic England and Highways England.
- 5.5. The SADPD's policies cover a very broad range of topics and, as a reflection of this, the submitted comments about the Plan raise a wide variety of issues. Two matters, the level of new housing provision and the identification of land for potential future development, tend to attract the greatest level of interest in plan-making and these themes are reflected in many representations about the SADPD. Some of the main issues raised in the representations include:
- Housing land supply is inadequate and needs to be boosted through further allocations at all tiers of the settlement hierarchy
 - Housing allocations at Local Service Centres should be reinstated into the SADPD
 - Some components of the Council's five-year housing land supply are questionable
 - Various sites are promoted as further or alternative allocations
 - The requirement to demonstrate 'exceptional circumstances' has not been met to alter the Green Belt boundary in order to designate safeguarded land around Local Service Centres
 - A number of the policy requirements in the Plan will adversely affect the viability of new development

- There is a need to further review and make changes to settlement, infill village, Strategic Green Gap and Green Belt boundaries

Next steps

- 5.6. The next step in progressing the SADPD towards adoption is its submission to the Secretary of State for examination. An Inspector, appointed by the Secretary of State, will conduct the examination on his behalf. As noted earlier, the version of the Plan that has, most recently, been published should be the Council's final Plan, capable of being adopted and therefore ready for examination. Subject to the decision of Full Council, the representations received will be submitted to the Inspector to consider, alongside the Plan and its other supporting documents. The Council is required to prepare a statement summarising the main issues raised in the representations. Councils are also encouraged¹ to prepare brief responses to these main issues to assist the Inspector. These are set out in the Regulation 20 Representations Statement appended to this report (Appendix 1). Because representations have been sought on an initial Publication Draft version in 2019 and then, in 2020, a Revised Publication Draft version of the Plan, both under Regulation 19 of the Local Planning Regulations², the Statement addresses the feedback received to both of these versions of the Plan. Both sets of representations will also be submitted to the Inspector.

Duty to Co-operate Statement of Common Ground

- 5.7. Local planning authorities are under a duty to cooperate with each other, and with other prescribed bodies, when preparing policies which deal with strategic matters that cross administrative boundaries. The National Planning Policy Framework sets out that authorities should produce, maintain, and update one or more statement(s) of common ground addressing such matters.
- 5.8. In terms of the Cheshire East Local Plan, a range of strategic matters arose through the preparation of the LPS in relation to its strategic policies. No additional strategic matters have been identified in preparing the SADPD

¹ Procedure Guide for Local Plan Examinations, Planning Inspectorate, February 2021
<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

² Town and Country Planning (Local Planning) Regulations 2012 (Statutory Instrument 2012 No. 767)
<https://www.legislation.gov.uk/ukSI/2012/767/contents/made>

either by Cheshire East Council or any other bodies, reflecting the non-strategic nature of its policies. The Duty to Co-operate Statement of Common Ground confirms this and neighbouring local authorities and other relevant bodies were invited to become signatories to it at the time that the Revised Publication Draft SADPD was published for representations.

- 5.9. The recommendation at 2.1.3 provides for the completion of the SADPD Duty to Co-operate Statement of Common Ground by the addition of the signatories to it and its approval for submission to the Secretary of State for the purpose of the Plan's examination.

The examination process

- 5.10. The examination will assess whether the Plan has been prepared in accordance with legal and procedural requirements and if it is sound, namely that it has been positively prepared and is justified, effective and consistent with national policy. These four tests of soundness are set out in the National Planning Policy Framework.
- 5.11. The Inspector will consider the evidence provided by the Council to support the Plan and any representations which have been put forward by local people and other interested parties. It is expected that the examination will include hearing sessions which are held in public. Depending on the restrictions in place at the time due to the Covid-19 situation, they may be conducted virtually in whole or in part.
- 5.12. There are three potential outcomes to the examination process:
- a) The Plan is found to be sound and legally compliant;
 - b) Changes (known as 'main modifications') to the Plan are necessary to make it legally compliant and sound; or
 - c) The Plan is unsound and/or not legally compliant and any deficiency(ies) cannot be remedied through main modifications.
- 5.13. The outcome for almost all plan examinations is (b), involving 'main modifications'. However, an Inspector can only deal with any problems with the Plan through 'main modifications' if formally requested to do so by the Council, hence the recommendation at 2.1.4 of this report. If such a request is not made, and modifications were necessary, the Inspector would only be able to find a plan unsound or not legally compliant. In these circumstances the Plan could not be adopted by the Council. Such a request was made during the examination of the LPS, enabling it to be adopted in 2017.

- 5.14. Proposed main modifications that the Inspector considers necessary are subject to public consultation for a period of six weeks during the examination. At the end of the examination the Inspector will send a report to the Council with their findings including final, recommended main modifications. After that, the Plan, incorporating the main modifications, can be adopted by the Council. Upon adoption it would become part of the statutory development plan and would replace the remaining 'saved' policies contained in the legacy local plans prepared by the three predecessor borough councils.

Delegated authority for the examination

- 5.15. The recommendation at 2.1.5 of this report seeks delegated authority to enable the Council to respond promptly to matters raised by the Inspector. During the examination, both leading up to and during public hearings, the Inspector is likely to request further information and opinions from the Council. Such requests require a prompt response to enable the examination to proceed efficiently. These requests could include questions about the Plan's evidence base or possible alternative policy wording.

Minor amendments

- 5.16. The recommendation at 2.1.6 would enable any minor amendments to be made to the Plan and its supporting documents. These do not alter the substance of the Plan, its policies or the supporting documents but are intended to provide further clarity to the reader and rectify factual, grammatical and/or typographical errors. Due to their non-material nature minor amendments to the Plan do not need to be published for representations prior to submission. The Inspector will not address minor amendments. It would be left for the Council to make any necessary non-material changes to the Plan before it was adopted.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. In accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'), the Council has a statutory duty to prepare planning policies and maintain an up-to-date development plan.
- 6.1.2. Secondary legislation relating to the preparation of development plan documents is set out in the Town and Country Planning (Local

Planning) (England) Regulations 2012. Representations were sought on the Revised Publication Draft SADPD in line with Regulation 19.

6.1.3. As noted earlier in this report, the publication draft (Regulation 19) version of a Plan should be the version that a Council considers legally compliant and sound and therefore ready for submission for examination and capable of adoption.

6.1.4. In line with the requirements of Section 19 of the 2004 Act, the Council has carried out a Sustainability Appraisal of the proposals in the Plan and prepared a report of the findings of the Appraisal. The Plan has also been prepared:

- in accordance with the Local Development Scheme that came into effect on 16 February 2021,
- having regard to national policies and advice, and
- in accordance with the Council's Statement of Community Involvement.

6.2. Finance Implications

6.2.1. The initial estimate of costs associated with the examination of the SADPD is around £100,000 to cover:

- Planning Inspectorate fee for the appointed Inspector
- Programme officer to provide examination support for the Inspector
- Legal support
- Additional consultancy support – to address issues where specialist expertise is required
- Expenditure on printing and the running of examination hearing sessions, particularly if these are physical hearings

6.2.2. However, this is only an estimate at this time and this figure may change depending on various factors such as the number of matters and issues that the Inspector may raise, whether the Council is asked to provide additional information and how other parties wish to present their representations at the examination. These may affect the length of the examination and the legal and consultancy support that the Council requires. The cost of the examination will be funded from the Planning budget.

6.2.3. The SADPD also directly supports investment in, and the delivery of, key new highway infrastructure. It safeguards land required to implement committed schemes (Policy INF 6 – Protection of existing and proposed infrastructure). It also establishes, in principle, that a financial contribution can be sought from developers towards infrastructure that has been forward funded (including, but not limited to, highway schemes which the Council has forward funded), in circumstances where that infrastructure has mitigated, in advance, the effects of their proposed development (Policy GEN 4 – Recovery of forward-funded infrastructure costs).

6.3. Policy Implications

6.3.1. The SADPD is a key policy document, central to the achievement of sustainable development in Cheshire East. When adopted it will form part of the statutory development plan. At this point, the saved policies within the local plans prepared by the three predecessor borough councils will no longer be in force and no longer be considered in the determination of planning applications.

6.3.2. The SADPD supports a range of priorities identified in the Council's Corporate Plan 2020-24. This includes supporting good health and well-being and creating a thriving and sustainable place - notably the Council's ambitions for the environment and to tackle climate change through its Environment Strategy and Carbon Action Plan.

6.4. Equality Implications

6.4.1. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a "relevant protected characteristic" and persons who do not share it; foster good relations between persons who share a "relevant protected characteristic" and persons who do not share it.

6.4.2. An Equality Impact Assessment is incorporated into the integrated Sustainability Appraisal of the SADPD. This considers how development proposals and planning policies will impact on different groups within the community.

6.5. Human Resources Implications

6.5.1. There are none arising from this report.

6.6. Risk Management Implications

6.6.1. The SADPD has been prepared taking account of the need to demonstrate the Plan's legal compliance and soundness at examination.

6.6.2. Currently, the Council still relies for many planning decisions on detailed planning policies adopted by the former borough councils. These all considerably pre-date the National Planning Policy Framework, and whilst the age of a policy does not automatically render it out of date, as national policy evolves there is a growing risk that older policies fall out of step with it. There is hence a significant advantage in securing the timely progression of the SADPD.

6.6.3. In a similar vein, the SADPD addresses a number of wider policy priorities such as climate change – and such policies can only be applied with full weight once the plan is adopted.

6.7. Rural Communities Implications

6.7.1. The Local Plan has implications for rural communities across a range of policies. The draft Plan has been informed by rural proofing as part of an integrated Sustainability Appraisal.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are a wide range of policies in the SADPD that aim to protect and enhance the health and well-being of children and young people.

6.9. Public Health Implications

6.9.1. There are a wide range of policies in the SADPD that aim to support well-being and healthy lifestyles. These include promoting prosperity, meeting housing needs, protecting and providing open space and recreation facilities and encouraging walking and cycling. A Health Impact Assessment is incorporated into the integrated Sustainability Appraisal of the SADPD.

6.10. Climate Change Implications

6.10.1. The Revised Publication Draft SADPD includes detailed policies that address climate change mitigation and adaptation including energy efficiency, renewable energy, flood risk management and biodiversity.

7. Ward Members Affected

7.1. The SADPD will guide planning application decision making across every ward.

8. Consultation & Engagement

- 8.1. Extensive consultation and engagement have taken place in developing the SADPD. The key stages are explained in paragraph 5.3. A summary of the main issues raised in representations to the SADPD and a short response to these are set out in the Regulation 20 Representations Statement appended to this report (Appendix 1).

9. Access to Information

- 9.1. The Regulation 20 Representations Statement is appended to this report (Appendix 1).

- 9.2. The individual representations made under Regulation 20 about the initial and Revised Publication Draft versions of the SADPD can be viewed at:

Initial: <https://cheshireeast-consult.objective.co.uk/portal/planning/cs/sadpd/pubsadpd>

Revised: <https://cheshireeast-consult.objective.co.uk/portal/planning/cs/sadpd/rpdsadpd>

- 9.3. The Revised Publication Draft SADPD, its supporting documents and evidence can be viewed online at:

<https://cheshireeast-consult.objective.co.uk/portal/planning/cs/sadpd/revpubevidence>

- 9.4. The report regarding the publication of the Revised Publication Draft SADPD considered by the Cabinet on 6 October 2020 can be viewed online at:

<https://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=241&MId=7927&Ver=4>

(Please scroll down to Item 39 on this web page)

10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

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