

# Report to Place Scrutiny Board

<b>Meeting Date</b>	4 <sup>th</sup> August 2022
<b>Subject</b>	Cabinet resolution of 11 July 2022 to consult on the Local Plan Main Modifications
<b>Wards Affected</b>	All
<b>Report of</b>	Richard Seaman – Corporate Lead – Planning Regeneration & Strategy

## Why is it coming here?

The Cabinet decision to consult on the Local Plan Main Modifications (MMs) has been called in for consideration by the Scrutiny Board. This report provides background information to assist Members' consideration.

## What are the key points?

- The Inspector considers that the Local Plan is capable of being found sound and legally compliant subject to Main Modifications;
- The Main Modifications were discussed at the Local Plan Examination hearing sessions;
- Certain very significant Main Modifications have already been consulted upon earlier in the Examination process (for example the increased housing requirement);
- Officers have agreed the schedule of Main Modifications with the Inspector (without prejudice to her final conclusions);
- Cabinet was asked to *note* the Main Modifications as part of the recommendation to consult on them;
- The Council is required to consult on the Main Modifications for at least 6 weeks; however, this period will be extended to 8 weeks;
- It is important that the Local Plan continues on its journey towards adoption without undue delay.

## Possible courses of action

The Scrutiny Board can release the Cabinet resolution for implementation, refer the matter back to Cabinet, or refer it to Full Council.

## Contact Officer

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## Should this report be exempt?

No

# Report to Scrutiny Board

## 1. Background

### Matters of general process and procedure

This report is intended to be read in conjunction with the Cabinet report dated 11 July 2022 (provided separately with the papers for this meeting). The report also draws on information contained within Procedure Guide for Local Plan Examinations - GOV.UK ([www.gov.uk](http://www.gov.uk)), which states:

*6.3. During the hearing sessions the Inspector will aim to identify any MMs that may be needed to achieve a sound and legally compliant plan. If the Inspector is not able to conclude on the need for any particular MM at the hearing session, they will write to the LPA after the hearings to set out their position. It may sometimes be possible to draw up the detailed text of a MM at a hearing, but it is usually more efficient for this to be done afterwards. The Inspector will normally ask the LPA to maintain a running list of potential MMs discussed during the course of the hearing sessions.*

....

*6.7. All proposed MMs must be subject to public consultation and, where necessary, SA [Sustainability Appraisal] and HRA [Habitat Regulation Assessment] before the Inspector can make recommendations on them. The Inspector will therefore agree a timetable with the LPA [Local Planning Authority] for the drafting of the proposed MMs, any necessary SA and HRA, and the public consultation. Any proposed policies map changes should be subject to the same procedure.*

*6.8. The agreement of the MM schedule between the LPA and the Inspector, assisted by the [Programme Officer], should be a priority after the hearing sessions conclude, to ensure that the public consultation can take place in a timely manner. Where possible the timetable will be agreed before the hearings close, but if this is not feasible, as soon as practicable thereafter. As the first part of the process the LPA will be asked to produce a schedule of proposed MMs for the Inspector's comment. The LPA will need to work proactively with the Inspector and dedicate sufficient resources to finalise the MM schedule, as well as any supporting SA and HRA.*

*6.9. The precise arrangements for public consultation will vary from case to case but will follow these general principles:*

- it will be made clear that the consultation is only about the proposed MMs and any policies map changes (and no other aspect of the plan), that they are put forward without prejudice to the Inspector's final conclusions, and that all representations made will be taken into account by the Inspector;*

...

- *the nature and duration of the consultation should reflect that of the consultation held at Regulation 19 stage, where appropriate. This means it should last at least six weeks.*

The approach to Calderdale's Main Modifications has closely followed the above guidance. In this respect:

- The Main Modifications were discussed during the hearing sessions, so the participants in those sessions had an opportunity to express their views and were aware of the direction of travel.
- The Council maintained the running list of Main Modifications, and these were agreed with the Inspector at the end of each block of hearings. The list was placed in the Examination Library and updated as required.
- The most significant Main Modifications were identified in the Inspector's post hearing letters. These letters were added to the Examination Library.
- The Main Modifications appended to the Cabinet report were worked up in detail by officers following receipt of the Inspector's 23 March 2022 post hearing letter. The draft Main Modifications were sent to the Inspector in batches during May/June 2022. The Inspector either agreed the wording of the draft or asked for the Council to make amendments. This process has ensured that the Main Modifications properly addressed the matters of concern that were raised during the hearings (without prejudice to the Inspector's final conclusions).

In summary, the Main Modifications put before Cabinet on 11 July have been agreed by the Inspector and reflect the outcomes from the hearing sessions.

Furthermore, it is also important to stress that the recommendation was that *Cabinet note the Inspector's judgement on the necessary Main Modifications to the CLP as set out in the Post Hearings letter...*[underlining added]. Ultimately approval of the Main Modifications will be encompassed within the decisions around the adoption of the Local Plan taken by the Cabinet and Full Council if the Inspector concludes after the consultation that the Plan is sound and legally compliant subject to those Main Modifications. The decision of Cabinet to release the Main Modifications for consultation is therefore important from the perspective of allowing formal representations to be made and facilitating the decision-making milestones by the Inspector and Council thereafter.

#### Matters relating to the timing, duration, and form of the consultation

The length and timing of the Main Modifications consultation were raised at the Cabinet meeting and are referred to in the call-in notice.

As already stated above "*the nature and duration of the consultation should reflect that of the consultation held at Regulation 19 stage, where appropriate. This means it should last at least six weeks*". At the time of the Cabinet meeting, it was anticipated that the consultation would commence on 29 July and run for 8 weeks until Monday 19th September. This would have

taken the end of the consultation two weeks beyond the end of the school holidays. The Scrutiny Board call-in is expected to delay the start of the consultation by about two weeks meaning that more of the period will be after the end of the school holidays (the increase from 6 to 8 weeks will obviously be honoured) (indicative dates are 12 August to 7 October 2022). If the matter is referred back to Cabinet or Full Council, there would be a further delay, dependent on dates.

In addition, it should be noted firstly that certain key Main Modifications (most significantly the increased housing requirement and additional site allocations) have already been consulted upon (see Appendix 1 for further information); secondly, the broad form of the Main Modifications was already known to people who have followed and participated in the Examination; and thirdly, the refined Main Modifications that have been agreed with the Inspector were made available alongside the Cabinet report on 1<sup>st</sup> July. Interested parties would therefore be participating in the consultation from the perspective of considerable prior knowledge.

As noted above *“the consultation is only about the proposed MMs and any policies map changes”*. So, it is not intended to be a re-run of the consultation undertaken when the Council Published the Plan (Regulation 19 consultation), at which point the entire Plan and evidence base was consulted upon. Neither does it replicate the various consultations undertaken during the Examination process on individual or smaller batches of evidence documents – although it does provide a further opportunity to comment on Main Modifications such as the revised housing requirement that were previously consulted on earlier in the Examination.

Officers have taken care to ensure that the consultation documents are presented in a manner that will be easily understood and navigated by participants. It will not be necessary to cross refer between documents and individual policies and sites will be easy to locate.

In summary, it is considered that the arrangements for public consultation will ensure that interested parties have a fair opportunity to participate meaningfully. To assist Members, a table setting out the Main Modifications milestones is attached at Appendix 1.

#### Allegations of missing information

This matter stems from a contention on the part of Friends of the Earth that the Council should provide them with further information relating to traffic flow changes over the life of the Local Plan. As stated in answers to Cabinet questions and correspondence to FOE the Council has already provided them with access to our Transport Model and maps showing absolute numerical changes in traffic flows.

Prior to declining the request from Friends of the Earth for additional information, officers sought feedback from the Inspector via the Programme Officer, and it was confirmed that *“the additional mapping is not something that I am seeking as part of the examination process”*.

Clearly, had the Inspector considered that evidence was missing from the Examination, she would not have concluded that the draft Local Plan was ready to proceed to the Main Modifications stage.

In summary, whilst parties may have contentions about the evidence base, there are no outstanding concerns from the Inspector in this regard.

#### Update to information in the Cabinet report

Unfortunately, there were two errors in the Cabinet report that need to be highlighted. In this respect, there are two updates to the table in Paragraph 5.5 of the Cabinet Report. The report states that site LP0454, Land off Wheatley Road, Halifax is proposed for deletion. This is incorrect. The site remains as a proposed housing site in the Local Plan; however, the capacity is proposed to be reduced from 20 dwellings to 14 due to topographical and ecological reasons. Confirmation of the proposed modification to this site can be viewed on page 112 of Appendix 2 to the cabinet report.

Site W2 which is a waste site allocation at Lacy Way, Elland, is no longer also allocated as a New Employment Site, site reference LP1223. Confirmation of this can be viewed on page 17 of Appendix 2 to the Cabinet Report.

These errors do not affect the recommendation because the appendices referred to in that recommendation are correct.

## **2. Main Issues for Scrutiny**

The main issues for scrutiny are:

- i. The procedural context to the Main Modifications process;
- ii. The arrangements for the Main Modifications consultation.

## **3. Further Action/Timescales**

The dates for the Main Modifications consultation will be dependent on the resolution of the Scrutiny Board (see Appendix 1 for indicative dates).

## **4. Options Appraisal**

At the current time the Council is failing to deliver housing and working with out-of-date planning policies. Because of the housing supply and delivery situation, the Council is also subject to a policy presumption that makes it difficult to resist certain undesirable developments. Delaying and/or *further* extending the Main Modifications consultation is not therefore considered to be a tenable option.

## **5. Climate Change**

The Local Plan has important implications for climate change, and these were discussed at length at the hearings. Interested parties will have an opportunity to articulate their opinions through the consultation.

## 6. Conclusion

The Inspector considers that the Local Plan is capable of being found sound and legally compliant subject to Main Modifications. This report provides further explanation of the Main Modifications process.

The Main Modifications were discussed at the Local Plan Examination hearing sessions, and the various interested parties participated in these discussions. The revised housing requirement and additional site allocations have already been the subject of a consultation earlier in the Examination and are therefore being consulted on again.

Officers have agreed the schedule of Main Modifications with the Inspector, and as such they should be seen as reflecting the Inspector's current opinions (without prejudice to her final conclusions) on the changes that are required to make the Plan sound and legally compliant.

Cabinet noted the Main Modifications and resolved to release them for consultation.

The Council is required to consult on the Main Modifications for at least 6 weeks; however, this period will be extended to 8 weeks.

It is important that the Local Plan continues on its journey towards adoption without undue delay because the scope and effectiveness of our decision making on applications will be fettered until such time as we have an adopted Plan in place.

## 7. Appendices & Background Documents

### Appendix 1 – Main Modifications milestones

Event	Date/s
Main Modifications discussed at hearing sessions. Task lists published in Examination Library after hearing stages	Four hearing stages between June 2019 and January 2022
Main Modifications identified in Inspector's post hearing letters	Stage 1 - 16 July 2019 Stage 2 – 15 January 2021 Stage 3 - 18 June 2021 Stage 4 - 21 March 2022
Consultation on increasing housing requirement and potential additional housing sites to meet the new requirement	10 January 2020 – 24 February 2020
Consultation on extension and re-allocation of LP0032 (Land at Crosslee, Hipperholme) as a Mixed-use site	12 February 2021 – 26 March 2021
Consultation revised waste site allocations	8 April 2021 – 23 April 2021
Consultation on introduction of Regeneration Action Areas in lieu of two Mixed-use sites	23 July 2021 – 6 September 2021

Text of Main Modifications and changes to the Policy Map agreed with Inspector (without prejudice)	May – June 2022
Main Modifications published online as appendices to Cabinet report	1 July 2022
Report considered by Cabinet recommending that consultation is carried out on Main Modifications	11 July 2022
Revised proposed consultation commencement date (taking account of consideration by Scrutiny Board and updated lead-in time)	Friday 12 August 2022 for 8 weeks
Main Modifications consultation ends	7 October 2022
Approximate date for sending consultation comments to the Inspector	1 November 2022
Inspector issues final report on Draft Local Plan	Date to be confirmed