

Open

Special Cabinet

Agenda

5pm
Tuesday, 26 April 2022
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Cabinet

The Cabinet Members and their responsibilities:-

Councillor H Dyke	Leader of the Council & Economic Regeneration, Planning & Localism
Councillor G Ballinger	Deputy Leader & Culture, Leisure & Community Safety
Councillor N Martin	Housing, Health, Well-being & Democratic Services
Councillor M Rayner	Finance & Capital Portfolio
Councillor J Thomas	Operational Services

Scrutiny of Decisions of the Cabinet

The Council has one Scrutiny Committee that has power to investigate policy issues and question members of the Cabinet who have special responsibility for a particular area of the Council's activities. The Cabinet also considers recommendations from this Committee.

In accordance with Section 10 of the Council's Constitution, Overview and Scrutiny Procedure Rules, and Standing Order 2.4 of Section 7, any item on this agenda may be scrutinised by the Scrutiny Committee if it is "called in" by the Chairman or Vice-Chairman of the Overview & Scrutiny Committee and any other three non-Cabinet members.

The deadline for "calling in" Cabinet decisions is 5pm on Monday 9 May 2022.

Councillors wishing to "call in" a decision on this agenda should contact Louisa Bright, Principal Committee and Member Services Officer, Wyre Forest House, Finepoint Way, Kidderminster. Telephone: 01562 732763 or email louisa.bright@wyreforestdc.gov.uk

Urgent Key Decisions

If the Cabinet needs to take an urgent key decision, the consent of the Scrutiny Committee Chairman must be obtained. If the Scrutiny Committee Chairman is unable to act the Chairman of the Council or in his/her absence the Vice-Chairman of the Council, must give consent. Such decisions will not be the subject to the call in procedure.

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of the Council's constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

For further information

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Louisa Bright, Principal Committee and Member Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732763 or email louisa.bright@wyreforestdc.gov.uk

Documents referred to in this agenda may be viewed on the Council's website - www.wyreforestdc.gov.uk/council/meetings/main.htm

Wyre Forest District Council

Special Cabinet

Tuesday, 26 April 2022

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
3.		
3.1	Councillor H Dyke Adoption of the Wyre Forest District Local Plan 2016-2036 To consider a report from the Head of Strategic Growth following the Inspector's Report and to consider making a recommendation to Council about adoption of the plan.	5

WYRE FOREST DISTRICT COUNCIL

SPECIAL CABINET

26 APRIL 2022

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Adoption of the Wyre Forest District Local Plan 2016-2036

OPEN	
CABINET MEMBER:	Cabinet Member for Councillor Helen Dyke – Leader & Cabinet Member for Economic Regeneration, Planning and Localism
RESPONSIBLE OFFICER:	Kate Bailey
CONTACT OFFICER:	Paul Round
APPENDICES: (The appendices are being provided in electronic format only as they extend to many hundreds of pages.)	Appendix A Inspector’s Report Appendix B Schedule of Main Modifications Appendix C Local Plan Appendix D Adoption Statement www.wyreforestdc.gov.uk/localplanapri12022

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to consider the Planning Inspector’s Report following the conclusion of the Local Plan review process that commenced in 2015 and the Inspector’s conclusion that the Local Plan is sound and legally compliant.
- 1.2 Upon adoption, the document will form part of the up-to-date Development Plan for Wyre Forest District and, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, will be the starting point for the determination of planning applications. As a result, the policies contained in the Adopted Core Strategy, Site Allocations and Policies Local Plan and Kidderminster Central Area Action Plan will be superseded.

2. RECOMMENDATIONS TO CABINET

The Cabinet is recommended to:

- 2.1.1 **Note the Inspector’s Report of 11th March 2022 at Appendix A;**
- 2.1.2 **Accept the Schedule of Recommended Main Modifications in its entirety as set out in Appendix B for incorporation into the Wyre Forest District Local Plan (2016-2036);**

2.1.3 Recommend to Council that:

- (a) it adopts the Wyre Forest District Local Plan (2016-2036) as set out in Appendix C;**
- (b) it approves the adoption statement set out in Appendix D, which will be published and made available in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and Environmental Assessment of Plans and Programmes Regulations 2004;**
- (c) it delegates to the Head of Strategic Growth in consultation with the Leader of the Council any minor amendments, typographical and grammar corrections to the documents prior to publication.**

RECOMMENDATION TO COUNCIL

2.1.4 The Council is asked to consider the recommendations from Cabinet on 26 April 2022.

3. BACKGROUND

- 3.1 This report represents the culmination of many years of work. A Local Planning Authority must prepare a Local Plan that sets out the local planning policies for its area. These policies are important material considerations when determining planning applications, as all decisions must be made in accordance with the policies unless there are very strong reasons not to do so. Government guidance requires that Local Plans must be positively prepared, justified, effective and be 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 states that every local planning authority in England should seek to have in place a clear, up-to-date Local Plan that conforms to the Framework, meets local development needs and reflects people’s views about how they wish their community to develop.
- 3.2 The Wyre Forest District Local Plan sets out the policies and proposals to guide planning decisions and establishes the framework for the sustainable growth and development of the District up to 2036. The Local Plan covers a range of matters including the number of new homes that are needed and where they should be located; the amount and proposed location of new employment land as well as provision of infrastructure and community facilities in the District.
- 3.3 The key milestones in the production of the Local Plan are detailed below:

Issues and Options Consultation	September/October 2015
Preferred Options Consultation	Summer 2017
Pre-Submission Publication Consultation	Autumn/Winter 2018
Re-opening of Pre-Submission Publication Consultation	September/October 2019
Submission of Local Plan	April 2020
Examination Sessions	January/February 2021

Main Modifications Consultation	Autumn 2021
Inspector's Final Report	March 2022

- 3.4 The Council is now in receipt of an Independent Inspector's Report dated 11th March 2022 which concludes that the Local Plan is sound, subject to the changes as outlined in the schedule of main modifications.
- 3.5 The Local Plan was submitted on 30th April 2020 and independent Inspector Ms Mary Travers BA (Hons) Dip TP MRTPI was appointed by the Secretary of State to undertake the Examination in Public. The hearing sessions took place between 11th January and 10th February 2021. In advance of these hearing sessions, Officers prepared hearing statements in response to initial questions raised by the Inspector. The hearings took place virtually over Zoom during a five-week period addressing 15 topic areas in eleven sitting days, covering all aspects of the Local Plan. Alongside evidence presented by Officers, the Inspector heard from members of the public, developers and statutory consultees.
- 3.6 Whilst significant parts of the Local Plan as submitted were considered sound, the Planning Inspector identified during the examination the need for several Main Modifications to ensure soundness, clarity and effectiveness across a range of policies and the supporting text. These Main Modifications were the subject of further consultation over 6 weeks in late 2021. Alongside the Main Modifications, the consultation also made available a schedule of additional minor modifications and Policies Map modifications (which detail where changes to the Local Plan have resulted in consequential changes to the policies map or where corrections need to be made).
- 3.7 Responses received to the Main Modifications consultation were sent to the Planning Inspector for consideration in December 2021. The Inspector's Report was received on 24th February 2022 and the District Council were given two weeks to 'fact check' the report before the final report was prepared and received on 11th March 2022. This report concludes that the Local Plan is 'sound' subject to Main Modifications. The final Inspector's Report is set out at Appendix A. Planning Policy Guidance states that "it is to be expected that the authority will proceed quickly with adopting a plan that has been found sound".
- 3.8 The Local Plan will be the most recently adopted part of the Development Plan and will therefore take precedence over other parts where there is any conflict e.g. Neighbourhood Plans and the Worcestershire Minerals Plan
- 3.9 The housing requirement figure forms the basis for calculating housing land supply for the next five years (or sooner if a Local Plan Review is undertaken) and will therefore ensure the council maintains its five year land supply.

3.10 **The Green Belt**

The Local Plan will require 234ha to be removed from the Green Belt which equates to 2.1% of Green Belt in Wyre Forest: of this 120ha are at Lea Castle and 72ha at the Eastern Extension. This is set out in the Sustainability Appraisal to the Main Modifications (ED58) on page 14. Overall the Planning Inspector found that removing the sites within the plan from the Green Belt had limited impact on the

purposes and integrity of the wider West Midlands Green Belt, taking account of the location, nature and extent of the Green Belt that will remain in the district. It was recognised that the Local Plan provides for suitable, compensatory improvements to the environmental quality and accessibility of remaining Green Belt land, to offset the proposed losses. These include the proposed Stour Valley and Burlish Country Parks. Planned strategic developments in the Green Belt will create extensive traffic-free walking routes for informal leisure within areas of natural open space which will connect into the wider countryside and long-distance footpath network, where previously there was very limited public access for residents.

3.11 Public Consultation

3.11.1 The approach the Council took to community engagement was in line with the Statement of Community Involvement and included five opportunities for stakeholders and the public to get involved and used a variety of different approaches to maximise awareness. Members will be aware that there were some concerns raised regarding leaflet drops and the possibility that not every household received one leaflet: however the Planning Inspector was satisfied this was rectified by subsequent public consultations. In the report the Planning Inspector makes clear that, taking account of the Regulation 22 Statement of Consultation, she was satisfied that the Council has exceeded the legal requirements to involve its community in the preparation of the Plan.

3.11.2 In line with arrangements to encourage public participation, the Council has arrangements for public speaking at its meetings. Speakers have registered to speak at full Council about the local plan. However, members are reminded that all opportunities for public consultation that are required by legislation have passed. Moreover, as set out in paragraph 4.7, the choice before Council is to adopt the plan or not to adopt the plan. It is impossible for the Council to amend the plan by making changes at specific sites, for example. Therefore any public representations at this late stage about changing the plan can be given no weight in the decision-making process on this plan, as there are no changes that Council can lawfully make.

3.12 Sustainability Appraisal

Throughout the process the Council carried out sustainability appraisals of the Plan. These were regularly reviewed and adapted as the spatial strategy emerged and when further changes to proposed allocations were made, culminating in a Sustainability Appraisal of the main modifications. This is relevant as a recent Local Plan has been challenged due to a failure to consider the final Sustainability Appraisal (Harrogate District Local Plan). The Inspector found, in the case of Wyre Forest, that officers have prepared a report of the findings of the appraisal and published the report along with the Plan and other submission documents under regulation 19 and that the appraisal was updated to assess the main modifications. The Planning Inspector therefore concludes she has found no substantive evidence of any flaw or error in the sustainability appraisal process that materially undermined its purpose of informing the Plan, and was therefore satisfied that the sustainability appraisal process was adequate.

Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004 requires that, on adoption of a plan or programme, a statement which sets out the following is published:

- How the environmental considerations have been integrated into the plan or programme;
- How the Environmental Report has been taken into account;
- How opinions expressed during consultation have been taken into account;
- The reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with; and
- The measures that are to be taken to monitor the significant environmental effects of the implementation of the plan or programme.

Such a statement will be published following a Council decision to adopt the plan. In addition, the Policies Map (which is a visual and geographical representation of the plan and its policies) will be updated and made available on the Council's website. The Policies Map does not form part of the plan and therefore does not require Cabinet's or Council's agreement.

4. KEY ISSUES

4.1 Plans are 'sound' if they are considered by an inspector to meet the following tests:

- a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and,
- d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

The conclusion of the Inspector is that, with the Main Modifications that she has recommended, the plan is sound.

4.2 The main modifications considered necessary to make the Plan sound can be summarised as follows:

- Clarify the spatial distribution and quantity of development throughout the District and the time when development of individual housing allocations is expected to take place
- Modify policies for clarity and precision about what is expected to be delivered by new development
- Modify the type of development expected on certain site allocations and make amendments to requirements for justification and effectiveness
- Delete an allocation at Chaddesley Corbett following responses regarding highways concerns raised in relation to a planning application and the Parish Council

- Update and extend policy provision to meet the identified accommodation needs of Gypsies and Travellers in the Plan period
- Give specific policy protection to the proposed Burlish Country Park
- Modify the monitoring and implementation framework to identify indicators, targets and delivery mechanisms for effectiveness
- Make various other modifications to ensure that the Plan is up-to-date, internally consistent, positively prepared, justified, effective and consistent with national planning policy

4.3 The Inspector's Report covers 10 main issues on which the soundness of the Plan depends.

- Issue 1 – Is the Plan based on robust, objective assessments of the local housing need and the need for employment land? – The Inspector concluded that the 276 dwellings per annum figure was justified as it is based on a robust assessment of demographic and economic growth factors. The allocation of at least 29ha of employment land is robust and should ensure that the needs of the economy can be met.
- Issue 2 – Is the overall spatial strategy sound, including its reliance on alterations to the Green Belt boundary? And are the Plan's overall requirements for housing and employment land sound? – The Inspector concluded that there is compelling evidence that exceptional circumstances exist which justify alterations to the Green Belt boundary in the Plan. The removal of the sites from the Green Belt will have a limited impact on the purposes and integrity of the wider West Midlands Green Belt. The Plan provides for suitable compensatory improvements to the environmental quality and accessibility of the remaining Green Belt as required by the Framework, for example, the proposed Stour Valley and Burlish Country Parks.
- Issue 3 – Is the allocation of Lea Castle Village justified, effective and consistent with NPPF? – The Inspector concluded that this allocation would make a major contribution to meeting the identified needs for housing, together with employment and community facilities, recreational provision, green infrastructure and environmental protection. There is compelling evidence that exceptional circumstances exist to justify its release from the Green Belt.
- Issue 4 – Is the allocation of Kidderminster Eastern Extension justified, effective and consistent with NPPF? – The Inspector concluded that the Kidderminster Eastern Extension would make a major contribution to meeting the identified needs for housing, together with supporting infrastructure and facilities and environmental protection. She concluded that there is comprehensive and compelling evidence of exceptional circumstances to release the identified sites from the Green Belt. The proposed development provides the critical mass for a sustainable urban extension to Kidderminster.

- Issue 5 – Are the other allocations for housing and mixed uses sound? And is the addition to the list of reserved housing sites in Policy 7B sound? – The Inspector has considered concerns raised about specific allocations including highway safety and traffic congestion, adequacy of services and loss of countryside. As a result, one small allocation at Chaddesley Corbett has been deleted as evidence shows the site to be undevelopable.

There are 3 allocations off Zortech Avenue for travelling Showpeople, for Gypsies and Travellers and for employment uses. The Inspector considers there to be exceptional circumstances that justify the release of this area from the Green Belt.

In Stourport-on-Severn, the Inspector has modified the policy wording for the Former School Site on Coniston Crescent to allow vehicular access from the Kingsway or Coniston Crescent as evidence shows that an access from Coniston Crescent is wholly acceptable on highways grounds.

The small site adjacent to the Rock Tavern on Wilden Lane can come forward under a modified Green Belt policy and the site policy is therefore no longer needed.

In Bewdley, the parcel adjacent to All Saints Wribbenhall is not included in the policy as it will remain as open space within the Green Belt.

In Blakedown, the Inspector considers that the allocation of land off Station Drive for 50 dwellings is justified given the overall level of housing need in the District and the sustainability as a settlement. Development of this site will help to meet a range of both local and district-wide housing needs over the Plan period.

The Inspector also concluded that the addition of Lawnswood in Cookley as a reserved housing site is justified as development here would not give rise to urban sprawl or any significant encroachment on the countryside.

- Issue 6 – Does the Plan make provision for an adequate supply of developable and deliverable sites to meet the housing requirement? Are there reasonable prospects that a rolling 5-year supply of deliverable sites will be maintained? – The housing land supply at April 2021 provides a headroom of over 20% above the requirement (including a 4% lapse rate where sites have not commenced). There is also compelling evidence that additional development will continue to come forward on non-allocated sites throughout the Plan period (windfall allowance). The Inspector concluded that the overall supply of land for the Plan period is justified, developable and deliverable, and likely to meet the identified need for new homes. She also considered that there is a reasonable prospect that a rolling 5-year supply of housing land will be maintained.
- Issue 7 – Are the Plan's policies for specific elements of new housing provision sound? – expected indicative densities have been set out and the 25% affordable housing requirement on sites is based on whole plan viability and is justified. Self-

build and custom housing policy has been revised so that it applies to sites of 50 or more dwellings. In the light of updated evidence on gypsy and traveller requirements, a site to the rear of Zortech Avenue is allocated to accommodate the outstanding need for pitches. An amendment to the infill policy helps to clarify the circumstances where it will be allowed in villages and rural settlements.

- Issue 8 – Are the Plan’s provisions for employment, retail, town centre and leisure development sound? – Policies have been modified to reflect the amended Use Classes Order. The employment allocations are considered to be sound with the suggested modifications to wording. The town centre policies have been updated to refer to Future High Streets Funding for Kidderminster. The hot food takeaway policy is considered to be justified in the light of public health evidence for the District.
- Issue 9 – Does the Plan promote healthy and safe communities, support the achievement of well-designed spaces, and provide for conservation and enhancement of the natural and historic environments? – The health policy will help to address health inequalities once modified. The Strategic Green Infrastructure policy includes the safeguarding of areas in the Stour Valley for a Country Park together with specific protection to the proposed Burlish Country Park. The Minster Road Outdoor Sports Area policy recognises the Green Belt, nature conservation and outdoor sports interests of the wider area.
- Issue 10 – Has the other key infrastructure and resource management that is likely to be required for sustainable development of the district been properly identified, and are the Plan’s provisions justified and consistent with national planning policy? – the Infrastructure Delivery Plan provides evidence about the key infrastructure requirements for implementation of the spatial strategy. Any potential adverse impact on highways will be mitigated by the effects of the Plan’s integrated policies to reduce the need to travel and encourage a shift towards sustainable modes of transport. The Plan provides for improvements at Kidderminster and Blakedown stations as part of an integrated strategy. The evidence is sufficient to conclude that additional parking at Blakedown is required making provision on 2 sites. The Council has declared a climate emergency. It should be made clear that all new development should be built to the highest standards of energy efficiency subject to viability and feasibility.

4.4 Whilst officers accept that not every site and policy contained within the Plan will be popular, **the Local Plan as a whole has many positive attributes within it and there are a number of reasons that have material weight as to why it is important to adopt this Local Plan** including the factors set out in the following paragraphs.

4.4.1 The Local Plan will be used for the purposes of determining planning applications. Allocated sites should be granted planning permission and delivered giving developers and land owners clear guidance about where development should take place and to what standards. Developers will be reluctant to submit applications which are contrary to the Local Plan. These policies have been developed to

ensure that the developments they support will provide for specific environmental and social needs of the District, ensuring the initiative and aims of the Council are met.

- 4.4.2 The new Local Plan establishes a baseline for the Neighbourhood Plans and enables these to be reviewed or progressed. It allows for progression of the Localism agenda providing a springboard for Parish and Town Council to have a direct say in what happens within their area.
- 4.4.3 The housing requirement figure forms the basis for calculating housing land supply for the next five years and will therefore support the Council in delivering much needed affordable housing and helping to reduce the likelihood of homelessness.
- 4.4.4 Environmental benefits obtained through specific policies to provide Green Infrastructure, Biodiversity Net Gain and Sustainability. This enshrines the important work of the District and County Council, including the Green Advisory Panel, into a Policy framework to secure critical measures within approved development.
- 4.4.5 Delivery of key transport improvements based on a strong strategic vision. This plan provides a foundation in attracting grant funding for critical highway improvement schemes within and adjoining the District. It also meets the Government's target for all Local Planning Authorities to have an up to date local plan in place by the end of 2023.
- 4.5 **A decision not to adopt would have serious implications for the district and the Council in many respects.** Some of these are set out in detail below.
 - 4.5.1 Without an up to date local plan there will be a failure to have the required 5-year housing land supply and the Council will face intervention through failure to meet the Housing Delivery Test thresholds. This will result in the Council becoming a 'Designated Authority', allowing all major applications to be submitted directly to the Planning Inspectorate, bypassing local decision making by the Council's Planning Committee. In addition, the Council would receive no planning fees for any applications submitted to the Inspectorate and the loss of income for such schemes would be significant and could damage the Council's ability to deliver its medium term financial strategy. The Council would lose local control over conditions, S.106 contributions and overall development and design strategy.
 - 4.5.2 An out of date plan results in the 'tilted balance' being engaged. Speculative planning applications would be highly likely to be submitted and have to be considered in the context of an out of date plan and a shortfall in housing land supply, meaning that any refusal would be likely to lead to an appeal, with the council in a weak position to defend the appeal and any cost claims. This would also open the door to development of sites that the Council has specifically chosen not to seek to allocate in the plan, whether in the green belt or on greenfield sites, as well as any or all of the sites that have been included in the submission plan. Again, the position in respect of conditions and S.106 requirements as set out above would apply in this case of 'Planning by Appeal'.

- 4.5.3 The Local Plan proposed for adoption includes important policies to implement strategies that have been developed through the Council's own approved motions, the Green Advisory Panel, the Green Infrastructure Partnership, the County Council's Public Health Initiative, as well as modern standards of highway access and building construction. This has come together to provide sustainable, accessible and healthy communities within the District. The Council's current plan does not require developments to adopt these critical elements as they were not applicable at the time of adoption. As they are local matters they are not addressed through the NPPF or Planning Policy Guidance and therefore the Council would lose the opportunity to secure these matters for areas of significant growth in the District.
- 4.5.4 The Council will effectively lose control of its spatial development strategy. If the sites that have been allocated through releases from the Green Belt are taken out of the 5 year supply, the Council will cease to have a five year supply. It would be impossible for the Council to achieve the housing requirement that has been set by Government without these sites.
- 4.6 The review of the Local Plan has required numerous studies and reports over the previous seven years to provide the necessary evidence to develop the spatial strategy and policies within. The total estimated cost of this work is around £700,000. This is in addition to the time spent by officers, partners, stakeholders and Councillors which run into thousands of hours and which have not been accounted for in the cost shown above.
- 4.7 Members are reminded that the Inspector's Report in its entirety is binding upon the Local Planning Authority. The Council cannot be selective about which parts of the report it chooses to accept so must either adopt the plan or not adopt the plan (as outlined in the Planning and Compulsory Purchase Act 2004). Therefore, in order to adopt the Local Plan, the Cabinet must first consider whether to accept all of the modifications set out within the Inspector's Report (as set out in Appendix B). Appendix C sets out the Local Plan incorporating all these changes.

5. FINANCIAL IMPLICATIONS

- 5.1 The costs of adopting the plan are minimal and mostly relate to staff time. These will be met by existing budgets.
- 5.2 The cost of not adopting the Plan would be considerable. Some of the Council's evidence is now several years old and would require a full update, so it is likely to require a further £700,000 to commission the reports which was previously met by a combination of base budgets and earmarked reserves which are now exhausted. The uncommitted balance held in the General Risk Reserve is insufficient to meet the full cost so this would need to be met from general reserves. This would put additional pressure on the Council's ability to deliver a balanced budget in the short to medium term, potentially as soon as 2023-24 if planned Wyre Forest Forward and Localism savings are not achieved.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 The report refers to relevant provisions of legislation throughout. The legal position regarding the process of adoption of a Local Plan has been explored in depth and confirmed by the High Court in a 2020 case relating to the process of adopting the local plan by Harrogate Borough Council - Flaxby Park Limited vs Harrogate Borough Council. The judgement stated that “The effect of regulation 4(1) to (3) of the [Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No. 2853)] is that any function in connection with the formulation and preparation of a development plan document, including a local plan, is the responsibility of the executive, save for the approval of a draft plan for submission for examination and the adoption of the plan following that examination, both of which are the responsibility of the local planning authority”. The effect of Regulation 4(4) is that it is the responsibility of Cabinet to decide whether to modify the local plan in accordance with the Inspector’s Report before full Council decides whether to adopt it as so modified.
- 6.2 Cabinet cannot make amendments to the main modifications identified by the Planning Inspector to make the plan sound and legally compliant. The Cabinet can either accept all modifications and recommend adoption or recommend that the plan is not adopted. The ability exists to make minor modifications to aid clarity, consistency and accuracy and which (taken together) do not materially affect the policies set out in the Local Plan. Similarly, Council can only consider the recommendation made by Cabinet: the choice is to adopt the Local Plan with the main modifications or not to adopt it.
- 6.3 Under section 21(1)(a) of the Planning & Compulsory Purchase Act 2004 the Secretary of State has the discretionary power (rather than duty) to intervene and issue a holding direction to prevent the Council from doing anything further in relation to the Local Plan before it is adopted by the Council. Further, under section 21(4) of the 2004 Act the Secretary of State may require that the plan is submitted to him for approval. The Secretary of State also has powers under section 27(5)(b) to direct the Council to consider adoption of the plan. The Secretary of State can charge the local authority in respect of the costs incurred in taking such action. There is no obligation on him to take any of these steps and it is rare, as the expectation is that, where a plan has been found to be sound through independent examination, the Council will move swiftly to adoption and there should not be the need for the Secretary of State to become involved in local decision making.
- 6.4 Decisions of the Council are open to scrutiny and possible Judicial Review, whether that is a decision to adopt, not to adopt or to delay adoption. Any decision taken must, therefore, be robust enough to defend challenge and there must be clear reasons given that can be fully justified at the time of the decision. The independent Inspector has confirmed that the plan is sound and legally compliant and capable of adoption, subject to main modifications. That is a robust reason to adopt. A decision to do otherwise than adopt, in accordance with her report, would need to be clearly justified.
- 6.5 Following adoption of the plan, in accordance with Regulations 17, 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) the Council must give notice of adoption.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 The Council is conscious of the importance of the Public Sector Equality Duty 2010 in preparing the Local Plan and a full EIA screening has been undertaken. The EIA indicated at the time that a number of the policies included within the Local Plan have a positive effect in helping to promote equality and eliminate discrimination. However, the EIA screening highlighted that there is a potential adverse impact to the Gypsies and Travellers community arising from the 2014 Gypsy and Traveller Accommodation Assessment (GTAA) being out of date. To address this, the Council commissioned a new GTAA which went before the Inspector as part of the examination of the Plan.

8. RISK MANAGEMENT

- 8.1 At this stage, the principal risks relate to not adopting the plan. Such a decision would seem reckless as it would waste the money and effort that has been put into producing this plan, over many years, as set out above and expose the Council to the additional costs of starting the process again, for which budget provision has not been made. Not adopting the plan would expose the district to a range of other risks such as loss of local control over planning decisions, planning by appeal etc, which are also spelled out above. These risks can be mitigated by adoption of the plan which is why the recommendation for Cabinet is that it should accept the main modifications and recommend the plan to full Council for adoption. Given the significant problems and difficulties that would face the district and Council as outlined in paragraphs 4.5 to 4.6 above, the firm and unequivocal advice from officers is that the Council should now adopt the plan.
- 8.2 There may be one or more Members who have publicly stated their views in respect of certain sites proposed for allocation to such an extent that a fair-minded and informed observer would consider that there was a real possibility of bias. Advice has been given to the Members concerned and is the subject of ongoing discussion and correspondence at the time of issue of this report. The participation of a Member - in respect of whom a fair-minded and informed observer would consider there to be a real possibility of bias - could risk exposing the Council's decision to judicial review with the damage to reputation and the exposure to costs award, which could be considerable. Further advice on this issue may need to be offered in advance of or at the special Council meeting by the Solicitor to the Council.

9. CONCLUSION

- 9.1 The Council is now in receipt of a binding Inspector's Report for the Local Plan, who has found the plan to be sound subject to the main modifications. The greater good of the district and of the Council will be served by adopting the plan for the reasons spelled out in the report. As the culmination of many years of work, the Local Plan is ready to be adopted with effect from 26th April 2022 and to become part of the development plan for the District in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

10. CONSULTEES

- 10.1 Corporate Leadership Team

10.2 Consultation on the development of the Wyre Forest District Local Plan (2016-2036) has been carried out in accordance with The Town and Country Planning (Local Development) (England) Regulations 2004 as amended by The Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008 and in accordance with the District Council's adopted Statement of Community Involvement (February 2013).

11. BACKGROUND PAPERS

11.1 Local Plan examination documents including Sustainability Appraisal at [Local Plan examination | Wyre Forest District Council \(wyreforestdc.gov.uk\)](http://wyreforestdc.gov.uk)

11.2 National Planning Policy Framework and Planning Practice Guidance at [National Planning Policy Framework - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

11.3 Wyre Forest District Local Plan (2016-2036) submission report 11/02/2020