



NORTHAMPTON
BOROUGH COUNCIL

COUNCIL

19th January 2015

Agenda Status: Public

**Directorate: Regeneration, Enterprise
and Planning**

Report Title	West Northamptonshire Joint Core Strategy Adoption
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1. Purpose

- 1.1 The West Northamptonshire Joint Core Strategy Part 1 Local Plan was adopted on 15th December 2014. The report seeks to clarify Northampton Borough Council's position in relation to its adoption; in particular Policies N5 and N6 and the strategic highways infrastructure which the Council's members on the West Northamptonshire Joint Strategic Planning Committee did not feel were adequately addressed in the Core Strategy adoption process.
- 1.2 A Council resolution on these issues will be a material consideration for the decision maker in the determination of related Planning Applications.

2. Recommendations

- 2.1 That Council confirms an objection to the allocation of the site for 1000 dwellings in Policy N5 'Northampton South SUE' and makes this known to the decision maker in the determination of the associated planning applications.
- 2.2 That Council confirms an objection to the allocation of the site for 1300 dwellings in Policy N6 'Northampton South of Brackmills SUE' and makes this known to the decision maker in the determination of the associated planning applications
- 2.3 That Council confirms an objection to the limited provision of the North-West bypass as set out in Policy T7 of the Joint Core Strategy and requests that Northamptonshire County Council invests in updating its strategic transportation modelling to better assess impacts of development on Northampton's highways and also plans and provides for a significant upgrade and as well as addressing the missing links of the North-West bypass, to be completed as soon as possible.

2.4 That Council, subject to confirmation of the recommendations above, notes and supports the adoption of the West Northamptonshire Joint Core Strategy Local Plan Part 1 as part of the Development Plan for the purposes of determining planning applications.

3. Issues and Choices

3.1 Report Background

West Northamptonshire Joint Strategic Planning Committee and Joint Planning Unit

- 3.1.1 In early 2007 Northampton Borough, Daventry and South Northamptonshire Councils supported the creation of a West Northamptonshire Joint Planning Unit. The Unit was set up with a view to co-ordinating strategic planning in the area. In particular it sought to address the need for a long term plan. The Plan would manage growth within the constituent partner authorities and in particular that associated with Northampton, consistent with the emerging East Midlands Regional Spatial Strategy.
- 3.1.2 The Unit's remit and function, together with that of a West Northamptonshire Joint Strategic Planning Committee was formally clarified through a West Northamptonshire Joint Strategic Planning Memorandum of Intent dated May 2008. This was signed by the three councils together with Northamptonshire County Council. Principal elements of the Memorandum were taken forward in a Statutory Instrument 'The West Northamptonshire Joint Committee Order 2008' July 2008. In March 2010 an Agreement between the Councils updated the Memorandum of Intent.
- 3.1.3 In terms of representation, the numbers of voting members of the Committee are Northampton Borough 4, South Northamptonshire 3, Daventry 3 and Northamptonshire County Council 2 votes. Decisions are made on a majority basis with the chair (rotated annually between the three district Councils on a rolling basis) having the casting vote.
- 3.1.4 Through a mixture of the Memorandum of Intent and Statutory Instrument leading Queen's Counsel's advice is that the respective Council's Executive decision making powers for the purposes of plan making have been vested in the West Northamptonshire Joint Strategy Planning Committee. This means the Committee is the Local Planning Authority with responsibility for the statutory stages of the Joint Core Strategy's adoption.

Joint Core Strategy – pre examination hearings

- 3.1.5 It has taken 8 years for the Joint Core Strategy to move from its initiation to its adoption. Key stages when representations have been sought have been Issues and Options in September 2007, Regulation 25 consultation January 2009, the Emergent Plan August 2009, Pre-Submission February 2011 and Proposed Modifications August 2013. Understandably given the time taken and the fact that there are four partners working together there have been a number of significant factors that have impacted on partnership dynamics and content of the Core Strategy. Such factors are the change in Government, the

'localism' agenda, revocation of the East Midlands Regional Plan, the advent of the National Planning Policy Framework and change in the Committee's representatives.

- 3.1.6 Notwithstanding the current 'duty to co-operate' requirement, Northampton Borough Council has had a longstanding commitment to facilitating joint working and producing a strategic plan. The Council has recognised that it has been in the interests of the town, and its citizens, for the Council to co-operate with Daventry, South Northamptonshire and Northamptonshire County Councils to agree Northampton's long term planning. To this end, prior to the more formal agreement between the Councils and significant injection of funds following a review of the Unit by Addison Associates initiated in 2008, it gave significant in kind support through formal and informal secondment of staff in the early years of the Joint Planning Unit. This was often at short notice and to the detriment of timely progression of Northampton's planning policy work, e.g. Central Area Action Plan.
- 3.1.7 The Council has always sought to work co-operatively with the other Councils in the partnership and the Joint Planning Unit. It understands that with four partners there will be competing priorities and tensions in resolving these. Although it might be more time consuming, the Council has always been supportive of a consensus approach to the contents of the Core Strategy. It recognises that with all partners squarely behind it, the Plan's prospect of success is likely to be much greater. On this basis, the Council's formal representations on the Core Strategy for the most part were limited, providing overall support whilst identifying essentially minor amendments to policy content.

Joint Core Strategy – examination hearings

- 3.1.8 As the Examination Hearings proceeded, the Inspector appointed by the Secretary of State identified a number of issues related to the potential soundness of the Core Strategy. He required the Joint Strategic Planning Committee to address these to enable the Joint Core Strategy to be found sound. These issues included: the Sustainability Appraisal requiring more work around options testing; identifying and meeting Objectively Assessed Housing Needs consistent with the National Planning Policy Framework; and meeting strategic employment needs around Northampton.
- 3.1.9 The Joint Planning Unit undertook the work associated with these issues. Once completed the Unit sought to work with partner Council officers and respective members of the Joint Strategic Planning Committee to identify appropriate evidence based 'sound' modifications. This process in dealing with housing allocations around Northampton was an uncomfortable one. This was partly due to the significant time constraints which limited debate and consensus building. Northampton Borough's committee members had significant reservations about the robustness of the transport modelling and the associated appropriate transport infrastructure in particular.
- 3.1.10 In addition, after considering representations made at the Examination Hearings, the Council's members had greater concerns than previously identified to officers about the appropriateness of the submitted Core

Strategy's allocations in Policy N5 on land south of Northampton (Collingtree) and Policy N6 on land south of Brackmills (Hardingstone).

- 3.1.11 Time constraints caused by the Examination process meant that either the Committee had to propose modifications, or risk the Plan being found unsound by the Inspector. If found unsound the Core Strategy preparation would have had to recommence at the beginning of the statutory processes, leading to significant delay in attaining an adopted Core Strategy. This would have associated risks to the development management process in addition to requiring a further significant resource for completion. Notwithstanding these issues, the Council's members felt unable to support the modifications proposed by the Unit to the Joint Committee.
- 3.1.12 Ultimately overall consensus between the partner Councils was not reached. The decision to publish proposed modifications was approved by the Joint Strategic Planning Committee on the chair's casting vote (Daventry), with both Northampton Borough and Northamptonshire County Council voting against issuing the modifications.
- 3.1.13 The Council, through the Leader who considered a report in February 2014, made representations to the proposed modifications. In summary, these recognised and supported the need to address an extended Plan period to 2029 and the amount of objectively assessed housing need identified for Northampton. However, the Council did not consider it appropriate to identify additional sites to accommodate these houses in Strategic Urban Extensions around Northampton. This was primarily due to a lack of certainty over the robustness of strategic transport modelling related to the whole of the network around Northampton.
- 3.1.14 The transport model used by the County Council was old and at the outset wasn't designed to cover such a long period or the volume of development proposed in the revised Core Strategy. It had a number of 'patches' added to allow some estimation of impacts to occur for the purposes of strategic plan making. However, these amendments would not be considered robust enough to be used for development management purposes in identifying the mitigation measures required. This was a concern to the Council as it could either or both significantly under-estimate wider impacts and thus associated infrastructure required to mitigate the impacts of development (making allocations undeliverable when assessed through the development management process), as well as undermine long term delivery by committing to sites which ultimately might require such expensive infrastructure post 2029 that development would become unviable.
- 3.1.15 To overcome this uncertainty associated with the traffic modelling, for additional housing in the period 2026-2029 the Council considered it more appropriate for the forthcoming Part 2 Northampton Related Development Area Local Plan to allocate the necessary sites. This would allow the partner Councils, developers and local communities more time to appraise the options using more robust evidence and come to a consensus on the most appropriate sites to allocate.

3.1.16 The Council was unable to make further comment on the policies N5 and N6 as there were no substantive changes to the original wording of these policies. As such any comment would have not been considered to be 'duly made' and given limited weight by the Inspector in his deliberations. Nevertheless, the Inspector was aware of a letter provided by the Leader requesting that he gave weight to the concerns of local residents in relation to the Urban Extensions.

3.1.17 The Inspector considered the Council's representations to the proposed modifications, along with those of the County Council and all other participants (both verbal at the Hearings and written submissions) on the strategic housing and transport discussions. At the Hearings, the Inspector revisited each of the Northampton Related Development Area Sustainable Urban Extension's policies.

Joint Core Strategy – Inspector's report and adoption

3.1.18 The Inspector considered all duly made representations submitted at all the statutory stages and addressed them in his report issued in September 2014. Notwithstanding the Council's objections, which were drawn out extensively at the Hearings, he identified that subject to proposed modifications (which had been appropriately considered through the Examination process) that the Joint Core Strategy was sound for the purposes of adoption.

3.1.19 Subsequently the West Northamptonshire Joint Core Strategy Part 1 Local Plan was adopted by the West Northamptonshire Joint Strategic Planning Committee on the 15th December 2014. The decision to adopt was carried on the chair's casting vote (South Northamptonshire). South Northamptonshire and Daventry District supported the adoption and Northampton Borough and Northamptonshire County Councils did not.

Joint Core Strategy – post adoption

3.1.20 The Joint Planning Committee's decision to adopt means that the Joint Core Strategy now forms part of the Development Plan for the purposes of determining planning applications. In relation to taking forward the concerns of the Council's members of the Joint Strategic Committee, the options for the Council are relatively limited.

Option 1 – Do nothing

3.1.21 Through this approach, the Joint Core Strategy would (unless successfully challenged in whole or in part by others) continue to be regarded as part of the Development Plan. In terms of Section 38(6) of the Planning and Compulsory Purchase Act 2004, decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The plan would have significant weight in the short term due to its adoption in conformity with the National Planning Policy Framework.

3.1.22 In terms of positive outcomes, this would provide a great deal of clarity in the determination of planning applications. It would also allow the Council to proceed with the work on the Northampton Related Development Area Local

Plan 'Part 2' to finally replace all policies in the 1997 Northampton Local Plan. Again, this would provide greater certainty and allow policies at the local level to address local issues and be fully compliant with up to date requirements. The Part 2 plan would allocate development sites for housing and employment, plus identify the boundaries of safeguarded areas such as important landscapes, greenspaces, district and local shopping centres, etc.

3.1.23 In relation to negative outcomes of Option 1, the position of the Council's Joint Strategic Planning Committee members voting against the adoption of the Core Strategy however may give an indication that the Council did not support any of the Joint Core Strategy. At a time when development viability on some sites and for some uses is still fragile, this uncertainty could affect investor confidence. This could undermine potential development prospects in the town in areas where the Council would welcome investment.

3.1.24 Option 1 would also belie the Council's members' objection to the allocation of particular sites for housing and also growing concerns about lack of identification of appropriate transportation infrastructure required to facilitate growth in and around Northampton.

3.1.25 Taking account of these factors Option 1 is not considered an appropriate way forward

Option 2 – Judicial review of the Plan's adoption – either in part or in full

3.1.26 Through this approach the Joint Core Strategy would be challenged through the Courts. In terms of outcome if successful this approach would either strike out parts or all of the Joint Core Strategy.

3.1.27 The validity of newly adopted plans can only be challenged via s. 113 of the Planning and Compulsory Purchase Act 2004 within a 6 week time limit. Under criterion (3), the challenger must be "a person aggrieved". As the Council delegated its Executive function of Development Plan adoption to the West Northamptonshire Joint Strategic Planning Committee and had representation on the Committee, Counsel considers based on case law it unlikely it will be able to meet the test of being "a person aggrieved". Counsel's opinion is that this is not really an option open to the Council.

3.1.28 Taking account of this advice Option 2 is not considered an appropriate way forward.

Option 3 – Council resolution confirming objection to policies N5 and N6 of the Joint Core Strategy and the inadequacy of the transport model for identifying the scope of strategic highways infrastructure including a North West by-pass in association with development.

3.1.29 In terms of outcome on the positive side, a resolution of the Council to object to policies N5 and N6 of the Joint Core Strategy and also around the inadequacy of the transport model for the purposes of identifying necessary highways infrastructure would constitute a material planning consideration in the determination of planning applications, provided it is founded on matters that relate to the use and development of land.

- 3.1.30 The weight that can be attached to it by the decision maker will be a matter for them, however the more grounded that the objection is in material planning considerations, the greater the likely weight that it will be given. In terms of risk in dealing with the wider Council's concerns about the policies, this is considered the lowest risk option. It focuses on individual policies/areas of development rather than seeking to undermine the whole plan, and is a low cost option.
- 3.1.31 The objection is a material consideration that the decision maker may take into account if relevant to a particular application; however Council should be mindful that in relation to S38(6) that as it is newly adopted, the Plan is the starting point for the determining of applications and will have substantial weight. In addition, the resolution should not be seen as binding on members of the Council who sit on Planning Committee, prejudicing the decision maker's (including Planning Committee's) ability to weigh up all the facts when determining an application. The resolution is not in any way planning policy itself. The Planning Committee must not pre-determine an application, but have an open mind at Committee taking account of all the evidence placed before them.
- 3.1.32 In planning circles it is recognised that for the purposes of plan making, the bar set for the testing of technical issues such as transport is likely to be lower than that associated with the determination of a planning application. So whilst the Inspector came to his conclusions on the appropriateness of information placed before him, he recognised that additional work would have to be done to address development impacts. For instance in relation to Policy N6 (paragraph 142 of his report) he identified that appropriate technical analysis and on site measures, as well as contributions to offset impacts elsewhere would be necessary. Planning Committee in determining the planning application for the development of the site consistent with Policy N6 was within its rights (on the basis of information that it had before it) to refuse the planning application due to a lack of evidence indicating significant harm from the development on the transportation network would not arise.
- 3.1.33 The Council's Joint Strategic Planning Committee's members considered that the transport, impact on setting of the existing settlements, increased flooding risk and social infrastructure implications of the policy N5 and N6 allocations are so significant that these sites should not be allocated in the Core Strategy.
- 3.1.34 In addition as set out above, the transport modelling used to support the Joint Core Strategy has been subject to criticism from the Council in representations made to the proposed modifications. The Council's Joint Strategic Committee members conclude that the model's likely inability to realistically address impacts of proposed development is such that it significantly underestimates the highways infrastructure around the town required to support all the proposed development. On this basis they consider the proposals for the North West by-pass as set out in the Joint Core Strategy's Table 7 as insufficient. This is due to three factors; its capacity as a single carriageway, the lack of a complete continuous connection between the A4500 and the A43; and the timing for those sections identified for delivery after 2021.

3.1.35 Option 3 is considered the most appropriate way forward. It gives a clear indication of the Council's position in relation to the Joint Core Strategy, which as a material consideration may be given weight by decision makers determining planning applications.

4. Implications (including financial implications)

4.1 Policy

4.1.1 Adoption of the West Northamptonshire Joint Core Strategy Part 1 Local Plan by the West Northamptonshire Joint Strategic Planning Committee means that it is now part of the Development Plan. It replaces a number of 'saved' policies in the Northampton Local Plan 1997. This means that in accordance with S36(8) of the Planning and Compulsory Purchase Act 2004 that planning applications have to be determined in accordance with its policies unless material considerations indicate otherwise.

4.1.2 A Council resolution supporting the Joint Core Strategy, but objecting to policies N5 and N6 as well as the transport infrastructure is capable of being a material planning consideration that the decision maker may give weight to in the determination of any relevant planning applications.

4.2 Resources and Risk

4.2.1 The West Northamptonshire Joint Core Strategy has commanded considerable resource (£millions) in its adoption from the partner Councils and in particular Northampton Borough Council as it is the largest contributor. The proposed recommendations are considered the most appropriate balance between marking out the Council's position as a point of principle which can be weighed up by decision makers, whilst also providing clarity in relation to the rest of the Joint Core Strategy which will reduce uncertainty and risk to investors and decision makers.

4.2.2 In relation to the determination of planning applications, the decision maker (including Planning Committee) may consider that the weight attached to the Council's resolutions is such that on its own or in association with other material planning considerations the applications placed before it must be refused. There is a risk that this will reduce Council income (through lost/deferred New Homes Bonus/Council Tax/business rates/planning applications fees) and increase expenditure (appeal costs). Planning Committee will receive the appropriate advice at the time in officers' reports on the weight that it should place on the Council's resolutions compared to other material planning considerations and the development plan.

4.3 Legal

4.3.1 None in addition to those identified in Policy and Resources and Risk.

4.4 Equality

4.4.1 The West Northamptonshire Joint Core Strategy was subject to full Equality Impact Assessment. The Council's position could ultimately affect the timing and location of housing delivery to meet Northampton's needs. Affordable housing in particular meets the needs of those who have higher representation rates in relation to minority ethnic groups and those with a disability. The Council's position of supporting meeting the delivery of objectively assessed housing in the period to 2029 means that any adverse impacts identified are likely to be temporary as housing will by default through the planning process be provided elsewhere in or adjacent to the Borough.

4.5 Other Implications

4.5.1 None

5. Background Papers

5.1 West Northamptonshire Joint Core Strategy Part 1 Local Plan December 2014

5.2 Leader's Report 'Response to proposed main modifications to the pre-submission version of the West Northamptonshire Joint Core Strategy' 19th February 2014

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