

Report of the Strategic Director of Place to the meeting of Executive to be held on 12 September 2017.

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Subject: Local Plan – Bradford District Waste Management Plan Development Plan Document – Planning Inspectors Report & Adoption

Summary statement:

The Council is in the process of preparing a new Local Plan which will replace the current statutory development plan for Bradford District (the Replacement Unitary Development Plan) which was adopted in 2005. The first of the Local Plan documents is the Core Strategy which was adopted at meeting of Full Council on 18 July 2017. The Waste Management Development Plan Document (DPD) sets out the planning framework for managing the District's waste in a sustainable manner. It includes policies and allocations for the management of waste in line with the national waste strategy and relevant European regulations. It deals with all types of waste including Local Authority Collected Waste. The DPD was approved by Full Council on 20 October 2015 for submission to government for examination. Following publication for representations an examination was held with a government appointed Inspector. Council has now received the Planning Inspector's Final Report and recommendations on the Bradford District Waste Management DPD, which forms part of the Local Plan.

The Inspector has considered all the matters before him including the plan, the evidence underpinning it, and the objections and representations made and the published modifications. In his report he concludes that the Bradford District Waste Management Plan can be considered to be legally compliant and sound, providing a limited set of Main Modifications are made to the plan, as submitted.

The purpose of this report is for the Executive to note the contents of the Inspector's report and to seek authority to proceed to Full Council to request the legal adoption of the modified Bradford District Waste Management Plan in line with the Inspector's recommendation.

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Overview & Scrutiny Area:

Environment and Waste

1. SUMMARY

- 1.1 The Council is in the process of preparing a new Local Plan which will contain a suite of documents and will replace the current statutory development plan for Bradford District (the Replacement Unitary Development Plan).
- 1.2 The first of the Local Plan documents is the Core Strategy, which sets out the strategic approach to managing development and change to 2030, and was adopted in July 2017.
- 1.3 The DPD was approved by Full Council on 20 October 2015 for submission to government for examination. Following publication for representations an examination was held with a government appointed Inspector. The Council has now received the Planning Inspector's Final Report and recommendations for the Bradford District Waste Management DPD (Appendix 1). The Inspector has considered all the matters before him including the plan, the evidence underpinning it, and the objections and representations made and the published modifications. In his report he concludes that the Plan can be considered to be legally compliant and sound, providing a limited set of Main Modifications (Appendix 2) are made to the plan as submitted and ready for adoption by the Council.
- 1.4 The purpose of this report is for the Executive to note the contents of the Inspectors report and to seek authority to proceed to Full Council to request the legal adoption of the modified Bradford District Waste Management DPD in line with the Inspector's Recommendation.

2. BACKGROUND

- 2.1 In accordance with the Planning & Compulsory Purchase Act 2004, the Council has commenced the preparation of the Local Plan, formerly known as the Local Development Framework (LDF) for the Bradford District in line with the agreed Local Development Scheme adopted by the Council. The Local Plan will ultimately supersede the current Bradford District Replacement Unitary Development Plan (as saved by the Secretary of State Oct 08). Following the adoption of the Local Plan Core Strategy in July 2017, Council is committed to adopting the following suite of Development Plan Documents:
 - Allocations Development Plan Documents (DPD) (Currently in Production)
 - Bradford City Centre Area Action Plan DPD (AAP) (Currently at Examination)
 - Shipley and Canal Road Corridor Area Action Plan DPD (AAP) (Currently at Examination)
 - Waste Management Development Plan Documents (DPD) (Post Examination Awaiting Adoption)
- 2.2 The Waste Management DPD sets out the planning framework for managing the District's waste in a sustainable manner. It includes policies and allocations for the management of waste in line with the national waste strategy and relevant European regulations. It deals with all types of waste including Local Authority Collected Waste. The DPD will provide the planning policy framework for

determining future planning applications to 2030 in conformity with the policies in the Local Plan Core Strategy.

- 2.3 The Planning & Compulsory Purchase Act 2004 as amended by the Localism Act provides the Legal basis for the preparation of the statutory development plan. This is supplemented by detailed regulations in particular Town and Country Planning (Local Planning) (England) Regulations 2012. The Development plan process is made up of 5 main stages.

Stage 1 Initial Evidence gathering

Stage 2 Initial Consultation and continued work on evidence gathering (reg18)

Stage 3 Publication and Submission (Reg 17, 19 and 22)

Stage 4 Examination (reg 23-24)

Stage 5 Adoption (Reg 26)

- 2.4 The Waste Management DPD has reached stage 5. Work under stage 1, 2, 3 and 4 is briefly summarised below with reference to previous engagement and technical work.

- 2.5 The Waste Management DPD is the key statutory plan which sets out the proposed approach to managing waste in a sustainable manner to 2030. It includes policies and allocations for the management of waste in line with the national waste strategy and relevant European regulations.

- 2.6 Upon adoption, the Waste Management DPD will form the key statutory plan which sets out the proposed approach to managing waste in a sustainable manner to 2030. It includes policies and allocations for the management of waste in line with the national waste strategy and relevant European regulations. It deals with all types of waste including Local Authority Collected Waste (LACW), Commercial and Industrial (C&I) Waste, Construction, Demolition and Excavation Waste (CDEW), Agricultural Waste, Hazardous Waste, and Low Level Radioactive Waste.

- 2.7 The Waste Management Development Plan Document - Submission Draft contained, has been based upon the National Planning Policy Framework (NPPF), National Planning Policy for Waste, practice guidance and extensive community engagement and consultation, and technical evidence and research. Each of these elements is considered in turn below.

Consultation and Engagement

- 2.8 As part of the Local Plan for Bradford District, the Council is committed to producing a Waste Management Development Plan Document (DPD) which will identify sites for waste management and policies for their delivery and implementation in support of the approach set out in national and regional planning guidance as well as the Local Plan: Core Strategy.

- 2.9 The Waste Management DPD will provide the detailed policy framework for managing all types of waste including:
- Local Authority Collected Waste (LACW);
 - Commercial and Industrial Waste (C&I);

- Construction, Demolition and Excavation Waste (CDEW);
- Hazardous Waste including Low Level Radioactive; and
- Agricultural Waste.

2.10 The DPD allocates sites for the major waste streams of Local Authority Collected Waste and Commercial & Industrial Waste only. The other waste streams will be managed onsite / at source and through a planning policy based approach should the need for such a facility arise.

2.11 The DPD has been subject to 5 rounds of public consultations as outlined below.

- The first stage in the preparation of this document, the Issues and Options report, was produced in October 2009. This report set out a number of issues surrounding waste management within the Bradford District and potential solutions to those address those issues. The document was approved for consultation by Executive on 20th October 2009.
- The Preferred Approach reports considered all the comments received during the Issues and Options (2009/10) consultation process and developed a number of policies and approaches to overcome the present and future issues surrounding waste management within the Bradford District. The Preferred Options consultation ran from January 2011 to April 2011. The document was approved for consultation by Executive on 14th January 2011.
- Preferred Approach: Revised Chapter 5 was consulted upon from October to December 2011. This document contained a Revised Shortlist of Sites following changes to the site assessment, which took account comments received at previous stages of consultation. The Preferred Approach: Revised Chapter 5 consultation ran from October 2011 to December 2011. The document was approved for consultation by Executive on 16th September 2011.
- The Preferred Options consultation ran from 21st January 2011 to 1st April 2011.
- Following consultation on the Preferred Approach and Preferred Approach: Revised Chapter 5 in 2011, a Publication Draft version of the Waste Management DPD has been prepared for submission to government for independent examination. The Publication Draft consultation ran from December 2015 to February 2016. The document was approved for consultation by Executive on 15th September 2015.

2.12 The Publication Draft, approved by Full Council on 20 October 2015, was the final stage prior to submission to Secretary of State for independent examination in public with the Planning Inspector. As such this is the stage when it becomes the plan that the Council wishes to see adopted. At the Publication Draft stage the Council needs to ensure that it will pass the key tests at independent examination in public.

2.13 The Local Plan was examined by an independent Planning Inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. To this end, the Council, as the local planning authority, submitted a plan for an examination in public which it considers is “sound” – namely that it is

1. Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements,

- including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
2. Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
 3. Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 4. Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Plan.
- 2.14 Following consultation on the Waste Management DPD Publication Draft the Council submitted the DPD to the Secretary of State on Monday 16 May 2016, for examination in public by an independent Planning Inspector. The Secretary of State then appointed Mr Stephen Pratt BA (Hons) MRTPI to undertake the examination into the Waste Management DPD.
- 2.15 Following the examination of the DPD, the Inspector recommended a number of main modifications to the Plan to make it sound. As required under the Town and Country Planning Regulations 2012, the Council undertook a 6 week public consultation on the Schedule of Modifications. Approximately 2,500 people (including elected members, statutory consultees, people who have made previous represents etc) were notified as part of the public consultation.
- 2.16 Alongside the Schedule of Modifications, the Sustainability Appraisal Addendum was published, which detailed the potential impacts of the main modifications.
- 2.17 The Council received approximately 95 representations on the Schedule of Modifications and the Sustainability Appraisal Addendum. All consultation documents and written representations are available to view on the Council website.
- 2.18 The Inspector has now considered all the representations made during the public consultation and the resulting amendments made to the Schedule of Modifications, and has now issued his final report (Appendix 1 and Appendix 2). The Inspector has found the plan sound subject to the modifications put forward and is now ready for adoption by the Council.

Modifications

- 2.19 The Council has undertaken extensive consultation and community engagement throughout the production of the Plan, which resulted in few outstanding issues and representations at submission stage and consequently the Inspector did not consider there a need to hold formal hearing. However, as part of the examination process, the Inspector has issued a number of Matters, Issues and Questions (MIQs) relating to the legal compliance and soundness of various parts of the Plan. The Council has issued responses to all the MIQs raised by the Inspector, some of which have resulted in a number of main modifications being proposed. Alongside these modifications, the Inspector has also suggested a number of modifications to address any outstanding issues, which the Council have accepted and incorporated

into the overall Schedule of Modifications.

Adoption Process

- 2.20 Assuming the Bradford District Waste Management DPD is adopted following resolution by Full Council, it will form a part of the statutory Local Plan for the District alongside the recently adopted Local Plan Core Strategy for the Bradford District. It will become a key document in the determination of planning applications. It will replace some of the existing saved policies of the RUDP.
- 2.21 It is important to stress that the policies within the RUDP were prepared a considerable time ago and over time will become ever more vulnerable to challenge. This includes policies to protect key environmental assets, as well as those policies which relate to economic growth and development. The adoption of the Bradford District Waste Management DPD will provide policies and land allocations which have been prepared in the light of current government guidance and up to date evidence and which will therefore provide a more robust basis for the Council's decision making when considering planning applications. Should the Bradford District Waste Management DPD be delayed or not adopted there is a much greater risk of successful challenges to the Council's decisions, increased numbers of planning appeals and associated increased costs and greater uncertainty for potential developers and investors in the District.
- 2.22 If the Bradford District Waste Management DPD is adopted by Full Council in line with the Inspector's recommendations with all the proposed Main Modifications the Council will then publish an Adoption Statement. Following this there is a 6 week period allowed for any party to legally challenge the Council's decision to adopt.

3. OTHER CONSIDERATIONS

- 3.1 The Council has a duty under the Planning and Compulsory Purchase Act 2004 to prepare the Local Plan for the District in line with the approved Local Development Scheme (LDS). The Council can determine the nature and make-up, of the Local Plan it wants to put in place in order to meet its statutory duty, as well as the timetable for its' preparation. The currently agreed Local Plan programme, as set out in the approved LDS, commits to 5 Development Plan Documents (see paragraph 2.1).
- 3.2 The process for the preparation of each DPD is prescribed by statute and regulation. In order to ensure a 'Sound' plan it is important that the Council ensures it follows the regulations, ensures effective and robust consultation, and ensures it is founded upon up to date and robust evidence. All DPDs are submitted to the Secretary of State for independent examination to test whether they are sound with reference to the tests set out in legislation and regulations. Failure to ensure a robust approach could result in a DPD being unsound and not capable of adoption. The Inspector has considered fully the legal compliance and soundness and concluded that the Bradford District Waste Management DPD as proposed to be modified is sound and can be adopted by the Council. However he has also confirmed that the original plan submitted to the Planning Inspectorate without the proposed Main Modifications would not be considered 'Sound'. The importance of accepting and incorporating, in full, the schedule of Main Modifications to ensure

that the Plan can be adopted should therefore be emphasised.

- 3.3 Once the examination process is complete, adoption is the final stage of putting a Local Plan in place. This requires confirmation by a full meeting of the Local Planning Authority (Regulation 4(1) and (3) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000). On adopting a Local Plan, the Local Planning Authority has to make publicly available a copy of the Plan, an Adoption Statement and Sustainability Appraisal in line with regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 3.4 Government guidance states that while the Local Planning Authority is not legally required to adopt its Local Plan following examination, it will have been through a significant process locally to engage communities and other interests in discussions about the future of the area, and it is to be expected that the authority will proceed quickly with adopting a plan that has been found sound.
- 3.5 National Planning Policy continues to emphasise the need for Local Planning Authorities to prepare an up to date development plan for their district and more recent government statements are seeking councils to progress as a matter of urgency.
- 3.6 The Housing and Planning Act 2016 re-emphasised the need for Local Planning Authorities to make progress to put in place up to date local plans and introduced new powers for the Secretary of State to intervene where sufficient progress was not being made. In a statement to Parliament (July 2015) the then Minister of State for Housing and Planning (Brandon Lewis) made clear the government's commitment to getting Local Plans in place. To this end, the government will publish league tables setting out local authorities' progress on their Local Plans. In cases where no Local Plan has been produced by early 2017 the government will intervene to arrange for the Plan to be written, in consultation with local people, to accelerate production of a Local Plan under the new provisions in the Housing and Planning Act 2016. The adoption of the Bradford District Waste Management Plan would be a major step forward in meeting this requirement and demonstrating to government the District's commitment to producing an up to date Local Plan for the management of waste in support of the Core Strategy. It will therefore enable the Council in conjunction with local communities and stakeholders to maintain control over decisions on the future planning of the District.
- 3.7 It is also important to communities, business and investors that an up to date plan is put in place in order to ensure certainty and confidence. It also will assist in supporting the attraction of much needed investment into infrastructure projects based on clearly articulated plans for delivering growth and supporting business case for supporting investment.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The preparation of the Local Plan is undertaken by the Planning and Transport Strategy Service, which is funded from within the Department's resources, supported by one off corporate growth payments to cover abnormal costs of consultation and engagement, technical studies and examination cost.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 There are risks to the Council as a result of not having an up to date Local Plan. These include:
- uncertainty for decision making;
 - reduced prospects for securing funding for new infrastructure in support of economic growth;
 - increase in the number of successful planning appeals with attendant increased costs;
 - possible government intervention to externalise plan making; and
 - failure to meet key needs for homes and jobs.
- 5.2 The receipt of the Inspector's Report and recommendations allowing adoption mean the Council is in a position to be able to put in place an up to date planning framework for waste management for the District which will form part of the statutory Local Plan and provide a starting point for the consideration of planning applications. It will also provide confidence and clarify to the development sector as well as business and communities and allow infrastructure providers to be clear about the scale and distribution of development they need to support through their investment plans and decisions.
- 5.3 As noted above at 3.3, the decision whether to adopt the Bradford District Waste Management DPD is for Full Council.

6. LEGAL APPRAISAL

- 6.1 The Local Plan is prepared in line with the appropriate, legislation (UK and EU), regulations and guidance, in particular the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2012 and Planning and Housing Act 2016. The Submitted plan was supported by a legal compliance check list and the Inspector concluded that the submitted plan was legally compliant.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

- 7.1.1 The consultation on the Bradford District Waste Management Development Plan Document was undertaken in line with the Statement of Community Involvement, which sets out how the Council will seek to engage the community in the preparation of development plan documents. In order to achieve this it seeks to set a framework to ensure representative and inclusive involvement and engagement at all stages of document preparation. Particular consideration is given in the document to hard to reach groups. In addition the Bradford District Waste Management DPD has been subject to an Equality Impact Assessment screening.

7.2 SUSTAINABILITY IMPLICATIONS

- 7.2.1 All Local Plan Development Plan Documents are required to be subject to Sustainability Appraisal (SA) including Strategic Environmental Appraisal (SEA) at all key stages. The SA seeks to assess the likely impacts of the policies and

proposals of the relevant plan. A full SA was undertaken by independent consultants Ramboll Environ at key stages of the Waste Management DPD preparation. In addition to this, a Habitats Regulations Assessment (HRA), also prepared by Ramboll Environ, has been undertaken to assess the impact of the policies and proposals set out in the Waste Management DPD on the environmental integrity of the South and North Pennine Moors Special Protection Areas (SPA's) and Special Area's of Conservation (SAC's).

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

7.3.1 The Local Plan is subject to Sustainability Appraisal throughout its development, which identifies the likely impacts of the Plan and where appropriate any mitigation to manage any negative impacts. Climate Change is identified within the Waste Management DPD as a key issue and is covered in the spatial vision of the document and by several policies which seek to reduce greenhouse gas emissions and also manage the potential impacts of Climate Change.

7.4 COMMUNITY SAFETY IMPLICATIONS

7.4.1 There are no direct community safety implications arising from Bradford District Waste Management DPD

7.5 HUMAN RIGHTS ACT

7.5.1 The adopted Statement of Community Involvement sets out how all individuals can have their say on the development plan documents. Anyone who was aggrieved by the Bradford District Waste Management DPD as drafted had a right to be heard at an independent examination in public following submission to the Secretary of State.

7.6 TRADE UNION

7.6.1 There are no Trade Union implications.

7.7 WARD IMPLICATIONS

7.7.1 The Waste Management Development Plan relates to the whole District and therefore affects all wards across the District.

8. NOT FOR PUBLICATION DOCUMENTS

8.1 None

9. OPTIONS

The Executive have 3 options.

Options1

9.1 The first option is to approve the Bradford District Waste Management DPD in line with the Inspector's Report and recommendations including the complete set of Main

Modifications contained in the Appendix to the Inspector's Report. The document is considered 'Sound' and legally compliant by the Inspector and capable of adoption only with the proposed Main Modifications.

Option 2

9.2 The second option is to attempt to adopt the Bradford District Waste Management DPD but not to include all the Main Modifications or with different changes. There is a strong likelihood that such a course of action would fail and result in successful legal challenge as the Inspector has made clear that the Main Modifications are all required in order to produce a 'Sound' and legally compliant plan, which is capable of adoption;

Option 3

9.3 The third option is to not adopt the Plan and to review the document. In effect this would amount to a withdrawal of the Plan in total as the Inspector has now concluded his examination. This would delay significantly the adoption of the Local Plan having particular implications for the management of waste. As well as delay of up to 3-4 years to go back through the process there would also be significant additional costs to the Council. There would also be a risk of intervention by the government. In the meantime the District would not have an up to date strategy for waste management and therefore lose control and influence over development proposals in the District. During the course of the production of the Bradford District Waste Management DPD considerable sums have been invested in the Plan's preparation including the production and commissioning of technical evidence and the holding of community consultation events and Planning Inspectorate and Programme Officer feeds relating to the Examination. Failure to adopt the Bradford District Waste Management DPD would lead to significant cost as much of the evidence associated with the document would have to be updated or prepared afresh, further consultation would have to be undertaken and a new Examination would need to be held and paid for.

9.4 The Executive are therefore recommended to follow Option 1 and recommend to Full Council that the Bradford District Waste Management DPD as submitted be adopted with the Main Modifications proposed by the Inspector for the reasons set out in his report and also this report. The other options would have significant serious implications for the timetable for putting in place an up to date Local Plan and associated risks to both the Council and the District and its communities.

10. RECOMMENDATIONS

10.1 The Executive is recommended to note the contents of this report and contents of the Inspector's Report (Appendix 1) and recommend that Full Council formally adopt the Bradford District Waste Management Development Plan as approved by Full Council on 20th October 2015 and submitted to the government for examination with the Main Modifications contained in Appendix 2, as proposed by the Inspector pursuant to Section 23 of the Planning and Compulsory Purchase Act 2004.

10.2 That the Assistant Director (Planning Transportation and Highways) in consultation with the relevant Portfolio Holder be authorised to make other minor amendments of redrafting or of a similar nature as may be necessary prior to formal publication.

11. APPENDICES

Appendix 1 - Report on the examination of the Local Plan for the Bradford District Waste Management Development Plan Document (DPD)

Appendix 2 - Schedule of Main Modifications to the Bradford District Waste Management Development Plan Document (DPD)

12. BACKGROUND DOCUMENTS

- 12.1 Local Development Scheme (July 2014)
- 12.2 Submission Draft Waste Management Development Plan
- 12.3 Sustainability Appraisal
- 12.4 National Planning Policy Framework
- 12.5 National Planning Policy for Waste
- 12.6 National Planning Policy Guidance