



REPORT FOR DECISION

Agenda item no:

Cabinet
27 October 2004

Report of the Head of Policy, Partnership and Regeneration

ROCHDALE UNITARY DEVELOPMENT PLAN REVIEW - COUNCIL'S STATEMENT OF DECISIONS ON THE INSPECTOR'S RECOMMENDATIONS AND PROPOSED MODIFICATIONS

Wards affected: All

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To seek approval for the publication of the Council's Decisions and Modifications in response to the UDP Inspector's Report.

1. It is recommended that:

- (i) the Statement of Decisions and Proposed Modifications set out in the accompanying report be approved and placed on deposit for a period of six weeks in line with the statutory procedures.
- (ii) that objections to the decisions or modifications received after the end of the deposit period will not be considered; and
- (iii) the list of Proposed Modifications be given appropriate weight in the determination of planning applications.
- (iv) The timetable leading to the adoption of the plan be noted.

2. Reasons for recommendation:

- 2.1 The Council is required to consider the recommendations made by the Inspector appointed to hold the Public Local Inquiry into objections to the UDP. The Council is required by statute to prepare a statement of decisions on the Inspector's recommendations and to give full reasons for not accepting any recommendation made by the Inspector. The Council must publish these and any modifications it intends to make that materially affect the content of the Plan.

3. Alternatives considered:

- 3.1 None. This is a statutory requirement leading to the adoption of the Plan.

4. Consultation undertaken/proposed:

- 4.1 The Inquiry itself was the focus for considering objections to the plan following statutory consultation on the Replacement Plan. The Inspector's recommendations have been published and the Council must now consider them.
- 4.2 A draft of this report has been circulated to members of all Township Committees and the views of the Township Committees will be reported to Cabinet on 27th October. Some discussions between officers and interested parties have taken place. The implications of the Inspector's recommendations on Langley and the Middleton West Business Park Proposal were discussed at a recent meeting of the Middleton Regeneration Group. There has been some debate on the Inspector's recommendation on Healey Hall Mills in the public forum of the Rochdale Township Committee.

5. Background

- 5.1 Members will recall that a Revised Deposit Draft version of the Plan was published for formal consultation in April 2003. Objections to the Plan were considered at a Public Local Inquiry that opened on 16 March 2004 and closed on 29 September 2004. At closure, some 905 objections were outstanding and were considered by the Inquiry Inspector Peter F Davies BSc (Hons) Dip TP MRTPI assisted by David Crook MA MRTPI (Higher Planning Officer of the Inspectorate). The Inspector's report on objections was received in June 2005 and has been made available for inspection at all locations where the plan was deposited and on the Council's web site.
- 5.2 Since that time, the Inspector's conclusions and recommendations have been considered by officers, in discussion with members, and this report is the culmination of that consideration. This covering report introduces the enclosed report 'Statement of Decisions and Proposed Modifications' which responds to the Inspector's recommendations on a chapter by chapter basis, provides a response to each recommendation and suggests modifications that are necessary as a consequence. Cabinet is asked :
- to agree those responses as the Council's decision;
 - to agree the 109 modifications proposed either in response to the Inspector's recommendations or for other reasons; and
 - to publish the decisions and modifications for statutory consultation (see Next Steps, below)

6. The Inspector's Report

- 6.1 The Inspector's report is a sizeable document and consists of a chapter by chapter analysis of objections made to the plan, together with the Inspector's conclusions and recommendations. It also has five appendices, which set out procedural and administrative details such as the list of objectors and supporters, lists of inquiry documents, appearances and the Inquiry Programme.
- 6.2 Whilst consideration of the Inspector's report has been a major task, it is worth noting that he has recommended making no changes to the plan in respect of just over half the objections. In addition, he has recommended the incorporation of a significant number of proposed changes which the Council put forward prior to, or during, the Inquiry in response to objections. Those proposed changes that

are to proceed must be published as formal modifications to allow objections to be considered.

General Summary of Recommendations

- 6.3 The Inspector was very supportive in terms of the plan's overall strategy, and its approach on regeneration. However, he did have concerns about housing supply, whether there was a demonstrable need for affordable housing, and the justification for a major Business Park (Middleton West). The following paragraphs provide a summary of the main issues arising from the Inspector's recommendations and a generalised response.
- 6.4 *Chapter 5, The Plan Strategy:* Here the Inspector recommends no changes to the Key Objectives of the Plan and endorses the Spatial Strategy with minor amendments.
- 6.5 *Chapter 7, Defined Urban Area, Green Belt and Protected Open Land:* The Inspector is clear that there are no reasons to alter the Green Belt boundaries carried forward from the Adopted UDP, although he agrees a change to a boundary anomaly at Haugh Fold in Newhey. He makes clear that meeting any shortage of housing or employment land should not involve Green Belt. He therefore dismissed objections seeking the release of Green Belt or protected open land at Langley Lane - Middleton; Hareshill Road - Heywood; Slattocks and Thornham - Rochdale; Roch Valley between Rochdale and Littleborough; and sites in Littleborough. He recommended mostly minor changes to policies dealing with Green Belt development to bring them in more line with national planning policy. He supported the Council's approach for dealing with the future of major developed sites in the Green Belt and in particular supported the designation at Rainshore Mill. However, he did not support the Council's decision at Revised Draft stage to remove the designation at Healey Hall Mills (see paragraph 7.4 below).
- 6.6 *Chapter 8, Employment and Economy:* The Inspector thought the Council's overall approach on employment land was largely robust and sufficiently flexible. However, the Inspector recommended the deletion of Middleton West Business Park on the basis that the benefits would be outweighed by the harm to the character of open land in the area. The Statement of Decisions as drawn up accepts this recommendation.
- 6.7 *Chapter 9, Housing:* The Inspector has expressed major concerns about housing land supply (G/H/1 and H/2) and the lack of demonstrable need for affordable housing (H/7) in the Borough. These concerns and the officers' response are explained in more detail below and a full response is contained in the Statement of Decisions and Proposed Modifications. The Inspector's recommendations on other policies within the chapter are considered reasonable. These relate to issues of rewording in relation to policies H/5, H/8 and H/9. In relation to policy H/3, the change increases the supply of housing land required before greenfield sites are considered. A modification in response to his recommendation on policy H/6 means that developers may not have to provide additional areas of recreational open space if there is sufficient in the area to meet local needs.

- 6.8 *Chapter 10, Shopping:* The Inspector was generally supportive of policies for retailing and town centres, recommending only a few and minor changes.
- 6.9 *Chapter 11, Leisure and Tourism:* Overall, the policies were supported and the Inspector recommended helpful wording changes in response to objections. He also recommends that the Council includes a new policy that would not permit development proposals that adversely affect built sports facilities. In response, a new policy is therefore included as a modification and is drafted to reflect government guidance and to allow flexibility (where suitable alternative provision can be made).
- 6.10 *Chapter 12, Regeneration:* The Inspector supported the Plan's approach to regeneration and endorsed 'Physical Regeneration Areas' (Policy R/3) and 'Areas of Opportunity' (Policy R/4) where redevelopment for mixed uses is sought (eg, Rooley Moor Road (TBA), Ealees, Durn, Riverside, Canal Basin, Birch Hill Hospital, Assheton Way/Townley Stret, Middleton, and Sefton Street, Heywood). He recommended only minor changes to the policies for 'Areas of Opportunity' except in relation to Trub Farm Castleton where he recommended the Area of Opportunity be reduced to exclude the open land west of the Canal. This recommendation is proposed to be accepted (see below).
- 6.11 *Chapter 13, Community Facilities and Public Services:* Few objections were made to these policies. In response to objections concerned about the impact of the proposed extension to Middleton Cemetery, the Inspector recommended that the plan includes a statement that detailed proposals will be the subject of consultation that will take into account the living conditions of nearby residents. His recommendation that the Plan policy on overhead power lines was inappropriate and should be deleted (because such development proposals are not considered under planning legislation) is proposed to be accepted.
- 6.12 *Chapter 14, Urban Greenspace:* The Inspector is satisfied that the policies within the chapter reflect national guidance. In light of this, a majority of the changes put forward by the Inspector relate to re-wording, in order to improve clarity and express the policies as a development control tool rather than as statements of intent. In relation to the Inspector's recommendation on G/10 'Protection of Urban Amenity Open Space' the Council's modification varies slightly from that suggested by the Inspector to maintain the intended emphasis of the policy. In terms of designations under UG/3 'Protection of Existing Recreational Open Space' the following recommendations are accepted:
- a change to the boundary at Rochdale Rugby Union Football Club in Bamford to reflect recent planning permissions; and
 - endorsement of the designation of Land off Kelvin Avenue, Rhodes, Middleton, as protected open space.
- It is also proposed to modify the boundary of protected open land between Peel Street and George Street, Heywood and to revert back to the designation in the adopted UDP. (This does not reflect a recommendation by the Inspector or the views of an objector but simply reflects recent information relating to the site.)
- 6.13 *Chapter 15, Countryside and the Rural Economy:* The Inspector recommended very few (and mostly minor) changes to these policies in response to the objections.
- 6.14 *Chapter 16 & 17, Minerals and Waste:* Minor changes are recommended to two minerals policies and two waste policies and these are accepted.

- 6.15 *Chapter 18, Accessibility:* The Inspector supported the policies, recommending very few, mostly minor changes.
- 6.16 *Chapter 19, Design and the Built Environment:* The Inspector recommended a number of minor wording changes to policies to more closely reflect Government policy guidance or to express them better as a development control tool. He recommended that two policies be deleted: one a policy on advertising hoardings (BE/5) (a matter adequately controlled by the general policy on advertisements) and another policy relating to the enhancement of conservation areas (BE/22) (which the Inspector thought did not require a policy). These are accepted.
- 6.17 *Chapter 20, Environmental Management:* The Inspector recommended the deletion of policy EM/7 'Disturbance by Industrial and Commercial Activities' because it read as a statement of intent and did not relate to the use or development of land. This is accepted. Minor changes to the wording of a few policies were recommended and are accepted.
- 6.18 *Chapter 21, The Natural Environment:* The Inspector recommended changes to a small number of these policies to improve expression and clarity.

7. Summary of Key Issues / Recommendations and the Council's Response

- 7.1 The following paragraphs set out the key issues and recommendations arising from the Inspector's report. These include instances where:
- the Inspector has supported the Council's position despite a substantial weight of objection;
 - the Inspector recommends against proposals and the attached report accepts those recommendations; and
 - the Inspector's recommendations are not accepted. (In these cases, the 'Statement of Decisions and Proposed Modifications' provides a detailed response.)

7.2 *Chapter 9, Housing Supply and Affordable Housing*

The Inspector has expressed major concerns about housing land supply (G/H/1 and H/2) and the present lack of demonstrable need for affordable housing (H/7) in the Borough. The Inspector suggests that land be allocated for an additional 1000 dwellings, phased to allow release after the first five years of the plan period (i.e. post 2007) and that a monitoring policy be included. Significantly, the Inspector has not recommended which sites, including sites proposed by objectors, should be allocated to meet the shortfall.

The main reason for the shortfall was the Inspector's view that clearance had been underestimated within the plan and there was an overestimation of the contribution from windfalls. The plan has been changed to take account of these views. However, given the increase in clearance it is considered necessary to include an allowance for clearance replacement. The inclusion of a reasonable clearance replacement rate means that the supply meets the RPG requirement including the replacement of dwellings lost through clearance. **Therefore it is recommended that allocation of additional land is not required although the**

allocation at Healey Hall Mills has been recommended for reinstatement in line with the Inspector's recommendation.

The revised Regional Spatial Strategy (RSS) will be published in 2007 and may include a revised housing figure. It is considered more appropriate that the housing land supply be revisited in light of this and, if necessary, reviewed through the production of a Development Plan Document as part of the new LDF process. Although the timing may be different, the Inspector does put this forward as a way to proceed within his reasoning. It should be noted that if the Council was to identify allocations in this plan to meet a shortfall, this would almost certainly result in objections and lead to a second Public Local Inquiry.

In terms of affordable housing (policy H/7), the Inspector's view is that there is insufficient evidence at present to support the inclusion of the policy within the plan. However, rather than delete the policy, the reasoned justification has been amended to make it clear that the policy will be implemented through a Supplementary Planning Document (SPD) which itself will be based on an up-to-date assessment of housing need. A Housing Needs Study is currently being finalised and the SPD is timetabled for completion around the time of adoption. This will ensure that the requirement to provide affordable housing will be supported by evidence of need, and will meet the Inspector's concerns. The deletion of the policy would mean the SPD had no policy basis and would therefore limit the Council's ability to deliver affordable housing where need has been identified. **It is recommended that the Council reject the Inspector's conclusions in respect of affordable housing and retains the amended policy.**

7.3 **D/6 Rainshore Mill, Norden**

Having considered objections from local residents about the effect of the proposals for the redevelopment of the site for housing on the character and appearance of the area, and the traffic impact, the Inspector recommends that the proposal should proceed in order to regenerate the site. The Inspector concluded that:

- continued decline at the site was likely;
- a reoccupation does not represent an attractive prospect;
- the proposal was, overall, sustainable, making use of a previously developed site;
- a suitable access could be achieved; and
- the development control process would be likely to establish a housing scheme that rested comfortably in the landscape.

It is relevant that the Inspector who held the Inquiry into the called-in planning application to redevelop the site also concluded that the site could be redeveloped for housing without causing adverse impact to visual amenity or highway safety. Permission was ultimately refused by the Secretary of State purely on grounds of Green Belt Policy.

It is recommended that the Inspector's recommendation to retain the proposal be accepted.

7.4 **D/6 Healey Hall Mills.**

Here the Inspector concluded that the original proposal was a reasonable response to the previous Adopted UDP Inspector's report in providing a positive policy. He made the following observations in his conclusions:

- The policy reasonably reflected national Green Belt policy in PPG 2 Green Belts.
- He was not convinced by arguments that a housing development and associated activity would negatively impact on the character and ecological value of the immediate or wider area.
- He thought that the development control process would be able to secure a development that reflected the requirements of the original policy and reflected the character and appearance of the area.
- An acceptable access would be able to be established.
- There was insufficient evidence to show that the Council's objectives to improve the site and adjoining land could be achieved through funding schemes.
- That an Inspector dismissed an appeal for residential development at HHM was not a material factor as the special circumstances of that case are not directly comparable.
- The peripheral nature of the site for housing and the availability of services was a concern but greater weight should be given to the benefits arising from the redevelopment and regeneration of the site.
- He was not impressed by arguments over disturbance arising from occupants of a housing development adding "I can see no convincing reason why the occupants of any potential houses should be less respectful of the surroundings than visitors to the nature reserve or those people employed in the existing units.

Taking account of the evidence before the Inspector and his view that the Council was correct at Draft Deposit stage, a Modification is proposed to reinstate the allocation. The approach set out in the Proposal presents the best available opportunity to regenerate the site and adjoining land without harm to the wider Dell and provides a robust framework for considering a planning application for the redevelopment of the mill complex. It will also establish better access to the visitor centre and this part of the Dell. **It is therefore recommended that the Inspector's recommendation to reinstate the policy be accepted.**

7.5 **EC/8 Middleton West Business Park**

The Inspector recommended that Middleton West Business Park be deleted from the replacement UDP because he considered that it is not justified for the following reasons:

- It is not necessary in terms of the employment land supply for Middleton and the Borough. In overall terms the Inspector supported the plan's approach to employment land supply which he considered robust and flexible;
- As a greenfield site it does not fit comfortably with the plan's approach to urban concentration and regeneration;
- It would substantially harm the character and appearance of the adjoining countryside, contrary to Government guidance;
- It would adversely affect the character and appearance of Bowlee village and Rhodes Green;
- The development is not sustainable with poor access by public transport;

- Whilst acknowledging the objective of providing jobs for the residents of Langley, he considered that these would represent only a limited proportion of the jobs created. He thought a lot of the jobs would be taken by people living outside Middleton, travelling by car. This would be in conflict with Government guidance to reduce travel to work;
- The Council could instead seek to improve public transport to other employment locations around Langley; and
- It would unacceptably conflict with the greenspace corridor policy and damage the Rochdale Way that runs through the site.

The Inspector has considered all the issues relating to the site and concluded that the harm outweighs any possible benefits. Whilst the Council may not agree with this conclusion, it is considered that there are no valid planning reasons for disputing the Inspector's view and that there is no new evidence or any other reason for rejecting the recommendation. **It is therefore recommended that the Council accepts the Inspector's recommendation and deletes Middleton West Business Park from the plan.**

7.6 EC/9(c) Land at Cowm Top (north of Cripplegate Lane), Castleton

This site was designated for employment development in the adopted UDP following 2 Development Plan Inquiries. Following a S78 appeal in 1997, planning permission was granted for employment development and this has subsequently been renewed and is still current. The site was designated by the Council as a Village Green which resulted in the Council deleting the employment allocation from the Revised Deposit Replacement Plan. However, the Village Green designation has subsequently been quashed by the High Court.

The Inspector considered the objections to allocating the site for employment development. He concluded that development would not result in unacceptable harm to the wider area and that, having taken into account the history of the site, it should be re-allocated for employment uses under policies EC/2 and EC/9. **It is recommended that the Inspector's recommendation be accepted.**

7.7 R/2 Langley Physical Regeneration Area

The Inspector recommended that reference to a new highway link between Heywood Old Road and Windermere Road, Langley should be deleted from this policy. This follows from his recommendation that Middleton West Business Park (policy EC/8) be deleted which, because the link was to be provided in association with the access road to the Business Park, has removed the justification and method of funding and providing the link road.

It is recommended that the Inspector's recommendation be accepted in relation to deleting reference to the highway link but that the policy still refer to the need for highway improvements within the Langley estate.

7.8 R/4(i) Trub Farm Area of Opportunity, Castleton

The Inspector has supported the allocation of an Area of Opportunity (AoO) at Trub Farm, Castleton, on the land between the Rochdale Canal and Manchester Road, because of its potential to support regeneration in Castleton. However, he has recommended that the open greenfield land to the west of the canal not be included in the AoO, but instead be protected as greenspace corridor. This was

because he considered this land makes an important visual contribution to the local environment and the community and is not necessary to deliver the regeneration benefits of the proposed mixed use scheme which could be accommodated entirely on the east side.

It is recommended that the Inspector's recommendation be accepted.

8. Legal and Procedural Implications

8.1 Members will be aware that the Inspector's report is not binding. However, Councils are expected to accept their Inspectors' recommendations unless there are strong planning reasons for not doing so. This approach has been taken in the Statement of Decisions. The vast majority of recommendations are recommended to be accepted, even though a significant number of which only invited the Council to consider the need for changes. The only significant departures from his recommendations are in respect of some aspects of housing and on affordable housing. The arguments set out in the Council's Statement of Decisions (summarised above) and the proposed modifications respond fairly and reasonably to the Inspector's concerns and should clarify the housing supply position. The Statement of Decisions only proposes non-acceptance of the Inspector's recommendations where there are strong grounds. Non-acceptance of the Inspector's conclusions without convincing reasons is likely to result in further objections leading possibly to a High Court challenge or a further public local Inquiry.

8.2 It should be noted that any decisions or modifications likely to lead to a second public inquiry would, due to the statutory procedures involved, delay the adoption of the plan months or years. Members should be aware that any plans not adopted by July 2006, will be subject to Strategic Environmental Appraisal (in line with a new EC Directive). This would involve major additional work before the Plan could be adopted, delaying adoption considerably longer. The consequences would be the lack of an up-to-date plan to guide development and regeneration and disruption to the programme of preparation of Local Development Documents in the Council's Local Development Scheme. The lack of an up-to-date plan will also mean the Council will not meet Government performance targets for plan preparation. There are clear advantages, therefore, if the Plan could be progressed to adoption without further modifications and a second Inquiry. Having said that, Members should make a decision on the issues based on planning grounds.

9. Next Steps

9.1 The Council's Statement of Decisions and Proposed Modifications, together with the Inspector's report and the Revised Deposit Draft Replacement Plan must be made available for inspection. A period of six weeks must then be allowed for any person to object or make supporting representations. Objections during this six week period are limited to the proposed modifications or to the fact that the Council has not accepted an Inspector's recommendation. Any objections received after the end of the deposit period will not be considered as duly made objections.

9.2 A further report will then be brought to Members to provide information on any representations received and how to respond to them. The Council then has to consider whether to proceed to adopt the plan, propose further modifications, or

hold another Public Inquiry. This latter course of action is at the authority's discretion and would only occur where objections raise matters that were not an issue at an earlier stage.

- 9.3 If no further Inquiry is necessary, it should be possible to adopt the plan by April/May 2006. It will then supercede the current adopted UDP and remain in force until parts are replaced by new 'Development Plan Documents' prepared as part of the Local Development Framework (the successor to UDPs and Local Plans).

10. Financial Implications:

- 10.1 Arrangements for publishing the Decisions and Modifications and the steps leading to formal adoption are covered under the UDP budgets. However, decisions or changes likely to lead to a second Inquiry could have significant financial repercussions (this would, however be less than the £200,000 cost of the last inquiry). Similarly, any Council decision or procedure that might be regarded by someone as so inappropriate as to undermine the validity of the plan could result in a legal challenge through the High Court. Were such a legal challenge successful, this could also involve significant costs. No contingency exists for either eventuality. However, it is not expected that the Statement of Decisions and Proposed Modifications as recommended would result in the need for a second Inquiry.

11. Use of the Modifications for Planning Control

- 11.1 Currently, the Development Plan for Rochdale consists of the UDP adopted in March 1999. However, as the Review (Replacement) Plan has progressed, it has been given increasing weight for development control purposes. The Proposed Modifications will therefore be material and may carry significant weight in the determination of planning applications where they follow from an Inspector's recommendation.

For further information and background papers: For further information about this report or access to any background papers please contact Paul Simpson (Strategic Planning Manager) Tel: 01706 864369.

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