

ANNUAL COUNCIL
2 MAY 2001

BRACKNELL FOREST BOROUGH LOCAL PLAN
BRACKNELL FOREST BOROUGH COUNCIL'S DECISIONS ON
THE LOCAL PLAN INSPECTOR'S REPORT
AND
MODIFICATIONS TO THE LOCAL PLAN

(Director of Corporate Services – Member & Registration Services/Director of
Planning and Transportation)

1 INTRODUCTION

1.1 The purpose of this report is to give advice to Members to enable them to reach an informed decision on a matter relating to the proposed modifications to the Bracknell Forest Borough Local Plan insofar as they relate to the Staff College site in Bracknell, referred to Council by the Planning & Transportation Committee on 29 March 2001 in accordance with standing order 47.

1.2 The Director of Planning & Transportation had advised the Committee to accept the Inspector's recommendation relating to the site. The Committee was recommended by the Director:

- That the Borough Council's response to the Local Plan Inspector's Recommendations concerning Local Plan paragraph 5.2 – housing allocation and Housing Development Proposal PH1.3 – The Staff College, Bracknell, be as set out in column 3 of Annexe 1 to the report (*ie that the Staff College be allocated for the development of some 700 dwellings*);

1.3 The Committee however, rejected this advice and instead resolved:

- That the Borough Council does NOT accept the Local Plan Inspector's recommendations regarding local plan Paragraph 5.2 – housing allocation and Housing Proposal PH1.3 – The Staff College Bracknell, as set out in Column 3 of Annexe 1 to the report; INSTEAD, Column 3 of Annexe 1 should state that the Inspector's recommendations should be rejected with regard to the number of dwellings proposed, reducing the allocation to 280 dwellings, gross. Consequent amendments to paragraph 5.2 – housing allocation, should also be made, reducing the total net residential allocation from 1826 to 1406 dwellings. The reasons for this decision (to be set out in column 4 of Annexe1) be as follows:
 - The Inspector has acknowledged that the infrastructure of the local roads is unsuitable in its present state to accommodate the additional demands likely to be placed upon them by the planned level of development. His concern that Broad Lane and the Horse and Groom roundabout will require urgent attention testifies to this. However, there is no indication that the relationship between traffic generated by this site and traffic

generated by prospective developments elsewhere in the vicinity, including the town centre, have been taken into account sufficiently to reassure the Council about the ability of local roads to cope.

- The Inspector did not consider evidence relating to surface water flooding. New evidence from recent meteorological events in this area, and supported by concerns expressed in emerging Planning Policy Guidance on the subject of flooding, gives much greater weight to the need to safeguard vulnerable areas such as this site and the surrounding area from the effects of flooding. The proposed level of development will exacerbate the flooding risk.

1.4 This was referred to Council as a recommendation under standing order 47.

2 RECOMMENDATION

2.1 **Council is invited to consider the matter and RESOLVE accordingly.**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

3.1 Regulation 27(1) of The Town and Country Planning (Development Plan)(England) Regulations 1999 requires the Borough Council to prepare a statement of:

- (a) the decisions it has reached in the light of the report and any recommendations contained in the Local Plan Inspectors Report; and
- (b) the reasons for any of those decisions which do not follow a recommendation contained in the report.

3.2 If the Council does decide to reject any of the Inspector's recommendations it must publish full cogent reasons for doing so. Failure to give such reasons could lead to an application to the High Court resulting in the quashing of the relevant parts of the adopted plan. The Council must give proper consideration to the Inspector's report. Although the Council has a discretion whether or not to adopt the Inspector's recommendations, such discretion is not absolute and must be exercised rationally. The Council cannot ignore the Inspector's findings. Any reasons must be adequate rather than mere assertions and the reasons given must identify the objective overriding considerations leading to the Council's decision. The Secretary of State has powers under the Town & Country Planning Act 1990 to either "call-in" a Local Plan before it is adopted or to direct the Council to modify its proposals, though it is unusual for such powers to be exercised.

3.3 Consideration of the Inspector's report and recommendations will result in modifications to the Deposit Draft Local Plan. Regulation 29(1)(a) requires the Council to prepare a list of the modifications with its reasons for proposing them; they are then published.

3.4 The Modifications stage is unlike previous stages in the preparation of the Local Plan in that the public consultation which follows has legal consequences. Members will need to consider the results of the consultation at a future meeting of the Planning

and Transportation Committee. Objections can be made to a particular modification or to the Council's refusal to accept a recommendation of the Inspector. It will then be for the Planning and Transportation Committee to consider whether a further local inquiry should be held into the objections to the modification. A material factor in determining whether or not a further public inquiry is appropriate will be whether issues are raised which have not already been considered by the Inspector (if new issues are raised, there is a stronger case for a further public inquiry).

- 3.5 Essentially, there are three courses open to the Council when considering the Inspector's report, namely:-
- (i) acceptance of the Inspector's conclusions and recommendations
 - (ii) rejection of any of the Inspector's recommendations, and
 - (iii) make modifications which do not reflect either the provisions of the Deposit Draft Local Plan or the Inspector's report.
- 3.6 If the Council **accepted** the recommendations in the Inspector's report it is less likely that any future Modifications Inquiry would be necessary given that, in all probability, the issues raised will have been considered already at a public inquiry. Also, this is the "least risk" option so far as the possibility of any High Court challenge is concerned.
- 3.7 If the Council were to **reject** any part of the Inspector's report it runs the risk of generating objections. The Council would then have to consider whether a further local inquiry was appropriate. If the Borough Council were to publish a modification which did not reflect **either** the provisions of the Deposit Draft Local Plan or the Inspector's report then it would be most likely that a Modifications Inquiry would need to be held because new issues which had not been considered by the Inspector might be involved.
- 3.8 Obviously, should it be necessary to hold a Modifications Inquiry or if the Secretary of State exercises his power of "call-in" or makes a Direction then the adoption of the Local Plan might be delayed significantly. In a recent case the High Court held that when a Local Plan is quashed, the effect is to require the Local Planning Authority to go right back to the beginning and start again.
- 3.9 Any decision which generates the need for a Modifications Inquiry, or promotes a High Court Challenge or a "Call In" or direction from the Secretary of State is likely to delay the formal adoption of the Local Plan which has already been in preparation for over eight years. Planning decisions would continue to be based on an ever-ageing development plan.
- 3.10 The second and third of these options also pose risks regarding the proper planning and implementation of development. Planning decisions taken on appeal or by the Secretary of State negate any possibility of a decision being made by the Borough Council. This diminishes the Borough Council's ability to maximise partnership opportunities with developers and negotiate community benefits (cf development at North Bracknell prior to the adoption of the North Bracknell Local Plan).

Borough Finance Officer

- 3.11 This authority has not made specific budget provision for costs of Local Plan, appeal or call-in Inquiries in its base budget. Future years' costs of these will be reported into the commitment budget as they are expected to arise. Planning Inquiries which arise in the current financial year will be dealt with in one of two ways. Small amounts will be managed either within the overall Planning and Transportation Committee's budget or will be claimed against the central contingency.
- 3.12 Substantial additional costs will require supplementary budget approval. As an indication the recent Local Plan Inquiry cost £460,000. While this level of expenditure is unlikely to be incurred, the cost of a further Local Plan inquiry, which might last four weeks, could be in the region of £70,000. These figures relate to potential "external" costs as opposed to council staff costs. Any additional costs will add to the pressures on this authority's overall budget and potentially impact on the medium term financial strategy.

Director of Planning & Transportation

- 3.13 The recommendation to the Committee on 29 March 2001 was to agree the Inspector's recommendation. The reasons for so doing were set out in the report. The reasons given in support of the motion, supported at Planning and Transportation Committee, for not accepting the inspector's recommendation relate to matters of proper concern. However, in the case of traffic, these issues were fully and properly considered by the Inspector (para. 4.4 below). In his view, highway changes would be required to accommodate the proposed level of housing, but highway issues were not, in his view, sufficient justification for rejecting the principle of this level of development.
- 3.14 Conversely, drainage matters were not considered by the Inspector at all, because no evidence was presented on the matter. The introduction of this concern at this stage could result in the need for a modifications inquiry. Again, resolution of drainage concerns is almost certainly a matter for a planning application rather than a reason for denying the principle of this level of development suggested by the Inspector. This is reinforced by the views of the Environment Agency, which has confirmed that the Staff College lies outside the Indicative Floodplain map and that the site,

"would appear to be within an area with little or no risk of flooding, as defined in PPG25".

- 3.15 The Agency has also advised that it would be unlikely to raise an objection to the development of this site for residential purposes provided that sustainable drainage systems were to be incorporated, a matter for resolution at the planning application stage rather than an obstacle to the allocation of the site for housing in accordance with the Inspector's recommendations.

Access Implications

- 3.16 The Access Officer has been consulted and her views on accessibility issues have been incorporated, where appropriate, within the suggested response to the Local Plan Inspector's Recommendations.

Community Safety

- 3.17 The Community Safety Manager has been consulted, where appropriate, in the preparation of the Borough Council's response to the Inspector's Recommendations.

4 SUPPORTING INFORMATION

The Inspector's Recommendations and Conclusions

- 4.1 In general terms, the Inspector supports the strategy for the provision of housing included within the Local Plan. His covering letter indicates that although it was prepared before the publication of more recent national planning policy guidance (for example, PPG3 and 12), this more recent guidance generally reinforces the approach taken by the Borough Council, and that the strategy would best achieve the Government's objectives. The Inspector's recommendations are set out at Appendix 1 to this report.
- 4.2 The main point of concern for the Borough Council is that the Inspector recommends a net increase in the number of houses on The Staff College, Bracknell site, from approximately 150 dwellings to about 570. The Inspector indicates that this increase is in line with the general principles of recent Government advice (including the locational and density provisions of PPG3) and allows for the retention of about 19 hectares of open space (out of a total site area of 44 hectares) which would be protected by Policy R1 notation.
- 4.3 The Inspector argues (para 9.7.6) that the location, policies and local circumstances inexorably point to the suitability of this site for housing as reflected (para 9.7.7) in the general support in the representations for the redevelopment of this previously developed site for housing.
- 4.4 With regard to the traffic matters, the Inspector concluded that the local roads are unsuitable at present to accommodate any additional development (over and above the existing 130 houses) at the site. In particular, Broad Lane and the Horse and Groom Roundabout will require urgent attention. The Inspector also noted the agreement reached between the Borough Council, the Ministry of Defence and the developers of Peacock Farm that having considered the traffic impact and subject to detailed proposals, there was no objection on highway grounds to a scheme of 680 dwellings on the site. Any more would require a further Traffic Impact Assessment. The first reason to reject the Inspector's recommendation would run contrary to the Council's position reached at the Inquiry. The Modification to The Staff College development proposal recommended by the Inspector includes a reduction in the number of highway accesses serving the site, from four to three, but this does not prevent the provision of additional access points should they be thought necessary. It should be noted that proposed development at Peacock Farm will also require attention to major junctions.
- 4.5 In respect of the scale of development on the site (presently 9 dwellings per hectare), the Inspector concluded that the most efficient use should be made of this well located site in accordance with national planning policy. National policy seeks between 30 and 50 dwellings per hectare net. 680 dwellings would be at the lowest end of this range when accepting a net area of development of 22.5 hectares. The Inspector concluded that when allowance is made for tree retention and a variety of dwelling types, this modest density would be compatible with a good environment.

- 4.6 With regard to deliverability, the Inspector considered that it would be rash to presume that all the eventually permitted dwellings on this, and other sites, would be built before the end of the plan period but that the probability was that most would be.
- 4.8 Not only was the Inspector keen that this site should make a substantial contribution to the Borough's housing needs but that it should also make a contribution to urban renaissance. For example, the development should incorporate the necessary physical and social infrastructure as required by the Structure Plan. The balance between residential amenity, nature conservation and any employment uses would be best examined under the preparation of a planning brief for the site.

Proposed Modifications

- 4.10 Extracts from the report to the Planning & Transportation Committee, detailing the proposed modifications insofar as they relate to the Staff College site, are attached at Appendix 2 to this report.

Background papers

Bracknell Forest Borough Local Plan – Inspector's Report
Annexes 1 & 2 of Item 2 of the Planning & Transportation Agenda on 29 March 2001

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