

REPORT FROM: PLANNING ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER

TO: POLICY AND RESOURCES COMMITTEE

DATE: 21st JANUARY, 2021

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**PENDLE LOCAL PLAN PART 2
SITE ALLOCATIONS AND DEVELOPMENT POLICIES**

PURPOSE OF REPORT

- (1) To request that Members approve the Local Plan Part 2 (Preferred Options Report) and agree for it to be made available for public consultation, for a minimum of six weeks, starting in February 2021.
- (2) To request that Members approve the evidence base documents supporting the Local Plan and that they can form part of the public consultation.

RECOMMENDATIONS

- (1) That Members agree that the Local Plan [Appendix 1] can be made available for public consultation.
- (2) That Members agree that the Pendle Housing Needs Assessment [Appendix 2]; the Pendle Development Viability Study [Appendix 3]; the Pendle Local Plan Part 2: Sustainability Appraisal and Non-Technical Summary [Appendices 4 and 5] and the Habitat Regulations Assessment [Appendix 6], can also be made available for public consultation, alongside previously adopted evidence base and supporting documents.

REASONS FOR RECOMMENDATIONS

- (1) To comply with the requirements of Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012, as amended.
- (2) So that the Council can proceed to the next stage in preparing and adopting a new Local Plan for the borough.

ISSUE

Background

The Local Plan is used to help manage change in Pendle, by setting out planning policies and site allocations to guide new development in the borough.

Pendle Local Plan Part 1: Core Strategy (December 2015) ["LP1"] sets out the strategic framework for promoting sustainable development and growth in Pendle up to 2030. It includes:

- The long-term spatial vision for the borough, and the overall strategy for delivering that vision.
- The amount of development proposed for particular uses (e.g. housing and employment) and its geographic distribution across the borough.
- The main infrastructure improvements required to support the projected scale and distribution of growth.
- The strategic planning policies that will be used to help determine applications for planning permission.
- A key diagram; illustrating the spatial implications of the strategy.

Pendle Local Plan Part 2: Site Allocations and Development Policies ["LP2"]

LP2 (Appendix 1) builds on the vision and strategic objectives set out in LP1. A new local housing requirement figure; detailed site assessment work; and sustainability appraisal have all helped to inform the selection of a range of specific sites for future development, which are best placed to deliver our vision for the future of the borough.

LP2 also includes a wide range of detailed policies. These are used by planning officers on a day-to-day basis to help determine applications for planning permission. They promote good quality design in new development providing a positive response to important issues such as the Climate Emergency and Biodiversity Net Gain.

In response to recent Government announcements, three strategic policies from LP1 are replaced by four new policies in LP2, as detailed below:

- Policy LIV6 "A Revised Housing Requirement" replaces Policy LIV1. It updates the housing requirement, applying the revised approach to assessing housing need as required by the latest version of the NPPF, published in February 2019. The plan allocates sufficient sites to meet the revised housing requirement taking into account completed and committed development and address the projected shortfall in dwellings.
- Policy LIV9 "Affordable Housing" replaces Policy LIV4. It reflects up-to-date information on the need for affordable housing in Pendle, as set out in the Housing Needs Assessment prepared on behalf of the Council by consultants Lichfields (see below). This review of affordable housing policy was stipulated by the Inspector who conducted the examination of LP1.
- Policies WRK10 "Vibrant Town Centres" and WRK11 "Retail and Commercial Uses Outside Town and Local Shopping Centres" replace Policy WRK4, which was rendered out-of-date by recent changes made to the Use Class Order. The new policies provide a positive response to these changes and seeks to secure the vibrancy and vitality of the borough's town centres.

A small number of amendments have been made to the original draft of LP2, since it was submitted to P&R on 26 November 2020. These largely address typographical errors or reflect updated evidence. More notable changes are:

- The swapping out of site P014 Land south of Wood Clough Platts, a greenfield site that now benefits from outline planning permission, with site P060 Former Mansfield High School, a Brownfield site that Lancashire County Council have now confirmed is surplus to their requirements.
- New paragraph 4.44 to link the justification for the allocation of Reserve sites to the requirement set out in Policy LIV1 (LP1) and the accompanying Inspectors Report.
- Removal of the reference to buffers in Policy LIV8, the reoccupation of long-term empty homes in Policy LIV6, and subsequent amendments to the table at Appendix 1.

Public Consultation and Future Stages

To comply with [Regulation 18 of The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#), as amended the council must engage and consult with the public and key stakeholders during the preparation of its Local Plan.

The Preferred Options report is essentially the first draft of LP2. It provides the basis for consultation with members of the public and other interested parties. The formal representations submitted in response to the consultation will be used to inform any amendments to the draft policies and site allocations that are considered to be necessary.

Once these changes have been made, the Council's final draft of LP2 ["the Publication report"] will be made available for a further six week public consultation later in 2021, subject to Council approval. This final draft will then be submitted to the Secretary of State, who will appoint an Inspector from the Planning Inspectorate to conduct an independent examination of the Plan, taking into account the representations submitted in response to this consultation.

Evidence Base Documents

The policies and site allocations in LP2 are underpinned by an extensive evidence base. Two documents have been commissioned since the end of 2019 to ensure that this evidence is both robust and up-to-date:

1. Development Viability Study (Appendix 2)

The National Planning Policy Framework ["NPPF"] requires local authorities to pay careful attention to viability and costs in plan-making and decision-taking. For plans to be deliverable, the scale of development and any sites identified should not be subject to policy burdens or obligations (e.g. the provision of affordable housing, open space, or infrastructure) that place their ability to be developed at unnecessary risk.

Lambert Smith Hampton were appointed to update the previous Development Viability Study (2020) The picture that this update provides is that development viability continues to be marginal in all sectors. For housing there is insufficient viability to bring forward the amount of affordable housing that is required in many areas of the borough. Within the M65 Corridor viability continues to remain marginal even without the provision of affordable housing.

The Council will continue to monitor development activity and market conditions annually to determine if there is a change in local viability and whether it is appropriate to amend relevant policies in the plan.

2. Housing Needs Assessment (Appendix 3)

The Housing Needs Assessment considers the operation of the local housing market and forecasts the future housing requirements over the plan period. It provides evidence on the mix (tenure, type and size) of market and affordable housing required.

Supporting Documents

In addition to the evidence base, the following reports are prepared alongside the Local Plan. These are iterative documents, updated as necessary during the plan making process. They are not finalised until the final (Publication) draft has been prepared. The documents are made available during the forthcoming public consultation to show how the policies and site allocations have been informed by the available evidence.

1. Sustainability Appraisal Report (SA) (Appendix 4)

Prepared using a toolkit drawn-up for the Council by consultants Wood plc, this document analyses the economic, social and environmental impacts of the draft policies and site allocations in LP2. SA incorporates the process known as Strategic Environmental Assessment (SEA), which is required by European law. As this is a large and complex document it is accompanied by a Non-Technical Summary (Appendix 5), which summarises the key issues.

2. Habitat Regulations Assessment (HRA) (Appendix 6)

This assesses the impact that LP2, either alone or in combination with other plans and projects, may have on internationally designated sites of nature conservation value. In Pendle, the South Pennine Moors Site of Special Scientific Interest (SSSI) contains areas that are internationally recognised as a Special Protection Area (SPA) under the Birds Directive and a Special Area for Conservation (SAC) under the Habitats Directive. The HRA also considers the potential implications for European sites further afield.

The risks associated with not having an up-to-date Local Plan

The National Planning Policy Framework (NPPF) is clear that the planning system should be plan led. The NPPF requires local planning policy to be kept up-to-date and reviewed at least every 5-years, with penalties applicable where this is not carried out efficiently.

On Friday 27 November 2020 the Chief Planning Officer issued a letter to all local authorities making it clear that, even in these difficult times, local authorities should continue to prepare Local Plans using the best available evidence.

The Government has also reiterated its 2023 deadline for local authorities to have a Local Plan in place, stating in a Written Ministerial Statement issued on 16 December 2020 that.

“The government wants to ensure that work continues to progress Local Plans through to adoption as soon as possible and, at a minimum, by the end of 2023 to help ensure that the economy can rebound from COVID-19.”

The following is a brief explanation of the current uncertainties facing plan-making

(a) COVID-19

The Government has acknowledged that economic growth will be adversely affected by the COVID-19 pandemic.

A plan submitted without robust evidence will fail to meet the tests of soundness set out in the NPPF. However, reliable projections for population and economic growth, which underpin the housing and employment evidence in the Local Plan will not be published for many months, or even years. As a result, a delay to take account of the effects of the COVID-19 pandemic cannot be justified at this time.

(b) Planning White Paper

In August 2020, the Government issued its Planning White Paper. This proposes a radical change to the way in which Local Plans will be produced. At this time it is uncertain what form these new style plans will take, with many aspects of this new approach yet to be defined.

Opposition to a number of the proposals set out in the White Paper, both from the opposition and from within the Government's own ranks, mean that there may be substantial changes made to the reforms before (and indeed if) they are adopted. The need for further consideration and detail, plus the introduction of enabling legislation means that reforms arising from the White Paper are not likely to be implemented for some time.

(c) Evidence Base

The data underpinning the retail growth projections for the policies in LP1 are now several years old. However, given the severe impact that COVID-19 has had on this sector there is little in the way of up-to-date and reliable evidence on future retail activity. Empirical evidence from the Council's annual monitoring has been used to underpin the retail thresholds and town centre policies in LP2, which take account of recent Government changes to the Use Classes Order, to help offer greater flexibility in a post COVID-19 world. But it is clear that new retail growth projections will need to be considered in a future update of the Local Plan.

Housing Need Assessment

On 16 December 2020 the Ministry of Housing, Communities and Local Government (MHCLG) revised its standard method for calculating the minimum level of housing need for local authorities in England, so this is no longer an uncertainty.

This new approach has sought to refocus housing growth in the country's largest urban areas, particularly those in the Midlands and the North of England.

The Government has chosen not to proceed with the proposed changes to assessing local housing need, which were consulted on earlier this year.

The standard method, first introduced in 2017, is to be retained. This uses the 2014-based household projections as its baseline, with a percentage uplift to reflect the price-income affordability of housing, subject to a 40% cap. The figure generated by the standard method should remain reasonably stable over time, with only minor changes to the affordability uplift anticipated, in order to reflect "current market signals".

The impact of the new standard method is limited to the twenty (20) most populous cities and urban centres in England, using the ONS ranking by population. Here an uplift of 35% is applied to the capped figure generated by the standard method. The objective of building 300,000 new homes per annum across the country remains.

For Pendle this means that the minimum annual delivery figure remains at 146 dwellings per annum (dpa). As there is no change in the figure for Pendle, the Council should note the Government's emphasis to bring forward Local Plans without delay (WMS 16 December 2020).

The figure generated by the standard method does not equate to the local housing requirement. Additional factors such as projected levels of local economic growth; the need to address a local shortage of affordable housing; past underperformance in housing delivery etc. may justify a further uplift to the baseline figure of 146. The evidence set out in the Housing Needs Assessment (2020) therefore remains valid.

Any approach that fails to provide an uplift to the baseline figure is likely to prove inadequate for plan making. In due course it could also result in considerable delay and significantly increase the cost of plan making, as new evidence is required to support a higher figure. The approach set out in the Local Plan represents a realistic approach in these uncertain times.

LP2 will be assessed for its compliance and consistency with LP1 and the NPPF tests of soundness, which require Local Plans to be 'positively prepared'. A decision to constrain the housing requirement to a figure below 240 dwellings per annum would be unlikely to contribute any additional affordable housing stock. It would also be inconsistent with the NPPF tests of soundness as it would:

- fail to align with, and support, the delivery of the economic growth objectives set out in LP1.
- lock-in economic decline with both policy and site allocations acting to constrain, rather than promote, housing and economic growth.

The failure of LP2 to support LP1 would make it unsuitable for adoption. The Sustainability Appraisal has also dismissed this option because of the adverse effects it would have for achieving our social and economic objectives for the borough.

A safeguard is provided by the monitoring indicators in LP2. These are reported annually in the Authority Monitoring Report ["AMR"] and provide a mechanism for policies to be reviewed should past trends or up-to-date evidence indicate that a change in approach is required.

Summary

The Council should continue with the preparation of the Local Plan (Part 2) to comply with Government guidance for planning policy and to avoid the risks set out in the Risk Assessment below.

As recognised by those responsible for preparing the Colne Neighbourhood Plan, who consulted on their plan in November/December 2020, whilst now may not be the ideal time to consult on a draft plan, plan preparation must continue in a timely manner. The period between the production of this first draft and the final draft can be used to address any new evidence that comes to light over the intervening months.

It is neither practical, nor sensible, to delay production of the Local Plan, to address or commission projections that are no more reliable than those already available. Any delay to the Local Plan will mean that other equally important policies in the plan, which address the Climate Emergency; Biodiversity Net Gain and good quality design are sacrificed

IMPLICATIONS

Policy: The policies in LP2 will guide future decisions on planning applications.

Financial: Public consultation will be carried out within the allocated budget.

Legal:	The Council is required to prepare a Local Plan meet government legislation
Risk Management:	<p>A significant delay in consulting on the Preferred Options Report could have serious implications for both the Council, and Pendle:</p> <ol style="list-style-type: none"> a) Several important elements of the current evidence base may be considered out of date by the time that the Local Plan is examined by an independent Inspector. Updating them during the Examination could incur significant costs for the Council. b) The borough will be unable to benefit from the additional supply of housing and employment provided through LP2, to help boost regeneration and investment in the borough. LP2 seeks to meet our development needs in full and deliver the wide range of homes required to meet the housing needs of the borough, such as affordable housing. If LP2 is not followed through to adoption it is unlikely that the Council will be able to pass the annual Housing Delivery Test, or maintain a robust five year housing land supply. This would result in the Council being unable to control the threat of speculative housing development on sustainable Greenfield sites. c) Existing policies may also become out-of-date and will be replaced (where relevant) by the presumption in favour of sustainable development. This could be particularly problematic for maintaining the vibrancy and vitality of the borough's town centres, and reduce the weight applicable to policies which relate to the supply of housing land. d) The Council may be instructed by the Inspector to abandon the preparation of Local Plan (Part 2) and start to prepare a new style Local Plan. This would leave the borough with a planning policy vacuum. Until a new style Local Plan could be adopted, all planning applications would need to be assessed against the National Planning Policy Framework and any existing Local Plan policies that remain in conformity with it. This would significantly reduce the potential of the Council to influence the amount, location and design of new development in the borough up to 2024. In addition, a substantial amount of evidence that we currently have in place would need to be recommissioned at great expense.
Health and Safety:	None identified as a result of this report
Sustainability:	The economic, social and environmental impact of policies are addressed in the accompanying Sustainability Report and the Habitat Regulations Assessment.
Community Safety:	None identified as a result of this report
Equality and Diversity:	An Equality Impact Assessment has been prepared. This contains details of any impacts (positive or negative) that an individual policy may have on issues of equality and diversity. It also highlights any mitigation that may be required as a result of these impacts.

APPENDICES

- (1) Pendle Local Plan Part 2: Site Allocations and Development Policies (Preferred Options Report) (*Pendle Council, November 2020*)
- (2) Pendle Housing Needs Assessment (*Lichfields, March 2020*)
- (3) Pendle Development Viability Study (Lambert Smith Hampton, March 2020)
- (4) Sustainability Appraisal (Pendle Council, November 2020)
- (5) Sustainability Appraisal Non-Technical Summary (Pendle Council, November 2020)
- (6) Habitat Regulations Assessment (Pendle Council, November 2020)

LIST OF BACKGROUND PAPERS

- (1) National Planning Policy Framework
- (2) Planning Practice Guidance – Plan Making
- (2) Other Local Plan [evidence base documents](#)