

Report to: Strategic Planning Committee



Date of Meeting 15th December 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Local Plan Site Identification Process and HELAA

Report summary:

This report outlines the process for engaging Members and the public in the preparation of the Local Plan particularly with regard to the identification, consideration and allocation of sites for employment and housing. The report summarises the legislative requirements, how this has been done in the past and how it is intended to carry out this work in preparation of the new Local Plan so that Members are suitably engaged and discussions are held in a public forum.

The report also outlines a timetable and process for future Housing and Economic Land Availability Assessment (HELAA) work, beginning with running a new 'call for sites' alongside the Local Plan 'Issues and Options' consultation in January. It also highlights the potential officer resource requirements for undertaking further work.

Recommendation:

That Members:

1. Note the summary of the approach to site identification, consideration and allocation undertaken on the adopted Local Plan and endorse the approach outlined in the report for undertaking this work in production of the new Local Plan.
2. Agree that work is undertaken to assess the smaller sites submitted into the Greater Exeter Strategic Plan call for sites in 2017.
3. Agree the timetable and process for future work on the Housing and Employment Land Availability Assessment.

Reason for recommendation:

To ensure that Members understand how the plan preparation approach has evolved since the last local plan and ensure that Members are happy with the proposed approach for preparation of the new Local Plan.

Officer: Ed Freeman – Service Lead – Planning Strategy and Development Management

Portfolio(s) (check which apply):

- Climate Action
- Coast, Country and Environment
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency

- Economy and Assets
- Finance
- Policy Co-ordination and Regional Engagement
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

There are no specific financial implications requiring additional comment.

Legal implications:

There are no legal implications other than as set out in the report.

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Introduction

Members have previously raised concerns with regards to their involvement in the preparation of development plans for the district and the allocation of sites for development. Concerns were expressed when Strategic Planning Committee considered the draft policies and site options consultation for GESP and on various occasions questions have been raised about sites within the adopted Local Plan and how they came to be allocated. This report intends to demystify the process and set out an approach for undertaking this work for the new Local Plan for Members to consider.

The Legislation

The process for the preparation of a Local Plan is set down in the legislation and guidance provided by the government. In some cases these are absolute requirements and in others they are legal tests against which the plan is tested at examination and to which there could be a number of different approaches which could be valid in achieving the requirements.

The 2013-2031 local plan was commenced under the Town and Country Planning (Local Plan)(England Regulations 2004 which were revoked in 2014 by the Town and Country Planning (Local Development)(England)(Regulations 2012. This is supported by guidance in the National Planning Practice Guidance. The stages of plan preparation and the main legal requirements can be summarised as follows:

Stage one: Pre-production

Legal compliance within the early stages are related to:

- Planning for community engagement
- Planning the sustainability appraisal
- Identifying the significant cross boundary and inter-authority issues
- Ensuring the plan rests upon a credible evidence base

Stage two: Plan Preparation

At this stage legal compliance issues relate to:

- Consultation with residents, businesses and other stakeholders
- Recording of consultations and responses
- Showing how representations have been taken into account
- Undertaking a sustainability appraisal of the consultations and alternatives
- Developing a framework for monitoring the effectiveness of the Local Plan

Stage three: Preferred Approach

Formulation of the preferred strategy for the local plan to address the legal requirements using the information gathered and previous collaborative work with stakeholders.

Evaluation of the reasonable alternatives identified in the stage two phase against:

- Complete body of evidence of information from the evidence gathering
- Results of the sustainability appraisal
- Findings from community participation
- Findings from engagement with statutory bodies

Leading to preferred strategy made available for community consultation.

Site identification for the adopted local plan

As can be seen from the above summary of the legal requirements the approach to identifying potential sites for consideration is not covered by the legislation but in government guidance. The requirements in the past were different for housing and employment sites and are summarised below:

Housing – Planning Policy Statement 3: Housing placed a requirement on Local Planning Authorities to carry out a Strategic Housing Market Availability Assessment (SHLAA). The SHLAA was a technical study that was used as part of the evidence base in the process of plan making and informing other planning decisions. It served two main purposes:

- a) identifying sites that could have potential for housing development and assessing that potential; and
- b) estimating when sites might (if deemed suitable for development through planning procedures and process) be developed.

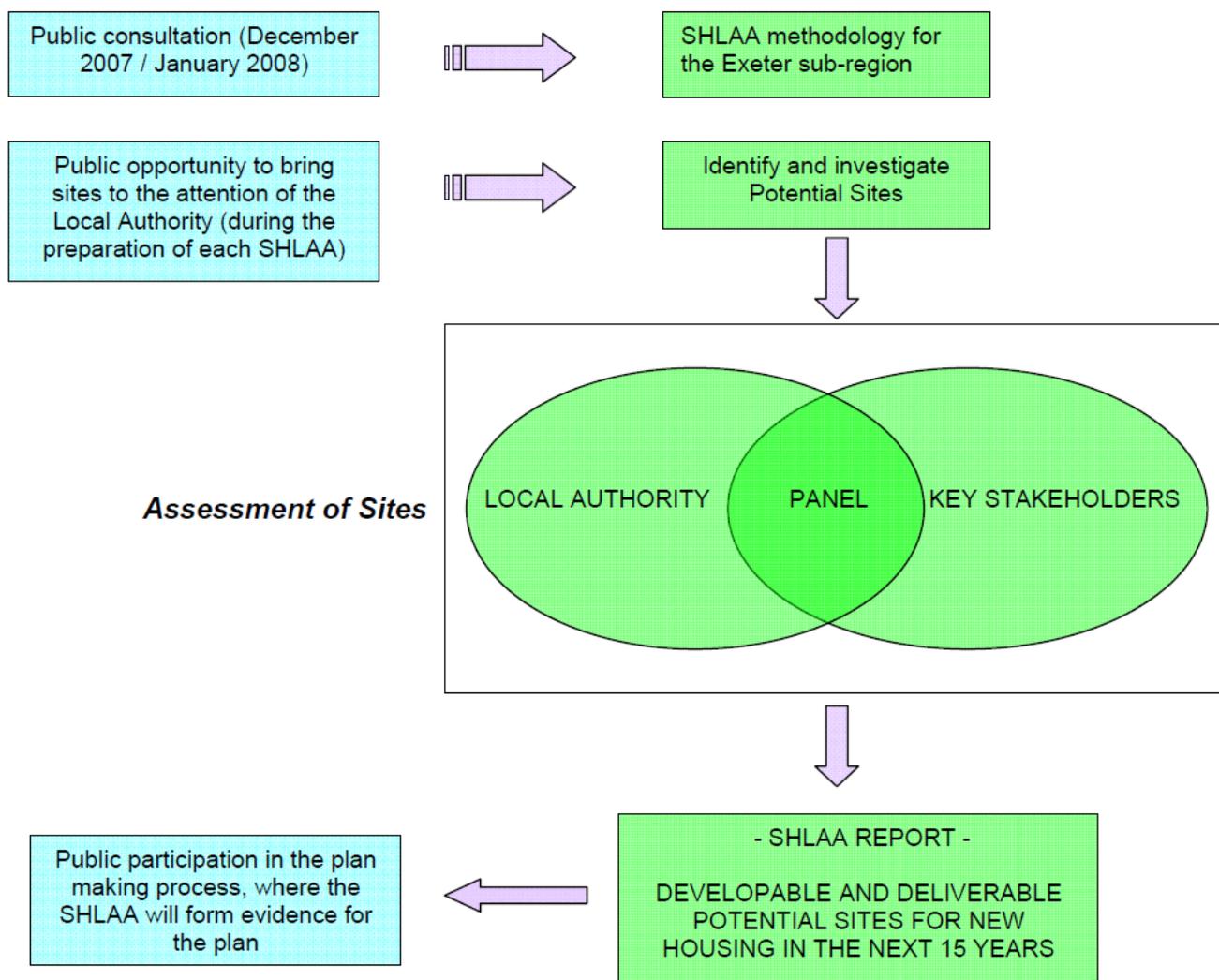
The SHLAA did not assess the relative merits of sites, advise on whether sites should be developed or pre-judge planning decisions (either planning applications or emerging development plan policy). It was not, therefore a policy document or a document setting out

development preferences. It did, however, provide judgements about whether the land is:

- **available for development** - (in respect of land owners aspirations and other considerations); and
- whether development for housing would be **technically and financially feasible** and if so how many houses could realistically be expected to be constructed.

PPS3 guidance indicated that a SHLAA should reflect the housing market area and so in 2008 a common methodology for carrying out a SHLAA was agreed among the authorities in the Exeter Housing Market area acknowledging that the assessments themselves would need to be carried out on an authority by authority level. According to our records the methodology for doing this work was the subject of consultation seeking views on the methodology. The methodology was then reviewed in light of the responses and agreed by Members at a meeting of Corporate Overview Committee on 24th April 2008. A Members briefing was held in June 2008 to ensure that Members understood the process.

The work on the SHLAA was then undertaken including a call for sites with the sites put forward then being assessed by officers which informed meetings of a SHLAA panel. The panel consisted of representatives from the house building industry, a partner local authority, a member of the Council and representatives of bodies such as the highway authority and Natural England. The role of the panel was to advise the Local Planning Authority and while meetings were confidential the results of the SHLAA were taken to the Council's Executive Board on the 31st March 2010. The process is summarised in the diagram below which is taken from the methodology document:



It was also a requirement to keep the SHLAA up to date and so annual reviews were carried out in accordance with the agreed methodology to keep the work up to date and reflective of current market conditions for the remainder of the plan preparation process.

Employment – At the time of the adopted Local Plan there was no requirement for an equivalent of a SHLAA for identifying and assessing potential employment sites. As a result employment sites were generally put forward by land owners and developers in response to consultations undertaken during the plan preparation process. An example of this is the Sidford employment site which was put forward by developers in response to consultation on a draft plan in 2012.

Economic needs evidence for the local plan identified a need for just over 5 ha of employment land in Sidmouth to meet the needs of business in the town, to promote self-containment objectives and minimise out commuting for jobs.

Early drafts of the Local Plan had acknowledged this need but did not allocate a specific site for meeting it. The Sidford site was considered alongside a number of alternatives at a meeting of the Local Plan Panel on the 20th March 2012.

Other Assessments

As has been noted the SHLAA was a technical assessment of sites and whether they are available and technically and financially feasible. Clearly there are many other factors that need to be considered when choosing sites to allocate for development and so it is important to note that further assessments were undertaken of both housing and employment sites in the form of a Sustainability Appraisal and Strategic Environmental Assessment. These can be summarised as:

“Sustainability Appraisal is a statutory requirement of the Planning and Compulsory Purchase Act 2004. It is designed to ensure that the Development Plan Document (DPD) preparation process maximises the contribution that a plan makes to sustainable development and minimises any potential adverse impacts. The SA process appraises the likely social, environmental and economic effects of the strategies and policies within a DPD (in this case the East Devon Local Plan) from the outset of its development.

Strategic Environmental Assessment (SEA) is also a statutory assessment process, required under the SEA Regulations (Statutory Instrument 2004, No 1633). The Regulations require the formal assessment of plans and programmes which are likely to have significant effects on the environment, and set the framework for future consent of projects requiring Environmental Impact Assessment (EIA)⁵. The purpose of SEA, as defined in Article 1 of the SEA Directive is ‘to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans....with a view to promoting sustainable development’.

SEA and SA are separate processes but have similar aims and objectives. Simply put, SEA focuses only on the likely environmental effects of a plan whilst SA includes a wider range of considerations, extending to social and economic impacts.” Source: East Devon Local Plan Sustainability Appraisal Report

Through these processes the identified available and feasible housing sites through the SHLAA were assessed as well as the employment sites that had been put forward. This included the Sidford employment site and a number of alternatives which had also been put forward.

Ultimately the Sidford site was considered to be the least harmful site in terms of landscape impacts, the best placed in relation to services and facilities and that highways and other impacts

could be overcome. As a result it was included in the publication draft of the plan and consulted on in 2012 following endorsement from Development Management Committee and Council. The responses to this consultation were then considered and the plan amended as appropriate. The final reports were then agreed as part of the evidence base for the Local Plan which was reported to Development Management Committee on 18th July 2013. Development Management Committee then recommended that the Local Plan be submitted to the Secretary of State for examination and this was then agreed by Council on 24th July 2013.

Following examination hearing sessions into the plan in early 2014 the Council was instructed by the inspector to carry out some further work on the plan which led to revisions to the plan being considered by Development Management Committee and Council in March 2015. At the Council meeting Members resolved to seek the removal of the Sidford employment site from the plan, however this change could only be made by the Inspector given that the plan was already at examination. Although a letter requesting this change was submitted to the inspector he did not agree to remove the site and in his decision letter stated that it was in the public interest to allocate the site.

Site identification for the new local plan

Government guidance has moved on since production of the adopted Local Plan. The National Planning Policy Framework (NPPF) requires Local planning authorities to significantly boost the supply of homes. It states in para 67 that we should identify a sufficient supply and mix of deliverable housing sites for years 1-5, 6-10 and 11-15 of the Local Plan period. It also requires us to maximise opportunities to support sustainable economic growth and set criteria, or identify sites for local and inward investment to meet anticipated needs over the plan period (para 81)

National Planning Practice Guidance (NPPG) sets out that the best way to assess both of these is through a joint process called Housing and Economic Land Availability Assessment (HELAA). This replaces the previous Strategic Housing Land Availability Assessment (SHLAA) referred to above as part of preparation of the current adopted Local Plan. Essentially the HELAA replaces this piece of work by combining the assessment of available housing and employment land into a co-ordinated assessment. It has two key purposes:

- It identifies suitable sites with potential for housing and/or employment, investigates their potential and assesses whether they are likely to be developable (i.e. assessing suitability, availability and achievability).
- It assesses the five year supply of deliverable housing sites, a key requirement under national policy and also enables the local authority to set out a housing trajectory for the Local Plan period.

However, the assessment does not in itself determine whether a site should be allocated for development. It is the role of the assessment to provide information on the range of sites which are available to meet the local authority's requirements, but it is for the development plan itself to determine which of those sites are the most suitable to meet those requirements.

Critical to the process of identifying the sites to be assessed in the HELAA is to undertake a "call for sites", which allows members of the public to submit land as being available for development. These exercises require the submitter to fill out a form outlining the total area of the site they wish to submit, alongside supporting evidence including constraints and landowner details which demonstrate that the site is available and suitable.

Submitted sites later go on to be assessed by an agreed panel comprising experts involved in the development industry and local representatives, who consider whether the site is achievable. Based on the basis of the information presented to them.

Critically, whilst the process does involve some degree of site assessment, the **identification of potential housing and employment sites in the HELAA report does not indicate that the sites will be allocated for new housing or employment within a Local Plan or be granted planning permission.** The HELAA instead forms part of the technical evidence base to inform plan-making. Sitting alongside other assessment the HELAA outputs form a database or list of sites that the Council can draw on to make land allocations to help meet future housing requirements. Any sites deemed suitable, available and achievable by the HELAA process and which then feature as a proposed allocation for development in a draft plan will still need to be subject to public consultation, sustainability appraisal and independent examination

A methodology for undertaking a HELAA was agreed by Strategic Planning Committee at their meeting of the 21st November 2016. Like the SHLAA the methodology was agreed with partner authorities across the Exeter housing market area. The methodology is available on the Council's web-site at:

<https://www.eastdevon.gov.uk/papers/strategicplanning/bp211116spcupdatedhelaamethodology.pdf>

A HELAA was subsequently undertaken as part of work on the Greater Exeter Strategic Plan (GESP) and published as part of the evidence for the plan at: <https://www.gesp.org.uk/evidence/>. Members should note that during this exercise, a total of 370 sites were submitted in East Devon. 90 of these were assessed as having the potential for strategic scale development through the GESP HELAA, which leaves 280 smaller sites that have yet to be formally assessed.

Given that the last call for sites is approaching 4 years old, to ensure that the Council has an up-to-date picture of available sites across the District it is proposed that a new call for sites is run alongside the proposed "Issues and Options" consultation in January. Data will be gathered via an online form that will be made available throughout the consultation period utilising infrastructure already in place, administered by Devon County Council.

In the interests of transparency, it is envisaged that submitted sites will be made available for the public to view, alongside those submitted in 2017 on an interactive map that will be made available on the Council's website after the completion of the consultation.

Members should note that each site assessment will require considerable officer time to undertake and requires input from both internal specialists and external bodies (inc Natural England, Devon County Council, Highways England etc). At this stage it is estimated that each site may take roughly 1-2 hours of planning policy officer time to do assessment, although it is difficult to be precise as processes for conducting the assessments have not yet been finalised. Feedback times from external bodies will vary but will likely be approximately two months. There is, therefore, many hours of work spread over much of next year to pull together a comprehensive database of site information.

Given these potential constraints on time and, noting this Council's commitment to producing a Local Plan in a timely fashion, it is proposed that site assessment work on the smaller scale sites submitted during the HELAA exercise in 2017 begins in earnest at the earliest opportunity. An outline timetable setting out the proposed timescale for conducting the various stages of the HELAA process is provided below. Further reports will be taken to this committee as and when required to update on progress and confirm future steps. It is highlighted that at this stage the HELAA panel members have not been consulted in respect of the timetable and if the tasks are to be completed as scheduled it means they will need to and be requested to work in a timely

fashion. Also we are assuming that there will not be very large numbers of new sites submitted. If there are the timetable becomes very much more challenging.

	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21
Officers collate 2017 site submissions	■	■							
Call for Sites	■	■							
Officers collate 2021 site submissions			■	■					
Site submissions sent to HELAA Panel					■				
HELAA Panel consider site submissions						■			
HELAA panel meeting							■		
Officers produce draft HELAA report and send it to the Panel for endorsement								■	
HELAA panel sign-off sought									■

Further assessment of site options will also need to be progressed through the SA/SEA work as done under the current Local Plan and then recommendations made for potential allocations for Members to consider.

Conclusions

In the preparation of the adopted Local Plan the legal requirements in terms of site identification and assessment were met. At that time there were different requirements for housing and employment sites leading to a more structured approach for housing sites through the SHLAA although all sites were assessed through the SA and SEA. There was some Member engagement throughout that process through the LDF Panel and then the Local Plan Panel, however these meetings were not held in public and were not initially minuted. The wider membership of the Council were involved through decision making at Development Management Committee and Council.

Looking forwards to preparation of the new Local Plan it is considered that different requirements now exist ensuring that both housing and economic sites go through the same structured assessment process via the HELAA and then through the SA, SEA and other assessment work as before. It is important that this work is started alongside the issues and options consultation and a timeline for doing this work is set out above.

The formation of the Strategic Planning Committee also represents a significant change in approach and enables regular updates to be brought to the committee on progress on this key area of work and for Members to see the sites that have come forward and the assessment work as it progresses and have much greater input. It is hoped that through this approach Members will have ample opportunity to comment on emerging site options ensuring that there are no surprises when a draft plan is presented.

Appendix 1

Audit Trail Decisions Regarding Sidford Employment Allocation

Detailed below is an audit trail of policy evolution in respect of the allocation of the Sidford employment site in East Devon Local Plan 2013 to 2031.

Starting in 2008 – the council formed the LDF Panel (it was later renamed Local Plan Panel) and it had meetings through to 2012. This panel, which met on a regular basis, worked on production of a draft East Devon Core Strategy which later evolved into the local plan. A search through IT records held by the planning policy team shows no record of promoters of the Sidford Employment site making a presentation to the panel.

December 2008 – A Core Strategy Issues and options report was issued for consultation. This was a very broad ranging document though it did highlight potential options for growth at different East Devon towns including a possible option of developing north from Sidford. It also identified a need for more employment land in the town. See:

<https://eastdevon.gov.uk/media/349285/i-and-o-report-dec-2008.pdf>

Autumn 2010: Core Strategy Preferred Approach Report – the Core Strategy Preferred Approach report, following approval from Development Management Committee) was subject to public consultation. This document included policy for provision of 5 hectares of employment land in/at Sidmouth but **did not** include a specific proposed site or sites, see:

<https://eastdevon.gov.uk/media/349621/preferred-approach-full-document.pdf>

2011: Local Plan Panel Work – the now renamed Local Plan Panel met through 2011 to refine policy and oversee transition from a Core Strategy to a new Local Plan. On 1 November 2011 the Panel endorsed provision of around 5 Hectares of Employment land for Sidmouth (at this stage no site or sites were identified).

2011/12: Draft Local Plan Consultation - Following Development Management Committee endorsement the draft Local Plan went out for consultation from 1 December 2011 to 31 January 2012. The plan included policy provision for 5 hectares of employment land at Sidmouth but a site/sites **were not** proposed in the plan.

<https://eastdevon.gov.uk/media/363094/new-east-devon-local-plan.pdf>

2012: Consultation Responses and Sidford Representation – representation was made on the plan by Context Logic (acting for Fords) proposing that land should be allocated for employment uses north of Sidford. See:

<https://eastdevon.gov.uk/media/363097/respondents-in-policy-order.pdf>

20 March 2012: Local Plan Panel Endorse Sidford Allocation – At this meeting of the Panel the proposed employment allocation for Sidmouth was endorsed. Two separate papers were considered by the panel meeting. One shows sites that were proposed by landowners/interested parties for development and the other shows proposed maps with allocations for the East Devon town.

8 May 2012: Development Management Committee endorse Inset Maps for Consultation – at this Committee endorsement was given for consultation on the Inset Map, including proposed employment land at Sidford (consultation took place in May and June 2012).

17 July 2012: Development Management Committee and Council 25 July 2012 – Council endorsement for consultation on the publication plan (there was also a subsequent consultation on plan amendments). See:

<https://eastdevon.gov.uk/planning/planning-policy/preparation-of-local-plan/publication-and-submission/>

This is the stage of plan making where the plan, comments received and evidence documents are submitted (they go to the Planning Inspectorate) for Examination.

February to March 2014 – Plan Examination hearing sessions were held. One of these was in respect to considerations for which the Council produced a response document to questions from the Inspector regarding policy matters at Sidmouth, see:

<https://eastdevon.gov.uk/planning-libraries/matters-issues-statement-library/ws07sidmouthfinal.pdf>

A technical landscape assessment document comparing alternative site options at Sidmouth was also produced and submitted to the planning inspector, see:

<https://eastdevon.gov.uk/planning-libraries/evidence-document-library/chapter8.4-environment/env032-strategiclandscapeandvisualappraisalshonitonandsidmouth.pdf>

Following the hearing sessions the Inspector wrote with respect to further areas of work before he could give further consideration to the plan. None related specifically to the Sidford employment site.

8 May 2014 – Development Management Committee considered the Inspectors letter and agreed a proposed work programme for addressing the issue.

23 March 2015 – Development Management Committee considered revisions to the Local Plan to address the Inspector's concerns. These were recommended for consultation to an extra ordinary Council meeting.

26 March 2015 – Extra Ordinary Council Meeting – Council considered the recommendation of DMC and in addition resolved to seek the deletion of the Sidford employment site from the plan. Since the plan has already been submitted for examination it was no longer within the gift of the Council to make this change but a letter was sent to the examiner requesting that he agree this change to the plan.

April – June 2015 – Consultation undertaken on amendments to the plan

Summer 2015 – Additional hearing sessions held into the revised plan.

15 January 2016 – the inspector issues his report, see:

<https://eastdevon.gov.uk/media/1450925/east-devon-report-v1-2.pdf>

Paragraphs 88 to 96 refer to the Sidford employment site with the inspector noting the Council's request to withdraw the site from the plan but that at this stage it could only be done through a recommendation from him in his report and he was not minded to so recommend.

28 January 2016 – the local plan was adopted by the Council incorporating all of the recommendations of the inspector.