

REPORT OF:	EXECUTIVE MEMBER FOR GROWTH AND DEVELOPMENT
TO:	Council Forum
ON:	28th JULY 2022

SUBJECT: Blackburn with Darwen Local Plan (2021-2037) – Submission to the Secretary of State

1. PURPOSE OF THE REPORT

- 1.1 The Council has been preparing a new Local Plan for the Borough since 2018. During this time it has been subject to a number of different periods of statutory consultation, the latest being to the ‘Regulation 19¹ Publication Plan Consultation’ document between 4th February and 18th March 2022.
- 1.2 This report provides an update to the key issues raised during the Regulation 19 consultation and seeks approval for the ‘submission’ of the Local Plan to the Secretary of State and the Planning Inspectorate (PINS). Submission of the Council’s Local Plan to PINS will then commence an independent Examination in Public (EiP) process. The Local Plan EiP is a requirement to ensure that the Plan is ‘sound’, prior to the local authority being able to adopt the Plan as the formal development plan for the Borough.
- 1.3 During the EiP, a Planning Inspector will assess the Plan in line with the ‘tests of soundness’, which ask whether it is positively prepared, justified, effective, and consistent with national policy². The EiP process will also test that the Plan has been prepared in accordance with all relevant legal and procedural requirements. Individuals/organisations who have made representations during the Regulation 19 consultation process will be invited to attend hearing sessions as part of the EiP process should they wish to do so.
- 1.4 At the conclusion of the EiP hearing sessions, the Inspector may decide to recommend a number of main modifications necessary to make the Plan sound. In this event, further consultation will be required before the Inspector can issue a formal report. The Inspectors’ report will set out all modifications required to the Local Plan to ensure that it is ‘sound’ and can be adopted by the Council. A further report will be brought to Council Forum at this point seeking approval to complete the modifications and adopt the new Local Plan.
- 1.5 The Government has published a [Procedural Guide for Local Plan Examinations](#) which provides further detail and guidance for those involved in the process and concerned with the procedural aspects of examining a Local Plan.

¹ All references to Regulations in this report refer to the Town and Country Planning (Local Planning) (England) Regulations 2012, unless otherwise specified.

² Further details on the tests of soundness are set out in paragraph 35 of the [National Planning Policy Framework](#)

1.6 Submission of the Local Plan will be completed in line with Regulation 22. The Council will need to submit a number of documents including:

- the *Regulation 19 Publication Plan*;
- the accompanying *Sustainability Appraisal* report;
- a *Regulation 22 Consultation Statement* setting out a summary of the main issues raised throughout the preparation of the Plan;
- copies of all representations made to the Regulation 19 Local Plan;
- any proposed schedules of minor modifications to the Regulation 19 Local Plan that the Council would wish to make on its adoption (following consideration of representations made at Regulation 19 stage and/or relevant evidence base updates);
- policy *Topic Papers* on subjects such as Housing, Employment and Environmental policy (each setting out the key evidence and justification for the Local Plan policy approach);
- Various *Statements of Common Ground* (for example, with neighbouring local authorities, National Highways, Clinical Commissioning Group etc.); and
- Any other evidence base documents that have been completed since the Regulation 19 Publication Plan, or were not made public as part of that consultation, including the Council's latest Authority Monitoring Report (for the period 2021/2022).

All relevant submission documents are listed at the end of this report as Background Papers and will be available to view on the [Local Plan: Council forum website](#).

2. OPTIONS

2.1 Not applicable. The need for a review of the Local Plan is not optional, but a requirement set out by government³. The process of preparing/updating a Local Plan is also prescribed in secondary regulation and a Planning Inspector will only find the plan 'sound' if it meets the relevant legal and procedural requirements in terms of its preparation.

3. RECOMMENDATIONS

3.1 To approve submission of the Regulation 19 Local Plan (January 2022) and accompanying documents to the Secretary of State for independent examination in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

3.2 To note the key issues arising from the Regulation 19 consultation and:

- a) approve the proposed Council responses set out in Appendix D(iv) of the Regulation 22 Consultation Statement, provided on the [Local Plan: Council Forum website](#); and

³ All Local Authorities must have an up to date plan in place (no more than 5 years old) adopted by December 2023. The Government has stated in '[Planning for the Future](#)' (March 2020), and subsequently reiterated by the Housing Minister ([19th January 2021](#)), that it will prepare to intervene in local plan making after this period if an up to date plan is not in place.

- b) approve the proposed ‘Schedule of Minor Amendments to Local Plan 2021-2037’ and ‘Schedule of Minor Amendments to Local Plan 2021-2037 Policies Map’, provided on the [Local Plan: Council Forum website](#).

- 3.3 Agree to request that the appointed Planning Inspector recommends any modifications (‘main modifications’) to the Plan necessary to meet the requirements of the Regulations and to make the Plan ‘sound’. Any main modifications will be subject to further public consultation (in 2023) ahead of adoption of the new Local Plan.
- 3.4 Authorise the Strategic Director (Growth and Development), following consultation with the Executive Member for Growth and Development, to confirm the Council’s position in respect of any suggested minor or main modifications during the EiP process. All modifications proposed through the EiP will be subject to public consultation following the Local Plan hearing sessions. These will be made available on the Local Plan examination webpage.

4. BACKGROUND

- 4.1 Blackburn with Darwen Borough Council currently has a two-part Local Plan made up of the Core Strategy (adopted 2011) and Local Plan Part 2: Site Allocations and Development Management Policies (adopted 2015). Together these documents set out the land use planning strategy for the Borough up to 2026.
- 4.2 Local Plans are now required to be reviewed every five years from the date of their adoption. The Council first approved a new Local Development Scheme in 2018, [subsequently updated](#), setting out the intention to develop a single new Local Plan to replace the Core Strategy and Local Plan Part 2.
- 4.3 Since then, extensive work has been undertaken in preparing the new Local Plan for the Borough, which looks ahead over the period 2021-2037. A portfolio of evidence base documents to support the draft policies set out in the new Local Plan have been made publicly available on the Council’s website. A number of widely promoted statutory consultations have also taken place including:
- A Regulation 18 Issues and Options consultation (approved at [Executive Board of 10th January 2019](#));
 - A Regulation 18 Consultation Draft (approved at [Executive Board of 10th December 2020](#)); and
 - A Regulation 19 Publication (approved at [Executive Board of 13th January 2022](#))
- 4.4 At all stages of preparation and consultation the Council has engaged with members of the community at a minimum in line with its commitments set out in the published [Statement of Community Involvement](#). The Regulation 22 Consultation Statement summarises for each stage of statutory consultation set out above, who has been consulted, how, and a summary of the key/common issues raised. At the Regulation 18 Draft stage every single residential and commercial property in the Borough was notified.

- 4.5 In addition to the statutory consultation periods, more informal consultation has also taken place on a regular basis with key stakeholders. For example:
- an initial development management policy consultation in July – August 2021;
 - ongoing and regular Duty to Co-operate discussions with neighbouring authorities; and
 - meetings / engagement with a wide range of infrastructure delivery partners to inform the Local Plan’s accompanying Infrastructure Delivery Plan (IDP).
- 4.6 The Local Plan is supported by a significant and wide-ranging portfolio of evidence base material. Everything used to inform the content of the Regulation 19 Local Plan has been made available on the Council’s Local Plan webpage since commencement of the public consultation period. Additional documents of relevance to the Submission of the Local Plan are also set out under the list of Background Papers to this report, and will be made publicly available as part of the Local Plan submission webpage.

Summary of Issues raised during the Regulation 19 consultation

- 4.7 The Regulation 19 Publication Plan Consultation ran from the 4th February to the 18th March 2022. A wide range of methods were used to raise awareness and encourage participation in this final stage of the Plan’s evolution, including publicising the additional evidence base work undertaken in response to representations made in early 2021. Public consultation ‘drop in’ events were held with Council Officers in attendance at Blackburn Central Library and Darwen Youth Centre.
- 4.8 In total, 446 valid representations were received during the 6-week consultation period from 248 individual consultees/organisations. This was a significant reduction (of around 75%) over the number of representations received during the previous round of public consultation held in early 2021⁴. Around half of the Regulation 19 representations received (215 of the 446) were from members of the public, the rest on behalf of organisations.
- 4.9 The Regulation 22 Consultation Statement sets out a more detailed summary in bullet form of the main issues raised against each of the key policies and sites. The policies and sites that attracted the most number of comments (> 5 representations) are listed in Table 1 below:

Table 1: Policies receiving more than 5 representations

Policy Ref	Policy Name	No. of Reps		
		Sound	Unsound	Total
Growth Site E179	J5 Strategic Employment Site (SES), Blackburn	2	144	146
Growth Site H195	North East Blackburn Strategic Housing Site (SHS)	3	43	46

⁴ In early 2021 a total of 1,796 representations were received from 776 individual consultees/organisations during the Consultation Draft Local Plan (Regulation 18).

Policy Ref	Policy Name	No. of Reps		
		Sound	Unsound	Total
Core Policy CP4	Housing Development	3	34	37
Core Policy CP2	The Spatial Approach	2	24	26
Dev. Man. Policy DM21	Local Green Space	25	1	26
Growth Site H042	Land at Bank Hey, Blackburn	1	6	7
Dev. Man. Policy DM15	Biodiversity	0	7	7
Core Policy CP6	The Natural Environment	0	6	6
Dev. Man. Policy DM3	Housing Mix, Standards and Densities	0	6	6

4.10 The Council's Topic Papers, listed under the Background Papers of this report, have been prepared to help set out the reasoned justification and policy approach to the matters highlighted in Table 1.

4.11 A summary of every one of the 446 representations received, and proposed Council response to the representation, is set out (in plan order) in Appendix D(iv) of the Regulation 22 Consultation Statement. Where the Council response indicates a minor modification as being required, these are then listed in one of two separate documents:

1. Proposed Schedule of Minor Amendments to the Blackburn with Darwen Local Plan 2021-2037; and
2. Proposed Schedule of Minor Amendments to the Blackburn with Darwen Local Plan 2021-2037 Policies Map

4.12 Some representations from statutory consultees were received during the Regulation 19 consultation period. The Council has sought to address these as thoroughly as possible where they relate to matters of soundness, prior to submission of the Local Plan. Issues raised have been addressed either through recommended minor amendments (in the schedules set out above), through preparation of further evidence base work and/or through agreement of a Statement of Common Ground (SoCG) with the respective consultee. All signed SoCG's are provided in the list of Background Papers to this report.

4.13 The specific response to, and approach implemented with, each of the statutory consultee bodies raising matters of soundness are summarised below:

- **Natural England** – the Council proposes additional key development considerations to address any potential ecological impacts on specific growth site policies (H080, H195, H224, E047, E179, MU220) to resolve Natural England concerns – these are listed in the schedule of minor amendments;

- **Historic England** – the Council has updated its Heritage Impact Assessments for two housing growth sites (H195 and H217) and propose updating yields as appropriate to resolve Historic England concerns;
- **National Highways** – the Council has committed to continue to work closely with National Highways, post adoption of the new Local Plan, to monitor traffic, its impacts on the strategic road network, and to consider and implement any necessary mitigation measures. This working arrangement is formalised through a signed Statement of Common Ground which resolves National Highways concerns;
- **Lancashire County Council** – the Council proposes additional key development considerations to address potential archaeological impacts on specific growth site policies (H009, H029, H039, H222) – these are listed in the schedule of minor amendments. In addition, the Council has committed to undertake further traffic monitoring of the A6119 Whitebirk Drive / Peel Retail Park junction during the first year of adoption of the new Local Plan and to work closely with LCC to understand whether any mitigation will be required. LCC has signed the Statement of Common Ground – Neighbouring Authorities LCC & UU to confirm that this resolves concerns raised at Regulation 19 stage;
- **Hyndburn Borough Council** – the Council has signed a Statement of Common Ground confirming that the proposed levels of housing and employment growth are appropriate in the context of the evidence that supports the Local Plan. The SoCG also states that Hyndburn Council notes that objections have been raised particularly from residents of the village of Belthorn, who have concerns about the proposed J5 employment site, but that it is for Blackburn with Darwen Council to justify the location of its development allocations through the Examination of the Local Plan.

4.14 This summary demonstrates that the Council has made significant efforts to resolve outstanding matters raised at Regulation 19 by statutory consultees. The proposed schedules of amendments (referenced in paragraph 4.11) highlight additional minor modifications arising from non-statutory consultee representations, though these are not all listed here for brevity. Seeing as they are identified as ‘minor’ modifications, they are not considered to significantly affect the plan or policies within it.

4.15 The recommendation is for the Council to now submit the Local Plan for its EiP so that an appointed Planning Inspector can come to a view on all the representations made at Regulation 19 and the outstanding matters from both statutory and non-statutory consultees. The Planning Inspector appointed for the EiP will arrange for hearings to take place on relevant matters, and then make further recommendations to ensure that the Local Plan is ‘sound’, including any major modifications required (which will be subject to further public consultation).

5. RATIONALE

5.1 The Council has a statutory duty to prepare and keep up to date a Local Plan for the Borough to ensure that sufficient land is available to meet the future need for new homes and jobs. The Government has set a deadline for all areas to have an up to date plan in place (adopted) by December 2023, or risk intervention in the

local plan making process.

- 5.2 The Local Plan provides local communities with an opportunity to have their say on how their local areas will change. It is a chance for the Local Authority to set local planning policy to ensure that future growth is sustainable, and helps to deliver the necessary infrastructure to support an increasing resident, visitor and working population.
- 5.3 The plan has been prepared taking account of a large number of other relevant plans and strategies of the Council and other partner organisations. For example: Blackburn with Darwen's Corporate Strategy, Health and Well-being Strategy, Climate Emergency Action Plan; infrastructure delivery partners' various investment programmes.

6. POLICY IMPLICATIONS

- 6.1 The submission of the new Local Plan will mark a key stage in the development of the new Local Plan. Whilst it does not yet form part of the statutory development plan for the Borough (as it will still be to go through Examination in Public) the Council can now place weight in decision making on the emerging policies contained within it. The degree of weight attached to emerging policies depends upon the level and nature of outstanding objections to them and is a matter for the planning process.

7. FINANCIAL IMPLICATIONS

- 7.1 The preparation of the new Local Plan for the Borough has incurred approximately £675k of expenditure to date. This has been funded through a combination of agreed Local Plan budget allocations and existing Growth Team revenue funding. To date there has been £550k additional Local Plan allocation agreed, of which approximately £100k remains in an earmarked reserve for use in the 22/23 period. Costs have been incurred in the preparation of the various stages of statutory consultation on the Local Plan, preparing supporting evidence base material, sustainability appraisal, and undertaking consultation exercises themselves.
- 7.2 A further £205k of expenditure is estimated for the 2022/23 period, which includes costs relating to the submission and examination of the Local Plan. This will be funded through a combination of the Local Plan allocation for 2022/23 plus reserves carried forward.

8. LEGAL IMPLICATIONS

- 8.1 Local Planning Authorities have a statutory requirement to produce, and keep up to date, a Local Development Plan, as described by the National Planning Policy Framework, the National Planning Practice Guidance, the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Planning & Compulsory Purchase Act 2004. The submission of the new Local Plan forms the final phase of work towards meeting this statutory requirement.

9. RESOURCE IMPLICATIONS

- 9.1 The submission and examination of the Local Plan will be managed by existing resources within the Council (Growth and Development service, IT etc.), PINS, and a Programme Officer to be appointed by the Council (funded through the existing Local Plan budget).

10. EQUALITY IMPLICATIONS

- 10.1 An initial equality impact assessment (EIA) has been carried out in support of the proposed submission of the new Blackburn with Darwen Local Plan (2021-2037). This has been completed with full consideration of the policies and proposals that are to be included in the Local Plan. The EIA concludes that submission of the Local Plan, and implementation of policies contained within it, is not considered to have any impacts on protected characteristics.

11. CONSULTATIONS

- 11.1 The Council has undertaken extensive public consultation over a period of 4 years, details are set out in the Regulation 22 Consultation Statement. Consultation has been in accordance with the Council's published Statement of Community Involvement.

Chief Officer/Member

Contact Officer: Martin Kelly (Strategic Director, Growth and Development)

Date: 8th July 2022

Background Papers: all available to view on the [Local Plan: Council Forum webpage](#).

- 1) Regulation 19 Publication Plan Consultation document (Jan 2022)
- 2) Local Plan Sustainability Appraisal
- 3) Submission Policies Map
- 4) Regulation 22 Consultation Statement
- 5) Proposed Schedule of Minor Amendments to Local Plan 2021-2037
- 6) Proposed Schedule of Minor Amendments to Local Plan 2021-2037 Policies Map
- 7) Topic Papers
 - a. Housing
 - b. Employment
 - c. Environment
 - d. Housing Standards
- 8) Statements of Common Ground with:
 - a. Hyndburn Borough Council (July 2022)
 - b. Other adjoining Local Authorities, LCC and UU (July 2022)
 - c. Blackburn with Darwen Clinical Commissioning Group (June 2022)
 - d. National Highways (July 2022)
- 9) Additional evidence base material completed post Regulation 19
 - a. Authority Monitoring Report 16 (2021/22) (June 2022)

- b. H217 Heritage Impact Assessment (revised)
- c. H195 Heritage Impact Assessment (revised)
- d. M65 J5 Buildability Assessment (Feb 2022)
- e. M65 Junction 6 and 7 Study (March 2022)
- f. South East Blackburn Transport Strategy (June 2022)
- g. Local Strategic Assessment for Specialist Housing Types (June 2022)
- h. Article 4 Direction (HMO) Justification Paper (June 2022)
- i. Infrastructure Delivery Plan (July 2022)
- j. Balfour Beattie Feasibility Report (June 2022)
- k. Market Report – Southeast Blackburn Commercial Property Market Report (June 2022)
- l. Hot Food Takeaway Background Paper