

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	20 October 2021
Subject:	Main Modifications Tewkesbury Borough Plan
Report of:	Planning Policy Manager
Corporate Lead:	Head of Development Services
Lead Member:	Lead Member for Built Environment
Number of Appendices:	Six

Executive Summary:

The Tewkesbury Borough Plan (TBP), as the second tier plan, has been prepared in accordance with the Joint Core Strategy (JCS); the strategic Plan for Tewkesbury Borough, Gloucester City and Cheltenham Borough, to provide a development framework for development in Tewkesbury Borough to 2031.

The Pre-Submission TBP was submitted for examination in May 2020. Examination in Public (EiP) took place over five weeks during February and March earlier this year. The examining Inspector has found the plan not to be sound in certain respects, but it can be made sound by a series of Main Modifications (MMs).

A schedule of MMs to the Pre-submission TBP (MMTBP) has been produced. This report seeks Council approval of the MMTBP, and authorisation to go out to public consultation.

In addition to the MMs, a schedule of Additional Modifications (AMs) has also been produced. These are changes that can be made to the TBP but do not relate to soundness. The changes relate to factual updating, clarification and corrections to grammar and presentation. The AMs are changes that have arisen throughout the Examination Process and are based on the Pre-submission TBP. This report also seeks Member approval of these AMs to be published alongside the Main Modifications for information purposes only and thus do not form part of the Main Modifications consultation.

A Sustainability Appraisal/Habitat Regulations Assessment (SA/HRA) report has also been produced as required by the regulations.

This report also requests that delegated authority is granted to the Head of Development Services to make any further minor changes prior to publication if required by the Inspector or to correct minor errors.

Recommendation:

- 1. To approve the MMTBP as set out in Appendix 2 to this report (including proposed modifications to the Policies Map) and approval to commence public consultation alongside the AMs and SA/HRA.**
- 2. To delegate to the Head of Development Services, in consultation with Lead Member for the Built Environment, to make the correction of any minor errors such as spelling, grammar, typographical and formatting changes that do not affect the substantive content of the plan.**

Reasons for Recommendation:

See Section 2 below.

Resource Implications:

The preparation of the TBP and its progression through Examination in Public has already involved a significant amount of officer resource from within the Planning Policy team as well as support from the wider Council.

Progressing the MMTBP through consultation will mean additional officer time in undertaking the consultation and organising and advertising the Plan.

Legal Implications:

The Council has a statutory duty to prepare and keep up to date a Local Plan. The Planning and Compulsory Purchase Act (2004) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out the statutory procedures for preparing planning policy documents. The TBP has been prepared in line with the legislation and the National Planning Policy Framework.

Risk Management Implications:

Failure to progress the Tewkesbury Borough Plan will have an adverse impact on the Borough's ability to provide sufficient sites for housing and employment growth to meet the requirements set out within the adopted Joint Core Strategy.

While the JCS sets out strategic policies, the Borough Plan is required to provide the locally specific policies and guidance that will help guide and determine proposals for new development in the area. Without these policies the Borough Council is in a weaker position in ensuring that new development is of a high quality, is sustainable and meets our objectives for growth in the Borough, in support of the rural area and in implementing the housing and economic objectives of the Council

The Borough Plan is also critical to identify the smaller-scale site allocations for housing and employment, particularly in the Borough's rural settlements. In regard to housing sites, this is vital to ensure that the Council can maintain a five year supply of land. If the Council cannot demonstrate a five year supply, then its development plan policies relating to the supply and location of new housing may be considered out of date. This could result in a more unplanned approach to development, leading to inappropriate and incremental development being allowed on appeal that does not take account of requirements for supporting infrastructure, with the potential for adverse environmental impacts.

Performance Management Follow-up:

Subject to Council approval of the MMTBP for public consultation, along with the associated documents, the responses to the consultation will be sent directly to the Inspector who will consider whether a fresh examination of any matters will be needed. However, it is unlikely that any fundamental new issues would arise at that stage as the changes reflect the debate that was heard during the hearings.

Following the public consultation and the Inspector's deliberations on any responses received, the Council can expect to receive the Inspector's Report setting out his recommendations. This will likely be in the new year. A fact check will be required to be undertaken by Officers to check that all the facts in the report are correct. The results will be returned to the Inspector and he will issue his final report. At that point, Council may formally adopt the Local Plan and it will attract full weight in deciding planning applications and calculating five year housing land supply ('5YHLS').

Environmental Implications:

The MMTBP has gone through a required update to the SA/HRA process which considers the environmental, social, and economic outputs of the Plan and ensures that development meets

the needs of both present and future generations. The SA encompasses Strategic Environmental Assessment as required by EU Directive (2001/42/EC). In addition, the HRA has been undertaken as required under the European Directive 92/43/EEC on the "conservation of natural habitats and wild fauna and flora for plans" that may have an impact on European (Natura 2000) Sites. The Tewkesbury Borough Plan also contains policies to protect and enhance the environment of the Borough.

1.0 INTRODUCTION/BACKGROUND

- 1.1** All local authorities are under a statutory obligation to prepare a development plan. Tewkesbury Borough Council has chosen to do this through the preparation of two key documents: the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) and the Tewkesbury Borough Plan (TBP). Together the two plans will provide the planning framework for the Borough until 2031 along with the various Neighbourhood Development Plans that have been made.
- 1.2** The JCS was adopted in December 2017 and sets out the vision and objectives for the area together with strategic policies for shaping new development up to 2031. The JCS sets out the overall need for housing and employment growth in the area, the spatial strategy for meeting these needs, and allocates a number of larger strategic sites for development.
- 1.3** Whilst the JCS provides the higher level strategic part of the development plan, more detailed, locally specific planning policies and smaller-scale site allocations are to be progressed through individual district-level (second tier) plans. For Tewkesbury this is the TBP. A key role for the TBP is to help to deliver the development requirements and growth and spatial strategy of the JCS, the TBP therefore needs to be consistent and in conformity with it.
- 1.4** The TBP was submitted to the Secretary of State for Housing, Communities and Local Government for examination on 18 May 2020. The hearing sessions as part of the plan's Examination in Public, concluded on 18 March 2021. The examining Inspector has now issued his letter setting out his preliminary conclusions on the draft Tewkesbury Borough Local Plan. The Inspector's letter is attached to this report at Appendix 1.

2.0 PROPOSED MAIN MODIFICATIONS

- 2.1** As set out in his letter (Appendix 1), the Inspector has found that, whilst the vital 'Duty to Co-operate' (with neighbouring authorities and other bodies) has been met, he has found the draft Plan to be "unsound" in certain respects. He has however confirmed that the Plan would become sound if a number of 'Main Modifications' ('MM') were to be made and these are outlined in his letter along with headline reasons. Consequential changes will also be required to be made to the draft Policies Map although technically these do not form part of the MMs.
- 2.2** In issuing his requirement for MMs, the Inspector has considered the Council's list of Proposed Changes that the Council submitted to him following the debate at the Hearings (in Core Document CD011c).

- 2.3** Officers have now agreed a definitive list of MMs with the Inspector in accordance with his letter, together with changes to the Policies Map. These are attached to this report at Appendices 2 and 3 respectively. An updated Sustainability Appraisal and Habitats Regulations Assessment has also been undertaken – attached to this report at Appendix 6.
- 2.4** It will now be necessary to undertake a period of formal public consultation on the MMs because they are, by definition, material changes upon which the public and other interested parties are required to have the opportunity to comment under the Town and Country Planning (Local Planning) (England) Regulations 2012. The consultation will seek views on the proposed MMs. It is not an opportunity to raise matters that either were, or could have been, part of the earlier representations or hearings on the submitted plan.
- 2.5** The MMs set out in Appendix 2 are considered by the Inspector to be necessary in order to make the plan sound and allow it to proceed to adoption. Minor grammatical corrections and other non-material changes ('Additional Modifications') will be permissible without needing public comment or the Inspector's approval. The Inspector's MMs may also require consequential amendments to some of the policies and reasoned justification.
- 2.6** Following the public consultation, and the Inspector's deliberations on any responses received, the Council can expect to receive the Inspector's Report setting out his recommendations. This will likely be early in the new year. A fact check will be required to be undertaken by Officers to check that all the facts in the report are correct. The results will be returned to the Inspector and he will issue his final report. At that point, Council may formally adopt the Local Plan and it will attract full weight in deciding planning applications and calculating five year housing land supply ('5YHLS').
- 2.7** In terms of the MMs and what is proposed, many of the Inspector's MMs simply endorse proposed textual changes previously suggested by the Council (in Core Document CD011c), for example in relation to securing ecological enhancements and improved opportunities for cycling and walking. Other changes deal with detailed policy or other textual issues he thinks are important, but which were not covered in the Council's earlier proposed changes document. Others are simply a factual consequence of other events such as where:
- sites gained planning permission prior to April 2020 and which therefore do not require a site specific policy in the Plan.
 - actual site development capacities have changed following the grant of planning permissions.
- 2.8** The more significant changes required by the Inspector to make the plan sound are summarised below. The Inspector has provided more detailed reasoning in respect of these issues in his letter.
- 2.9** Housing Provision - General
- The Inspector is satisfied that the draft Plan proposes to allocate sufficient and suitable housing sites to meet the shortfall for Tewkesbury identified in the adopted Joint Core Strategy ('JCS') (in December 2017).

- 2.10** Importantly, the Inspector has advised that, in assessing soundness, it is not necessary for him in this instance to conclude whether a 5YHLS exists (as he would ordinarily be required to do) because of the precise mechanisms and wording that were built into the JCS. Nevertheless, he has confirmed that a 5YHLS will exist on adoption of the TBP in compliance with the general requirement set out in the National Planning Policy Framework ('NPPF'). This is important as it will restore the Council's discretion to decide new windfall applications for housing on the basis of an 'ordinary' planning balance, rather than a tilted 'presumption in favour'. This will continue until such time that 5YHLS monitoring dictates otherwise.
- 2.11** As well as the overall housing requirement, the Inspector has confirmed that the minimum housing requirements proposed for the Rural Service Centres and the twelve Service Villages respectively have also been met.
- 2.12** Proposed Housing Allocations
Winchcombe (Housing Allocation WIN1)
The proposed allocation of the Area of Outstanding Natural Beauty (AONB) site at Winchcombe under Policy WIN1 is found to be sound subject to precise boundary stipulations and requiring good pedestrian/cycling links with the town. Updated WIN1 policy wording is provided as a MM at Appendix 2 (MM3) and an amended allocation boundary is shown on the schedule of policies map changes at Appendix 3 (MAP1A & MAP1B).
- 2.13** *Shurdington - Housing Site SHU1 (Land at corner of Badgeworth Lane and A46)*
Housing site SHU1 would significantly extend housing development along the A46 into sensitive Green Belt countryside. No exceptional need has been demonstrated to release Green Belt land so this proposed allocation has not been accepted by the Inspector. A MM is required deleting the allocation from the plan (MM1).
- 2.14** *Shurdington - Housing Site SHU2 (Land north of Westhampton Lane)*
Housing site SHU2 would not, however, comprise an encroachment into the countryside and would only require minor amendments to the boundaries of the Green Belt so is accepted by the Inspector.
- 2.15** *Minsterworth (Extent of settlement boundary)*
Minsterworth is an unusually linear village. Although no allocations are included in the TBP, the Inspector has found that the proposed extension of the settlement boundary would not accord with the Council's definitional criteria and would compromise the intermittent character of the village. The Inspector requires that the undeveloped gap between Ellis Bank Lane and Enderley should be excluded. However, a re-drawn boundary to allow more 'in-depth' development concentrated near the church, village hall and Old School (in line with the Parish Council's suggestion) would be appropriate. Accordingly, a revised settlement boundary has been produced for Minsterworth. This has been produced in consultation with the Parish Council and is shown on the schedule of policies map changes at Appendix 3 (MAP26).
- 2.16** *Forthampton - Housing Site FOR1 (Land at corner of Bishops Walk and School Lane)*
The village is not a Service Village and the Inspector has found it to be unsuitable for significant development. There is no longer the community support for the allocation of 10 dwellings and the Inspector has required that it is deleted from the Plan. A MM has been produced to this effect (MM1).

2.17 Employment Land

The proposed employment generating allocations exceed JCS requirements with a reasonable surplus to allow flexibility, albeit with some non B-Class uses. Further land could come forward under permissive policies and as part of the emerging Tewkesbury Garden Town.

2.18 *B4063/Cheltenham Road East Employment Sites*

The proposed expansion of the existing employment sites at Ashville Business Park, Meteor Business Park and Bamfurlong Industrial Park, and consequent removal of those sites from the Green Belt, have not been found to be justified by any exceptional circumstances. The latter two sites would also reduce the Essential Operational Area of Gloucestershire Airport. Consequently, the Inspector has required that the sites are deleted from the plan and the Green Belt designation reinstated. MMs have been produced to address this requirement (MM17).

2.19 *Toddington, Coombe Hill and Isbourne (Greet) Employment Sites*

The Inspector has found the proposed expansions of Orchard Industrial Estate, Toddington to be in an open rural landscape just to the south of the Cotswolds AONB and Special Landscape Area and is detached from any built up area with poor road connections and little opportunity for sustainable modes of transport.

2.20 The proposed expansion of Knightsbridge Business Centre at Coombe Hill (The Leigh) is found to be well connected to the M5 but is in open countryside and would more than double the size of the industrial estate.

2.21 Both sites are found to be prominent and intrusive and the Inspector has required their deletion. MMs have been produced to address this (MM18).

2.22 The land associated with the proposed expansion of Isbourne Business Centre (Winchcombe) is no longer available and has also been deleted.

2.23 Gypsy and traveller sites

The Plan needs to make provision both for those that meet the Government's planning definition of Gypsies and Travellers and those that do not. There is an outstanding requirement for 55 pitches and provision is only being proposed in the draft Plan for 17 – leaving 38 still to be identified. The Inspector finds that the reasons for excluding a site for seven pitches at Brookside stables, Badgeworth are unconvincing. He therefore proposes that the site should be allocated, thus reducing the shortfall to be found. This shortfall can be addressed through windfall development and JCS Policy SD13. A MM has been produced (MM16) to allocate Brookside Stables, Coldpool Lane, Badgeworth for seven pitches.

2.24 Settlement Boundaries (SBs)

A number of substantially built up areas are not included within SBs, meaning Policy RES3 applies rather than RES2, and EMP4 rather than EMP3, which would not be justified. The Inspector therefore proposes that these areas should be included and defined on the Policies Map. A MM has been produced to reflect this (MM7) and the additional SBs are shown on the schedule of changes to the policies map at Appendix 3 (MAP6 - MAP10).

2.25 Use Classes Order (UCO)

Recent changes to the UCO aim to increase flexibility in changes of use. The JCS definition of B-class employment land now straddles uses which form part of Class E. Modifications have been made to the plan's Economy & Tourism and Retail & Town Centres policies to reflect the changes to the UCO.

3.0 **CONSULTATION & NEXT STEPS**

3.1 Council approval is sought on the MMTBP for it to undergo a formal public consultation period, expected to take place over a six week period from Monday 1 November to Monday 13 December 2021.

3.2 The consultation period will be widely publicised, directly to those signed up to the planning policy consultation database, as well as using the paper and social media, and through promotion to Town and Parish Councils.

3.3 At the close of the period for consultation, responses will be passed to the Inspector. The Council can then expect to receive the Inspector's Report setting out his recommendations. This will likely be early in the new year. A fact check will be required to be undertaken by Officers to check that all the facts in the report are correct. The results will be returned to the Inspector and he will issue his final report. At that point, Council may formally adopt the Local Plan and it will attract full weight in deciding planning applications and calculating five year housing land supply ('5YHLS').

4.0 **RELEVANT COUNCIL POLICIES/STRATEGIES**

4.1 Tewkesbury Borough Council Plan (2020-2024).

Adopted Joint Core Strategy (December 2017).

Adopted Tewkesbury Borough Local Plan to 2011 (March 2006).

Economic Development & Tourism Strategy (2017-2021).

Housing Strategy (2021-2022).

5.0 **RELEVANT GOVERNMENT POLICIES**

5.1 The National Planning Policy Framework.

6.0 **RESOURCE IMPLICATIONS (Human/Property)**

6.1 The consultation process and the remainder of the examination process will involve a significant amount of officer time and therefore has human resource implications for the Council. This includes preparing for and running the consultation, attending, and giving evidence at any further hearing sessions (if required) and any additional work on the plan as the examination progresses.

7.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

7.1 The MMTBP must go through a Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) process and Habitats Regulation Assessment (HRA), which considers the environmental, social, and economic outputs of the Plan and ensures that development meets the needs of both present and future generations. The requirements for SA/SEA and HRA in relation to the MMTBP have been met by producing an addendum report to the SA/HRA supporting the Pre-submission TBP. This is attached to this report at Appendix 6.

8.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

8.1 Each version of the Tewkesbury Borough Plan has been accompanied by a Health Impact Assessment and an Equality Impact Assessment as an integral part of the SA/HRA process.

9.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

9.1 None.

Background Papers:

National Planning Policy Framework (July 2021) and National Planning Practice Guidance.
Adopted Joint Core Strategy (December 2017).
Tewkesbury Borough Local Plan (adopted 2006).
Local Development Scheme for Tewkesbury Borough (January 2021).
Tewkesbury Borough Council Statement of Community Involvement (May 2013).
Tewkesbury Borough Plan Pre-Submission Reg 19 20 consultation statement (April 2020).
Tewkesbury Borough Plan Preferred Options Reg 18 consultation statement (July 2019).
Summary of representations to TBP – draft policies and site options (July 2015).
Scoping Summary Response Report (August 2014).
Pre-submission TBP - housing background paper (October 2019).
Preferred Options Tewkesbury Borough Plan housing background paper (September 2018).
Pre-submission TBP employment sites background paper (October 2019).
Tewkesbury Borough Plan Employment Sites Background Paper (September 2018).
Pre-Submission sustainability appraisal (July 2019).
Pre-Submission habitats regulations assessment (July 2019).

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Appendices:

1. Inspector's Post Hearings MMs Letter 16 June 2021.
2. Schedule of Proposed Main Modifications.
3. Schedule of Proposed Main Modifications – Policies Map.
4. Note on settlement boundaries for Minsterworth, Northway, Ashchurch and DE&S MOD site.
5. Schedule of Additional Modifications.
6. SA Addendum Report September 2021.