



Report to Cabinet

Subject:

Local Plan Proposed Modifications – Responses to objections received

Date: 19th May 2005

Author: Local Plan Manager on behalf of Portfolio holder Cllr Feeney

Purpose of report

To consider objections to the Proposed Modifications and take the next step towards adoption of the Plan, in accordance with the Council's corporate objective to enhance the physical environment of the Borough.

Background

Following the receipt of the Local Plan Inquiry Inspector's report in March and May 2004, the Council agreed its Proposed Modifications to the Local Plan in January 2005. Prior to this a Special meeting of the Cabinet had been held on 21st December 2004 to consider the options before the Council in terms of progressing further stages in the adoption of the Local Plan. The Modifications were on placed on deposit for 6 weeks in Borough libraries and council offices.

Responses

6,488 responses were received, which is significantly higher than Ashfield DC (180) and Broxtowe BC (493). Many of these were not duly made because they referred to issues previously addressed by the Council and/or the Inspector in his report to the Council. The matters raised are however included in the report, after the 'duly made' replies at Appendix 1, for completeness. Because some objections covered a number of issues on one form or letter, some of which are duly made and some of which are not, the report deals with these particular responses in one place. So this means amongst the duly made section there are some issues regarded as not duly made. However, if considered in the first part of the report they do not reappear in the second part to ensure there is no double counting of representations.

In addition GAG 5 sought Counsel's Opinion on our proposals and forwarded a copy of the Opinion to us for consideration. This was treated as a duly made objection in its own right and is summarised at the beginning of Appendix 1. The advice submitted on behalf of GAG5 addresses the issues considered by the Cabinet

meeting in December 2004, which were subsequently agreed by the Full Council on 12th January 2005. The Cabinet report was made available to GAG 5 and the public, and is accessible from the Council's web site by using the following link:

[Legal and Democratic Services Home Page - Gedling Borough Council](http://committee-web.gedling.gov.uk/askgedling/users/public/admin/kab12.pl?cmte=CAB&meet=19&arc=71)

([http://committee-](http://committee-web.gedling.gov.uk/askgedling/users/public/admin/kab12.pl?cmte=CAB&meet=19&arc=71)

[web.gedling.gov.uk/askgedling/users/public/admin/kab12.pl?cmte=CAB&meet=19&arc=71](http://committee-web.gedling.gov.uk/askgedling/users/public/admin/kab12.pl?cmte=CAB&meet=19&arc=71)).

We in turn sought our own Counsel's Opinion on the advice contained in GAG 5's opinion, on the way in which the Council has handled the development of the Local Plan following receipt of the Local Plan Inspector's Report and also on the advice contained in the report submitted to Cabinet in December 2004. Counsel disagreed with the advice given by GAG 5's Counsel, was very complimentary about the analysis and advice of the officers contained in the December 2004 cabinet report, confirmed that the Council was right to continue on the basis of Option 2 as set out in that report and confirmed that there were no grounds for a successful legal challenge to the Council proceeding to adopt the Local Plan on the basis of the Statement of Proposed Decisions and Modifications adopted by the Council. Appendix 1 summarises the advice received and also makes reference to a recent High Court case involving Wealden District Council, which is relevant to the Council's current position.

Conclusion

Appendix 1 sets out the representations received with a summary of the objections and support, followed by the Council's response. Appendix 2 deals with the next stage in the process towards full adoption.

Having taken into account all the 'duly made' and 'not duly made' objections received, it is considered that no further change should be made to the Plan. Cabinet is accordingly requested to agree the responses and recommend the Council proceed to adopt the Plan.

Recommendations

That Cabinet

- 1. Approve the responses to the objections received to the Proposed Modifications, and**
- 2. Recommend to Council that no further modifications materially affecting the content are made to the draft Plan and that the draft Plan as modified in accordance with the Statement of Proposed Decisions and Modifications be adopted as the Gedling Borough Local Plan (First Replacement).**