

**CABINET – 18<sup>th</sup> November 2004**

**ADOPTION OF THE LEICESTERSHIRE, LEICESTER AND  
RUTLAND STRUCTURE PLAN**

**REPORT OF THE CHIEF EXECUTIVE**

**PART A**

**Purpose**

1. To allow Cabinet to consider the next steps in the adoption of the Leicestershire, Leicester and Rutland Structure Plan.

**Recommendation**

2. That the County Council be RECOMMENDED to:
  - a) agree the Leicestershire Leicester and Rutland Structure Plan, comprising the Written Statement and Key Diagram, attached as Appendix 1;
  - b) authorise the Chief Executive to publish a Statement of Decisions and Reasons on Objections to the Further Proposed Modification, as set out in Appendix 2, and a revised Technical Paper on Housing;
  - c) subject to Leicester City Council and Rutland County Council District Council also agreeing the Leicestershire, Leicester and Rutland Structure Plan, to authorise the Chief Executive to:-
    - i) give notice of the Council's intention to adopt the Structure Plan after a period of 28 days and subsequently adopt the Structure Plan;
    - ii) to agree the date of adoption and undertake all actions necessary to give effect to the adoption of the Leicestershire, Leicester and Rutland Structure Plan.

**Reason for Recommendation**

3. To enable a decision to adopt the Structure Plan to be made by the full Council.

### **Timetable for Decisions**

4. A timetable for proposed meetings and adoption process is set out in Appendix 4.

### **Policy Framework and Previous Decisions**

5. On the 9<sup>th</sup> July 2003, the County Council resolved to adopt the Plan following consideration by Scrutiny on 28<sup>th</sup> May and Cabinet on 24<sup>th</sup> June 2003.
6. Following the Direction from the Secretary of State (see Background in Part B) Cabinet agreed on 9<sup>th</sup> March 2004:
  - a) subject to Leicester City Council and Rutland County Council District Council also agreeing, to approve the publication of a Proposed Further Modification to the Structure Plan, deleting Strategy Policy 17: Green Belt;
  - b) to authorise the Chief Executive to prepare, publish and consult on the Proposed Further Modification.
  - c) to request GOEM to advise Ministers to withdraw the Direction.

### **Resource Implications**

7. The costs of the proposed work programme will be met from within existing budgets. There could be additional costs if a legal challenge were to be made in the High Court following adoption of the Plan.

### **Circulation under Sensitive Issues Procedure**

8. None

### **Officers to Contact**

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## **PART B**

### **Background**

9. Following the resolution of the County Council to adopt the Plan, the First Secretary of State on the 11th August 2003 directed the Three Councils to modify the Structure Plan as Proposed to be Adopted. The direction required modification to two policies, **Strategy Policy 17: Green Belt** and **Housing Policy 1: The Quantity of Housing Land**.
10. Strategy Policy 17 proposed designation of land as Green Belt in North West Leicestershire. The First Secretary of State was not convinced that there were any exceptional circumstances that would justify adding the land proposed, nor that this land would meet the criteria set out in Planning Policy Guidance Note 2 on Green Belts. On housing, the First Secretary of State was concerned that inappropriate account had been taken in the determination of the housing figures outside the Central Leicestershire Policy Area of unimplemented local plan allocations.
11. The Three Councils were therefore unable to adopt the Structure Plan in August 2003 as intended.
12. In order to satisfy the two elements of the direction, the Three Councils agreed to issue a Further Proposed Modification deleting Strategy Policy 17: Green Belt, and a policy statement (in the form of a revised Statement of Decisions and Reasons on Objections to the Proposed Modifications) setting out how the housing figures were determined, confirming that no account had been taken of unimplemented local plan allocations. The First Secretary of State confirmed that he was satisfied that, in doing so, he was content for the Three Councils to proceed with the Structure Plan as proposed.
13. Accordingly, a Further Proposed Modification was placed on deposit for six weeks commencing Thursday 23rd September, deleting Strategy Policy 17: Green Belt. Green Belt designation will now be addressed in the forthcoming Regional Spatial Strategy review.
14. At the same time the revision to the Statement of Decisions and Reasons on Objections to the Proposed Modifications was issued. The revised text set out how the housing figures were determined, and confirmed that no account has been taken of unimplemented local plan allocations. It did not form part of the Further Proposed Modification, and was therefore not subject to formal comment through the proposed modification process.

### **Results of the Consultation on the Modifications**

15. The deposit period for the Modification ended on the 4<sup>th</sup> November. Sixteen organisations or individuals made representations on the Modification or the housing statement, including one who commented on both.

## **Green Belt Further Proposed Modification**

16. Eleven representations were received, as follows:

- Support for Modification 6
- Objection to Modification 1
- No Comment 4

17. The issues raised are summarised in the Statement of Decisions and Reasons on Objections to the Further Proposed Modification, set out in Appendix 2. It is considered that the objections raised do not justify any further changes to the Plan.

## **Housing**

18. Six comments were also received on housing aspects of the Plan. These are summarised in Appendix 3. The only modification proposed to the Plan relates to Green Belt, so no change is proposed in the light of the these comments.

## **Direction**

19. At the time of writing, the Three Councils are awaiting confirmation from GOEM that the Direction has finally been withdrawn. Members will be updated verbally.

## **Future Course of Action**

20. It is considered therefore that, subject to the Direction being finally withdrawn, the Structure Plan can be adopted without further modification. The Written Statement and a draft of the revised Key Diagram which together will form the Structure Plan Written Statement are set out in Appendix 1. The proposed timetable for adoption is attached in Appendix 4.

21. Members should be aware, however, that uncertainties do remain, with two courses of action open to anybody who considers that the Plan or the procedures followed have been unsatisfactory:

- If the Secretary of State considers a plan to be unsatisfactory, particularly in terms of its interpretation of national or regional policies, he may direct the authorities to modify it at any time before it is adopted. The authorities must then re-open the EIP or propose further modifications.
- After the Plan has been adopted, there is a six week period during which an application can be made to the High Court to have the Plan quashed. This can only be done on the grounds that the Plan is not valid or the proper procedures have not been followed, not because of any objection to policy. Melton Borough Council has informed the Three Councils that

if the adopted Structure Plan includes a housing allocation not in accordance with the Examination in Public Panel recommendations the Borough Council intends to take the matter to Judicial Review, subject to Counsel's advice.

22. The scenarios can be summarised as the following:

- a) The Structure Plan proceeds to adoption according to the attached timetable;
- b) The Secretary of State directs the Three Councils to modify the Plan. Further Modifications would then have to be proposed. This is most unlikely, provided confirmation is received that the previous Direction has been satisfied;
- c) There is a High Court Challenge by an aggrieved party after the Plan has been adopted. The High Court can only consider whether proper procedures have been followed, not whether the Plan has been amended in accordance with particular objections. It is the opinion of officers that all the proper procedures have been followed. However, if a High Court Challenge from Melton Borough Council were to be successful, the housing figure for Melton could be reduced or deleted altogether. It may not then be possible to review the housing figures under the current arrangements.

23. The Planning and Compulsory Purchase Act sets out proposals for the abolition of Structure Plans. Transitional arrangements indicate that the Plan can be 'saved' for a period of 3 years. The Plan would thus form part of the statutory development plan until at least 2008.

24. It is recommended that the County Council authorises officers to agree the date of adoption jointly with partner authorities and undertake all necessary actions, including minor corrections to text, preparing and placing documents "on deposit" and serving and advertising statutory notices.

25. In addition, the Three Councils will publish a revised Technical Paper to accompany the Statement of Decisions and Reasons on Objections to the Further Proposed Modifications. This will rework the tables in the Paper previously published in June 2002, showing that unimplemented local plan allocations have not been taken into account.

26. The Explanatory Memorandum is not part of the statutory Plan, but is an important document which explains and interprets the policies. It is not proposed to publish the Explanatory Memorandum at this stage, as further work is in progress to update and amend the text. It is intended that it will be reported for approval to the three Councils at a later stage.

## **Conclusion**

27. No further modifications to the Leicestershire, Leicester and Rutland Structure Plan are required and the Plan should be adopted without advertising further modifications.

### **Background Papers**

Leicestershire, Leicester and Rutland Deposit Draft Structure Plan 1996-2016, (May 2000);

Report of the Panel, (September 2001);

Leicestershire, Leicester and Rutland Deposit Draft Structure Plan 1996-2016: Proposed Modifications, (June 2002);

The letter from the Secretary of State directing the authorities to modify the proposals (11<sup>th</sup> August 2003);

Further Proposed Modification (September 2004);

Revised Statement of Decisions and Reasons (September 2004).

A copy of the background papers has been placed in the Cabinet Office.

### **Appendices**

- Appendix 1      Written Statement and Key Diagram
- Appendix 2      Statement of Decisions and Reasons on Objections to the Further Proposed Modifications.
- Appendix 3      Summary of comments on housing policies.
- Appendix 4      Proposed timetable to adoption.

## Appendix 4

### PROPOSED STRUCTURE PLAN TIMETABLE

Date	County	City (Please see note below)	Rutland
18 November 2004	Cabinet		
8 December	Full Council		
14 December			Cabinet
10 January 2005			Full Council
21 January	Notice issued of intention to adopt Plan after 28 days		
18 February	Adoption of Plan		
25 February	First notice (of two) stating date of adoption and the date it became operative Start of six week period during which an application can be made to the High Court to have the Plan quashed		
March			
8 April	End of six week period during which an application can be made to the High Court to have the Plan quashed		

#### Note

Leicester City Council is in the process of agreeing a new scheme of delegation. If it is accepted by members it may not be necessary to report to either Cabinet or Full Council.