
Cabinet
Council

12th January 2016
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Name of Cabinet Member:

Cabinet Member for Business, Enterprise and Employment – Councillor K Maton

Director Approving Submission of the report:

Executive Director Place

Ward(s) affected:

All

Title:

Nuneaton and Bedworth Borough Council New Borough Plan – Publication Draft and Supporting Documents

Is this a key decision?

Yes.

Aspects of the Publication Draft of the Nuneaton and Bedworth Borough Council (NBBC) Borough Plan carry specific implications for the city's northern wards (Bablake, Longford and Holbrook) given their shared boundary.

However, the development proposals contained within the plan and the on-going opportunities it offers for constructive engagement in relation to the development of Coventry's Local Plan mean the Council's response may have future implications for the city as a whole. This includes the legal 'Duty to Cooperate' as set out in the Planning and Compulsory Purchase Act 2004.

Executive Summary:

Nuneaton and Bedworth Borough Council (NBBC) formally published their New Borough Plan for a period of representations on the 26th October 2015. The period of representations runs for 6 weeks until the 18th December 2015 in accordance with national Regulations relating to the submission of Local Plans. In addition to the Borough Plan, NBBC have also published an updated Statement of Community Involvement as well as a site options document for Gypsy and Traveller sites and the first stage of the Community Infrastructure Levy for consultation. Given the timescales involved, officers have submitted an officer representation to NBBC to ensure initial comments have been provided. It is this representation that is attached to Appendix 1a and is presented to members for their endorsement or amendment. To reflect the relevance of the Borough Plan to the Duty to Co-operate a joint officer response has also been prepared by Coventry City Council, Warwick District Council, Rugby Borough Council, North Warwickshire Borough Council and Stratford on Avon District Council. This joint response is closely aligned to the City Council's own response and is attached at Appendix 1b.

To summarise, the City Council is unable to support the Borough's plan at this time for the reasons set out below:

1. The Borough Plan does not (as currently presented) make any positive attempts to plan for the unmet housing need originating from Coventry;
2. Instead, the Borough Plan seeks to delay any action until further work is completed on the NBBC Strategic Housing Land Availability Assessment. This means the Plan is not supported by an up to date evidence base and means all development options may not have been subject to appropriate consideration in terms of infrastructure needs or Sustainability Appraisal;
3. A number of development proposals are identified on the city's administrative boundary which would represent extensions to the city's urban area. Although these may be acceptable in principle the City Council has received limited notification of such proposals or invitations to comment on potential infrastructure implications; and
4. The Borough Plan also seeks to delay any support for the city's unmet need by suggesting further consultation may be required. For the reasons set out above, further consultation is inevitable to secure a sound plan and help respond to the unmet need arising from Coventry.

In relation to the supporting documents, the Council's response highlights the following key points:

- **The Statement of Community Involvement (SCI).** Additional reference needs to be added to Appendix A to ensure neighbouring authorities are considered under the duty to cooperate.
- **The Community Infrastructure Levy and the Infrastructure Delivery Plan.** The importance of cross boundary infrastructure, especially in relation to sites adjacent the city boundary.
- **Gypsy and Traveler site options.** This document proposes a number of sites that could potentially be allocated to meet the needs of the Gypsy and Traveler community. This includes a site at Burbages Lane, Ash Green, located approximately 75m from the city's boundary. Although there is unlikely to be any concern in principle, the supporting text is unclear about the full extent of the site and the impact it may have on an adjoining Local Wildlife Site, the wider Green Belt and the settled traveler community situated on Burbages Lane within the city's administrative boundary.

Recommendations:

The Cabinet is requested to:

1. Recommend that the Council endorse the officer representations to Nuneaton and Bedworth's new Borough Plan – Publication Draft and supporting documents, as set out at Appendix 1a; and
2. Recommend that the Council endorse the joint sub-regional officer representations to Nuneaton and Bedworth's new Borough Plan – Publication Draft, as set out at Appendix 1b.

The Council is recommended to:

1. Endorse the officer representations to Nuneaton and Bedworth's new Borough Plan – Publication Draft and supporting documents (as amended by Cabinet where necessary), as set out at Appendix 1a; and
2. Endorse the joint sub-regional officer representations to Nuneaton and Bedworth's new Borough Plan – Publication Draft, as set out at Appendix 1b.

List of Appendices included:

- Appendix 1a: Proposed representation to the Nuneaton and Bedworth's new Borough Plan – Publication Draft and supporting documents
- Appendix 1b: Proposed Joint Sub-regional representation to the Nuneaton and Bedworth's new Borough Plan – Publication Draft
- Appendix 2a: Employment Allocation proposal at ProLogis Park, Keresley
- Appendix 2b: Employment Allocation proposal at land east of the A444

Background papers

None

Other useful documents:

- Nuneaton and Bedworth Borough Plan – Publication Draft is available to download at: http://www.nuneatonandbedworth.gov.uk/downloads/download/394/1_consultations_2015-borough_plan_submission
- The other documents are available via the following link:
- http://www.nuneatonandbedworth.gov.uk/info/200445/draft_borough_plan/304/planning_policy_consultations

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes, 12th January 2016

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Report title: **Nuneaton and Bedworth Borough Plan – Publication Draft and Supporting Documents**

1. Context

- 1.1 Nuneaton and Bedworth Borough Council (NBBC) formally published their plan for a period of representations on the 26th October 2015. The period of representations runs for 6 weeks until the 18th December 2015 in accordance with national Regulations relating to the submission of Local Plans. Appendix 1a of this report contains an officer response to the Borough Plan and is presented to members for their endorsement or amendment prior to the response being formalised with NBBC.
- 1.2 The Borough Plan sets out the intended development proposals for Nuneaton and Bedworth Borough to 2031. Subject to the received representations, NBBC intends to submit the plan to the Secretary of State in 2016, however it does acknowledge that further consultation may be required to respond to the unmet housing needs of Coventry.
- 1.3 The response has been prepared on behalf of the Council in its role as Local Planning Authority and seeks political endorsement for Coventry's response to NBBC at this important stage of its plan's development. It should also be noted that the development of the NBBC Borough Plan has implications for Coventry's Local Plan given our shared relationships in terms of the Local Enterprise Partnership (LEP), Strategic Economic Plan (SEP) and City Deal.
- 1.4 There are 4 specific reasons however why the City Council is unable to support the Borough Plan at this time. These can be summarised as follows:

1. Duty to Cooperate and Housing Needs

Section 33A of the Planning and Compulsory Purchase Act 2004 (as introduced by the Localism Act 2011) establishes the 'Duty to Cooperate' and requires local authorities to engage constructively, actively and on an ongoing basis when developing their local plans and the evidence to support them. The 'duty' cannot be met retrospectively and cannot continue to be discharged in relation to this aspect of the NBBC plan once it has been submitted to the Secretary of State. As such, NBBC and Coventry City Council (CCC) have sought to discharge their respective responsibilities in relation to this 'duty' through numerous areas of joint working. Of most relevance to this report is work on the Coventry and Warwickshire Joint Strategic Housing Market Assessment (SHMA), which provides an independent assessment of the number of homes required for the respective authorities.

Although the outcomes of the Joint SHMA have not yet been tested for Coventry, it has been widely acknowledged across the sub-region that the city cannot accommodate its full housing needs within its own boundaries. Indeed, NBBC have acknowledged this on a number of occasions in recent years. The evidence of this issue culminated in a Memorandum of Understanding being presented to the Shadow Economic Prosperity Board on 29th September 2015, where a proposed redistribution was outlined. This agreement was agreed in principle by 5 of the 6 authorities, with Nuneaton and Bedworth the only authority not to sign it. Indeed, the proposed Borough Plan seeks to delay any consideration of the unmet need arising from Coventry until a new Strategic Housing Land Availability Assessment (SHLAA) is completed and acknowledges that further consultation may then be required. This is a significant issue for the Borough Plan as it has not proactively sought to address an issue it knows exists – Coventry's unmet housing needs. As such, the Borough Plan cannot be considered to be positively prepared or be considered to meet the soundness tests of the duty to cooperate.

2. Lack of Robust Evidence Base

Linked to the issue identified above, the lack of an up to date SHLAA means the Borough Plan is not supported by an up to date evidence base. Despite working jointly to agree a sub-regional methodology at the beginning of 2015, the Borough Council has not completed the assessment of sites in accordance with that approach. We understand that this work is ongoing, but is not complete to support the publication draft of the Borough Plan. This also creates concerns as to whether or not all appropriate development options have been considered, especially in relation to supporting infrastructure and Sustainability Appraisal. As presented therefore, the plan is unsound and unjustified.

3. Need for Further Consultation

Linked to the points above, the Borough Plan suggests a further round of consultation may be required before the plan can be submitted to the Secretary of State for examination. Given the plan is not yet supported by a robust evidence base or has not confronted the issue of unmet need arising from Coventry then further consultation is inevitable to ensure the plan can be considered sound and robust.

4. Planned Extensions of the Coventry Urban Area

Two specific development proposals are identified on the city's administrative boundary which would represent extensions to the city's urban area (see maps in appendix 2a and b). Both sites result from the tight nature of the city's boundaries in these locations. The first is situated at ProLogis Park, Keresley (adjacent to Bablake Ward) and the second at land east of the A444 (adjacent to Longford Ward). Both proposed allocations are for employment land. Although these may be acceptable in principle the City Council has received limited notification of such proposals or invitations to comment on potential infrastructure implications which may arise from such proposals. This is particularly pertinent to the site adjacent to the A444. As such, the City Council's response to the Borough Plan seeks further discussion around both sites to ensure they represent sustainable extensions to the city's urban area.

- 1.5 For the reasons outlined above the City Council cannot support the Borough Plan as it is currently presented. The plan does not positively approach the unmet need arising from Coventry or present justification that it cannot accommodate such need. There are also issues around the supporting evidence base and the need for further engagement regarding sites proposed on the Coventry boundary.
- 1.6 The City Council therefore makes a firm commitment to ongoing work with NBBC to ensure these issues are overcome quickly and appropriately to the benefit of both authorities and their respective Plans.
- 1.7 In relation to the other supporting documents, the Council's response highlights the following key points:
 - The Statement of Community Involvement (SCI). This needs to ensure a reference is added to Appendix A to ensure neighbouring authorities are clearly considered when discharging the duty to cooperate.
 - The Community Infrastructure Levy and the Infrastructure Delivery Plan. This needs to be aware of infrastructure needs that may straddle or cross administrative boundaries, especially where development is proposed adjacent to the city boundary. This may be particularly pertinent for highway infrastructure.
 - Gypsy and Traveler site options. This document proposes a number of sites that could potentially be allocated to meet the needs of the Gypsy and Traveler community. The only site of relevance to the City Council is situated at Burbages Lane, Ash Green, but is located approximately 75m from the city's boundary. Although there is unlikely to be any concern in principle, the supporting text is unclear about the full extent of the site and the impact it may have on an adjoining wildlife site

as well as the wider Green Belt. The proposed response highlights these concerns and also encourages NBBC to engage with the settled traveler community situated on Burbages Lane within the city's administrative boundary.

- 1.8 The areas of concern identified for the Borough Plan are shared by all other authorities within the Coventry and Warwickshire Housing Market Area (namely: Coventry City Council, Warwick District Council, Rugby Borough Council, North Warwickshire Borough Council and Stratford on Avon District Council). This reflects the relevance of the Borough Plan to on-going Duty to Cooperate discussions and the meeting of housing needs across the HMA. With this in mind a joint officer response has also been prepared by the 5 authorities, which is closely aligned to the City Council's own response. This is attached at Appendix 1b and forms an important example of on-going cooperation under the Duty to Cooperate.

2. Options considered and recommended proposal

- 2.1 There are two realistic options available. The first of these is to remain silent; this was rejected on two grounds. Firstly, because it is in the Council's interests to formally express its views on a plan containing development proposals that will have direct implications for land adjoining Coventry's administrative boundary. Secondly, because the Councils need to undertake active and constructive cooperation through the Duty to Cooperate, especially in relation to how NBBC's Borough Plan will impact on the future development of Coventry's own Local Plan.
- 2.2 The second option, which is recommended, is for the City Council to formally respond to NBBC's proposed Borough Plan raising the concerns and issues it has with the plan as currently presented. This would support the Duty to Cooperate process in so far as it relates to all strategic matters. This would also help facilitate on-going engagement between the two councils and reflects the recommended response.

3. Results of consultation undertaken

- 3.1 There has been no consultation undertaken by Coventry City Council with respect to this report, but the Council has responded to previous rounds of consultation on the NBBC Borough Plan.

4. Timetable for implementing this decision

- 4.1 The deadline for responses to the consultation is the 18th December 2015. Due to timings of the consultation and Council meetings it did not prove possible to complete a report to Council prior to this date. As a result an officer response was provided prior to the deadline to act as a holding response. This is attached at Appendix 1a for endorsement.
- 4.2 Further correspondence will then be sent to NBBC following the Council meeting on the 12th January 2016 to confirm or amend the Council's response.

5. Comments from the Executive Director, Resources

- 5.1 Financial implications

There are no known costs for the Council directly associated with this consultation or the recommendations in this report.

5.2 Legal implications

It is considered that responding to this consultation will assist both Nuneaton and Bedworth Borough and Coventry City Councils to demonstrate compliance with the Duty to Cooperate, as set out in Section 33A of the Planning and Compulsory Purchase Act 2004 (as introduced by the Localism Act 2011), associated regulations, and the National Planning Policy Framework 2012.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The Nuneaton and Bedworth Borough Plan will contribute to a number of the City Council's core aims as follows:

- A prosperous Coventry. The NBBC Borough Plan makes a number of development proposals that are adjacent to the Coventry boundary. Such proposals could support economic growth, job creation and investment in infrastructure that will have a positive impact on Coventry's prosperity.
- Improving the environment and tackling climate change. The NBBC Borough Plan focuses new development in accessible and sustainable locations that minimises the need to travel.

6.2 How is risk being managed?

The key risk associated with the proposal is concerned with technicalities around the Duty to Cooperate. In particular, this relates to the need to maintain an opportunity to work with NBBC in the future to ensure sound plans for both Nuneaton and Bedworth and Coventry and to ensure the housing needs of the sub-region are met in full.

Officers believe that the plan currently presented by Nuneaton and Bedworth fails to respond to these risks and requires further work. The response from the City Council is intended to highlight the relevant issues and offer support to ensure they are overcome in the coming months and in advance of NBBC submitting their Borough Plan for examination.

The provision of a joint response from the other 5 authorities in the HMA also helps to minimise the risk as it is a clear indicator of cooperation between the remaining authorities within the HMA.

6.3 What is the impact on the organisation?

No direct impact.

6.4 Equalities / EIA

It is Nuneaton and Bedworth Borough Council's responsibility to complete appropriate assessments to inform its own Borough Plan and supporting documentation.

Notwithstanding, there are likely to be economic and social benefits to the city through the development of new employment opportunities adjacent to the city boundary.

6.5 Implications for (or impact on) the environment

The Nuneaton and Bedworth Borough Plan will be accompanied by a Sustainability Appraisal / Strategic Environmental Assessment, in accordance with relevant regulations, which will assess the environmental implications of the Publication Draft.

6.6 Implications for partner organisations?

The recommended response to the consultation that appears at Appendix 1a raises concerns and issues in relation to the NBBC Borough Plan Publication Draft (October 2015). There are no implications for partner organisations however that cannot be mitigated, managed or overcome as a result of further work on the Borough Plan and through on-going cooperation between CCC and NBBC.

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