

RISKS AND ISSUES ASSOCIATED WITH LOCAL PLAN EXAMINATION

Local Plan is Withdrawn

Risk/Issue	Likelihood	Impact	Assessment
Current planning policies are increasingly out of date and the Council does not have an up to date Local Plan by December 2023 as expected by Government.	<i>High</i>	<i>High</i>	<p>In the short term, the current adopted planning policies of the Council can still be used, however due weight would need to be given to them, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). This impacts on the Council's ability to determine applications for all forms of development (including commercial, employment, mineral and waste proposals) in accordance with local policies. (It is important to note that the Core Strategy pre-dates the NPPF)</p> <p>To properly address this issue then the Council needs to commit to the production of a new Local Plan. Given that work on the submitted Local Plan commenced in 2015, the evidence base to support a new Local Plan is becoming dated, meaning that there is an imperative to start a new plan from afresh, going back to Issues and Options. A new plan will take 3 – 4 years to adopt and is estimated to cost the Council circa £725,500 and £1,154,000. The mid-point estimated cost is £939,750 (not including for staff and core costs).</p>
Lack of a 5 year housing supply	<i>High</i>	<i>High</i>	<p>If the plan is withdrawn we will not be able to include supply from the emerging Local Plan of allocated sites considered deliverable within the next 5 years. This will impact the current 5 year housing supply calculation, reducing it below 5 years.</p>

			<p>The Council would need to grant permission for at least 130 - 140 additional dwellings per annum to ensure it keeps a 5 year housing supply, depending on continued rates of housebuilding. As housing land supply calculation is also affected by delivery, there is an increased risk that more permissions may need to be granted to ensure a five year supply as developers may seek to gain planning consent on sites and then effectively “landbank” the sites rather than commencing development – an approach which can reduce the overall supply in future years.</p> <p>Without a 5 year supply then paragraph 11(d) ii of the NPPF states there is a presumption in favour of sustainable development unless there are “adverse impacts which would significantly and demonstrably outweigh its benefits.” This makes it more difficult for the Council to refuse unwanted and unplanned developments. Without sufficient consents, it will take a long time to resolve the housing supply through a new plan being prepared and having weight in decision making.</p> <p>Given the rate of completions over the last 2 years, there is a risk of impact on Rutland’s Housing Delivery Test (HDT) if supply is constrained. The HDT compares the net homes delivered over the previous three financial years to the homes required over the same period, with penalties for those councils delivering less than 95 per cent of their requirement. The most severe penalty, which was triggered in November 2020, is for those LPAs that delivered under 75% and now face the ‘presumption in favour of sustainable development’.</p>
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Impact on infrastructure planning	<i>High</i>	<i>Medium/High</i>	Decisions on essential contributions of Community Infrastructure Levy (CIL) towards key strategic infrastructure projects would be made in a less coherent manner. Without the certainty about the scale and location and timing of all forms of development through a planned approach. It will be difficult for the Council to prioritise the expenditure of CIL on appropriate infrastructure.
Impact on Council and other public services	<i>High</i>	<i>Medium</i>	The work of the Council as a whole and other public bodies will be impacted by the lack of an up-to-date Plan. Services provided and supported by the Council such as education, health care, waste, transport etc. rely on a degree of certainty about the scale and location and timing of future development to enable them to forward plan service provision. This is likely to lead to piecemeal decision making on such strategic matters.
Impact on Council's Medium term financial plan	<i>Medium</i>	<i>High</i>	The Council Medium Term Financial Plan (MTFP) includes housing growth. The Council assumes tax base growth from a combination of new homes, reduction in long term empty homes and changes to other variables including discounts. The assumption is that around 160 new homes will be built each year. Not having a local plan in place could impact the delivery of the growth required in the MTFP as for every home under the assumed level the council could lose £1.7k.
Judicial review of Council's decision to withdraw	<i>Low</i>	<i>Medium</i>	It is difficult to see on what basis a legal challenge could be made although this will be dependent on the reasons for withdrawal. Currently, this is considered to be a remote possibility, not requiring any further mitigation if the Council commits to the production of a new Local Plan.

Possibility of Government intervention	<i>Low</i>	<i>Medium</i>	The Neighbourhood Planning Act 2017 provides for intervention in the local plan making process. The Secretary of State has previously indicated that the Government may use these powers to intervene for Councils who have failed to meet their deadlines for publishing local plans. The recommendation to commence work on a new Local Plan if the submitted Local Plan is withdrawn is considered to be the best way for the Council to avoid Government intervention
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Local Plan is Suspended for Council to Reconsider the Housing Infrastructure Fund (HIF) Grant

Risk/Issue	Likelihood	Impact	Assessment
Terms and Conditions of the HIF grant remain unsatisfactory for Council	<i>High</i>	<i>High</i>	Homes England have indicated that the infrastructure delivery spend date could be moved out to 2025. Other than the amended spend date a new HIF agreement is expected to be on the similar terms to those that Council considered a risk in March 2021.
Terms and Conditions of the HIF grant prove unsatisfactory to the Ministry of Defence	<i>Medium</i>	<i>High</i>	There is no certainty that the MoD would agree to the original proposed tripartite agreement. The contractual agreements would need to be subject to further negotiations and formal approval by all parties.
Delay in confirmation of Council Position on its Local Plan	<i>High</i>	<i>Low</i>	A decision for Council to reconsider its decision to accept the HIF grant will continue the current uncertainty. The assessment of the risk presumes that this would only be a relatively short delay.

Submitted Local Plan Approved by Council Goes Forward for Examination (As Is)

Risk/Issue	Likelihood	Impact	Assessment – mitigation/action plan
Local Plan is not found sound through the public examination	<i>High</i>	<i>High</i>	As there is now a £29.4m funding gap for the allocated St. George's garden village it undermines the viability and deliverability of the site. Given the strategic significance of the site this undermines the deliverability of the wider development strategy and the Local Plan is unlikely to be found 'sound'.
Site promoter is unable to demonstrate that SGB is viable and deliverable through Examination process	<i>High</i>	<i>High</i>	<p>A recommendation to proceed to examination is conditional upon an ability to demonstrate that the Garden Community proposal, as a key element of the spatial strategy, is viable and therefore that the local plan strategy as a whole is deliverable. This will require MoD to provide new evidence demonstrating that the scheme is deliverable without grant funding. This may be achieved by re-profiling capital expenditure on upfront infrastructure, spreading the cost of things such as utility upgrades to latter years as required. However, any such revised proposal must still be in accordance with the policy requirements of H2. 10) which requires the phasing of development and infrastructure to ensure that infrastructure is provided ahead of or in tandem with the development it supports. As above, it may not prove possible for the delivery of the scheme to be re-profiled or value-engineered and remain policy-compliant.</p> <p>Any new evidence relating to the viability would need to be published for consultation in advance of Examination hearings and would therefore delay the examination beyond the end of this year.</p> <p>This approach would need to be subject to the Inspectors agreement.</p>

<p>Judicial Review (most likely to occur when a decision is made to adopt the Local Plan)</p>	<p><i>Medium</i></p>	<p><i>High</i></p>	<p>There is always a risk of legal challenge. The risk of a successful legal challenge would be mitigated by the Local Plan Examination process in which the independent Inspector would examine the evidence and determine whether the plan is sound.</p>
<p>Lack of a 5 year housing supply</p>	<p><i>High</i></p>	<p><i>High</i></p>	<p>The latest assessment shows that there is 5.2 year housing supply counting some of the sites included in the emerging Local Plan considered to be deliverable within 5 years.</p> <p>Were the current submitted Local Plan to be found sound at Examination and subsequently adopted it would enable the housing requirement to be addressed by applying a stepped trajectory (assuming the Inspector accepts that this approach is acceptable) to deliver a lower annual requirement (of 110 dwellings per annum) in the first five years and a higher requirement (of 140 per annum) for the remaining 11 years, once the larger allocations begin to deliver.</p> <p>Given the position with St. George's it is likely that the Examination process would find the Local Plan unsound, impacting the five year land supply.</p>