

Appendix 9

Appendix 9 – Risk Assessment

					Date Raised	Owner	Gross Current Residual						Comments	Controls					
Title	Risk description	Opp/threat	Cause	Consequence			I	P	I	P	I	P		Control description	Due date	Status	Progress %	Action Owner	
49	Legal challenge	High Court challenge – any aggrieved person may request a judicial review during the 6 week period following adoption of the Plan	Threat	Aggrieved person(s) who are unhappy with the adopted Local Plan may decide to exercise their right to apply for a judicial review. In order for a legal challenge to be successful, the High Court would have to be satisfied that the Plan is to any extent outside the appropriate power, and/or that the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.	If successful the High Court would rule that the Local Plan be quashed, wholly or in part, or that a stage would need to be repeated.	11.05.20	Head of Planning	4	3	4	2	4	2	<p>Officers consider that the relevant statutory procedures have been met during the preparation of the Local Plan 2036. The examination was conducted by two experienced planning inspectors and the report has carefully considered the soundness of the plan in detail to reach their conclusions. We therefore think the risk of a successful legal challenge is low.</p> <p>The only area of the statutory procedures that cannot be wholly fulfilled relate to the deposition of hard copies of the plan upon receipt of the Inspectors report and adoption because of Covid-19 and the associated social distancing measures. The Regulations require deposit of hard copies of the Inspectors’ report in the City Council’s principal office and other deposit locations (libraries within the city), all of which are currently closed to the public. The same requirement (Regulation 35) applies on adoption of the Local Plan as applies to receipt of the Inspectors’ report; that is deposit in the Council’s principal office and other deposit locations is required. Having taken legal advice, it is considered that, given the wide ranging measures being taken to minimise the impact of not complying with this procedural requirement that is in line with the latest Government guidance the risk of a successful challenge on this ground is low, particularly in the context of the clear steer within the latest Government guidance.</p> <p>If a challenge in the High Court was successful on this basis (which is considered to be a low risk), the outcome would likely be that the relevant procedural requirement would need to be carried out before the Local Plan could be considered again for adoption. A challenge under these circumstances would not relate to the content of the Inspectors’ report, which would be expected to continue to carry significant weight for decision making. It is considered that given the level of risk, it is appropriate to continue with the adoption of the Local Plan when taking into account the benefits having an up to date development plan in place brings.</p>	The relevant statutory procedures have been met during the preparation of the Local Plan 2036. The examination was conducted by two experienced planning inspectors. The council have put in place temporary measures and an addendum to the SCI to mitigate the impact of hard copies not being available at the council offices and key deposit locations in line with latest Government guidance.	Period for challenge ends six weeks from adoption (Tue 21 st July)	On-going		Head of Planning

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