

CABINET
18 June 2013

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

7

TITLE OF REPORT: STRATEGIC PLANNING MATTERS

REPORT OF THE STRATEGIC DIRECTOR OF PLANNING, HOUSING AND ENTERPRISE
PORTFOLIO HOLDER CLLR TOM BRINDLEY

1. SUMMARY

1.1 This report informs Members of the current positions regarding:

- National and regional planning issues;
- The new North Hertfordshire Local Plan;
- The west of the A1(M) at Stevenage planning application;
- Neighbouring authorities' consultations;
- Land east of Luton; and
- The composition of the Local Plan Working Party.

2. RECOMMENDATIONS

2.1 That Cabinet agrees to the principle of running the consultation on additional sites for the Local Plan as described in paragraph 8.11.

2.2 That the membership of the Local Plan Working Party be reconstituted to comprise:

- Portfolio holder for Planning, Transport and Enterprise;
- Leader of the Council;
- Area committee chairs and vice-chairs; and
- Opposition group leaders and shadow portfolio holders for planning.

2.3 That other matters reported be noted.

3. REASONS FOR RECOMMENDATIONS

3.1 To allow the public the opportunity to comment on other parcels of land which have been put forward for consideration.

3.2 To broaden the number of members involved in the Local Plan Working Party by the addition of the vice chairs of area committees and the leaders of the opposition groups.

3.3 To keep Cabinet informed of recent developments.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 The Council could try and resist any further consideration of areas of land beyond those that were included in the Local Plan 2011-2031 Housing Options paper of February 2013. However, the Strategic Environmental Assessment that the Council is required to prepare to support the Local Plan has to show that all reasonable

alternatives have been considered. Given that the original call for sites was in 2008, officers recommend it is more prudent to allow consideration of the additional sites put forward in response to the February 2013 paper. In order to allow these sites to be fully considered it is also necessary to have public feedback on the sites before progressing to the next draft ("proposed submission") of the Local Plan.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Councillor Brindley, as Portfolio Holder for Planning, Transport and Enterprise, has been kept informed on the matters set out above.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Members will be aware of, and familiar with, many of the issues surrounding the strategic planning matters referred to in paragraph 1.1 above. This report is intended to provide Members with the current positions on these matters.

8. ISSUES

National and regional planning issues

- 8.1 As from 30 May 2013 the Town and Country Planning (General Permitted Development)(Amendment) Order 2013 comes into force. This allows for various changes to works which no longer require planning permission. Some of the changes are temporary, others permanent.
- 8.2 For a period of three years, subject to a prior approval process covering flooding, highways, contamination and transport issues, the change of use of offices to dwellings does not require a specific planning permission. At the consultation stage of this process, the Council had sought to gain exemption for many of the employment areas in the district from this provision. However, the Government has decided to only grant exemptions from this to areas in 17 local authorities, most of which are in major cities – notably central London and Manchester. None of the areas exempt from the office to dwelling provision is in North Hertfordshire.
- 8.3 For a period of three years, single storey domestic extensions may be built extending between 4 and 8 metres beyond the rear wall of the original house if a detached house and between 3 and 6 metres for other types of house subject to certain restrictions. The previous rules were 4 metres and 3 metres respectively. Anyone wishing to use this new provision will be required to notify the planning authority, which then has to notify neighbouring owners and occupiers. There is no fee payable by the applicant for these notifications to cover the Council's costs. If any objections are raised, the prior approval of the local planning authority is required, but the only factor which can be taken into account is the impact on the amenity of adjoining premises. Extensions built under this provision must be complete on or before 30 May 2016. An appeal can be submitted to the Planning Inspectorate against a refusal by the Council of a prior approval.
- 8.4 It also becomes permitted development to change the use to a school of offices, hotels, residential institutions and other buildings in assembly or leisure purposes. Additionally, for a temporary period of one academic year, any building may be used as a state funded school.

- 8.5 From the 30 May 2013 it is now permitted development for agricultural buildings of less than 500m² to change their use to shops, financial and professional services, restaurants and cafes, businesses, storage and distribution, hotels and assembly / leisure uses subject, in some cases, to prior approval from the Council.
- 8.6 There are a number of other provisions not covered here, notably around greater flexibility for uses of shop type premises, taller fences for schools and extensions to warehouses. The Development Management team will be able to advise on these on request. A training session to which all Members are invited is to be held on 19 June 2013.

The new North Hertfordshire Local Plan

- 8.7 The responses received to the Local Plan 2011-2031 Housing Options paper of February 2013 are being considered and analysed. A total of over 2,100 people and organisations responded, making over 9,000 individual representations. This is considered to be a reasonable response for a consultation of this type.
- 8.8 A number of representations have suggested additional sites which could be considered for possible inclusion in the Local Plan. The largest of these are north of Baldock, east of Luton (adjoining the previous east of Luton site) and between Little Wymondley, Todds Green and Stevenage. Some promoters of sites have also suggested smaller revised options their sites, notably for the larger strategic sites of South West of Hitchin and North East of Stevenage. A smaller revised option has also been suggested for the proposed site south of Little Wymondley. The next formal stage in preparing the Local Plan is proposed submission, after which the Council will not have any further opportunity to amend the plan. Any amendments after that stage will only arise as a consequence of changes directed by the Government-appointed Inspector who examines the plan.
- 8.9 If the Council left consideration of the additional and revised sites to the proposed submission draft of the Local Plan, the first time the public would be able to comment on these sites would be after the Council had made its decisions on whether or not to include them in the proposed submission document. This does not seem a sensible course of action as it may leave the Council open to unnecessary challenge at the examination, or could cause an Inspector to delay the examination to allow consultation to be undertaken on these new sites.
- 8.10 It is therefore suggested that an additional round of consultation is carried out as soon as possible, affording the public opportunity to comment on the additional sites. The public reaction to those sites can then help inform the Council's decisions on which sites progress to the proposed submission draft of the Local Plan.
- 8.11 Given the need to minimise the risk of delay to the overall Local Plan timetable, a draft consultation paper has been prepared (attached as Appendix A) and officers hope to be able to run a consultation from as soon as possible after this Cabinet, provisionally with the consultation being open 1 July to 2 August 2013.
- 8.12 The proposed additional sites consultation does not require the Council to make any decisions: it is simply putting the additional sites which have been suggested into the public domain and asking for comments. Therefore it is Cabinet's agreement to the principle of running this consultation which is sought, not formal approval for the precise content of the consultation and all background papers. The consultation and associated background papers would be similar in nature to the consultation just completed to ensure continuity. Background papers are still being prepared at the time of writing, notably on landscape and transport, but will be published in time for the start of the consultation.

- 8.13 Separately from the additional sites consultation, work is ongoing to consider all other representations made. In particular, there is a need to carry out further viability works on the Infrastructure Delivery Plan which forms an important background paper to the Local Plan and on the Local Plan. This is a requirement of the National Planning Policy Framework. This work was already allowed for in budgets and work programmes. It is officers' intention to vary the contract with the original viability consultants who undertook this work, rather than procure viability consultancy support afresh, given the consistency benefits which arise in using the same consultants again. In terms of the financial regulations and following agreement by the Strategic Director for Planning, Housing & Enterprise to vary a contract under the contract Procurement Rules, officers need to report to Cabinet where it is estimated that the variations will exceed the reporting variance of £5000.

Land West of the A1(M) at Stevenage

- 8.14 The Council has received another letter from the Planning Inspectorate dated 10 May 2013 regarding the West of the A1(M) at Stevenage planning application for 3,600 homes. The original applicant has made clear that they will not attend any re-opened inquiry into the application, which creates a very unusual situation. The Secretary of State still has to determine the application, but with the applicant not prepared to attend there is no mechanism for meaningful negotiation or discussion.
- 8.15 The Planning Inspectorate letter suggested that the Council should agree by 24 May 2013 a timetable with the other parties for how the re-opened inquiry should proceed.
- 8.16 Officers have written to the Planning Inspectorate indicating that to re-open the public inquiry in this situation is not the appropriate course of action, and the period given to agree a timetable was unrealistic given the complexity of this case. We have also given notice that we may pursue a claim of costs against the applicant for unreasonable behaviour in not withdrawing an application they are no longer prepared to defend. Simultaneously we have indicated that we may consider pursuing costs against the Secretary of State if he does proceed with re-opening the inquiry, which is likely to incur significant legal costs for all parties, yet has no prospect of leading to a deliverable development as the applicant is not prepared to attend or pursue the application.
- 8.17 One of the agents for the landowners has suggested that any reconsideration of this planning application should wait until both North Hertfordshire and Stevenage have reached the next stage in the preparation of their Local Plans. If the Secretary of State does not feel able to refuse the application now and the applicants cannot be persuaded to withdraw it, officers believe that delaying until the new Local Plans have progressed in order to make strategic decisions about West Stevenage would be more sensible.

Neighbouring Authorities

- 8.18 Stevenage Borough Council has published a draft Local Plan for consultation. A response will be prepared and agreed with the Portfolio Holder for Planning, Transport and Enterprise. The plan envisages 5,300 dwellings to be accommodated entirely within the borough boundaries.
- 8.19 Central Bedfordshire Council has published a Gypsy and Traveller Local Plan. As previously discussed, this includes a proposed site on Stotfold Road between Letchworth and Fairfield Park. A response will be prepared and agreed with the Portfolio Holder for Planning, Transport and Enterprise. The consultation runs until 1 July 2013.

Land East of Luton

- 8.20 Bloor Homes is preparing a revised planning application for this area. Exhibitions are being held at Cockernhoe and in Luton during June, which officers are monitoring.

Composition of the Local Plan Working Party

- 8.21 The Local Plan Working Party is a cross-party group which meets informally to discuss the emerging Local Plan and related issues. It is not a decision-making body, but provides useful input for officers in preparing documents in advance of presenting them to Cabinet for formal approval.

- 8.22 At present the Local Plan Working Party comprises:

- Portfolio Holder for Planning, Transport and Enterprise;
- Leader of the Council;
- Chairs of Area Committees; and
- Shadow Portfolio Holders for planning.

- 8.23 In discussion with the Portfolio Holder for Planning, Transport and Enterprise it has been suggested that the group be expanded slightly to include a greater proportion of the Councillors. The suggestion is that this could be by the addition of the vice-chairs of the area committees and the leaders of the two opposition groups.

9. LEGAL IMPLICATIONS

- 9.1 The Terms of Reference for Cabinet confirm that they should exercise the Council's functions as Local Planning Authority except where functions are reserved by law to the responsibility of the Council or delegated to the Strategic Director of Planning, Housing and Enterprise.
- 9.2 Section 110 of the Localism Act 2011 sets out the duty to co-operate between local planning authorities and other prescribed bodies, to maximise the effectiveness in the preparation of development plan and other local development plan documents, so far as they relate to a strategic nature. These bodies should consider if they are able to work together jointly on such matters and must have due regard to any guidance given by the Secretary of State.

10. FINANCIAL IMPLICATIONS

- 10.1 As part of the preparation of background papers to support the new consultation paper on additional suggested sites, the contract with Land Use Consultants on landscape work is being expanded. This is likely to exceed the threshold of £5,000 over which contract variations must be reported to Cabinet. This paragraph constitutes that notification.
- 10.2 Similarly the variation for the contract on viability work with Dixon and Searle Partnership is likely to exceed £5,000 and needs to be reported to Cabinet.
- 10.3 The cost for these works is to be fully funded from the Local Plan reserve budget.
- 10.4 There is a requirement to progress and complete the necessary background work to assist the Local Plan team in progressing their work on the additional sites consultation and in preparing policies for the Local Plan. There needs to be continuity and consistency in the approach adopted by the same consultants so as to minimise the risk of challenge by third parties.

10.5 If the Secretary of State does proceed to re-open the West A1(M) inquiry there will be costs associated with that, as mentioned in paragraph 8.16, but these are difficult to estimate at this stage.

11. RISK IMPLICATIONS

11.1 No direct risk implications from this report but Sustainable Development of the District is a Cabinet Top Risk. This identifies failing to protect the environment for our communities as a key risk. The risk of not carrying out an additional consultation is discussed in paragraph 8.9.

12. EQUALITIES IMPLICATIONS

12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.3 There are not considered to be any direct equality issues arising from this report per se, although the recommendation to Cabinet to re-commence public consultation on the range of potential housing option sites does present an additional opportunity for both individuals and any groups who represent them to express their future needs in regard to housing locations etc.

13. SOCIAL VALUE IMPLICATIONS

13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

14. HUMAN RESOURCE IMPLICATIONS

14.1 There are no new human resource implications arising from the contents of this report.

15. APPENDICES

15.1 Draft Additional Suggested Housing Sites consultation paper – TO FOLLOW

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17. BACKGROUND PAPERS

- 17.1 None