

**CABINET
27 SEPTEMBER 2016**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

6

TITLE OF REPORT: STRATEGIC PLANNING MATTERS

REPORT OF THE STRATEGIC DIRECTOR OF PLANNING AND ENTERPRISE

EXECUTIVE MEMBER: COUNCILLOR DAVID LEVETT

1. SUMMARY

1.1 This report informs Members of the current positions regarding:

- Duty to Co-operate with neighbouring authorities
- Other Local Plans and Examinations
- North Hertfordshire Local Plan
- Government announcements

2. RECOMMENDATIONS

2.1 That the report on strategic planning matters be noted.

3. REASONS FOR RECOMMENDATIONS

3.1 To keep Cabinet informed of recent developments on strategic planning matters and progress on the North Hertfordshire Local Plan.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1 The Executive Member for Planning 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

8.1 ***Duty to Co-operate with neighbouring authorities***

Luton Housing Market Area Growth Study

- 8.1.1 Work is continuing on the Luton Housing Market Growth Study. The Growth Study will inform the Duty to Co-operate discussions between the four commissioning authorities on the possible distribution of the Objectively Assessed Housing Need within the Luton Housing Market Area (HMA). The initial discussions on this will be through the Officer Group which will report to the Steering Group comprising officers and Portfolio Holders, both of which will continue to operate following completion of the Study. The objective will be to understand how the potential distribution of growth might be met within the Luton HMA (subject to the need to comply with national planning policy on plan making with justification through technical evidence) between the commissioning authorities. The commissioning authorities include Luton, Central Bedfordshire, Aylesbury Vale and North Herts. The study is expected to be completed in October 2016.

Outputs from future meetings and progress updates will be reported as the study progresses towards completion.

Stevenage Memorandum of Understanding

- 8.1.2 At its meeting in March, the Cabinet agreed to delegate responsibility to the Head of Planning and Building Control, in consultation with the Executive Member for Planning and Enterprise to enter into formal Memoranda of Understanding (or equivalent) between North Hertfordshire District Council and other prescribed bodies under the Duty to Co-operate.
- 8.1.3 Officers remain in discussions with Stevenage in regard to the preparation of a Memorandum of Understanding on key strategic issues. This is nearing completion and will form part of the legal requirement under the duty to co-operate for their Local Plan Examination (EIP), see paragraph 8.3.1 below.
- 8.1.4 Officers remain in on-going discussion with Welwyn Hatfield and East Herts Councils. These authorities are pursuing broadly similar plan preparation timetables to NHDC and officers will continue to liaise on relevant matters.

8.2 ***Luton Examination***

- 8.2.1 Luton submitted their Local Plan for examination in May 2016. The appointed Inspector arranged an initial examination session on Tuesday 19 July to cover Duty to Co-operate issues. On 28 July, the inspector advised Luton that the evidence before him indicated that the legal Duty to Co-operate has been met and the examination will now move forward to the second stage programmed for September.
- 8.2.2 Stage 2 will cover the test of soundness with regard to strategic issues in relation to housing, employment, retail and transport. North Hertfordshire has a place at the examination on:
- Tuesday 20 September which covers Luton's Spatial Development Strategy,
 - Friday 23 September which covers matters relating to meeting Luton's housing capacity,
 - Tuesday 27 September covering Luton's objectively assessed need for housing which cannot be met within the Borough, and

- Friday 30 September covering Green Belt matters.

Further hearing sessions are provisionally reserved for December 2016 and January 2017.

8.3 **Other Local Plans and Examinations**

Stevenage

- 8.3.1 Stevenage's local plan has been submitted to the Secretary of State for examination. An Inspector has been appointed. The hearing sessions are yet to be formally announced though Stevenage have indicated that, due to resourcing issues at the Planning Inspectorate, these are unlikely to occur until the start of 2017.

Welwyn Hatfield

- 8.3.2 Welwyn Hatfield approved their Proposed Submission Plan for public consultation in July 2016 with consultation having now started and closing on 24 October 2016. A response will be prepared and agreed under the Executive Member's delegated powers. A copy of the response will be appended to the November Strategic Planning Matters Cabinet report. The proposed submission document can be viewed at:

<http://www.welhat.gov.uk/planningconsultations>

St. Albans

- 8.3.3 St Albans District council submitted their Strategic Local Plan to the Secretary of State in August 2016 and some preliminary concerns have been raised by the inspector that he wishes to explore in the early stage of the Examination process. This is whether the legal Duty to Co-operate has been met and whether any co-operation that has been undertaken has been based on an appropriate assessment of issues that cross local boundaries, particularly but not exclusively with regard to overall housing provision.
- 8.3.4 Initial concerns have also been raised by the Inspector regarding soundness of the plan in relation to a number of strategic matters including homes and jobs needed in the area and the provision of infrastructure. This is related to the Duty to Co-operate as in order for a plan to be sound it should be based on effective joint working on cross-boundary strategic priorities. North Hertfordshire made representations to the St. Albans Local Plan and will be expecting to appear at the Examination. Dates for the preliminary hearing are yet to be set.

East Hertfordshire

- 8.3.5 East Hertfordshire are due to present their publication local plan to the District Planning Executive Panel on 15 September 2016 as the start of an approval process which would see consultation on the draft plan taking place between 3 November and 15 December 2016.

8.4 **North Hertfordshire Local Plan**

- 8.4.1 A report is going before a Special Meeting of Cabinet on 26 September seeking approval of the Proposed Submission Draft of the Local Plan and all associated supporting information for public consultation. This will allow a statutory 6-week consultation to take place from mid October in line with the approved Local Development Scheme.
- 8.4.2 A verbal update on the Local Plan will be presented at the meeting of Cabinet following the outcome of the Special Cabinet meeting on 26 September.

8.5 Government Announcements

8.5.1 Neighbourhood Planning has been the theme of Government announcements over the summer. In September the Government published its neighbourhood planning response to the February 2016 Technical Consultation on Implementation of Planning Changes. The response indicates that Government intends to develop regulations and guidance to come into effect by October 2016. Key areas include:

- That in certain circumstances a local planning authority must designate all the neighbourhood planning area applied for, with no discretion to amend the boundary. The circumstances are:
 - A parish council applies for the whole area of the parish to be designated;
 - Where a local planning authority has not determined an application for designation within the statutory time periods.
- A time period to designate a neighbourhood forum;
- A time period to consider the recommendations made by an examiner including whether a referendum should be held;
- A time period by which an authority must hold a referendum following a decision that one should be held;
- A requirement to consult prescribed persons or groups where an authority's proposed decision differs from that recommended by the examiner;
- A time period by which further representations can be made should an authority come to a different view of that of the examiner;
- A time period by which a neighbourhood plan or Order should be made following a successful referendum;
- A procedure by which the Secretary of State may intervene to decide whether a neighbourhood plan or Order should be put to a referendum;
- A procedure/policy by which local planning authorities notify and invite representations from designated neighbourhood forums where they may have an interest in the preparation of a Local Plan;
- Other measures identified by respondents that could speed up or simplify the process included:
 - Encouraging local authorities to delegate decisions to officers, the Government response was that planning guidance already encourages such delegation;
 - The need for Government to clarify the weight of emerging neighbourhood plans.

The consultation response document did highlight concerns from local authorities with regard to the resource implications of such proposals, but generally the proposals were not considered by Government to represent a new burden.

8.5.2 The Neighbourhood Planning Bill was introduced in the House of Commons on 07 September 2016. The Bill contains measures relating to planning and compulsory purchase with the aims of identifying and freeing up more land to build homes and to give communities as much certainty as possible about where and when development will take place. Officers will review the Bill in detail and monitor its progress through Parliament (2nd reading: House of Commons 10 October 2016) and report back through subsequent Strategic Planning reports. The Bill includes provisions for:

- Requiring a local planning authority to have regard to a post-examination neighbourhood development plan when dealing with planning applications;
- Policies within an authorities Statement of Community Involvement (SCI) concerning involvement in the preliminary stages of plan-making. Also a requirement to review the SCI at prescribed times;
- Restrictions on imposing pre-commencement conditions on planning applications, without first obtaining the applicant's written agreement;
- Extending the scope of planning register to include prior approval applications or notifications of permitted development;
- Technical changes to compulsory purchase law and clarifying the statutory framework for compensation.

8.5.3 September also saw the publication of the 'technical consultation on implementation of neighbourhood planning provisions in the Neighbourhood Planning Bill'. The consultation seeks views on:

- The process for modifying an existing neighbourhood plan, the proposal is to replicate the existing regulations for making a new plan;
- Ensuring that a neighbourhood plan does not adversely affect any existing plan remaining in place;
- The review and updating of SCI's at least every 5 years;
- The including within a SCI the policies on providing advice or assistance to groups preparing neighbourhood plans and policies for involving interested parties at preliminary stages of plan-making;

Officers in consultation with the Executive Member will prepare a response, as appropriate, to the consultation.

9. LEGAL IMPLICATIONS

- 9.1 Under the Terms of Reference for Cabinet Paragraph 5.6.18 of the Constitution states that the Cabinet 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 The preparation of plans, up to and including the approval of the proposed submission documents, are Cabinet matters. Submission of the draft Local Plan to the Secretary of State for Examination and final adoption of Local Plan documents shall be a matter for Full Council.
- 9.3 Section 110 of the Localism Act 2011 sets out (by amendment to the Planning & Compulsory Purchase Act 2004) 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 There are no direct financial implications arising from this report. The costs of preparing the Local Plan and associated evidence base, and running the proposed consultation are covered in existing revenue budgets

11. RISK IMPLICATIONS

- 11.1 No direct risk implications from this report but Sustainable Development of the District and the Local Plan are both Cabinet Top Risks. The Sustainable Development of the District has a sub-risk that covers the risks arising from the duty to co-operate with neighbouring authorities. The risks and opportunities arising from the Housing and Planning Act will be formally identified and assessed.

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. Future individual schemes or considerations may well be subject to appropriate review to ensure they comply with latest equality legislative need. Any risks and opportunities identified will also be subject to assessment for impact on those that share a protected characteristic.

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 Paragraph 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 There are no new human resource implications arising from the contents of this report. Temporary staff has been brought in to assist with the Local Plan.

15. CONTACT OFFICERS

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16. APPENDICES AND BACKGROUND PAPERS

- 16.1 None.