

CABINET
31 July 2018

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: STRATEGIC PLANNING MATTERS

REPORT OF THE SERVICE DIRECTOR - REGULATORY
EXECUTIVE MEMBER: COUNCILLOR DAVID LEVETT
COUNCIL PRIORITY: PROSPER AND PROTECT

1. EXECUTIVE SUMMARY

1.1. The purpose of this report is to inform Members of the current positions regarding:

- Other Local Plans and Examinations
- North Hertfordshire Local Plan
- Neighbourhood Plans
- Government announcements
- Strategic Planning

2. RECOMMENDATIONS

2.1 That the report on strategic planning matters be noted.

2.2 That the submissions in Appendix A are noted and endorsed by Cabinet.

2.3 That the revised Neighbourhood Area application for St Ippolyts be approved

2.4 That delegated powers for non-key decisions are granted to the Director of Regulatory Services, in consultation with the Executive Member for Planning, Enterprise and Transport, to

- i. Approve future applications for whole parish neighbourhood planning areas where no consultation is required under the relevant regulations;
- ii. Approve for consultation a proposed submission neighbourhood plan (Regulation 16) where all necessary documentation is received; and
- iii. 'Make' neighbourhood plans following a successful referendum.

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.

- 3.2 To improve the efficiency with which the Council can make non-key decisions on neighbourhood planning matters for which there are no alternative options following changes to the relevant regulations and 'lessons learnt' from the Pirton Neighbourhood Plan and other neighbourhood plans.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Cabinet could choose to retain all relevant powers in relation to neighbourhood planning. This is not recommended for the reasons set out in this report.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 The Executive Member for Planning, Enterprise and Transport has been kept informed on the matters set out above.

6. FORWARD PLAN

- 6.1 Recommendation 2.3 relates to a Key Decision as St Ippolyts Parish lies across two electoral wards. This decision will be taken under urgency procedures and was first advertised on the Forward Plan (including the reasons for urgency) on 10 July 2018.
- 6.2 This report does not otherwise 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. RELEVANT CONSIDERATIONS

8.1 Other Plans and Examinations

- 8.1.1 **Central Bedfordshire Council** – As previously reported, Central Bedfordshire's Local Plan has been submitted to the Secretary of State for independent examination. Central Bedfordshire are undertaking further work in relation to the environmental assessment of their plan. The hearings timetable will not be issued until this requirement is addressed.
- 8.1.2 Officers are in discussion with their counterparts at Central Bedfordshire regarding a potential Memorandum of Understanding. Any agreement would be subject to delegated approval and reported in a future Strategic Planning Matters report.
- 8.1.3 **Uttlesford District Council** - Consultation on the Council's Proposed Submission Local Plan began on Monday 25 June and runs until Monday 13 August 2018. The Plan is being reviewed to ascertain any potential implications for North Hertfordshire.
- 8.1.4 A response will be prepared for submission under the Service Director and Executive Member's delegated powers and reported to a future meeting.

- 8.1.5 **East Hertfordshire District Council** – The Inspector’s report was issued on 9 July 2018. It finds East Hertfordshire’s new District Plan ‘sound’ subject to specified modifications. These include increasing the identified housing need from 16,390 to 18,458 new homes over the period to 2033.
- 8.1.6 The Inspector’s Report concludes that the District Council have demonstrated ‘*exceptional circumstances*’ to support the release of land from the Green Belt for development.
- 8.1.7 The Plan will now be taken forward for adoption by the Council.
- 8.1.8 **Welwyn Hatfield Borough Council** – The Stage 4 hearing sessions were held during June 2018. These considered a range of issues including housing allocations and retail strategy and policies.
- 8.1.9 Details of further Stage 5 hearings are anticipated over the summer. These will examine the proposed site allocations that are likely to be affected by the outcomes of the additional Green Belt work that the Inspector has requested.
- 8.1.10 **Stevenage Borough Council** – There is no further update on the holding direction by The Secretary of State which was issued on 13 November 2017.
- 8.1.11 **St. Albans City & District Council** – The Proposed Submission Local Plan was considered and approved for public consultation by Full Council on July 11. Consultation will take place in September.
- 8.1.12 Any changes to the above will be reported verbally at the meeting.

8.2 North Hertfordshire Local Plan

- 8.2.1 No further announcements have been made following the District Council’s submission of additional information requested by the Inspector at the hearing sessions. As previously reported, it will be for the Inspector to advise the Council on the timetable for the next steps, including any further work required and / or the issuing of the proposed main modifications, which would then be subject to Member approval to carry out a six week consultation period.
- 8.2.2 Any change to the above will be reported verbally at the meeting.

8.3 Neighbourhood Plans

St Ippolyts Neighbourhood Planning Area

- 8.3.1 As further explained in the section below, part of the process in producing a Neighbourhood Plan first requires an application to be made to the local planning authority for a neighbourhood area to be designated. The neighbourhood area is the designated area that is to be encompassed by the Neighbourhood Development Plan of the respective relevant body.

- 8.3.2 St Ippolyts Parish Council applied for the designation of a neighbourhood area in November 2014 and, following a period of consultation, an area was subsequently designated by Cabinet in March 2015. This original application for the designation of the neighbourhood area encompassed the whole of the civil parish. A number of representations were received following this application, suggesting alterations for different boundaries to the proposed neighbourhood area.
- 8.3.3 A number of options were presented to the Parish Council to consider and these were considered by them during a meeting on the 2 February 2015. The preferred option of Council officers, and also agreed by the parish council, was to exclude from the area designation that part of the parish identified as safeguarded land to the west of Stevenage in the (then) Local Plan Preferred Options consultation paper. This land straddles several parishes and is proposed to be allocated as safeguarded land for future long term housing needs in the new Plan.
- 8.3.4 It was this amended area designation that was endorsed by Cabinet in March 2015.
- 8.3.5 However, the relevant regulations have subsequently been amended. These now provide that, where a parish council is applying for the whole of the parish to be designated or where a parish is enlarging an existing neighbourhood area to encompass the whole of the parish the Council must exercise its powers to designate that area with no discretion to amend. The amended regulations also remove the requirement to consult prior to determining the application in these circumstances. Government Planning Practice Guidance is clear that this includes situations where a parish applies to extend its existing neighbourhood area to its parish boundary.
- 8.3.6 On the 14th May 2018 the Parish Council met and agreed to apply to have the entire Parish designated as the neighbourhood area. An application was submitted to the Council in June 2018.
- 8.3.7 This is the first whole parish application received since the regulations were amended. Under this Council's Constitution, as it stands, any decision on setting a neighbourhood area is required to be made by Cabinet. Any decision relating to St Ippolyts Parish is additionally a Key Decision as it straddles two electoral wards – Hitchin Priory and Hitchwood, Offa and Hoo.
- 8.3.8 It is therefore requested that Cabinet approve the whole of St Ippolyts Parish as a neighbourhood planning area. The proposed approach to dealing with future neighbourhood area applications is discussed below.

Review of delegated powers

- 8.3.9 As previously reported, the Pirton Neighbourhood Plan is now 'made'. This was the first Neighbourhood Plan in the District to successfully navigate the process to adoption. A number of other plans are progressing. From the experience gained to date, a number of lessons have been learnt. In particular, there are three stages / sets of circumstances during neighbourhood plan preparation where the local planning authority must make a decision in order for the process of neighbourhood planning to be progressed. However, whilst a decision must be made by the local planning authority, there are no alternative options to consider in making those decisions.

- 8.3.10 In the interest of making timely and cost effective decisions for neighbourhood planning, approval is sought for delegated powers to be formally granted for non-key decisions to the Director of Regulatory Services in consultation with the Executive Member for Planning, Enterprise and Transport at the stages set out below.
- 8.3.11 Any decisions relating to parishes straddling two or more electoral wards (currently Codicote, Great Ashby, Royston and St Ippolyts) or any other neighbourhood planning areas covering multiple wards (such as Baldock, Bygrave & Clothall) would still need to be referred to Cabinet as Key Decisions and would not be covered by the delegations below.
- 8.3.12 **Approving whole parish neighbourhood planning areas** - Neighbourhood planning was first introduced by the Localism Act, 2011. At that time, the Neighbourhood Planning Regulations 2012 required the relevant body (either a Parish Council or a formally designated neighbourhood planning forum) to apply for the designation of a neighbourhood area. The local planning authority then had to undertake a period of formal consultation on the proposed neighbourhood area.
- 8.3.13 Having undertaken the consultation, the Council then had the discretion to determine whether to approve the neighbourhood area as applied for, or to amend it. This Council exercised these discretionary powers in amending the neighbourhood area applications for St Ippolyts (as discussed above) and Wymondley.
- 8.3.14 However, the Regulations were amended in 2016 to state that where a local planning authority receives an application from a Parish Council to designate the whole of the parish area as a neighbourhood planning area, the local planning authority must exercise its powers to designate the specified area as a neighbourhood area. These amendments remove the need for public consultation or any discretion to amend the area applied for. Delegating the power to approve non-key, whole parish applications allows for more efficient decision-making.
- 8.3.15 Applications for any neighbourhood planning area other than a whole parish would remain subject to consultation, a Cabinet decision and discretion to amend.
- 8.3.16 **Proposed submission consultation** – A formal delegation of powers is also sought to approve a period of public consultation at the stage where a neighbourhood plan and all of the required documentation has been submitted to the local planning authority. Where all necessary documentation is received and ready, waiting for the next available committee cycle for non-key decisions could cause unnecessary delay in the process.
- 8.3.17 **Making a neighbourhood plan** - The final stage in the preparation of a neighbourhood plan is to “make” the neighbourhood plan following a successful referendum. Once a referendum has been held, the decision is binding. Once ‘made’, the neighbourhood plan becomes part of the statutory development plan and is used in determining planning applications within its area. There are also statutory time limits to give effect to the results of a referendum, and waiting for the next available committee cycle for non-key decisions could result in these not being met.

Other neighbourhood planning matters

8.3.18 Officers are continuing to work with Wymondley Parish Council to select an Examiner for the examination of their neighbourhood plan. The Council identifies a choice of Examiners for the Parish Council to consider, then based upon the Parish Councils recommendation the Council procures and appoints the Examiner.

8.3.19 Preston Parish Council formally submitted their neighbourhood plan in April 2018, for public consultation. Consultation finished on July 5 2018. Responses have been received from several consultees, including the District Council. The Council's response is attached as Appendix A. Once they have been processed, they will be made available online and the representations discussed with the Preston Neighbourhood Plan Steering Group before deciding on the next steps.

8.4 Government Announcements

8.4.1 It has been reported that the revised National Planning Policy Framework will be published this month. Any update will be reported verbally at the meeting.

8.4.2 The Government's response to the consultation on the future of developer contributions is also anticipated. This will inform a final decision by this Council as to whether or not to pursue a Community Infrastructure Levy later in 2018.

8.5 London Luton Airport

8.5.1 London Luton Airport Ltd have launched a consultation on increasing the capacity of the airport from it's currently permitted maximum of 18 million passengers per annum (mppa) to its maximum potential capacity of 36-38mppa.

8.5.2 This consultation is the pre-cursor to a formal application to the National Infrastructure Commission (NIC), who determine schemes of this nature and scale. The NIC submission is anticipated in 2019.

8.5.3 The emerging preferred option, as set out in the consultation, is the provision of a second terminal on the north side of the existing runway. The schematic plan shown in the consultation suggests this would involve the provision of some car parking and the significant majority of a relocated Wigmore Valley Park within North Hertfordshire's administrative area.

8.5.4 Officers from across the Council are developing a response to this consultation which will be reported to a future meeting.

8.5.5 The consultation can be viewed at <https://futureluton.llal.org.uk/>. A series of consultation events are being held. This includes sessions at Stevenage Arts & Leisure Centre on July 25, Breachwood Green Village Hall on July 27 and Whitwell New Fellowship Hall on August 2. The consultation closes on 31 August 2018.

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.
- 9.4 The Localism Act 2011 provided a new statutory regime for neighbourhood planning. The Neighbourhood Planning (General) Regulations 2012 (as amended) make provisions in relation to that new regime. It does amongst other things set out the Council's responsibility (as the Local Planning Authority) in assisting communities in the preparation of neighbourhood development areas, plans and order and to take plans through a process of examination and referendum.
- 9.5 The Council's constitution reserves to Cabinet the consideration of applications for, approval / designation, consultations/referendums revocation (or recommend revocation of) neighbourhood plans and orders, (except to the extent that those functions are by law the responsibility of the Council or delegated to the Service Director: Regulatory). Under the 2012 Neighbourhood Planning regulations (as variously amended), the Council has no discretion to make alternate decisions at certain stages in the neighbourhood planning process, or where specified conditions are satisfied.

10. FINANCIAL IMPLICATIONS

- 10.1 The costs of preparing the Local Plan and running the examination are covered in existing approved revenue budgets for 2017/18 and 18/19. Officers are monitoring the impact of the extended Examination and the subsequent increase in costs. A financial risk has also been included for 2018/19 for this additional further work. Future costs such as that associated with any modifications to the Plan cannot be quantified at this time.
- 10.2 Following the setting of the referendum for the Pirton Neighbourhood Plan, the Council has been successful in its application for £20k funding from the Ministry of Housing, Communities and Local Government (MHCLG) to cover its costs and support other Plans coming forward. The MHCLG has now confirmed that financial support will be available in 2018/19 for local planning authorities once a date has been set for a referendum following a successful examination. A financial risk has been included for 2018/19 for any further work on Neighbourhood Planning that is not covered by the current reserve or future grants.

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.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2 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.

15. APPENDICES

- 15.1 Appendix A - Preston Neighbourhood Plan consultation response.

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17. BACKGROUND PAPERS

- 17.1 None.