

LOCAL PLAN REVIEW

Committee: Full Council

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[Q34]

1.0 ISSUE

- 1.1 For Council to determine whether or not to commence a review of its Local Plan, together with agreement on linked supporting work-streams.

2.0 RECOMMENDATION(S)

- 2.1 That Council:

- (A) decides whether, in principle, it authorises officers to commence a review of the Local Plan; and
- (B) if the answer to (A) is yes, approves with immediate effect the attached Local Development Scheme (LDS), which sets out a timetable for the production of a new Local Plan; and
- (C) agrees that the priority for the immediate future for the production of other 'Supplementary Planning Documents' (SPDs) be focussed on a Community-led Development SPD, a Flood and Water Management SPD and an update to the current Design Guide SPD.

3.0 BACKGROUND/OPTIONS

Introduction

- 3.1 On 21st April 2015, Council adopted a new Local Plan for East Cambridgeshire. This followed several years of preparation, consultation and independent examination. The Local Plan will, irrespective of the decision made today, form the basis of determining planning applications for the next few years.
- 3.2 Nevertheless, despite this recent adoption, Members are being asked whether they would welcome the production of a revised Local Plan, so that come early 2018 (estimate) a fully updated Local Plan could be adopted.
- 3.3 This report first summarises a recent planning appeal decision at Witchford, because the implications of that decision is of significance in deciding whether to commence a review of the Local Plan. The report then sets out a fuller set of reasons why Council may want to commence a review (as well as why it might not want to). It then sets out the procedures and a programme for preparing such a Plan, should it decide to proceed with a review.

- 3.4 The report then seeks agreement as to the wider Strategic Planning work programme, in particular seeking agreement as to which 'supplementary' policy documents need producing to support the Local Plan.

Witchford Planning Appeal Decision

- 3.5 On 23rd June 2015, the Council received the formal decision of Inspector L Rodgers B Eng (Hons) C Eng MICE MBA into an appeal made by Gladman Developments Ltd against the decision of this Council to refuse development at Land off Field End, Witchford. The proposal was for outline planning permission for development for "up to 128 dwellings", with detailed matters, other than access, reserved for future determination.
- 3.6 The Inspector allowed the appeal and granted permission for up to 128 dwellings.
- 3.7 In reaching the decision (which is set out in detail over 19 pages), the Inspector acknowledged that the proposal was outside the settlement limits of Witchford "*and in consequence would be in clear conflict with Local Plan Policy GROWTH2 which aims to strictly control any development outside the defined development envelopes*". However, despite hearing and considering concerns of residents, he concludes that the proposal had no conflict with any other Local Plan policy.
- 3.8 He then considered whether there were any other 'material considerations' which would mean that, despite the conflict with the Local Plan, the proposal could be approved. On this basis, he took account of national policy in the NPPF (para 49) which makes it clear that "*relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*".
- 3.9 With lengthy and technical reasoning, the Inspector determines that the Council cannot demonstrate it has a five year supply of land and thus he also determines, in accordance with national policy, that housing supply policies are therefore out of date, of which he determines that "*Local Plan Policy GROWTH 2 is one such relevant policy*".
- 3.10 On the basis that he concludes that GROWTH 2 is 'out of date', this being the Policy which would otherwise indicate that development should be refused, the Inspector concludes that there are, therefore, no policies which should restrict this development from taking place, and also concludes that there are "*some clear benefits to the proposal*", including the supply of homes, the provision of 30% affordable homes and the economic benefits of the scheme.
- 3.11 In allowing the appeal, he acknowledges that another Inspector in March 2015 determined that the Council did have a five year land supply (this Inspector being the one which examined and found sound our Local Plan), and he did acknowledge that the Local Plan had only recently been adopted.

However, he determined that more up to date evidence was available before him (and not the Local Plan Inspector) and as such meant that the situation had changed and that a five year land supply could no longer be demonstrated. He thus ultimately concludes that *“the proposed development should be regarded as sustainable”* and that, despite the conflict with Policy GROWTH 2, and *“having had regard to all other matters before me, including the concerns of local residents...I therefore conclude that, subject to the identified conditions, the appeal should succeed.”*

3.12 Overall, this decision is clearly a disappointment to both the Council and the residents which fought hard against the proposal. It is particularly disappointing considering that national policy clearly states the planning system in England is a ‘plan led system’ and that the Council had only just updated and adopted its Local Plan. To have an Inspector regard elements of our Local Plan ‘out of date’ just two months after adoption is of considerable frustration to the Council. That said, the Inspector does follow national policy to the letter of the law, and it is such national policy (not local policy) which ultimately led to the Inspector allowing this appeal.

3.13 The implications of this decision can be summarised as follows.

3.14 First, and the most important, is that this decision does not mean that all speculative applications for development on unallocated land are suitable for development. Far from it. However, regard has to be had to paragraph 14 of the NPPF and the national presumption in favour of sustainable development. For decision making, therefore, this means we should grant planning permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF; or
- Specific policies in the NPPF or Local Plan indicate development should be restricted (excluding those policies in the Local Plan which would be regarded as ‘policies for the supply of housing’ (NPPF para 49), as these policies are now regarded as not up to date).

It is stressed again that this does not mean that all sites are suitable for development. Each site will be looked at on its own merits and the adverse impacts will be carefully weighed against benefits. Applicants are urged to take advantage of the Council’s pre-application advice service prior to making any speculative applications.

3.15 Second, if the build rates in the district improves, and/or the supply of available land improves, and/or if major sites start to come forward more quickly, then it may be possible at some point in the future to demonstrate we do have a five year supply of land, and as such, Policy GROWTH 2 (which includes the principle of settlement boundaries) would no longer be classed as ‘out of date’.

- 3.16 Third, ultimately, to have certainty that we will return to a fully up to date Local Plan, and operate under a 'plan led system' when it comes to the supply of land for development, then a new Local Plan would have to be prepared. This would calculate the latest 'need' for new homes and would ensure sufficient land was available for development in order to consistently be able to demonstrate a 'five year supply' of developable land. It is this third implication which is of most direct relevance to this agenda item today.

Why might a Local Plan Review be appropriate?

- 3.17 Thus, turning to the main point of this agenda item, there are a number of reasons why it is appropriate for a new Local Plan to be prepared. This includes:

- To address the current 'five year land supply' problem, as set out in the previous paragraphs.
- To ensure the Local Plan meets / supports the latest corporate priorities;
- The need to keep the Local Plan up to date more generally (i.e. not just the supply of land for housing);
- To ensure the Local Plan is as user friendly to the reader / decision maker as possible;
- To assist with 'certainty' in planning and development terms, which assists the public with clarity and drives forward private investment;
- To potentially accelerate income to the Council, due to an increase in the supply and certainty of sites available for development, which in turn should generate increased New Homes Bonus, Council Tax, Business Rates and Community Infrastructure Levy (CIL); and
- To support the continued sustainable growth of the district, both in the near-term and long-term.

- 3.18 Despite the benefits of such a Review, there are disadvantages:

- The cost of preparing the Local Plan - Preparing a new Local Plan requires resources to pay for staff time, essential supporting evidence base documentation, consultation costs and independent examination costs. Whilst existing budgets can be redirected to focus on this work, it is likely some additional funding resource above current budgets will be required in 2015/16 (up to £25k), 2016/17 (up to £60k) and 2017/18 (up to £60k);
- The risk of 'consultation fatigue', because the recently adopted Local Plan involved considerable number of consultation stages and public debate; and
- The inevitable challenges which will arise through considering and choosing new sites for development.

With careful management, it is believed these costs and risks can be mitigated and minimised.

- 3.19 In legal or government guidance terms, there is no set period when a Local Plan must be reviewed. Commencing a review shortly after adoption of a Local Plan is not uncommon, though some Councils leave it around 2-3 years before commencement.

Procedures for preparing a Local Plan Review

- 3.20 Preparing a Local Plan is heavily governed by Acts, Regulations, European Directives, Government policy and guidance, and case-law. In simple terms, it involves:
- Public consultation (at least two, often three rounds)
 - Evidence gathering / analysis
 - Policy writing / option tested / site options
 - Sustainability Appraisal / wider environmental impact assessment
 - Equality impact assessment
 - Independent examination
- 3.21 The first legal step, should a new Local Plan be commissioned today, is to adopt a Local Development Scheme (LDS) setting out the timetable for preparing a new Local Plan. It is unlawful to prepare a Local Plan without first agreeing and publishing a LDS.
- 3.22 Should Council decide, therefore, to agree in principle to commencement of a new Local Plan, then it is next asked to agree the attached LDS.
- 3.23 If a review of the Local Plan is commissioned, the following work streams will equally be commissioned:
- An updated Statement of Community Involvement (SCI) will be produced, and brought to Council in October. It is a legal requirement for all Councils to have an SCI, with an SCI setting out the 'how' we intend to consult on the preparation of the new Local Plan (as well as other matters, such as planning applications). Whilst a new SCI is not strictly required at the start of preparing a new Local Plan, it is the most timely and prudent time to do so.
 - Evidence base needs will be established, and early work commissioned. An important one, for example, will be to update our housing and employment needs figures, so as to establish what housing and jobs targets the new Local Plan should have, which in turn will lead to how many and where new sites should be allocated.
 - Sustainability Appraisal (SA) work will be commenced, through the legally required first step of a SA Scoping Report.
 - Communications programme established, and website thoroughly updated and made clear.

Wider Work Programme

- 3.24 A Local Plan is the most important document in terms of setting the planning policies for a district, and it is a legal requirement to have one in place. However, and optional, a Council can also have a number of 'Supplementary Planning Documents' (SPDs), if it deems them necessary and helpful in support of the Local Plan. SPDs have less 'weight' in the planning decision making process, though are important nonetheless, especially where detail is required which would otherwise be undesirable in the Local Plan itself.
- 3.25 Officers have undertaken an audit of current adopted SPDs (or similar) which are in force in East Cambridgeshire at present, plus emerging or draft SPDs. In addition, a list of SPDs (or similar) which the current Local Plan (2015) states the Council intends to prepare has also been compiled.
- 3.26 Reflecting the resources available, it is recommended that the work programme for preparation of SPDs is rationalised so that only essential and priority SPDs are produced. This will save costs (officer, consultation, printing etc) and help reduce consultation fatigue on our communities. Thus, it is recommended the following SPDs are produced:
- **Community-led Development SPD** – to give greater clarity and support for the implementation of CLTs and other community led development.
 - **Flood and Water Management SPD** – this county-wide document is led by County Council. It is a somewhat technical document, but an essential one to ensure developers meet expectations in the rapidly evolving area of flood protection. With County leading, resources required are minimal, though officer input into a county wide steering group has (and continues) to be involved so that East Cambs interests are met
 - **Update of the Design Guide SPD** - to ensure it reflects the adopted Local Plan, the latest government guidance and general best practice.
- 3.27 It is not recommended that any further SPDs are prepared in the immediate future, including ones which have already been drafted or commenced (eg Station Gateway). This is partly for reasons of efficiency saving, and partly so that the Council and developers are not constrained by policy in such documents which, at the point of preparing seemed sound, but quickly date and become a constraint rather than a help to delivering growth.
- 4.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT
- 4.1 The financial implications are noted at section 3.6 above.
- 4.2 Equality Impact Assessment (INRA) not required/~~completed~~ – (though the preparation of the Local Plan itself will require an assessment)

5.0 APPENDICES

5.1 Appendix 1 – LDS for approval (if it is agreed to commence a Local Plan Review)

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
None	Room12A The Grange Ely	Richard Kay Strategic Planning Manager (01353) 616245 E-mail: richard.kay@eastcambs.gov.uk