

UPDATE ON THE ALLOCATIONS AND DEVELOPMENT MANAGEMENT PLAN (ADMP)

SUPPLEMENTARY REPORT

Cabinet – 17 July 2014

Report of Chief Planning Officer

Status: For consideration

Also considered by: LPEAC (1 July 2014)

Key Decision: No

Executive Summary:

Supplementary report:

- Legal advice received and further question from the ADMP Inspector
- Table of minor amendments

Portfolio Holder Cllr. Piper

Contact Officer(s) Hannah Gooden (7178)

Gallagher Homes and Lincourt Homes v Solihull BC

- 1 The Inspector asked us to consider the implications of a recent High Court decision (Gallagher Homes and Lincourt Homes v Solihull BC) that Solihull Council's recently adopted Local Plan (or parts of it) should be quashed on the basis that it was not sound. The High Court decided that this was the case 'because it is not based on a strategy which seeks to meet objectively assessed development requirements nor is it consistent with the NPPF' and because it had not proven that exceptional circumstances exist to reintroduce undeveloped land into the Green Belt.
- 2 We have received a legal opinion (Appendix 1) to support the argument that the ADMP can be found sound, in the absence of an NPPF objectively assessed housing need. In summary, the advice sets out that as long as the Inspector understands and has regard to the NPPF, it is open for him to form the view that the Plan is sound, provided he has given reasons for doing so. The absence of an objectively assessed housing need assessment can be mitigated by a commitment by the Council to an early review of the Core Strategy. A recent high court judgement (Grand Union v Dacorum BC) on 12 June held that it was entirely lawful for a plan to be made sound, in circumstances where there was no objectively

assessed need, by a commitment to an early review. The Planning Inspector who made this decision in Dacorum is the same Inspector who is examining the ADMP in Sevenoaks.

- 3 The advice highlights that the Planning Practice Guidance (published in March 2014) states that local plans 'may be found sound conditional upon a review in whole or in part within five years of adoption'.
- 4 The advice also sets out that the Gallagher judgement is under challenge to the Court of Appeal.
- 5 Subsequent to receiving our legal advice, the Inspector has set out a further question (Appendix 2) – Question Nine – Review of the Core Strategy. This states that there should be a commitment from the Council to undertake a review of the Core Strategy, in the section on P.11 of the ADMP. This would be to demonstrate that the Council is keen to ensure it has up-to-date policies in place that are in accordance with the NPPF.
- 6 This would be a commitment to a review and it may be that the Council decides, having assessed the up-dated evidence, that only certain elements of the Core Strategy need reviewing - at this stage it does not commit the Council to any specific course of action in terms of policies and proposals and the outcome of the review cannot be pre-judged. The report on the Local Development Scheme (which is also being considered by this committee) sets out the first steps for undertaking a Core Strategy review, namely the consideration of housing targets.
- 7 It is anticipated that this proposed amendment to the Plan will be considered as an additional main modification, which will be subject to consultation with the other main modifications as set out in the original report.

Minor Amendments to the Plan

- 8 In addition to the Main Modifications, there are a number of proposed Minor Modifications to the Plan. These are proposed by the Council and are being made either in response to issues raised by third parties in their submission statements, or as a result of the hearing proceedings, and are predominantly factual amendments. Minor Modifications do not affect the soundness of the Plan and can be made without the need to be formally agreed by the Planning Inspector, and are not subject to further public consultation. They are small 'tweaks' to the text that improve the Plan but do not alter its intent to any significant degree.
- 9 Details of the Minor Modifications proposed, including those already agreed at Submission stage, are set out in Appendix 3.

Update Following LPEAC on 1 July 2014

- 10 A further proposed amendment to the Council's proposed text for the main modification in relation to Fort Halstead (MM8) was tabled, relating to the need for a range of employment uses on the site. This additional wording is set out (in double underline) in Appendix B of the main report.

- 11 In relation to the Inspector's Question Nine, as set out in paragraphs 5-7 above, the Council has responded with the following wording to be inserted into the ADMP: *'Subject to the findings of an up-to-date Strategic Housing Market Assessment, which the Council will commence in 2014, the Council commits to undertake an early review of the Core Strategy, in part or in whole, within the next five years, in accordance with the National Planning Practice Guidance, in order to ensure that it has an up-to-date suite of policies and proposals in place to deliver sustainable growth in accordance with the NPPF'*.
- 12 Officers also committed to organising three drop-in information sessions (in Sevenoaks, Swanley and Edenbridge) during the consultation on the main modifications, in order to assist understanding of the proposed changes.