

LOCAL DEVELOPMENT SCHEME – WORK PLAN FOR FUTURE PLANNING POLICY WORK

Cabinet – 17 July 2014

Report of	Chief Planning Officer
Status:	For Decision
Also considered by:	Local Planning and Environment Advisory Committee – 1 July 2014
Key Decision:	No

Executive Summary:

The Local Development Scheme (LDS) sets the work programme for the development of Local Plan (formerly Local Development Framework) documents. The latest formally adopted version of the Local Development Scheme was agreed by Cabinet in March 2012 and is out of date. Given current uncertainties over the timetables for the preparation of the Allocations and Development Management Plan and the Gypsy and Traveller Plan (expanded upon in the report), it is recommended that the Council postpones the agreement and adoption of a new Local Development Scheme until Autumn 2014. It is recommended that the Council now undertakes a new Strategic Housing Market Assessment to begin the process of addressing concerns expressed about the Core Strategy housing target through the Broom Hill appeal decisions and the ADMP examination.

Portfolio Holder Cllr. Piper

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Recommendation to Local Planning and Environment Advisory Committee:

That the committee endorses the recommendation to Cabinet

Recommendation to Cabinet:

- a) That the Council undertakes a new Strategic Housing Market Assessment (SHMA) to identify its objectively assessed housing need, following the publication of new Government household projections later in Autumn 2014, and that this, and its comparison with the Core Strategy housing target, forms the first step in considering the need to review or partially review the Core Strategy.
 - b) That the Local Development Scheme is reconsidered in Autumn 2014, once the likely timetable for the adoption of the Allocations and Development Management Plan (ADMP) is clear and once the Gypsy and Traveller Site Options consultation is closed and an initial assessment of comments has been carried out.
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Reason for recommendation:

- a) This will allow the Council to begin the process of reassessing whether the Core Strategy housing target (which was carried forward from the South East Plan) remains appropriate for the District, following the appeal decisions at Broom Hill, Swanley, and the examination of the ADMP. Officers believe that the Council showing a commitment to undertake this work will increase the chances of the ADMP being found sound.
- b) The Local Development Scheme is supposed to provide a degree of certainty for the local community and stakeholders about the timetable for the preparation of local planning documents. Given the uncertainties related to the preparation of the ADMP and the Gypsy and Traveller Plan at present, it would be very difficult to prepare a revised Local Development Scheme to provide this certainty. As a result, it is suggested that consideration of this is postponed.

Introduction and Background

- 1 The Local Development Scheme (LDS) sets the work programme for the development of Local Plan (formerly Local Development Framework) documents. The latest formally adopted version of the Local Development Scheme was agreed by Cabinet in March 2012. It establishes that the Council will prepare an Allocations and Development Management Plan and a Gypsy and Traveller Plan, amongst other documents. The timetable from the adopted Local Development Scheme is set out in appendix A.
- 2 The Local Development Scheme needs to be updated to reflect the current timetable for the preparation of local planning documents. In January 2014, a report of the Chief Planning Officer was taken to the Local Planning and Environment Advisory Committee (LPEAC) to propose that the LDS be updated to include the timetable set out in appendix B. This meeting was held inquorate.
- 3 A Cabinet decision is needed to amend the Local Development Scheme. In January 2014, it was considered that it would make more sense for Cabinet to consider the update once the timetable for the remaining stages of the preparation of the ADMP became clear following the examination (which is driven by the Inspector rather than the Council) rather than risk an update becoming quickly out of date.

Allocations and Development Management Plan (ADMP)Background

- 4 The ADMP was agreed by Full Council for submission for examination by the Planning Inspectorate in February 2013. Since then the ADMP has been:
 - published for interested parties to make comments on (between March and May 2013);
 - submitted for examination (in November 2013); and

- examined through hearings (March 2014).
- 5 Whilst the hearings have now closed, the examination remains open until we receive the Inspector's report. Since the plan was submitted for examination we have also received the decision on the public inquiry held to consider the Broom Hill appeals (January 2014), where the Inspector granted permissions to residential developments because evidence suggests that the District's housing need is greater than the Core Strategy target.
- 6 The ADMP supplements the Core Strategy. The Core Strategy, rather than the ADMP, sets a housing target for the District. The ADMP identifies housing allocations (which the Core Strategy does not), areas of employment land that should be protected where they are still needed and important areas of open space. It also sets out new development management policies, which will replace the remaining 'saved' policies from the Local Plan 2000.

Consideration of Housing Targets

- 7 Officers have argued through the examination process that the ADMP is not intended to establish a housing target for the District. Other parties argued that the ADMP was not consistent with the NPPF and, therefore, could not be adopted because it did not contain a strategy for meeting the objectively assessed housing need for the area and was instead based on a South East Plan housing target which has now been abolished. The inability of the Council to show that it has a strategy for meeting NPPF-compliant 'Objectively Assessed Needs' for housing was an important factor in it losing the four appeals at Broom Hill and deciding not to defend the reasons for refusal at the re-opened Brendoncare appeal, on the reserve land in Edenbridge.
- 8 This challenge represents a risk to the soundness of the ADMP. During the examination, the Inspector asked Council officers to suggest how they would recommend to Members that the appropriateness of the Core Strategy housing target be reconsidered. The following steps were suggested (and the first and second form part of the recommendation to this committee):
- 1) The Council should carry out an NPPF-compliant objective assessment of housing need, having regard to the latest CLG housing projections for the area. In order to comply with the Duty to Co-operate, the Council should work with neighbouring and nearby local authorities to identify common methodological principles for carrying this out and, where interest exists, commission a study jointly with other authorities. In particular the Council should continue discussions with Tonbridge and Malling Borough Council, Tunbridge Wells Borough Council and other Kent authorities (through the Kent Planning Officers Group).
 - 2) Identify the extent of the difference between the objective assessment of housing need and the Core Strategy target.
 - 3) Consider and keep under review the Secretary of State / Planning Inspectorate's interpretation of the balance to be made between meeting housing needs and protecting the Green Belt / conserving and enhancing

the AONB under para 14 of the NPPF, following the Planning Minister's letter of 3 March 2014.

- 4) Undertake discussions with neighbouring and nearby authorities, at officer and member level, to identify opportunities for needs arising in Sevenoaks District being met in less constrained areas, in accordance with the Duty to Cooperate. Undertake a new Strategic Housing Land Availability Assessment (SHLAA) to identify how needs can be met. In order to comply with the Duty to Co-operate, the Council should work with neighbouring and nearby local authorities to identify common methodological principles for carrying this out and, where interest exists, commission a study jointly with other authorities.
 - 5) Following consideration of the above steps, the Council should determine the need for the LDS to set out a detailed timetable for the adoption of a revised Core Strategy / Local Plan (including considering the opportunity for a partial review), taking forward what the Council and other stakeholders consider continue to be sound from the existing Core Strategy and Allocations and Development Management Plan. This timetable should have regard to the potential need to update employment land, retail, transport and infrastructure studies, amongst others, to identify the implications of the Council adopting (if necessary) higher housing targets.
- 9 It is recommended that step 1 above is undertaken once the Government publishes its latest household projections for districts in Autumn 2014, which officers understand will be the first projections to fully take account of the 2011 Census. It is important to note that the recommendation does not go so far as suggesting that the Core Strategy will definitely need to be reviewed. Following the completion of steps 1 and 2, a review of the Local Development Scheme should confirm whether there is a need to undertake a review of the Core Strategy. As well as undertaking these steps, Council officers will continue to discuss planning policy issues, including the methodologies being used to prepare evidence, as part of the Duty to Co-operate (relevant to step 3). Officers will also follow relevant Planning Inspector and Secretary of State decisions and policy statements (relevant to step 4).

The Inspector's 'main modifications' and post-hearing questions

- 10 Following the ADMP examination hearings, the Inspector wrote to the Council to set out his initial findings and the 'main modifications' necessary to make the plan sound. A separate report on this agenda addresses the issues raised by these and recommends that the Council consults on the modifications and passes comments to the Inspector so that he can decide whether the modifications are in fact necessary and appropriate. The time that the Inspector may require to do this depends on the number and complexity of responses received and is, therefore, an unknown.
- 11 Following the Inspector's issue of his initial findings and 'main modifications', he has asked the Council to consider the implications of a recent High Court decision (Gallagher Homes and Lincourt Homes v Solihull BC) that quashed Solihull BC's adoption of its Local Plan. The High Court decided that, amongst other things, the plan should be quashed 'because it is not based on a strategy which seeks to meet objectively assessed development requirements nor is it consistent with the

NPPF'. The Council has sought legal advice on this matter. However, the Inspector's consideration of this issue, and other forthcoming high court challenges, provide a degree of uncertainty that makes identifying a timetable for the adoption of the plan difficult.

- 12 There would be nothing to stop the Council adopting the ADMP in advance of, or alongside, a review of the Local Development Scheme in Autumn 2014, if the programme progresses as was expected in the draft LDS from January 2014.
- 13 The Green Belt SPD, proposed in the existing Local Development Scheme and January 2014 draft, will provide further guidance on how the Council will interpret policies in the Green Belt chapter of the ADMP. Given this, it can not be adopted by the Council until the ADMP is adopted. The Green Belt SPD was subject to consultation in March-May 2013.

Gypsy and Traveller Plan

- 14 Cabinet resolved to publish a Gypsy and Traveller Plan: Site Options consultation document on 10 April 2014. The consultation on the document runs between 23 May 2014 and 4 July 2014. The opportunity for interested parties to suggest additional site options runs until 18 July 2014.
- 15 The Site Options consultation document itself and the covering report made it clear that is an 'early' consultation stage, that the consultation is on 'potential site options' and that the document can be given very little weight in the planning process at this stage. This is consistent with the NPPF and it remains the case.
- 16 The Site Options consultation has generated a significant level of interest, many comments on the sites proposed and a number of general points, such as the distribution of existing and proposed sites across the District. The call for sites remains open until 18 July. Many suggestions have already been put forward and officers will need to carry out an initial assessment of the willingness of landowners to allow Gypsy and Traveller pitches on these sites and of the planning constraints and opportunities that exist.
- 17 It has previously been suggested that this timetable is followed to prepare the Gypsy and Traveller Plan, from the close of the current consultation:

Autumn 2014	Consideration of the 'pre-submission' version of the Gypsy and Traveller Plan by Local Planning and Environment Advisory Committee, Cabinet and Full Council. Note: The pre-submission version of the plan should be agreed as the Council wish to see it adopted and as officers should defend it at examination.
Autumn / Winter 2014	Publication of the 'pre-submission' version of the plan for the public and stakeholders to submit comments on.
Spring 2015	Submission of the Gypsy and Traveller Plan for examination.

Summer 2015	Examination of the Gypsy and Traveller Plan held by an independent Planning Inspector.
Autumn 2015	Publication of the Inspector's report.
Winter 2015	Local Planning and Environment Advisory Committee, Cabinet and Full Council consider whether to adopt the Gypsy and Traveller Plan with any Inspector's modifications.

- 18 If any of the sites put forward through the call for sites are found to be potentially deliverable, appropriate and preferable to those previously consulted upon, then the Council may want to consult on these as 'site options' before including them in a 'pre-submission' version of the plan. This would require a further debate by the Local Planning and Environment Advisory Committee, a decision by Cabinet, a 6 week consultation period (at least) and further time to consider comments received. If this were to be the case then the Council could not consider the 'pre-submission' version of the plan in Autumn 2014, when it would be expected that an additional site options consultation would be carried out instead.
- 19 In addition, if it is decided that any of the proposals included in the Site Options consultation are not going to be supported by the Council then more time may be needed to continue discussions with landowners to find alternative sites, if the call for sites process has not provided a sufficient number of potential deliverable pitches. Until all comments on the recent consultation document have been reviewed and an initial assessment of sites promoted through the call for sites has been carried out there is a significant risk that the adoption of a timetable for the preparation of the Gypsy and Traveller Plan through a Local Development Scheme could be misleading.
- 20 During the consultation, residents of Shoreham have written to the Secretary of State for Communities and Local Government and received a response from one of his department's civil servants. The response suggested that the Government may be publishing a consultation on amendments to national planning policy for Gypsy and Traveller sites in 'due course'. Any significant change in national policy may require a change in the Council's approach and could lead to any targets for the publication of a pre-submission version of the plan not being met.
- 21 If the issues above are resolved in time, there would be nothing to stop the Council agreeing a pre-submission version of the Gypsy and Traveller Plan in Autumn 2014, as envisaged in the draft LDS from January 2014, and reviewing the Local Development Scheme at the same time.
- 22 A report on the comments received during the Gypsy and Traveller consultation and the sites proposed through the call for sites will be presented to Local Planning and Environment Advisory Committee at its next meeting (on 23 October 2014) and the following Cabinet meeting regardless of the decision made on the Local Development Scheme.

- 23 Over 25 sites for additional pitches (including some further extensions of existing sites) have been submitted to the Council as part of the consultation, at the time of writing. This includes sites all across Sevenoaks District. As previous reports have noted, sites must be deliverable/developable if their inclusion in the plan is to be found sound. This requires a willingness of the landowner to develop the site for that use or for there to be plans for a larger development that the Council can require Gypsy and Traveller pitches as part of (without impacting housing supply). Officers are following up on the sites that have been promoted to identify and contact landowners and continue to look for and encourage additional sites to be promoted. If potential deliverable/developable sites are identified then initial (planning) site assessments will be undertaken and reported to Members at the next Local Planning and Environment Advisory Committee and then Cabinet in the Autumn. Depending on the deliverability and acceptability of sites proposed and identified by the Council, this may allow Members to rule out some sites consulted upon in the Site Options consultation, when considering responses to it in the Autumn.

Other Options Considered and/or Rejected

The Council could set a timetable for the preparation of local planning documents now, based on the draft considered by Local Planning and Environment Advisory Committee in January (subject to any modifications that Members want to make). However, given the following uncertainties, it is considered that it would be better to review the Local Development Scheme at Local Planning and Environment Advisory Committee in October and Cabinet in November:

- The uncertainty surrounding the ADMP Inspector's questions in relation to the recent High Court judgements;
- The uncertainty surrounding the timetable for the Council receiving the Inspector's report on the ADMP, given the need for further consultation before then;
- The need for officers to consider the responses received on the Gypsy and Traveller Plan;
- The uncertainty over the number and suitability of sites proposed through the Gypsy and Traveller call for sites (prior to it closing); and
- The uncertainty caused by potential changes in Government planning policy on planning for Gypsies and Travellers.

The Council could choose not to undertake a new Strategic Housing Market Assessment for the District but doing this may increase the risk of the ADMP being found unsound.

Key Implications

Financial

This report has no financial implications. The preparation of planning policy documents and evidence will be funded from existing budgets.

Legal Implications and Risk Assessment Statement.

The Council is required to prove to an Inspector that the ADMP and the Gypsy and Traveller Plan are sound before they can be adopted. Setting a timetable that enables issues to be properly considered and evidence thoroughly prepared will increase the chances of this.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	Equalities Impact Assessments have been carried out previously for the preparation of the Allocations and Development Management Plan. The decision on the timetable for the preparation of these documents does not have a bearing on these.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

Conclusions

This report has identified the current uncertainties that are affecting the timetable for the preparation of the ADMP and the Gypsy and Traveller Plan. It is proposed that the Local Development Scheme is reconsidered in Autumn 2014, once the likely timetable for the adoption of the ADMP is clear and once the Gypsy and Traveller Site Options consultation has closed and an initial assessment of comments has been carried out.

Appendices

Appendix A – Local Development Scheme Timetable (March 2012)

Appendix B – Draft Local Development Scheme Timetable as considered by Local Planning and Environment Advisory Committee (January 2014)

Richard Morris
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