

LOCAL PLAN UPDATE

Development and Conservation Advisory Committee - 17 December 2019

Report of Chief Planning & Regulatory Services Officer

Status For information

Key Decision No

Executive Summary: This report provides an update on the Local Plan examination process.

This report supports the Key Aim of: Protecting the Green Belt and Supporting and developing the local economy

Portfolio Holder Cllr Julia Thornton

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Recommendation: That Development and Conservation Advisory Committee notes the report.

Reason for recommendation: To provide an update on the progress of the Local Plan.

Background and introduction

- 1 Once adopted, the new Local Plan will replace the Core Strategy (2011) and the Allocations and Development Management Plan (ADMP 2015). It will be used to determine planning applications, as well as setting out the strategic land allocations which will help to meet the development needs of the District over the plan period, up to 2035. The Local Plan is based on well documented and recent local evidence and is being examined by an independent Inspector.
- 2 Members received a report in October, which provided an overview of the examination and a summary of the additional information submitted as part of this process. This report provides an update on the latest correspondence between the Council and the Planning Inspector.

Submission and Examination

- 3 Following the submission of the December 2018 Proposed Submission version of the Local Plan to the Secretary of State on 30 April 2019, Karen Baker

DipTP, MA, DipMP, MRTPI was appointed by the Planning Inspectorate to undertake an independent examination of the document. The Inspector is tasked with considering all of the comments received on the submission documents, assessing the Local Plan against planning legislation to determine its legal compliance and also whether the document meets the tests of ‘soundness’, as set out in the National Planning Policy Framework (NPPF).

- 4 A series of public hearing sessions associated with the examination commenced for a two-week period on Tuesday 24 September 2019. These sessions assessed high-level matters, including legal compliance issues, the duty to co-operate, sustainability appraisal, the Council’s approach to Green Belt release and the overall development strategy contained within the plan.
- 5 The first round of hearings concluded on Thursday 3 October 2019 and the Council was asked to provide additional information in advance of the second set of sessions relating to site and policy specific matters, which were due to re-commence on 5 November 2019. However on Tuesday 15 October, we received a letter from the Inspector stating that she had significant concerns regarding the approach taken to meeting the duty to co-operate. A further letter dated 28 October 2019 sets out these concerns in more detail.
- 6 The duty to co-operate is contained in planning legislation and requires local authorities to co-operate with each other and specific prescribed bodies in relation to planning and sustainable development. The Proposed Submission Version of the Local Plan proposes to meet 83% of housing need in Sevenoaks up to 2035. In relation to the duty, the Inspector’s central concern is a perceived lack of constructive engagement to resolve unmet need and an inadequacy of strategic cross-boundary planning to examine how the identified needs could be accommodated.
- 7 A failure to meet the duty to co-operate is significant because it cannot be rectified retrospectively and the Inspector has identified two possible outcomes. These are that she would prepare a report concluding that the plan is not legally compliant in respect of the duty to co-operate, or the Council could withdraw the plan from examination.
- 8 The Council is not proposing to withdraw the plan because we fundamentally disagree with the Inspector’s conclusions. Two letters have been provided in response to the concerns raised, initially on 31 October and then in more detail on 18 November 2019. Copies of this correspondence are attached to this report and are available on the news and updates page of the Council’s website¹, however the key points made by the Council are as follows:

¹ https://www.sevenoaks.gov.uk/info/20069131/local_plan_examination/447/news_and_updates

- The comments provided by the Inspector are overwhelmingly negative, to the point of being unbalanced and presenting what we believe to be an inaccurate account of the extensive work undertaken to meet the duty.
 - No tangible solutions exist to accommodate unmet housing need elsewhere.
 - Neighbouring authorities support our view that the duty to co-operate has been met.
 - The Council became aware of the exact extent of unmet need following a review of the comments on the Regulation 18 documents.
 - However, neighbouring authorities were informed that Sevenoaks was unable to meet its housing need well before this point during a number of well documented meetings from 2015 onwards. As set out in the Council's Duty to Co-operate Statement², neighbours were given as much information as possible about the likely extent of the shortfall.
 - It is unclear why it has taken six months for the Inspector to reach a view that the duty to co-operate has not been met, as this key issue is meant to be considered in the initial assessment of the Plan. The approach taken is contrary to the Planning Inspectorate's own procedural guidelines, which advise Inspectors to raise any concerns regarding the duty as soon as possible during the examination process.
 - A 'peer review' undertaken by the Planning Advisory Service (PAS) and also the Council's legal advice prior to submission confirmed that the duty had been met.
 - A separate 'Schedule A'³ was attached to the Council's letter of 18 November 2019 to outline the specific inaccuracies in the Inspector's correspondence.
- 9 Correspondence has since also been received from Parish Councils and site promoters who participated in the examination, stating that they do not agree with the approach taken on this matter. These letters can be found on our website⁴. It should be noted that the Inspector has stated she cannot accept further correspondence from third parties on this or other matters

² https://www.sevenoaks.gov.uk/downloads/file/1940/sup006_duty_to_cooperate_statement

https://www.sevenoaks.gov.uk/downloads/file/1941/sup006a_appendix_1_-_neighbouring_authorities

³ https://www.sevenoaks.gov.uk/downloads/file/2830/ed42a_-_appendix_1_schedule_a_18_november_2019

⁴ https://www.sevenoaks.gov.uk/downloads/download/777/local_plan_correspondence

related to the examination. However, these letters will be submitted as part of a pack of supporting information, to supplement the Council's case.

- 10 The leadership has taken a strong position to defend the Local Plan and a number of articles have appeared in the Sevenoaks Chronicle, which clearly state the Council's position on this matter. All the submitted documents are available to view online on our dedicated examination pages:
www.sevenoaks.gov.uk/localplanexamination.

Next steps

- 11 At the time of writing, the Council is preparing a further pack of information to submit to the inspector to supplement the letter of 18 November 2019 and the Inspector has confirmed that due to Purdah, no further correspondence will be received from her until after the General Election on 12 December 2019. The Council is not proposing to withdraw the plan from examination and next steps will be determined by the Inspector's response to our correspondence. Further verbal updates on the position will be provided at the Development Conservation Advisory Committee meeting on 17 December 2019.

Key Implications

Financial

Production of the Local Plan will be funded from the Local Plan reserve.

Legal Implications and Risk Assessment Statement

Preparation of a Local Plan is a statutory requirement. There are defined legal requirements that must be met in plan making which are considered when the plan is examined by a Government Planning Inspector. Risks associated with Local Plan making are set out in the Local Development Scheme

Equality Assessment

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The preparation and adoption of a Local Plan will directly impact on end users. The impacts have been analysed via an Equalities Impact Assessment (EqIA).

Conclusion

Officers will be happy to take any questions at the meeting.

Appendices

A - Letter from the Inspector dated 14/10/19

B - Letter to the Programme Officer dated 21/10/19

C - Duty to co-operate addendum 18/10/19

D - Letter from the Inspector dated 28/10/19

E - Letter to the Inspector dated 31/10/19

F - Letter to the Inspector dated 18/11/19

G - Schedule A: SDC's response to specific points raised in correspondence dated 28/10/19 from Inspector

H - PAS: SDC Note on the duty to cooperate and the Local Plan

Background Papers

None

Richard Morris

**Chief Planning & Regulatory
Services Officer**