

Local Plan progress options: Inspector response - ID16 and ID19

Planning Policy Committee Thursday, 20 January 2022

Report of: Chief Executive

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

The Council has been preparing a Local Plan ('Plan') which is undergoing examination by Planning Inspector Mr Philip Lewis, on behalf of the Secretary of State. Mr Lewis has identified several issues and concerns with the submitted draft plan and has asked the Council to make a decision regarding how it wishes to proceed with the Local Plan and the ongoing examination.

The Council has been waiting for key information around J6 of the M25 and the capacity of the junction, before making any decision on the Plan. The junction capacity and opportunity to mitigate any issues is fundamental to the Council being able to fully understand the implications for the Local Plan and its ability to deliver development. Information regarding this has been provided to the Committee at the Special Meeting on 5 January 2022 and subsequently to the Inspector.

The Committee, which has responsibility for the Local Plan, now has the information needed to respond to the Inspector.

This report supports the Council's priority of:

- Creating the homes, infrastructure and environment we need – both now and in the future.
- Supporting economic recovery in Tandridge – from lockdown to growth that everyone benefits from.
- Becoming a greener, more sustainable District – tackling climate change.

Contact officer: David Ford – Chief Executive - dford@tandridge.gov.uk

Recommendation to Committee:

That in accordance with its delegated powers, the Committee agree to issue the response to the Inspector as set out at Appendix B.

Reason for recommendation:

The Planning Inspector examining the draft Plan has issued correspondence to the Council ('ID16' and 'ID19') for its response.

Until now, the Council's ability to respond has been hindered by a lack of information and understanding of implications around Junction 6 of the M25, which is already operating over capacity. This information is now available.

1.0 Introduction and background

- 1.1 The Council has been preparing its Local Plan since 2014. In January 2019, the Council submitted Our Local Plan: 2033 to the Planning Inspectorate, for examination. The examination in public on the draft plan took place during October and November 2019 and it was well attended by developers, community groups, residents and other interested parties.
- 1.2 In December 2020, the Inspector issued the Council with his interim findings (ID16), setting out several concerns with the plan, including Junction 6 of the M25 and the Council's ability to demonstrate that the Plan is deliverable. This same correspondence presented the Council with two options 1) to withdraw the plan, or 2) to continue with the plan, undertaking further evidence and main modifications, which were further detailed in his letter.
- 1.3 With the Inspector's agreement, the Council has sought to consider the implications for the Plan in the context of the capacity and opportunities to mitigate issues with Junction 6. Due to issues outside the Council's control, this work has experienced delays and despite best efforts to meet the original deadline in the early summer, this was only able to reach completion at the end of 2021.
- 1.4 In an effort to demonstrate the Council's commitment to providing the Inspector with an informed response, a 'without prejudice' option was presented to the Inspector in early September ('TED48'). The Inspector responded to this ('ID19') and identified further challenges for the Plan, predominantly around the level of work required, the need to remain compliant with legislation and policy, and the amount of time already passed and likely to be still needed to get the Plan to a place where the examination can move forward. The Inspector's correspondence suggested that, with all his concerns in mind, withdrawal of the Plan may be the most appropriate course of action. He did not, however, invite or request that the Plan be withdrawn and therefore the decision around next steps to move the Local Plan forward remains with the Council.

- 1.5 An obstacle which has prevented the Council from responding to the Inspector on its draft Local Plan has been the absence of final detailed information around the capacity of Junction 6 of the M25 and its ability to support the delivery of development. This information is now available, and the Committee is now asked to decide on the response to be issued to the Inspector. There are four option profiles set out in the supporting paper to this report at Appendix A and highlighted to the Inspector within the draft response. Appendix A explores each of these options and highlights the process, benefits and risks/consequences.
- 1.6 The final decision on the next steps for the Local Plan will be that of the Planning Inspector whose decision, on behalf of the Secretary of State, must accord with policy, legislation and the requirements of his role. He must be confident that, if the Council is to proceed with its Local Plan, a sound outcome can be achieved. Once the Council's response is submitted to the Inspector, the Council must await his decision.

2.0 Local Plan Options

- 2.1 There is one recommendation before the Committee which comprises four options. The following summarises the indicative timescales the Council would be working towards.
- 2.2 Each of the Option profiles includes a high-level assessment of what work would be anticipated but cannot be exact at this time. The Local Plan is an iterative process and while we cannot account for those aspects that are unknown, the basic requirements of evidence gathering, and technical assessment are relatively established. The items of work included have been arrived at with a best understanding and are based on officer experience and the Inspectors correspondence to date. Once a decision from the Inspector has been received, any decisions regarding staffing and budget matters will be brought back to Committee for approval.

Option 1: Withdraw and prepare a new plan

- 2.3 This option would result in the withdrawal of the Plan and commence the preparation of a new Plan as per current national planning policy. This option was raised by the Inspector in paragraph 63 of ID16 and at paragraph 22 of ID19. For the benefit of context, the same details and workplan etc which apply to Option 1, would also apply if the Plan were found unsound.
- 2.4 The following timescale is an indication of what the Council could seek to work towards:

Stage	Estimated Date
Regulation 18 (possible development options)	Q4 22/23
Regulation 19 (consultation on new draft Local Plan)	Q1 24/25
Submission	Q3 24/25
Examination	Q1 25/26
Regulation 19 - Main Modifications	Q4 25/26
Adoption	Q1 26/27

- 2.5 It would take at least 4 years before a new Local Plan can be submitted for examination.
- 2.6 The timetable is dependent on a number of factors including on a robust housing figure being agreed and a spatial strategy being fixed, early on. If existing evidence remains valid and parts of the current plan continue to be supported by any new evidence, it may be possible to re-purpose some aspects of the work already done with some cost savings. However, at the outset of the preparation of a new plan, all the existing evidence base of the currently emerging Local Plan would have to be withdrawn to accord with Government guidance and then any parts of the current evidence base re-purposed where justified.
- 2.7 To withdraw the Local Plan does significantly increase the risks to the Council regarding speculative planning applications and appeals, the resource implications (including costs) of which cannot be determined. But withdrawal would ensure the Council were preparing a new plan in a more up to date context (the current Local Plan is being prepared under the guidance in the National Planning Policy Framework (NPPF) 2012). A new Local Plan would be prepared against the NPPF 2021.

Option 2: Continue with the current plan and modifications process

- 2.8 Option 2 would pause the examination and require the Council to undertake further work on matters including, the OAN, housing requirement and supply, provision for Gypsies and Travellers, all to an agreed timescale. The Inspector has previously set out several tasks in ID16, that would need to be completed before he could continue with the examination.
- 2.9 Additional estimated staffing until at least the main modifications consultation was concluded, would be needed to increase the capacity of the Local Plan team from 5.31FTE to 8.31FTE.
- 2.10 As a fundamental aspect of delivering the Local Plan relates to the-upgrading at M25, Junction 6, funding of £5 million has so far been identified as needing to be secured to fund the works. In addition, DHA Consultants most recent work considered at the Committee meeting on the 5 January 2022 and sent to the Inspector afterwards has identified that additional improvements are needed to widen a 275 metre length of the M25 eastbound off slip of Junction 6. This additional improvement work would require acquisition of third party land and is still being costed.
- 2.11 It is important to highlight any additional work which would be generated by this option. An example of this exists at policy SGC01, which sets a commitment to prepare an Area Action Plan (AAP) to deliver the South Godstone Garden Community development. Should this option to continue with the submitted Local Plan be selected and be found sound, additional budget and staffing, would need to be provided. No detailed work for the AAP has been carried out at this time, but high level workstream estimates are provided at Appendix A.

- 2.12 The Council has previously considered the prospect of becoming land owners in the Garden Community, to facilitate delivery. Further information regarding this forms part of the evidence base for the Local Plan examination in TED24. While the matter of Compulsory Purchase Orders and land assembly were considered when preparing the indicative workplan, no detail has been included as Committee discussions have not progressed since before the start of the examination of the Local Plan. This matter was discussed at Planning Policy Committee on 25 June 2019 when it was decided not to progress the work pending further detail on the outcome of the Local Plan examination.
- 2.13 The following timescale would be an indication of what the Council could work towards:

Stage	Estimated Date
Re-Open hearings (M25, J6)	Q2 22/23
Further hearings (Housing need)	Q4 22/23
Regulation 19 – Main modifications	Q2 23/24
Adoption	Q4 23/24

- 2.14 With the matters raised at paragraphs 12, 15, 64 of ID16 and throughout ID19, it is apparent that the Inspector already has concerns about perpetuating the existing timetable. However, it would be for the Inspector to determine if he would accept such a delay based on the Council's response. Furthermore, the Inspector will need to consider if the option is effective, justified and deliverable before responding to the Council.
- 2.15 Pursuing this option does mean that the Council will not have lost the financial investment in the Local Plan to date.

Option 3 – Continue with the current Local Plan and modifications process securing a 5-year Plan

- 2.16 Option 3 is the same as Option 2 except for one fundamental difference which is that the Council would focus on a shorter adoption period, in the knowledge that the Local Plan would need to be substantively reviewed after 5 years. It would continue to be prepared with the Local Plan period being 2013 to 2033, unless at the point of review, it was determined the Plan should change.
- 2.17 This option focuses on the delivery of the allocated sites as a way of meeting housing needs. Appendix A sets out that work required by the Inspector in ID16 would also be necessary to prepare a Local Plan which covers a shorter adoption period. This is mainly because while the Inspector raises concerns around M25, J6, the work highlighted in ID16 primarily relates to the policies and sites which are not related to the Garden Community.

- 2.18 The prospect of seeking the adoption of a 5-year Local Plan is not a new one. There are precedents across the country where Inspectors have sought to permit shorter term plans for authorities where it has been sound and appropriate to do so. In the cases of Bedford, Swale and Oadby and Wigston, shorter plans were permitted by Planning Inspectors. This was on the grounds of significant strategic issues that were not in the control of the local authorities, creating obstacles to otherwise sound and deliverable plans, which could demonstrate 5-year land supplies. In the case of this Council, the matter of the capacity of Junction 6 of M25, which is a strategic issue involving National Highways and Surrey County Highways, has been predominant.
- 2.19 The following timescale is an indication of what the Council could seek to work towards, which is the same as Option 2:

Stage	Estimated Date
Re-Open hearings (M25, J6)	Q2 22/23
Further hearings (Housing need)	Q4 22/23
Regulation 19 – Main modifications	Q2 23/24
Adoption	Q4 23/24

- 2.20 As mentioned earlier in this report the Inspector has raised concerns regarding the length of time work may take to complete. Under a 5-year option, the acuteness of time is more relevant as the Local Plan, all things being found sound, would not be adopted until early 2024 under Option 3. As such, the plan would run until 2029, with a need for a full review at that stage. However, officers consider the timescale for completing further work and the re-opening of the examination to enable the Inspector to come to a decision is achievable, subject to external commission of consultants to undertake the preparatory AAP work. Again, as with Option 2, the Inspector will need to consider if the option is effective, justified and deliverable before responding to the Council.
- 2.21 The benefits of this option are that while the Council worked to resolve a number of issues around the Garden Community with a view to covering the same plan period, the Inspector would be agreeing the Plan for an initial 5 years from adoption, and therefore able to provide policy guidance for development.

Option 4: Continue with a plan as set out in TED48

- 2.22 This option was originally presented to the Inspector as a “without prejudice”, alternative approach to progressing the Plan as set out in TED48. The intention of the option is different to that of Option 3 in that it changes the Plan period to fifteen years from 2013-2028 in accordance with paragraph 157 of the NPPF 2012 under which this Local Plan is being prepared. As with Option 3, it includes a 5-year review policy. However, where Option 3 would still consider the Garden Community as part of the Plan, Option 4 places no reliance on the Garden Community and would potentially require a new spatial strategy to be determined. The Local Plan would be focused on the allocated sites and would make best use of the remaining capacity in Junction 6 of M25.

- 2.23 Under this option, no work would need to be done on the Garden Community and its Area Action Plan pending the review within 5 years of adoption of the Local Plan. Although, as with option 2 and 3, Option 4 would need to address M25, J6.
- 2.24 The following timescale is an indication of what the Council could seek to work towards:

Stage	Estimated Date
Re-Open hearings (M25, J6)	Q2 22/23
Further hearings (Housing need)	Q4 22/23
Regulation 19 – Main modifications	Q2 23/24
Adoption	Q4 23/24

- 2.25 As with options 2 and 3, Option 4 will be considered by the Inspector in the context of timescale concerns. However, the benefits of this option are shared with Option 3 and offer the Council some security in its ability to manage applications for development and guide it accordingly.

Consultation

Regarding the direct implications of this report, discussions with the Chief Executive, Interim Chief Planning Officer, the Chair and Vice Chair of the Planning Policy Committee; Chair of Planning Committee; Chair of Strategy and Resources, have taken place. In addition, Officers have met with the leader of the Conservative group and Members from the group, to update them on the Local Plan and the process.

Key implications

Comments of the Chief Finance Officer

The financial challenges the Council has been under and will experience in the medium-term are well rehearsed. Each of the Options identified in the report carries a financial implication for the Council; the most significant of these would be Option 1.

The Council has been prudent in building up a reserve and making ongoing budget provision for the costs of developing the plan. It will be necessary to undertake a detailed analysis and full business case of the costs of delivering the identified changes needed once the Inspector has made his decision.

It is important to note that 3 of the 4 options contain a dependency on external funding to be deliverable.

Comments of the Head of Legal Services

The proposed draft as set out in Appendix B is a response to the comments and questions raised by the Inspector in ID-19 (as set out in Appendix B) which is before Members for consideration. There is an expectation by the Inspector that following the Committee's Special Meeting on 5 January 2022 in which the implications around Junction 6 of the M25 was discussed, the Council should provide a response to the available options it wishes the Inspector to consider as swiftly as possible. Once in receipt of the Council's response, it is the job of the Planning Inspector to complete his assessment that the Council's Local Plan meets legal and procedural requirements and the tests of soundness, meaning that it is: positively prepared, justified, effective and consistent with national policy.

Equality

The draft Local Plan seeks to deliver development solutions that provide homes, community facilities and infrastructure for all areas of our community. As such, the decisions regarding the Local Plan has implications for how the Council can meet its housing, employment and development needs, and thus how it can provide for our community. As part of the Local Plan preparation, Equalities Impact Assessments were carried out at each plan-making stage, to ensure that matters of equality were considered comprehensively.

Climate change

The draft Local Plan sets policies which would contribute to the mitigation of Climate Change when development takes place. The climate agenda has moved on significantly since the Plan was prepared and, should the Plan progress, the Inspector would need to consider whether the Plan goes far enough in contributing to net zero national targets. He may seek to do this through the main modifications process where it is legitimate to do so. Should the Plan be withdrawn, any new plan would need to address climate matters more extensively.

Appendices

- | | |
|---------------------|---------------------------|
| Appendix A - | Option Profiles |
| Appendix B - | Draft Inspectors Response |

Background papers

None

----- end of report -----