

Future Work on Our Local Plan 2033 following the former Secretary of State's letter to the Planning Inspectorate regarding decisions on emerging local plans

Planning Policy Committee – 22 September 2022

Report of: Interim Chief Planning Officer

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

- The former Secretary of State, Greg Clark, sent a letter to Sarah Richards, the Chief Executive at the Planning Inspectorate (PINS) on 28th July 2022 regarding not finding emerging local plans unsound. This letter has introduced a significant degree of uncertainty regarding the plan making process.
- It is recommended that a letter (Appendix 1 attached) be sent from the Chief Executive to the Chief Planner at DLUHC asking for urgent and greater clarity about what the former Secretary of State's letter to PINS means for councils such as Tandridge preparing emerging local plans.
- Further, it is recommended that a letter be sent from the Chief Executive to the Inspector examining the emerging Local Plan (Appendix B attached) explaining the Council's current position.
- Pending further clarification of future Government policy and so that we are adopting a financially prudent approach, for the time being we will not proceed with commissioning or undertaking further work on the emerging Local Plan.
- That in addition to adopting for development management purposes the short-term Interim Policy Statement for Housing Delivery reported upon elsewhere in these papers, it is recommended that the committee authorise the Interim Chief Planning Officer to commence preparation of a Site Allocations Development Plan Document ('Site Allocations DPD') as envisaged in the Core Strategy. It is intended that this DPD will be a significant material consideration in planning decision making and will be a further "hedge" against the uncertainty introduced by the former Secretary of State's letter with respect to future planning policy for the determination of housing planning applications in Tandridge District.

This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need but prudently managing financial resources.

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Recommendations to Committee:

It is recommended that:

- A. the letters referred to above be sent from the Chief Executive to the Chief Planner at DLUHC and the Inspector examining the Local Plan;
- B. the Council does not proceed with commissioning or undertaking further work for the time-being on the emerging Local Plan; and
- C. the Interim Chief Planning Officer be authorised to commence work on a Site Allocations DPD.

Reason for recommendation:

The former SoS's letter is considered by officers to be unprecedented. There are indications politically that major policy changes may be introduced relating to reducing Government targets for housing delivery and tightening policy relating to land releases in the Green Belt. If so, such policy changes could have major implications for this authority which is 94% covered by Green Belt and which is particularly challenged in attempting to meet Government housing targets.

The Local Plan inspector has indicated to the Council the significant amount of new work he requires be undertaken to enable the soundness of the emerging Local Plan to be further considered. There is no certainty that he will not find the emerging Plan unsound at any point going forward so there were already risks in continuing with the Local Plan. The former SoS's letter has now introduced further uncertainty and risk.

Accordingly, it is recommended that this Committee agrees the Council does not proceed with commissioning or undertaking further work on the emerging Local Plan for the time being and until there is clarification of future Government policy. This will support the Council's efforts to manage an already significant risk in terms of expenditure to be incurred in the continued preparation of the emerging Local Plan having regard to the financial constraints the Council is already seeking to manage. By continuing with work that may be found unnecessary in the short-term if there are changes to Government policy, the Council cannot be assured that such expenditure represents value for money or will not be wasted entirely.

The Committee should, however, seek to put in place a robust policy for determining future planning applications for housing through the preparation and adoption of a Site Allocations DPD that will carry significant weight in decision making.

Introduction and background

1. The letter from the former Secretary of State at DLUHC, Greg Clark, to Sarah Richards, the Chief Executive at the Planning Inspectorate (PINS) on 28th July 2022 not to conclude that local plans are unsound or recommend their withdrawal before a new prime minister is appointed, or "until the department advises you otherwise," has introduced a significant degree of uncertainty regarding the plan making process.
2. A copy of the former Secretary of State's (SoS) letter is at Appendix 3 to this report.
3. The former SoS said that "inspectors should not send letters or reports which conclude that local plans are unsound and incapable of being made so and/or which advise councils that local plans should be withdrawn".
4. The former SoS also said that this advice would remain in place "during this short period of transition before a new prime minister takes office, and until the department advises you otherwise" and that the government is "considering changes to the planning system".
5. In the experience of your officers, such an intervention is unprecedented and is considered to anticipate potentially major changes in Government policy particularly with regard to housing delivery and Green Belt releases of land for development.

Other Plan Making Authorities

6. Recently, a number of local planning authorities ('LPAs') have delayed work on their local plans, or withdrawn the plans from examination, citing government housing numbers as a factor in their decision. These LPAs include Thanet, Castle Point, Havant, Bassetlaw, Slough, Basildon and East Hampshire. The latter cited "deeply flawed planning rules and brutal housing targets" as the reason for its action. Similarly, in the foreword to its adopted local plan, published last month, Spelthorne Borough Council criticised the government's "brutal housing targets" and said that the green belt release it was required to include in the plan would make the area a "less attractive place to live".

Issues for Tandridge District Council

7. The former SoS's intervention in the decision-making process by independent Inspectors could last well into the autumn, taking into account the party-political conferences at the end of October, and that a newly appointed Prime Minister and cabinet will need time to make their own decisions on housing, Green Belt and other planning policies.

8. The Council has already spent over £3M since 2014 on the emerging Local Plan. The Council is under financial pressure and it is seeking to reduce spend and find ways to generate income. The estimate for completing the further work required by the examination inspector up to December 2023 to enable adoption of the Local Plan is £1.3M. Furthermore, the inspector has reserved his right to indicate at any time that the Council is unlikely to demonstrate that a sound plan can be produced before December 2023.
9. The majority of the District is Green Belt. There are two Areas of Outstanding Natural Beauty one of which (Surrey Hills) is currently under review for expansion. Furthermore, there are major infrastructure constraints, notably but not exclusively, J6 of M25 and the A22 corridor, for which there is no identified and assured national or Surrey County Council infrastructure improvement funding.
10. In addition, the government's method for assessing housing need has issues as it is top down, because it is based on 2014 figures and has a "highly questionable" affordability element.
11. Another significant consideration is the duty to co-operate that the NPPF currently imposes on authorities to co-operate on matters such as meeting housing need. This was planned to be scrapped when the Levelling Up Bill becomes law.
12. There are already significant uncertainties about Government expectations of local authorities in preparing Local Plans and the Secretary of State's letter adds a further, and potentially unacceptable, layer of uncertainty for a currently indeterminate period of time.
13. In the meantime, the Council's development management function must continue to operate. Counsel's advice has been taken which confirms that even though the Council cannot currently demonstrate a five-year housing land supply, that does not mean that the whole of the adopted development plan policies are "out of date". This means that the policies in the adopted development plan can continue to be relied upon and given significant weight in the determination of planning applications as is already happening.
14. As set out in the preceding report to this Committee, the opportunity provided by the requirement to prepare a Housing Delivery Test Action Plan (HDTAP) has been taken to put in place an Interim Policy Statement for Housing Delivery (IPSHD) for formal adoption by this Committee. The IPSHD if adopted will be a material consideration in determining planning applications for new housing development going forward but only during the currency of the HDTAP which is up to July 2023.

15. As the uncertainty introduced by the former Secretary of State's letter of 28 July, 2022 may last for an indeterminate period of time, it would be prudent for the Council to consider adopting an up to date housing policy or policies which would not be so time limited as the HDTAP and which would have the weight of a significant material consideration. This is already envisaged in the Core Strategy if the Council found itself in similar circumstances to what exist at present. The policy can be delivered through the adoption of a Site Allocations DPD. The Site Allocations DPD would need to be subject to formal adoption by the Council and would also be subject to prior consultation.
16. A lot of the evidence gathering and planning evaluation work required for the Site Allocations DPD has been carried out for Our Local Plan 2033. There should not be a need for significant expenditure (estimated at less than £100k) and this could be met from within the existing Local Plan budget. It would be hoped that the Site Allocations DPD could be prepared and consulted upon with the next 6 months. The timescale for formal adoption following Examination would be dependent on the availability of an Inspector provided by the Planning Inspectorate.

Key implications

Comments of the Chief Finance Officer

The Planning Policy committee paper of 23 June 2022 "*Local Plan Update*" set out the financial envelope available for the Local Plan, as follows. Note that the 2021/22 column represents the money held in the Local Plan reserve, with the remaining columns being the annual budget:

| | | 2021/22 £'000s | 2022/23 £'000s | 2023/24 £'000s | Total £'000s |
|----------|---|-------------------|-------------------|-------------------|-----------------|
| A | Existing funding available for Local Plan | 617 | 481 | 481 | 1,579 |
| B | 21/22 Local Plan Underspend | 177 | | | 177 |
| A+B | Total funding available for the Local Plan | 794 | 481 | 481 | 1,756 |

These available funds encapsulate the full budget for the Planning Policy service, including that which may also be needed for other key workstreams.

When the Council has clarity on future Government policy, the financial envelope and funding arrangements for Planning Policy will need to be reviewed in some detail, to establish whether they remain commensurate with expected costs. This review may have ramifications for the Council's wider budget process.

The amount expended to date on the current Local Plan is significant, however the Council must take decisions based on what represents best value for money at this point and based on a clear understanding of future planning requirements. Without that clarity, avoiding any further financial commitment on activities that may no longer align with Government policy appears to be the most financially prudent course of action.

Comments of the Head of Legal Services

There are no legal implications arising directly from this report. However, if recommendation C as set out in the report is accepted, the statutory consultation will allow the public and other stakeholders to have an opportunity to input into the process. It is the role of the consultation process to allow for views to be submitted by all stakeholders, and for the Council to consider them. The preparation of consultation documentation and their delivery may require some additional expenditure.

Equality

Duty under the Equalities Act 2010

In assessing this proposal, the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Appendices

Appendix 1: Draft letter from David Ford to Chief Planner at DLUHC.

Appendix 2: Draft letter from David Ford to Examining Inspector

Appendix 3: Former Secretary of State's letter to PINS.

Background papers

None.