

Committee: Scrutiny

Agenda Item

Date: 21 May 2012

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Title: Uttlesford Local Development Scheme –
Revision and Resourcing

Portfolio holder: Councillor S Barker

Key decision: No

Summary

1. The Local Development Scheme (LDS) is the project plan for the Uttlesford Local Development Framework (LDF). The fifth revision to the LDS was approved by Cabinet in August 2011 and submitted to Government. There are three proposed changes to the LDS. One relating to the timing of production of the Community Infrastructure Levy (CIL), one relating to the timing of public consultation in late 2012 and the other the creation of a stand alone Development Plan Document relating to Gypsy and Traveller sites and needs.

Recommendations

2. That the amendments to the LDS are approved. The revised LDS will then be submitted to the Planning Inspectorate and posted on the Council's website.
3. That a total of £50,000 is made available from the Planning Reserve to provide funding to employ a Programme Officer for the Examination and its preparation and to provide additional resources to deliver the Local Plan to timetable.

Financial Implications

4. That a total of £50,000 is made available from the Planning Reserve to provide funding to employ a Programme Officer for the Examination and its preparation and to provide additional resources to deliver the Local Plan to timetable. This amount can be met from the Planning Reserve with no impact on other budgets.

Background Papers

5. The following papers were referred in the preparation of this report and are available for inspection from the author of the report.

Local Development Scheme – fifth Revision – Approved by Uttlesford District Council on August 2011

Impact

- 6.

Communication/Consultation	When the revised LDS comes into effect it will be put on the website and made available for inspection.
Community Safety	N/A
Equalities	The policy documents which will be prepared are subject to separate equalities impact assessments
Health and Safety	N/A
Human Rights/Legal Implications	N/A
Sustainability	The policy documents which will be prepared are subject to separate Sustainability Appraisal
Ward-specific impacts	All
Workforce/Workplace	Additional resources are required from the Planning Reserve to deliver the programme to schedule.

Situation

7. The Fifth revision of the LDS envisaged the production of a new Local Plan to a standardised timetable. This was as a result of changes to national planning policy, the lack of a five year housing land supply and a desire to progress quickly to the adoption of a sound Local Plan.
8. Following the successful January/February 2012 consultation it is apparent that the ability of the Planning Policy Team to process and consider all representations is constrained. It is therefore proposed to publish the pre-submission draft of the Local Plan at the beginning of November 2012 rather than October to allow a three month period in which to consider and respond to any representations made. This is a relatively minor change and will still ensure that the consultation is complete prior to the Christmas holidays.
9. It has also become apparent that while work has commenced on the Infrastructure Delivery Plan and CIL Charging Schedule we are not in a position to publish a draft charging schedule in June 2012. It is therefore proposed to publish a preliminary schedule in October 2012 and a draft schedule in January 2013. While the consultations for this document will be open to comment by all it is expected that this will most likely of interest to developers and land owners it is therefore not envisaged that there would be any problems with holding consultations separately to the rest of the Local Plan.

10. The third change relates to the creation of a stand alone Gypsy and Traveller Site Allocations document. Up till now it had been envisaged that this requirement would be dealt with by way of a criteria based policy in the Development Management section and allocations in the Site Allocations section of the Local Plan. It is still proposed to include a criteria based policy in the Development Management section but to exclude allocations from the Site Allocations section. It is important to consider this carefully as the NPPF states at paragraph 153 that “Any additional development plan documents should only be used where clearly justified”.
11. In March 2012 the Government published its new ‘Planning Policy for Traveller sites’. This updated and replaced previous Government guidance. In addition the National Planning Policy Framework was published in March 2012.
12. The Council has adopted an Essex wide approach to the production of key parts of its evidence base. This has resulted for example in the 2009 Gypsy and Traveller Study and the more recent Demographic Study of 2012. This approach is consistent with the duty to cooperate as required by paragraph 178 of the NPPF. The council is committed to maintaining this joint working and cross boarder cooperation.
13. The Council’s evidence base in relation to Gypsy and Travellers is the 2009 Essex Planning Officers Association study commissioned from Fordham Research. This research is now somewhat dated for a number of specific reasons. Firstly the new ‘Planning Policy for Traveller sites’ contains updated policy which must be considered by the Council. The Fordham study preceded this and therefore did not take this new policy into account. The study methodology and recommendations have been criticised by Epping Forest District Council and Basildon District Council in appeals and Court Cases. We have also received representations as part of the last public consultation questioning the veracity of the document. In addition there have been a number of approvals, both at appeal and by the Council since its publication which alter the number and requirement of sites within the District.
14. Due to its age and approach the study would only provide data to enable 5 years worth of Gypsy and Traveller needs to be allocated. This would result in a document which would fail to comply with paragraph 9 Policy B of the Planning Policy for Traveller sites which requires sites to be specifically identified for the first 10 years of the plan period and broad locations for years 11 – 15. Using the current evidence base this would not be achievable.
15. The Council could deal with allocations for Gypsy and Traveller sites on an “interim” basis in the Local Plan and allocate sufficient sites for the first 5 years of the plan period. The Council has a duty under s.149 of the Equalities Act 2010. In summary, the duties are to eliminate discrimination; advance equality of opportunity; and foster good relations between the Gypsy and settled communities. The key issue to consider therefore is whether the Gypsy and Traveller community would be unfairly discriminated against by not allocating sites in the Local Plan for the short term.
16. The Council has not historically had a large Gypsy and Traveller population and does not have a record of large, or even medium, numbers of unauthorised encampments. There is therefore no significant pressure to

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allocate sites to resolve the issue of unauthorised encampments. It is proposed to include a Development Management policy to aid consideration of planning applications for such sites and this could be used in the short interim period before the Gypsy and Traveller allocations document comes forward. The Council have taken a positive attitude recently to the provision of Gypsy and Traveller need having approved a site for three pitches recently. There is therefore no evidence to suggest that where all material considerations are satisfied consent would not be forthcoming. Therefore while accepting the duty under s.149 of the Equalities Act, it is considered that the Gypsy and Traveller community would not be unfairly discriminated against and the short delay would allow for a robust needs assessment to be undertaken leading to an allocations document which would provide sites for the whole plan period.

17. The Essex Planning Officer Association have agreed to commission a new County wide study to replace the Fordham study and to reflect the new Government Policy. This has not yet been commissioned although funding is in place. Uttlesford District Council has committed itself to support this new study as part of its Duty to Cooperate and to ensure that a pan-Essex robust needs assessment is carried out in accordance with Section 225 of the Housing Act and paragraphs 8 and 9c of the Planning Policy for Traveller sites.
18. This new evidence based, produced under the duty to cooperate, will provide robust new evidence enabling the Council to plan for the medium and long term.
19. It is considered that all these reasons more than provide the clear justification required by paragraph 153 of the NPPF to produce an additional DPD.
20. The revised LDS is attached.
21. The Council will need to employ a Programme Officer for the Examination and its preparation. This Officer will provide additional assistance in preparing the consultation responses following the pre-submission consultation and will then manage the Examination in conjunction with the Inspector. In addition additional resources are required to deliver the Local Plan to timetable. It is proposed that a total of £50,000 is made available from the Planning Reserve to provide this required funding. If any of this funding is not used then it can be returned to the Planning Reserve at the end of the year.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
1) That further delays to the LDF will cause additional pressure on housing supply as	2 – there is already a shortfall in the 5 year housing supply and this will	3 – planning applications being determined through the appeals	Amend the LDS to ensure a robust programme for delivering the Local Plan.

<p>new sites are not being identified.</p>	<p>increase if new sites are not allocated.</p>	<p>process rather than a managed approach to housing delivery.</p> <p>3 – further delays in the programme could impede the supply of housing and reduce the amount of financial support the Council receives from the New Homes bonus.</p>	
<p>2) The Evidence Base for Gypsy and Traveller provision is out of date.</p>	<p>The Evidence Base has been criticised in appeals and court cases by other Councils.</p>	<p>3) Would result in the Local Plan being found unsound.</p>	<p>Produce a specific Gypsy and Traveller DPD.</p>

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.