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| Committee: | Council | Date: | Thursday, 30 April 2020 |
| Title: | Local Plan - Decision following Inspectors' Letter | | |
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Summary

1. This report is to recommend the withdrawal of the Local Plan following receipt of the Inspectors' letter, and to prepare a new Plan.

Recommendations

2. It is recommended that:
 - a) Having due regard to the terms of and recommendations contained in the Inspectors' letter dated 10 January 2020, subsequent to the draft Local Plan Post Stage 1 Hearings letter, and having taken and considered independent professional advice thereon, Council confirms its intention to withdraw the draft Local Plan (being that submitted to PINS on 18 January 2019).
 - b) Council confirms its commitment positively to prepare and submit a Local Plan that will, for the benefit of the District and its residents and businesses:
 - i. Deliver the corporate plan vision and themes for the District;
 - ii. Provide for sustainable growth to meet its objectively assessed housing and employment needs, utilising and promoting sustainable transport wherever possible, which will combine to contribute towards achieving the Government's net zero carbon emissions 2050 target;
 - iii. Protect and enhance the District's heritage, character and natural capital (including air quality, water resource management and biodiversity); and
 - iv. Ensure the timely delivery of all necessary infrastructure.
 - c) Council commits to review, develop and update the evidence base for the Plan to inform its proposals and policies.
 - d) The Statement of Community Involvement be reviewed and approved to facilitate and ensure effective public engagement of residents, businesses and town and parish councils.

- e) Council seeks to develop robust and effective strategic partnerships to support plan making through the duty to cooperate and access funding to manage the infrastructure provision required for a viable, deliverable and sound plan
- f) Council is committed to holistically planned new developments which enhance the natural environment, provide timely and necessary physical and social infrastructure, and offer high-quality affordable housing and locally accessible work in beautiful, healthy and sociable communities. This will involve implementing the TCPA's Garden City Principles on all applicable developments, regardless of scale.
- g) The Cabinet Member for Planning and the Local Plan shall propose a new governance structure for plan making, to be approved by Full Council.
- h) The Local Development Scheme shall be reviewed and approved, which will demonstrate a commitment to produce a sound Local Plan in a timely manner, having regard also to the Government's 'Planning for the Future' ministerial statement which proposes a deadline of December 2023 for all local authorities to have in place an up-to-date Local Plan.
- i) Council commits to updating, on a quarterly basis, the Ministry of Housing Communities and Local Government on the progress being made regarding the Local Plan, including slippage in the programme that may be encountered accompanied by full explanations. Before being sent, these updates will be referred to a member group.

Financial Implications

- 3.
 - a. Withdrawal and preparation of a new plan will be broadly consistent with the budget provision for 2020-21 and the Medium Term Financial Strategy for subsequent years. A new plan will require annual budgets for at least three years.
 - b. Seeking to continue with the submitted plan may result in a modified plan capable of adoption by an earlier date but with risks of abortive work whilst the feasibility of continuing is explored with the Inspectors and other parties. A likely modification requiring immediate review to meet needs beyond the current end of plan period date: 2032-33 should be anticipated requiring ongoing annual budgets beyond the next two years.

Background Papers

- 4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - a. Local Plan Inspectors' letter dated 10 January 2020
 - b. East of England Local Government Association Peer Review Report dated 23 March 2020
 - c. Flow chart depicting Table 1 from the Peer Review report

d. Potential Housing Requirement

Impact

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| Communication/Consultation | A new Local Plan will be subject to statutory and non-statutory consultation and engagement. |
| Community Safety | This will be an underlying theme of a new Local Plan |
| Equalities | A new Local Plan will be subject to an equalities impact assessment |
| Health and Safety | Health and wellbeing of the Uttlesford community will be an important theme of a new Local Plan. This will be considered as part of the sustainability appraisal / strategic environmental assessment of a new Local Plan. |
| Human Rights/Legal Implications | A new Local Plan will need to comply with human rights and planning legislation. The regulatory framework is provided by the Planning and Compulsory Purchase Act 2004 (as amended) and related statutory instruments. Once adopted it will form part of the statutory development plan. |
| Sustainability | This will be an underlying theme of a new Local Plan e.g. ensuring new homes and jobs are provided near to each other and minimising reliance on the private car. A new Local Plan will be subject to sustainability appraisal / strategic environmental assessment throughout its preparation. |
| Ward-specific impacts | All. |
| Workforce/Workplace | A new Local Plan will be a key corporate document and officers from across the Council's services will contribute to its preparation. |

Situation

6. Since 2015 the Council has been preparing a new Local Plan setting out a strategy for meeting the growth needs of the district. The Local Plan was submitted to the Secretary of State in January 2019 and hearings held in the summer of 2019.
7. The examination considered whether the Local Plan was legally compliant, passed the duty to cooperate and was 'sound'. To be sound the plan must be:
 - a. Positively prepared;
 - b. Justified;
 - c. Effective; and
 - d. Consistent with national policy.
8. In January 2020 the Council received a letter from the Planning Inspectors examining the Local Plan (enclosure 1) setting out serious concerns with the Local Plan.
9. Paragraph 113 of their letter summarises their main concerns. The paragraphs following this set out what the Council would need to do as a minimum to address those concerns. However, they also state that the likely required modifications process would be lengthy and result in changes that go well beyond what could be reasonably be described as main modifications. Consequently, they consider that the most appropriate course of action is for the Council to withdraw the Local Plan.
10. The Council has two potential options available to it now:
 - a. To withdraw the Local Plan and commence work on a new Local Plan;
or
 - b. To continue to proceed with the current Local Plan work, and seek to address the Inspectors' concerns.
11. In coming to a decision on the most appropriate way forward the Council has sought advice from independent consultants sourced through the talent bank of the East of England Local Government Agency (LGA). The report dated 23 March 2020 (entitled "Local Plan Peer Review") from the team appointed to advise the Council is appended to this report (enclosure 2), as is a flow chart (enclosure 3) setting out table 1 from this report in more detail.
12. The LGA report recommends against the "continue route". The report states that withdrawal and starting with a new plan would add certainty and more value to the key themes of the Council's draft Corporate Plan, namely:
 - a. To retain Council led democratic control over and governance of the plan making process;
 - b. To conduct an open and transparent plan making process engaging with residents and taking account of their views. This is also a central

objective of the Localism Act 2011 and the National Planning Policy Framework, that states that the Local Plan is the key to delivering sustainable development that reflects the vision and aspiration of local communities; and

- c. To re-evaluate, update and add to the existing evidence supporting the Local Plan, to include:
 - i. A reassessment of housing and employment assumptions.
 - ii. A reassessment of infrastructure deficits and requirements.
 - iii. Development and providing for a net zero carbon future.

13. Taking into account the advice from and recommendations of the peer review team, it is recommended that the Local Plan is withdrawn and a new Local Plan prepared.

A new Local Plan

14. It will be important to prepare a new Local Plan in a timely fashion given the new Government requirement that a plan is adopted by 2023. Ensuring the Local Plan is prepared by the Council will allow the people of the district to shape its future.

15. However, if the Council decides to withdraw the Local Plan, it will be left without a strategic policy framework to meet its identified housing and other development needs. If withdrawn, the policies in the emerging Local Plan will have no weight but the saved policies of the Local Plan 2005 will remain part of the Development Plan for the district. There are also a number of other potential implications arising from a decision to withdraw the plan, detailed further below.

16. Housing need – in 2019 the Government published a standard methodology for identifying local housing need. This new methodology would need to be used to assess housing need in any new Local Plan. In order to deviate from the standard methodology “exceptional circumstances” must be demonstrated. The extent to which the economic and social impact of COVID-19 will fall within the scope of this term is currently unknown, as also its effect upon housing demand generally and specifically within the district. The recent Ministerial Statement ‘Planning for the Future’ <https://www.gov.uk/government/publications/planning-for-the-future> has indicated that the government intends to review the formula for calculating Local Housing Need to make sure the country is planning for the delivery of 300,000 new homes a year. The Peer Review Group’s analysis on housing numbers, at paragraph 7.1 of their report reflects the uncertainty around housing numbers whether continuing with the existing plan or withdrawing and starting again. This takes into account the government’s intention to review the standard methodology, the need to take account of updated projections if we continue, and the likely need upon adoption to launch an immediate review of the Local Plan if the Council chooses to continue.

17. This statement (issued prior to the “lock down” caused by COV ID-19), indicates that it is appropriate to calculate a housing need figure at the start of the plan making process. Any such figure should be treated as indicative at this stage, and should be kept under review which is particularly relevant as the Government has stated its intention to review the standard methodology. Nevertheless, last year the annual target was calculated to be 715 dwellings per annum. Appendix 4 looks at what this could mean in terms of new allocations for the district, the analysis in this appendix should however be viewed with caution as the detail will change as further evidence emerges as the plan progresses.
18. A new local Plan will need to embrace the requirement to deliver new housing where this is sustainable. This needs to be reflected in positive policies and proposals in Neighbourhood Plans. Areas without Neighbourhood Plans will need to acknowledge the Council’s strategy for sustainable growth and embrace the need for new housing and infrastructure when considering planning applications in their local communities
19. Housing supply – the Council currently does not have a five year housing land supply (5YHLS) and it is unlikely to have a 5YHLS until the adoption of a new Local Plan. Housing development will still happen and the district could be vulnerable to the approval of unplanned, ad-hoc development, which may not deliver the benefits achievable through planned growth in accordance with an up-to-date plan.
20. Paragraph 11(d) of the NPPF states that Councils without a 5YHLS should grant permission for new housing development, unless and to the extent that any other policies in the NPPF that protect areas or assets of particular importance provide a justifiable reason for refusing the development proposed, or that any adverse impacts of approving proposals would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as whole.
21. Evidence – the Council would need to review the evidence base that has informed the process and determine where that evidence needs to be updated, added to or replaced.
22. Addressing climate change – the NPPF encourages the planning system to support the transition to a low carbon future, including Plans taking a proactive approach to mitigating and adapting to climate change. Furthermore, the Government’s Industrial Strategy supports moving to cleaner economic growth – through low carbon technologies and the efficient use of resources. A new Local Plan will allow for recent changes in technology, practice and legislation to be taken into account and take on board actions arising from the Council’s emerging Climate Change Strategy and Action Plan.
23. Delivery of strategic sites – the Council’s Corporate Plan states that UDC will use Locally Led Development Corporations (LLDCs) to deliver sustainable new communities and this commitment relates directly to achieving the TCPA Garden City principles. The Peer Review Group report states that members’ responses ‘were consistent and clear; Garden Community principles are good

in theory but may not be delivered in practice.’ The Peer Review Group emphasised the need to secure commitment from promoters and for UDC to assemble funding and effective delivery mechanisms to achieve these principles. To the extent that the case for one or more Garden Communities within Uttlesford will need to be considered as part of the new Local Plan, consideration will be given not only to the strategic planning case for these new communities but also to the funding, structure and delivery mechanisms for this type and scale of development. It is recommended that the governance structure for preparing the new plan also addresses issues regarding the possible use of LLDC structures as applicable.

24. Cost – between 2015 and 2020 the Council spent £3.907m on the emerging Local Plan. Between 2006 and 2014 the Council spent £2.006m on the previous Local Plan. The cost of starting work on producing a new Local Plan is uncertain at this stage, and will depend upon the actions the Council takes and the challenges it faces. However, on previous experience it is likely to be between £2m and £4m. It is noteworthy that the Peer Review Report, at paragraph 6.13, consider that there would be no effective difference in costs whichever route is taken, due to the likely need to start work on an immediate review the new plan if the continue route is followed.
25. Time – the Peer Review Group’s report notes that withdrawal of the Local Plan will place the timetable for its production back in the hands of the Council, and should allow the Government’s deadline of December 2023 to be met.
26. Interim policy and/or guidance – officers are looking at what interim policies and/or guidance can be put in place in advance of the adoption of a new Local Plan. Any such guidance would have limited weight in decision making and any such work should not delay production of a new Local Plan, which will have full weight as part of the Development Plan once adopted. A programme looking at interim policies and/or guidance will be brought before members in due course.

Risk Analysis

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| Risk | Likelihood | Impact | Mitigating actions |
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| Increased likelihood of planning appeals being upheld | 4 – the lack of an up-to-date Local Plan, and the fact that it will be some years away will be a factor in Inspectors decisions | 2 – approved sites will still have to meet the tests in paragraph 11 of the NPPF | Timely progress made on the new Local Plan will minimise this period; The Council should carefully consider the situation it finds itself in when making decisions on planning applications. |

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| <p>Risk of intervention if the Local Plan is not in place by December 2023</p> | <p>3 – the LGA peer review team are of the view that it should take four years to get a Local Plan in place, this would take Local Plan production just beyond December 2023</p> | <p>4 – government intervention would significantly damage the reputation of the Council</p> | <p>A detailed, ambitious and realistic timetable will be drawn up to progress the Local Plan.</p> <p>Quarterly updates to MHCLG will provide the government confidence that the Council is working towards a new Local Plan.</p> |
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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.