

WAVERLEY BOROUGH COUNCIL

SPECIAL EXECUTIVE - 20 FEBRUARY 2018

COUNCIL – 20 FEBRUARY 2018

Title:

WAVERLEY BOROUGH LOCAL PLAN PART 1: ADOPTION

[Portfolio Holder: Cllr Chris Storey]

[Wards Affected: All]

Summary and purpose:

Following the Examination of Local Plan Part 1: Strategic Policies and Sites, the Council has now received the final report from the Local Plan Inspector. Subject to some specific required modifications, the Inspector considers the Plan to be sound. The next step in the process is for the Council to formally adopt the new Local Plan. In order to do so, the Council must incorporate all the Main Modifications identified in the Inspector's report. This report updates members on this matter and includes the observations and comments from the special meeting of the Environment Overview and Scrutiny Committee which met on 15 February 2018.

How this report relates to the Council's Corporate Priorities:

The Waverley Borough Local Plan and its policies will have an important role in supporting and delivering Corporate Priorities, including protecting the environment and delivering affordable housing.

Financial Implications:

There will be costs in terms of the design and printing of the new Local Plan and accompanying maps. These will be managed within existing resources. The Council will be able to recover some of these costs through the subsequent sale of hard copies of these documents.

The Local Plan is a major exercise and has significant costs associated with its production, including various consultations and the examination process. Waverley has a standing budget of some £67K for external costs and has in recent years topped this up with an additional £80K to provide for the cost of the revised Plan.

Adoption of the new up-to-date Plan should bring greater certainty to decision making and lessen the risk of appeals and their associated costs.

Legal Implications:

Now the examination process is complete, the Council must formally adopt the Local Plan to bring it into force. While the Council is not legally required to adopt the Local Plan, it is encouraged to follow the Inspector's recommendation to adopt. The Local Plan must be adopted by resolution of a meeting of the full Council.

The Council must not adopt a development plan document unless they do so in accordance with section 23 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"). This means that the Council may only adopt a development plan document where

the person appointed to carry out the independent examination of that document recommends it to do so. Therefore, the Council may only adopt the Local Plan with the specific required Main Modifications, (subject to additional modifications if the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it were adopted with the main modifications but no other modifications) as this is the version the Inspector has concluded meets the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness.

If the Council does not formally adopt the Local Plan, it will need to consider whether to withdraw it and prepare a new document for submission. In terms of planning policy, the Council would in such circumstances have to rely on existing local plan policies which are becoming increasingly out-of-date. Under those circumstances, the Council would continue to face speculative planning applications which are often difficult to resist. The Council would continue to be involved in an unsatisfactorily high number of planning appeals which would be difficult to defend, particularly in terms of demonstrating a five-year supply of housing. Such a situation would increase the risk of the Council failing to meet Government 'special measures' targets in respect of quality of decision making. This could result in the loss of control of decision-making powers, enabling planning applications to be determined by the Planning Inspectorate.

For decision making purposes, not having an up-to-date development plan means that permissions will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Adoption of a Local Plan which meets the test of soundness would provide the Council as Planning Authority with the opportunity to proactively control development with the Borough in a way which has become increasingly difficult over the past few years. The Council would be in a position to positively shape the Borough, both in terms of development within it and as a place for the future.

Challenges/Intervention

On 3 August 2017, a letter was sent by POW Campaign Limited and eight Parish Councils to the Secretary of State requesting him to exercise his powers under the 2004 Act by intervening in the Local Plan examination process. The Secretary of State confirmed that the Inspector should be given the opportunity to issue his final report before the request to intervene is considered. The request is currently before the Secretary of State and remains outstanding; it is not before members of the Council for their consideration. Only a direction from the Secretary of State could prevent the Council from adopting the Local Plan and no such direction has been made. The request does not therefore prohibit the Council from adopting the Local Plan.

If the Council resolves to adopt the Local Plan, a 6-week period will begin to run during which any person aggrieved by the Local Plan may make an application to the High Court on the ground that a) the document is not within the appropriate power or b) a procedural requirement has not been complied with. The Council would robustly defend the Local Plan and its validity should a challenge be made post-adoption.

Introduction

1. As Members are aware, the new Local Plan for Waverley is being produced in two stages. Local Plan Part 1 (LPP1) sets out the overall strategy along with strategic planning policies and some strategic site allocations. Local Plan Part 2 (LPP2) will deal with other allocations of land as well as setting out the more day to day development management policies.
2. This report relates to LPP1, which includes the overall target for the number of new homes to be built over the plan period from 2013 to 2032, as well as their broad distribution. In addition to providing the strategic framework for the development of LPP2, it also provides the necessary framework for the completion of the various Neighbourhood Plans that are in preparation across the Borough.

The Examination of Local Plan Part 1

3. Members are reminded that on 29 November 2016 the Council approved LPP1 for submission for examination. The Plan was subsequently submitted to the Government in December 2016. The submission triggered the formal process of examination by the appointed Inspector. The purpose of the examination has been for the Inspector to assess the Plan against the various tests of soundness, including considering whether the Plan is consistent with national policy. The Inspector has also assessed the Plan for compliance with various legal and procedural tests, including whether the Council has met the Duty to Co-operate.
4. Much of the examination by the Inspector has been conducted through a review of the written evidence, including the documents submitted by the Council, as well as the various representations that were received in response to the pre-submission consultation, that took place between August and October 2016. In addition the Inspector set out a number of questions that the Council has responded to and he also published his 'Matters and Issues for Examination' and various parties were invited to respond to these.
5. Between 27 June and 6 July 2017 the Inspector held a number of Hearing Sessions. These were conducted through a round table discussion against a agenda set by the Inspector. This was to allow the Inspector to hear more evidence on certain matters to enable him to come to a conclusion on the issue of soundness. During these Hearings, the Inspector set out his preliminary conclusions on key matters. For example, his conclusions around the need for new homes and his view that, in order for the Plan to be sound, Waverley should be making a contribution towards meeting some of the unmet housing need arising within the Housing Market Area (HMA).
6. Prior to the closure of the Hearings, the Council produced a Headline Note of the modifications required to make the Plan sound, based on the Inspector's preliminary conclusions. That Headline Note was agreed by the Inspector. Following this, the Council worked up a schedule of these 'Main Modifications' for agreement with the Inspector and these were subject to consultation in September/October 2017. The responses to the consultation were all then reviewed by the Inspector before he reached his final conclusions. As part of this process, the Inspector also identified some additional questions for the Council.

The Council responded to these and these responses also informed the Inspector's conclusions.

The Inspector's Report

7. The Council has now received the Inspector's report, a copy of which is attached as Annexe 1, and the following text highlights some of the key points in the report. The headline is that, subject to certain specific required modifications, the Inspector considers the Plan to be 'sound'. These modifications, which are attached as a schedule to the report, include the expected increase in the overall housing target from 519 homes per annum in the submitted Plan, to 590 homes per annum. This includes an allowance for meeting unmet need elsewhere in the HMA. Other Main Modifications include some changes to the Green Belt policy to provide more clarity/certainty, including the removal of land at Aaron's Hill from the Green Belt in LPP1 (that decision had previously been deferred to LPP2), and a new policy SS7A, relating to design for the new settlement at Dunsfold Aerodrome. All of the required Main Modifications were expected, given the preliminary conclusions expressed by the Inspector at the Hearings.
8. Having considered all the representations and the evidence, the Inspector identified three main issues upon which the soundness of the Plan depends:
 - Whether the Plan makes adequate provision for new housing;
 - Whether the spatial strategy is sound, including all its component parts; and
 - Whether the development management policies of the Plan are clear, effective and consistent with statute, Government policy and guidance.
9. In relation to the first issue the Inspector concludes that the objectively assessed need is for 495 dwellings per annum (dpa), taking account of the 2014-based household projections and with an uplift of 25% in response to market signals. (Paragraphs 19 to 25). He then analyses the issue of unmet need elsewhere in the HMA, specifically Woking, and concludes that Waverley should be accommodating half of the identified unmet need from Woking. This amounts to 83 dpa. (Paragraphs 26 to 29). Finally, he considers the issue of migration from London and concludes that this adds a further 12 dpa to the need, resulting in a final figure of 590 dpa or 11,210 dwellings over the whole Plan period from 2013 to 2032. (Paragraphs 30 and 31).
10. In considering the number of homes that should be planned for in Waverley, the Inspector takes account of the various environmental issues that could impact on the ability to accommodate this number of homes. However, having considered these issues, the Inspector concludes that: *"...there is no convincing evidence that 11,210 dwellings over the Plan period, or 590 dpa, cannot be delivered in a sustainable manner."* He goes on to say: *"...none of the evidence suggests the need for a policy intervention on environmental grounds to reduce the housing figure below the identified requirement of 11,210 dwellings over the plan period."* (Paragraph 39).
11. The Inspector considers the housing trajectory and housing supply in some detail. For example, he considers that the assumptions about delivery rates at Dunsfold Aerodrome, both over the Plan period, and in the first five years, are reasonable. (Paragraph 45) He also considers that other elements of the Council's housing

trajectory and 5 year housing supply are based on reasonable assumptions. (Paragraph 46). The Inspector acknowledges that Local Plan Part 1 is strategic and does not aim to allocate a full range of sites. Therefore, he says that Local Plan Part 2 is an essential element of the Council's housing delivery strategy. (Paragraph 48). He considers that there are enough indications to be confident that the housing requirement will be delivered over the Plan period, with the assistance of Local Plan Part 2 and neighbourhood plans. (Paragraph 49).

12. In recent appeals there has been some debate about the role that sites in the Land Availability Assessment (LAA) can make towards the five year housing supply. The Inspector addresses this point and says that it is reasonable for the Council to assume that some of these sites are capable of making a contribution to the five year housing land supply. (Paragraph 51). He also concludes that in terms of the buffer to the five year supply, this should be set at 5%. (Paragraphs 52 to 55). Again, Members may be aware that in recent appeals, Inspectors have been inclined towards using a higher 20% buffer.
13. The Inspector does acknowledge the risks to the housing supply and considers that these point strongly to the need for the Council to adopt a positive approach towards housing provision and bring forward Part 2 of the Plan and encourage the neighbourhood plans to identify sites as early as possible. (Paragraph 57).
14. In relation to the second issue, the Inspector has assessed the various components of the spatial strategy as set out in Policy SP2. He considers that focussing new development on the four main settlements is a sound approach. (Paragraph 65). In relation to the distribution, the Inspector comments on the allocation of the uplift in the housing requirement. He notes that the allocation at Dunsfold Aerodrome was not increased to accommodate any of the uplift. He states that this is because the figure of 2,600 is based on a realistic and achievable rate of delivery and that any allocation above 2,600 would carry the risk that the housing requirement would not be met over the Plan period. (Paragraph 66).
15. In relation to the Green Belt, the Inspector comments that the 2014 Green Belt Review was a comprehensive and well-judged piece of work. (Paragraph 72). He concludes that the changes to release some land from the Green Belt (in Godalming and some of the villages) are justified by exceptional circumstances, but that the original proposals in the Plan to include new land in the Green Belt in Cranleigh and Farnham are not justified by exceptional circumstances. (Paragraphs 75 and 76).
16. The Inspector discusses the issue of Dunsfold Aerodrome in some detail. He considers that it is clear from the evidence that a large housing allocation at Dunsfold Aerodrome is a much better and more sustainable option than a smaller allocation or no allocation at all on the site. (Paragraph 77). He gives a number of reasons for taking this view. His overall conclusion is that the allocation at Dunsfold Aerodrome is a key part of the sustainable growth strategy for the Borough. He considers that it provides an excellent opportunity to meet a significant part of the housing needs of the Borough, including affordable housing, on a brownfield site. He considers it to be a good example of pro-active planning to achieve co-ordinated, well designed sustainable development and it offers opportunities for comprehensive urban design and master planning and social and transport facilities that smaller peripheral greenfield sites cannot usually offer. (Paragraph 93).

17. In his assessment of the spatial strategy, the Inspector also comments on the individual settlements. In relation to Farnham, he comments that it has the largest allocation of housing because it is the biggest town with a good range of shops, services, social and transport facilities. He also comments on the uplift in the housing number at Farnham and says that it is an entirely reasonable and moderate increase. (Paragraph 94). He notes the situation with the Farnham Neighbourhood Plan in terms of its housing allocation, which is lower than that required as a result of the uplift in the housing requirement for the Local Plan. He says that the increase in the Local Plan housing requirement does not make the Neighbourhood Plan itself unsound. However he says that further housing allocations at Farnham will be necessary, with the probable need to adjust the built up area boundary. He says that these changes will not diminish the importance or relevance of the work carried out to produce the Neighbourhood Plan, which will remain part of the statutory development plan. (Paragraph 99). He notes that Farnham Town Council has made a case for introducing a phasing policy which would delay the necessary additional allocations at Farnham until later in the Plan period. However, the Inspector does not support this approach. He says that the matter must be considered in the wider context, including housing need and affordability. He says that Farnham, being the largest town, has a key role in delivering the housing requirement and ensuring that a five year supply is maintained. (Paragraph 101).
18. The Inspector also considers the issue of SANG provision in Farnham in the light of the uplift in housing numbers. In particular, he does not agree with the suggestion by Natural England that the Plan is unsound unless a new SANG is identified now. He says that there is no prospect of harm to the SPA, because permissions cannot be granted without suitable avoidance measures and mitigation measures. He says the real question is whether enough SANG will be identified in due course to allow for the timely delivery of housing. (Paragraph 103). He has considered the work the Council is doing to identify further SANG for the future, and considers that the range and variety of potential solutions provide sufficient confidence that SANG will be identified and provided to support the additional housing required in Farnham. (Paragraph 105).
19. In relation to the other main settlements, the Inspector again concludes that the strategy and housing allocations are sound. In Godalming, this includes the release of land from the Green Belt at Binscombe and Aaron's Hill to help to accommodate Godalming's housing need. In Haslemere, the Inspector recognises that the allocation, even with the uplift, remains relatively low because of the presence of Green Belt and the AONB. In relation to Cranleigh, the Inspector considers that it is suitable for accommodating strategic allocations. He considers the apportionment of development to Cranleigh is in accordance with the spatial strategy and is sound. (Paragraphs 109 to 118).
20. The Inspector also supports the approach in relation to the villages, including the villages being inset from the Green Belt. In relation to Milford, this includes supporting the allocation of the land at Milford Golf Course, which the Inspector regards as a very well-chosen site. The Inspector considers its release from the Green Belt to be justified by exceptional circumstances. (Paragraph 125). In assessing the case for including this site in the Plan, the Inspector was mindful of the existence of a covenant on the land limiting development to 27 dwellings. However, he felt that the circumstances of this case, point to a reasonable prospect

of the covenant being varied, modified or discharged to enable to full capacity of the site to be achieved. (Paragraph 122). The Inspector also supports the two-stage process in terms of other Green Belt changes around Milford, Witley, Chiddingfold and Elstead, where the broad locations for change are shown in Local Plan Part 1, but with the detailed Green Belt boundary being resolved through Local Plan Part 2. (Paragraphs 74, 75, 119, 126, 127 and 128).

21. Turning to the third issue, the Inspector comments on a number of the other development management policies in the Plan where some modifications are required in order for these policies to be sound. (Paragraphs 130 to 140).

Adopting the Local Plan

22. The next stage in the process is for the Council to adopt LPP1. If adopted, the Plan would receive full weight for the purposes of planning decision making and would replace a number of the policies in the 2002 Local Plan. Importantly, the Inspector has made it clear that the Main Modifications set out in the schedule attached to his report are required in order for the Plan to be 'sound'. In relation to the Plan without these modifications the Inspector states: *"The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act."* To be clear, the Council must adopt all of the Main Modifications for the Plan to be sound.
23. In addition to the Main Modifications accompanying the Inspector's report, there are some minor modifications that have been identified. These are a combination of typing corrections, factual updates and other minor changes for clarity/consistency. Some of these were identified in the Schedule of Minor Modifications produced at the time of the consultation on the Main Modifications. Officers have identified further minor modifications that have been incorporated in the Plan for adoption and a schedule of these is attached. A final complete copy of the Plan, which incorporates the main modifications and the minor non-material modifications, has been circulated separately to all Members of the Council to accompany this report and should be brought along to the Special Executive and/or Council meetings.
24. Officers understand some of the concerns that have been raised about the Modifications, particularly the increase in the overall housing target and the resulting increase in the housing allocations to individual towns/parishes. However, the Plan has been through a thorough examination process over the past 12 months and the Inspector has come to the conclusion, having considered all of the evidence, that the Modifications to the Plan are needed in order for it to be sound. Members will know that both in written responses to the Inspector's questions and during the Hearings, Officers, on behalf of the Council, strongly put forward arguments that Waverley was not considered to be able to accommodate an increase in housing over and above that planned for in the submission version of the Plan. However, the Inspector did not agree with these assertions, on the basis of the evidence, nor that these arguments outweighed the need to deliver housing to address unmet needs.

Benefits of Adopting the Plan

25. Adopting the Plan would bring a number of significant benefits for the Council and the Borough, including:
- Bringing key planning policies up-to-date;
 - Being better able to defend its position against speculative proposals that are inconsistent with planning policy as set out in the Plan. Planning applications will have to be decided in accordance with the new Plan unless material considerations indicate otherwise;
 - Being better able to defend its position in relation to 5-year housing supply;
 - Providing certainty in relation to housing numbers and other key strategic policies to enable local communities to complete their Neighbourhood Plans;
 - Being able to move forward with the adoption and implementation of the Community Infrastructure Levy (CIL), which will provide the basis for the provision of necessary infrastructure to support growth.

Risks of not Adopting

26. There are clear risks to the Council were it to decide not to adopt the Plan. These include:
- The lack of an up-to-date plan would mean that the Council would continue to be highly vulnerable to more speculative development that may be difficult to resist;
 - It would be more challenging for the Council to defend its 5-year housing supply position;
 - The Inspector's Report has established the principle in planning terms of the suitability of a new settlement at Dunsfold Park, subject to the modifications recommended. This is clearly a public document and, going forward, it will constitute a material consideration of considerable weight in the consideration of current and future planning applications on the site including the current "called in" application. Even if the Plan is not adopted, the Inspector's Report will remain a current and valid planning material consideration where it is relevant to planning proposals. If the Plan is not adopted, the Council will not have the benefit of specific policies (SS7 and SS7A) (and the Development Plan primacy weight which will be attached to them) against which to assess proposals coming forward. The loss of these policies as a policy framework will weaken the Council's ability to deliver development on the site in the most sustainable and appropriate way.
 - Similarly, and more generally for the entire Borough, if the Plan is not adopted, the Council will lose the up to date and firm basis, which the Plan provides, to support growth in the Borough over the next 15 years. The Inspector's conclusions, including that the housing requirement should be 590 dwellings a year, will remain a material consideration of considerable weight in planning appeals and as the basis for the 5 year housing land supply. Some Planning Inspectors have already concluded that this emerging figure is the starting point for Waverley's housing requirement given the Inspector's earlier conclusions at the Examination Hearings. Even if the Plan is not adopted, the Borough will continue to experience development pressure to meet this housing requirement. The Plan policies will provide the Council, on behalf of the the community, with suitable control to shape the location and form of growth in the future. The absence of an adopted plan will not stem development pressure but at the

same time will significantly reduce the Council's ability to shape its location and form.

- A significant set-back in terms of the timescale for getting a Local Plan in place, with the attendant risks of Government intervention. The Government gave local authorities a deadline to submit a Local Plan. Waverley successfully met that deadline. Nationally, the Government is taking overt remedial action to intervene where other local authorities have not met that deadline. A decision not to adopt the Plan would place Waverley in a most vulnerable position with respect to potential Government intervention. This would have clear reputational consequences;
- It would make it very difficult for Neighbourhood Plans to be completed, particularly those intending to deal with housing allocations, in the absence of the overarching strategy set by the Local Plan;
- The lack of certainty over the amount of development coming forward and the policies needed to guide the development, may make it more difficult for the Council to move forward with its plans to adopt CIL. A delay in the CIL timetable would mean a potential loss of CIL revenue to support infrastructure provision.
- Even a delay in the timescale for adoption is undesirable. This would lead to further uncertainty in relation to the Council's strategic policy position and create further difficulties in handling ongoing development proposals in the Borough.

Conclusion

27. Having regard to the Inspector's findings, and the clear benefits of having an up-to-date Plan in place, Officers strongly recommend that the Council adopts the Plan incorporating all of the modifications required by the Inspector to make it sound.
28. The receipt of the Inspector's report and its positive finding that the Plan is 'sound' with certain modifications, is the successful culmination of over 4 years' work since the Council withdrew its earlier Core Strategy from its examination. The Council now has the opportunity to put the new Local Plan in place and to provide the necessary platform for the completion of both Local Plan Part 2 and the various Neighbourhood Plans that are in preparation.

Observations and Comments

29. On 13 February 2018, two information briefing sessions on the Inspector's report were held for all councillors and Town and Parish representatives. The comments from those sessions are attached as Annexe 2.
30. The Environment Overview and Scrutiny Committee met on 15 February 2018 to scrutinise the report, and their comments are set out below:

The Committee considered the report at length, and questioned Officers on a number of key issues in relation to the additional housing numbers and their distribution, the deliverability of housing, the proposed release of Green Belt, and the robustness of the evidence base.

The Chairman questioned the soundness of the Modified Plan in respect of a number of matters that, in his opinion, had not been adequately addressed, including: the lack of an Appropriate Assessment containing bird numbers and an assessment of mitigation proposals; the outstanding Natural England

objection; concerns in relation to the approach to air quality; and the evidence to support Waverley taking part of Woking's unmet housing need.

With the exception of the Chairman, the Committee was satisfied with the responses of the Officers and the explanation of the evidence the Inspector had considered in reaching his conclusions. The clear majority view of Members was that whilst there were elements of the Local Plan that were disappointing from their Ward perspectives, what was now best for Waverley as a whole was to have an adopted Plan in place as soon as possible.

The Committee felt that adopting the Modified Plan, which the Inspector had found to be sound after a rigorous examination, would return control of development management to the Council and going forward would provide a level of protection to communities that had been absent for a number of years. It would allow Neighbourhood Plans to progress alongside the work on Local Plan Part 2, and income to be generated from developers to fund infrastructure through the implementation of the Community Infrastructure Levy.

On balance, and with the exception of the Chairman, the Committee agreed that not to adopt the Modified Plan would be to fail the Borough. The advantages of having an adopted Local Plan outweighed the risks of rejecting it at this stage, and any personal reservations about the housing numbers.

Recommendation

It is recommended that the Executive recommends to the Council that

1. the Waverley Borough Local Plan Part 1: Strategic Policies and Sites, which incorporates the Inspector's Main Modifications and the Council's Minor Non-Material Modifications, be adopted; and
2. those policies within the Waverley Borough Local Plan 2002 that are not being retained as set out in Appendix B of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites, which incorporates the Inspector's Main Modifications and the Council's Minor Non-Material Modifications, be withdrawn.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

Name: Graham Parrott

Telephone: 01483 523472

E-mail: graham.parrott@waverley.gov.uk