

<b>Key Decision Required</b>	Yes	<b>In the Forward Plan</b>	Yes
------------------------------	-----	----------------------------	-----

## CABINET

**8 NOVEMBER 2013**

### Reference from Community Leadership and Partnership Committee Meeting of 21 October 2013 and Report of the Portfolio Holder for Planning and Corporate Services

#### **A.3 THE TENDRING DISTRICT LOCAL PLAN: PRE-SUBMISSION FOCUSSED CHANGES**

(Report prepared by Gary Guiver)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

To report the Community Leadership and Partnership Committee's comments on the proposed "Tendring District Local Plan: Pre-Submission Focussed Changes", comprising "major changes to the written statement", "minor changes to the written statement" and "changes to the policies maps".

These documents were considered by the Cabinet at its meeting of 4 October 2013, where it was resolved to approve the proposed focussed changes and for the documents to be forwarded to the Community Leadership and Partnership Committee for comment.

The Cabinet is now invited to consider these comments and the consider the need to make any further changes to the proposed Pre-Submission Focussed Changes before they are forwarded to Full Council to be approved for public consultation prior to the submission of the revised Local Plan to the Secretary of State for examination by a Planning Inspector.

##### **EXECUTIVE SUMMARY**

On 4 October 2013, the Cabinet considered a report from the Planning and Corporate Services Portfolio Holder recommending a number of 'pre-submission focussed changes' to the Council's emerging Local Plan aimed at:

- 1) ensuring the Local Plan meets all the requirements of the National Planning Policy Framework and that this can be demonstrated, with robust technical evidence, to a Planning Inspector as part of the examination process;
- 2) ensuring the Council has complied with the legal 'duty to cooperate' in seeking, as far as possible, to reach common ground with partner organisations and neighbouring authorities;
- 3) resolving as many objections as possible to gain greater support from our communities and the development industry to reduce the complexity, length and cost of the examination process;

- 4) addressing a number of concerns that were raised in informal advice from the Planning Advisory Service (PAS) and the Planning Inspectorate (PINS); and
- 5) ensuring that the Local Plan, as a functional planning document, is up to date, based on latest available information and evidence, technically correct and fit for purpose.

This followed an all-Member briefing session on 4 September 2013 in which the Planning Policy Manager outlined some of the issues that were raised in some 800 representations received in response to the Draft Local Plan when it was published for six-weeks public consultation on 9<sup>th</sup> November 2012 as well as issues raised, subsequently, by two Planning Inspectors providing informal advice to Officers through the Planning Advisory Service.

At the 4 October 2013 Cabinet meeting, it was agreed that the proposed pre-submission focussed changes be forwarded to the Community Leadership and Partnership Committee for comment.

On 21 October 2013, the Community Leadership and Partnership Committee considered the proposed changes and made a number of recommendations for Cabinet to consider before the documents are forwarded to Full Council for approval and publication for a further round of consultation with the public. These recommendations are as follows:

- a) Cabinet authorises officers to relook at the proposed change to development in Alresford (PM7.1) and agree to land at St. Andrew's Close being allocated for development as an alternative to land off Cockaynes Lane, in acceptance of arguments made by residents, the local Parish Council and the local Ward Member;
- b) The first paragraph of revised Policy 'PLA10: 'Renewable Energy Installations' (MAJ5.2) be amended to delete the words "including community-led renewable projects, onshore and offshore wind farm proposals";
- c) Cabinet agrees to revisit the proposed fourth paragraph of revised Policy 'PLA10: 'Renewable Energy Installations' (MAJ5.2) to consider giving greater protection to productive agricultural land;
- d) Cabinet look again at policies in the Local Plan relating to the provision of affordable housing to see if more affordable homes can be delivered than currently being suggested;
- e) Given that the recommendation to delete the proposed development at Horsley Cross (MAJ9.4 and PM0.1) is "on-balance", Cabinet re-consider this recommendation as development in this location may be deliverable during the plan period;
- f) Cabinet consider strengthening the wording of Policy PRO12: 'Freight Transport and the Movement of Goods' to give more support to development at Bathside Bay, in light of the Committee's discussion;
- g) Cabinet agrees to revisit minor change MIN1.18, relating to the vision for the district, to consider making the wording more encouraging and positive toward attracting active retired people to come to the District and contribute toward the local economy;
- h) Cabinet agrees to revisit revised Policy PRO1: 'Improving the Strategic Road Network', (MAJ3.2) to include the A137 as a strategic project in its own right to mitigate any traffic

impacts on Manningtree and the railway crossing into Suffolk; and

- i) Cabinet look again at the depiction of the 'Historic Towns' area of Manningtree (PM4.2) and make sure that it is proper – particularly the inclusion of industrial land at its western end.

## RECOMMENDATIONS

It is recommended that the Cabinet:

- a) considers the recommendations of the Community Leadership and Partnership Committee and agrees a response to the comments raised;
- b) agrees any further changes to the Tendring District Local Plan: Pre-Submission Focussed Changes both response to these comments and any other new evidence; and
- c) agrees that the revised Tendring District Local Plan: Pre-Submission Focussed Changes go forward to Full Council to be approved for public consultation prior to the submission of the amended Local Plan to the Secretary of State for examination by a Planning Inspector.

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING CORPORATE GOALS

**Achieving affordable excellence:** The Local Plan, informed by the new Economic Development Strategy, will provide the basis for investment opportunities, which will lead to economic activity to support the district's economy and will generate funding for infrastructure through a Community Infrastructure Levy (CIL) and 'New Homes Bonus' and help increase the Council's revenue under the government's new approach to business rates retention.

**Continuing to improve public perception and reputation:** The Local Plan, with the recommended changes, reflects the results of four rounds of public consultation and considerable discussions with elected representatives of our communities. It demonstrates very clearly that the Council does listen to the views of its residents and takes those views seriously.

**Helping children and adults to achieve their full potential:** The Local Plan, with the recommended changes, includes a number of policies designed to help future generations achieve their potential.

**Addressing deprivation:** The Local Plan, with the recommended changes, identifies 'Priority Areas for Regeneration' in central Clacton, southern Jaywick, Dovercourt, Harwich and Walton-on-the-Naze – areas that will benefit from investment and economic development.

**Local housing for local people:** The Local Plan, with the recommended changes, contains policies that are specifically aimed at helping to deliver local housing for local people. As well as pushing for 'aspirational housing' to promote prosperity and family life, the Local Plan aims to deliver new Council Housing for local working people on lower incomes who cannot afford to buy or rent housing on the open market.

**Coastal opportunities and protection:** The Local Plan, with the recommended changes, recognises both the importance of our coastline for the local economy and the quality of life for our residents, but also the threats of flooding and coastal erosion that affect local residents and businesses.

## RESOURCES AND RISK

**Resources:** The Local Plan, with the recommended changes, has been prepared by the Council's Planning Policy Team under the leadership of the Planning Policy Manager. The costs involved in preparing evidence, printing documents, publicity and examination will be met through the agreed 'LDF Budget'.

**Risks:** Changes are recommended to the Local Plan with a view to minimising any risk of it either being rejected by the Planning Inspector on examination (and thus leaving the Council vulnerable to unwanted and harmful development proposals) or being amended by the Planning Inspector in a way that undermines the thrust of what the Council wants to achieve in the district in the coming years, underpinned by the views expressed by residents.

## LEGAL

**Legislation:** Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state that applications for planning permission must be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The statutory 'development plan' for Tendring, as it stands is the 2007 Adopted Local Plan however, in accordance with the government's National Planning Policy Framework, the policies and proposals in the Adopted Local Plan are increasingly out of date and cannot be afforded full weight. It is therefore essential to progress the emerging Local Plan through the remaining stages of the plan making process so it can become the new statutory development plan.

**Legal Status of the Draft Local Plan:** From 27<sup>th</sup> March 2013 the Local Plan: Proposed Submission Draft (2012) (i.e. the Draft Local Plan) became another source of planning policy, alongside the Adopted Local Plan, against which planning applications are judged. This follows the guidance in the National Planning Policy Framework which discourages Councils from giving full weight to policies in out-of-date adopted Local Plans but allows Councils to give weight to emerging policies in Draft Local Plans where they better reflect the new national policy and where there are either few or not very substantive unresolved objections.

The majority of policies and proposals in the Draft Local Plan received relatively few objections of any severity during the last consultation exercise and, accordingly, the draft plan is being used by Planning Officers and the Planning Committee to determine planning applications. For policies that are the subject of unresolved substantive objections, both Planning Officers and the Planning Committee are exercising a degree of pragmatism and caution when they are applied. This approach will minimise any risk of planning decisions being overturned, on appeal, whilst the Draft Local Plan is still in an un-adopted state.

However, if Full Council agrees to publish the recommended changes to the Local Plan for public consultation, it should result in many of the existing objections being resolved and, hopefully, withdrawn. This will increase the level of weight that policies and proposals in the draft Local Plan can carry and further reduce the risk of planning decisions being overturned on appeal whilst the

draft Local Plan is still progressing through the statutory process.

**Regulations:** The Local Plan must be prepared, consulted upon and examined in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. These regulations also apply to any significant changes the Council makes to the Local Plan. At the examination, the Planning Inspector will need to be content that these regulations have been followed and that the scope for any legal challenges have been minimised. In accordance with Regulations 19 and 20, the recommended changes, if approved by Full Council, will need to be published for consultation prior to being submitted to the Secretary of State for examination.

**Examination:** Alongside the legal and regulatory requirements, the Local Plan, as amended, will eventually be judged through an examination, by a Planning Inspector, against the following policy tests, as set out by the government in the National Planning Policy Framework. The Local Plan must be shown to be:

- “Positively Prepared” – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- “Justified” – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- “Effective” – the plan should be deliverable over its plan period and based on effective joint working on cross-boundary strategic priorities; and
- “Consistent with national policy” – the plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

It is important to ensure the Local Plan meets these tests because following the examination, the Planning Inspector will make one of three recommendations to the Council. Either: 1 the Local Plan is ‘sound’ and the Council can proceed to formally adopt it; 2 the Local Plan can be considered sound subject to making some changes; or 3 the Local Plan is ‘unsound’ and cannot proceed to adoption. By publishing the recommended changes for consultation prior to submitting the Local Plan to the Secretary of State, the Council will minimise the risk of the Local Plan being declared unsound and reduce the likelihood of the Planning Inspector requiring further changes.

## **OTHER IMPLICATIONS**

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

**Crime and Disorder / Equality and Diversity / Health Inequalities /Area or Ward affected / Consultation/Public Engagement.**

**Crime and Disorder:** The policies and proposals in the Local Plan, with the recommended changes, aimed at delivering quality homes, tackling over-concentrations of Houses in Multiple Occupation (HMO’s) and taking a more flexible approach to allow economic development and job creation will help, alongside non-planning measures, to tackle crime and disorder.

**Equality and Diversity:** An Equality Impact Assessment of the proposed Focussed Changes will be carried out before it is published for public consultation.

**Health Inequalities:** The policies and proposals in this Local Plan, with the recommended changes, aimed at delivering green infrastructure and providing quality new homes, job opportunities and community facilities will all assist in tackling the district's health problems.

**Area or Ward affected:** All wards.

**Consultation/Public Engagement:** This Local Plan has been informed by comments received during four previous rounds of public consultation. If approved by Full Council, the focussed changes will need to be published for public consultation in their own right so interested parties have an opportunity to comment on them before the plan, as amended, is submitted to the Secretary of State. Where it is considered that the changes have resolved objections, the withdrawal of those objections will be actively encouraged.