

COUNCIL

5 SEPTEMBER 2017

REPORT OF THE DIRECTOR OF PLANNING & REGENERATION

A.6 LOCAL PLAN COMMITTEE TERMS OF REFERENCE - DEVELOPMENT PLAN DOCUMENTS

Report prepared by Lisa Hastings and Catherine Bicknell

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The purpose of this report is to request Full Council to amend the terms of reference of the Local Plan Committee to provide the Committee with authority to agree both the Issues and Options and Preferred Options Draft Development Plan Documents for public consultation.

EXECUTIVE SUMMARY

Following Full Council approval of the Draft Publication Local Plan for public consultation and submission to the Planning Inspectorate in June 2017, in addition to the Examination in Public, which is currently anticipated to be scheduled for early 2018, work is required on the Development Plan Document (DPD).

DPDs are planning policy documents which make up the Local Plan. They help to guide development within a local planning authority area by setting out the detailed planning policies, which planning officers use to make their decisions on planning applications.

DPDs were introduced as part of the reforms made to the planning system through the Planning and Compulsory Purchase Act 2004 and further amendments have been introduced via later legislation. Regulations establish the process that must be followed when preparing a DPD. The key stages in this process are similar to the preparation of the Local Plan in that an Issues and Options and Preferred Options Draft DPDs are agreed by the Council for public consultation.

The Local Plan can consist of one or more DPDs however, currently as identified in the Council's published Local Development Scheme (LDS) only one DPD is proposed, being the Tendring Colchester Borders Garden Community Strategic Growth DPD ("the Garden Community DPD"). This document will be jointly prepared with Colchester and contain policies and allocations to support a Garden Community on the Tendring and Colchester Border.

The Local Plan Committee is responsible for exercising the Council's functions relating to overseeing the preparation of the Local Plan and ensuring it meets the 'tests of soundness' from national and planning policy. Formal approval of any Preferred Options Draft DPD for public consultation rests with Full Council on the recommendation of the Local Plan Committee.

Since the Local Plan Committee was established in March 2014, Members have robustly overseen the preparation of the new Draft Local Plan to ensure that:

- it meets the ‘tests of soundness’ set out in the National Planning Policy Framework;
- is “positively 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;
- is “justified”, promoting the most appropriate strategy for growth, when considered against reasonable alternatives, based on proportionate evidence;
- is “effective”, being deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities;
- is “consistent with national policy” enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework; and
- that the Council effectively complies with the statutory duty to co-operate.

Consequently, a Draft Publication Local Plan was recommended to and approved by Council in June 2017 with cross party support, demonstrating robust scrutiny in the preparation of the Local Plan by the Committee including detailed consideration of the evidence base, a public speaking scheme and responding to the outcomes of public consultations. The preparation of the Garden Community DPD will follow a similar process. It is therefore proposed, that approval of the Preferred Options Draft for the DPD for public consultation is delegated to the Local Plan Committee.

This proposal would not impact upon the Publication Draft DPD, which will still be referred to Full Council for final approval.

RECOMMENDATIONS

That Full Council agrees to amend the terms of reference of the Local Plan Committee to approve Preferred Options Draft Development Plan Documents and associated documentation for public consultation.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Local Plan helps to implement place shaping priorities in the Corporate Plan 2016-2020 for Tendring District Council through:

- Community Leadership by engagement with the community and effective partnership working with technical stakeholders, developers and other interested parties;
- Health and Housing through policies that promote healthier lifestyles, a quality living environment, local regeneration and council house building; and
- Employment and Enjoyment through policies to support business growth and skill development and the protection and promotion of the natural and built environments.

The LDS dated January 2017 provides the timetable for production of the Garden Community DPD, with preparation of draft documentation commencing in October 2016 with a view for target adoption by March 2019.

RESOURCES AND RISK

Resources:

Preparation of the Garden Community DPD will be undertaken within existing resources, the proposal to provide the Local Plan Committee with delegated power to approve a Preferred Options Draft DPD for public consultation will reduce the requirement for recommendation to Full Council before public consultation can take place.

Risks:

Should Council decide not to delegate the proposed authority to the Local Plan Committee, the target date for adoption of the Garden Community DPD may be compromised due to scheduling of full Council meetings, as flexibility in the timetable may become necessary.

LEGAL

Legislation: Planning legislation and the National Planning Policy Framework (NPPF) places Local Plans at the heart of the planning system, so it is essential that they are in place and kept up to date. The NPPF expects Local Plans to set out a vision and a framework for the future development of the area, addressing the needs and opportunities in relation to housing, the economy, community facilities and infrastructure – as well as a basis for safeguarding the environment. They are a critical tool in guiding decisions about individual development proposals (Planning Guidance Paragraph 001 Reference ID: 12-001-20140306).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended) state that applications for planning permission must be determined in accordance with the 'development plan' unless material considerations indicate otherwise.

Section 33A of the Planning and Compulsory Purchase Act 2004, as amended, places a legal duty upon local authorities and other public bodies to engage constructively, actively and on an on-going basis to maximise the effectiveness of Local Plan preparation, this is known as the 'Duty to Cooperate' on strategic matters of cross-boundary significance, which includes housing supply. Before a Planning Inspector can begin the process of examining a Development Plan Document, they need to be satisfied, with the Council's evidence, that the local authority has demonstrated it has done everything it can to ensure effective cooperation with neighbouring authorities and other partner organisations and has sought to resolve, as far as is possible, any cross-boundary planning issues.

Legal requirements:

Stage 1 - Preparation of a Local Plan (Regulation 18)

This stage normally requires a two-step process:

1. Issues and Options - Usually represents the first stage in the process. The purpose is to engage with local residents and relevant organisations to identify how planning policy can be used positively to help address key issues within the local authority area.
2. Preferred Options - Takes any issues that have been highlighted and identifies the preferred

approach for addressing these through planning policy. The purpose of the ensuing public consultation is to allow interested parties an opportunity to indicate if, on balance, they feel that the DPD takes the right approach to dealing with these issues or, if not, to highlight an alternative approach.

Stage 2 - Publication of a Local Plan (Regulation 19)

The Publication Report represents what the Council considers to be the final version of the DPD. The public consultation at this stage is no longer concerned with shaping the content of the document, but allows interested parties to comment on whether they consider it to be sound - i.e. justified and legally compliant.

Stage 3 - Submission of documents and information to the Secretary of State (Regulation 22)

Following the public consultation on the Publication Report (Stage 2), the DPD, together with all supporting documents and any comments that have been received, are submitted to the Secretary of State for examination by an independent Inspector. This represents the start of the Examination period.

Stage 4 - Independent Examination (Regulation 24)

Following submission a Programme Officer is appointed to organise and the Examination under the direction and guidance of the Inspector.

Stage 5 - Adoption of a Local Plan (Regulation 26)

Once the examination process is complete, the Inspector will present his/her findings to the Council in the form of a report.

Assuming that the DPD has been found sound, adoption is the final stage of putting it in place. This requires confirmation by a meeting of the Full Council [Regulation 4(1) and (3) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000].

OTHER IMPLICATIONS

Crime and Disorder: The DPD must focus development in locations where it will support economic growth and job creation (in line with the objectives of the Economic Development Strategy) which will help, alongside non-planning measures, to improve prosperity and tackle crime and disorder.

Equality and Diversity: An Equality Impact Assessment for the DPD will be prepared to ensure that matters relating to equality and diversity are sufficiently covered. The provisional vision and spatial strategy does however advocate a distribution of growth that will help to meet the housing and employment needs of people of all ages and abilities across all parts of the district.

Health Inequalities: The DPD will need to ensure that the preferred housing developments achieve the critical mass necessary to justify and secure the provision of new medical facilities and incorporate areas of public open space for the health and enjoyment of residents.

Area or Ward affected: Thorrington, Frating, Elmstead and Great Bromley Ward and Ardleigh and Little Bromley.

Consultation/Public Engagement: Formal public consultation involving the statutory bodies and other interested parties is required as part of the DPD process.

PART 3 – SUPPORTING INFORMATION

BACKGROUND INFORMATION

dedicated Local Plan Committee and its terms of reference were agreed by Full Council in March 2014. The terms of reference are included within the Constitution in Schedule 3 Part 3.13 to 3.15.

The Publication Draft Local Plan approved by Full Council on 15th June 2017 for public consultation and submission to the planning inspectorate. This public consultation has now closed and the responses are being collated for submission on 1st October.

Work is currently being undertaken by Officers to prepare a Garden Community DPD Issues and Options document for consultation to be presented to Local Plan Committee on 5th October 2017.

BACKGROUND DOCUMENTS

None