

CHESHIRE EAST COUNCIL

REPORT TO: CABINET PORTFOLIO HOLDER FOR FINANCE

Date of Meeting: 3 December 2014

Report of: Head of Strategic & Economic Planning

Subject/Title: Cheshire East Local Plan Strategy – Examination Suspension

Portfolio Holder: Cllr Peter Raynes

1.0 Report Summary

- 1.1 This report explains that in the light of the Inspector's Interim views on the Local plan strategy, the Council now has a choice of either suspending the Examination or with drawing the Plan. At the present time, suspension appears to provide the better approach, but will necessitate significant additional work to be undertaken. Only when that additional work is carried out will the full implications of it be available for consideration.

2.0 Recommendations

- 2.1 That the Council is minded to request that Inspector Stephen Pratt suspend the Local Plan Strategy Examination to enable further supporting work to be undertaken to address the concerns he expressed in his Interim Views.
- 2.2 That the Council is minded to request, under section 20(7C) Planning and Compulsory Purchase Act 2004, that the Inspector recommends any Main Modifications to the Local Plan Strategy which he considered appropriate.
- 2.2 That the precise timing of the requests be delegated to the Head of Strategic & Economic Planning, in consultation with the Portfolio Holder, so as to take proper account of the clarification which has been sought from the Inspector.

3.0 Reasons for Recommendations

- 3.1 The Council needs to respond to the Inspector's Interim views which set out three choices (one of which has already been rejected). For the reasons set out in the body of the report, the option of suspension appears to offer the best opportunity of achieving a sound plan within the best potential timescale.

4.0 Wards Affected

4.1 All Wards

5.0 Local Ward Members

5.1 All Members

6.0 Policy Implications

6.1 The content of this report relates directly to four key outcomes identified in the Council's Three Year Plan:

Outcome 2: Cheshire East has a strong and resilient economy. Concerns over the potential mismatch of economic and housing strategies feature prominently in the Inspector's letter and will be addressed during the suspension.

Outcome 4: Cheshire East is a green and sustainable place. Cheshire East's rural and urban character is reflected within the policies and proposals of the Local plan.

Outcome 5: People live well and for longer. The Local Plan includes policies to ensure new developments promote healthy lifestyles and have access to good cultural, leisure and recreational facilities.

7.0 Implications for Rural Communities

7.1 The Local Plan has policies and proposals that will shape future development across villages and rural settlements

8.0 Financial Implications

8.1 The financial implications of this report are as follows. Suspension of the Examination will require a re-assessment of the Service budget position for 2014/15, which will be reported to Cabinet as part of the Council's Third Quarter Review. In terms of the Inspector's costs (£993/ day) and those of the Programme Officer, the deferment of the scheduled three weeks of hearings, will reduce expenditure in the current financial year. There will also not be the need for daily attendance by barristers, although legal advice will be needed on an ongoing basis. The precise saving is hard to quantify, but could be of the order of £75 - 100,000.

8.2 However, this will be offset by the additional expenditure which would be incurred in undertaking the further work identified by the Inspector. In particular costs will arise on:

- External advice on matters such as Objectively assessed Housing Need and Economic Strategy
- Enhanced capacity within the planning teams
- Improved project management

At the present this cannot be fully quantified, but it is very likely that costs will potentially match any savings made elsewhere and could potentially exceed them.

- 8.3 Suspension of the Examination will delay the Plan and additional expenditure is therefore likely to be incurred in the financial year 2015/16.
- 8.4 The option of withdrawing the Local plan would likely to incur further expense still, although it is strongly recommended that cost alone should not be a determinative factor in this matter.

9.0 Legal Implications

- 9.1 The suspension of local plan examinations is addressed in '*Examining Local Plans Procedural Guidance*', published by the Planning Inspectorate. To justify the suspension of a local plan examination, the guidance requires the local planning authority to provide the Inspector with its proposed schedule and timetable of work to be completed during the period of suspension. It also advises that the Inspector will need to consider the following three questions:

- "i. What is the scale and nature of the work required to overcome the perceived shortcoming of the Plan?"*
- ii. How long will it take to do the work?"*
- iii. What will the further work lead to?"*

- 9.2 In respect of the first and third questions, the guidance identifies that the risk of commissioning new evidence is that it may lead to "*major changes*" to the plan. There is no guidance on what is meant by "major changes" but it is clearly something more than the changes which could be recommended by the Inspector as main modifications. In respect of the second question, the procedural guidance states that a six month suspension may be granted, but a longer period is unlikely unless there is a compelling justification for it

- 9.3 Any suspension of the examination will not commence until the Inspector is satisfied that the Council's proposals for the additional work are realistic and will address his concerns, that the additional work will not result in changes to the Local Plan Strategy that make it a fundamentally different plan and that the work can be achieved within a realistic time-scale which is not significantly longer than six months.

10.0 Risk Management

- 10.1 An adopted local plan has many benefits for the Council, local communities and business. It provides certainty over future growth, infrastructure and a secure framework for investment. Accordingly delay in the planning process poses risks for the Council with potential uncertainty over the decision making framework continuing in the short term.
- 10.2 Regrettably delays in the adoption of local plans are relatively common place. Of the 41 Local Plans submitted in 2013, only 19 have been adopted so far, usually taking at least 12 months to reach completion. The remaining 22 have all encountered delay in varying forms. The Council has moved rapidly from

publishing a Plan in March, to submission in May and examination in September. Further risks can be mitigated by undertaking the necessary work in a thorough and timely fashion. In addition support from bodies such as the Planning Advisory Service can help ensure any further work is peer reviewed and has broader endorsement

11.0 Background and Options

- 11.1 The Council published its Local Plan Strategy (LPS) in March 2014 and submitted the document to the Secretary of State on 20 May 2014. In June the Inspector wrote to the Council signifying concerns over various matters, but after the provision of a full response in July, the Local Plan Examination hearings opened in September.
- 11.2 Hearings continued for three weeks and proved unusually intensive in character. Hearings were adjourned on 3 October to allow for the consideration of a large volume of material linked to strategic sites. The Inspector has used this period of adjournment to provide his interim views on the matters considered in the first 3 weeks of hearings.
- 11.3 The Inspector has considered matters of legal compliance and soundness. Overall he has identified some important shortcomings with the plan as submitted, whilst also agreeing that other key issues are satisfactory.
- 11.4 In terms of matters with which he is provisionally broadly satisfied, the Inspector has concluded:
- The Council has met the minimum legal requirements of the Duty to Co-operate;
 - The proposed settlement hierarchy (Principal Towns, Key Service Centres, Local Service Centres and Other Settlements and Rural Areas) seems to be justified, effective and soundly based;
 - The LPS has adhered to Local Development Scheme and Statement of Community Involvement; it has also had regard to the Sustainable Community Strategy;
 - The Sustainability Appraisal which supports the Plan is comprehensive in nature with the Inspector providing further advice to the Council as to additional work to mitigate against any future legal challenge;
 - Material presented at the examination hearing sessions has addressed the legal issue of pre-determination satisfactorily;
 - The content and soundness of other strategic policies can probably be overcome by detailed amendments to the wording of the policies and accompanying text. Accordingly most of the 42 policies of the Plan do not attract significant concern.
- 11.5 In terms of shortcomings, the Inspector has indicated four key areas of concern:-

- 1) The Council has been asked to undertake further work on its objective assessment of housing needs. In particular in the following areas, establishing an appropriate baseline figure, take into account and quantify all relevant economic and housing factors, including market signals and the need for affordable housing
 - 2) Further work is needed to justify the spatial distribution of development, including addressing the development needs of settlements, particularly in the north of the Borough. This should also consider the supply and delivery of sites in the Borough, the Council's approach to 'windfall' and the assumptions made regarding brownfield development;
 - 3) The Council has been asked to review the LPS to ensure the economic strategy promoted is realistic and yet aspirational. The Council has been asked to review the LPS, in particular its cautious economic growth assumptions (and jobs growth) to better reflect the Local Economic Partnership and other initiatives including High Growth City and the North Cheshire Science and Technology Growth Corridor. The jobs growth in the LPS should also reflect the extent of employment site allocations in the submitted Plan;
 - 4) The Council is to undertake further work on its approach to Green Belt and Safeguarded Land, particularly the release of sites from the Green Belt in the north of the Borough. There also seems to be insufficient justification for establishing a new Green Belt in the south of the district (around Crewe and Nantwich).
- 11.6 The Council has been given three options – all of which are commonly provided in these circumstances. These are to carry on regardless (with the clear implication of being the plan being subsequently found to be unsound), to suspend the examination and undertake further work, or to withdraw the Plan at this stage. Of these, the first has already been rejected – it was necessary to inform the Inspector promptly that examination hearings would not be resuming in December.
- 11.7 In terms of the remaining options, each has different risks and implications for the Council. Withdrawal of the Plan would allow a fresh start to be made, potentially building on the evidential work prepared – but it would take the Council back to at least the stage of the pre-submission Plan. This implies a delay of at least two years and potentially longer. Although the Inspector's conclusions on the current plan would be viewed as material, the current examination would close – and a new Inspector would be appointed in due course. The Plan would need to undergo steps of informal and statutory consultation, and it would be re-submitted at a future date. A fresh examination would be convened and there would be a complete re-running of all sessions held this autumn.
- 11.8 Whilst this option provides an opportunity to completely re-work the plan, should that prove necessary, it does imply very significant delay. It also negates any of those matters that have been supported by the Inspector, for example in respect of the Duty to Co-Operate. Accordingly this course of action is generally not recommended, unless there is no realistic alternative.

- 11.9 Suspension of the Examination is therefore to be preferred – but the implications of this option should not be underestimated. Suspension is normally for only 6 months – and all the necessary work must be completed in this time, along with any proposed implications for the Plan itself. There is hence much to do – and a limited time in which to accomplish it. Sound project management is therefore essential to the success and realism of this option. There is also a complicating factor in terms of the length of the suspension in that both local and general elections take place in early May 2015 and whilst much of the additional work required will have been completed by then, the timetable of decision-making may be affected. This complication has been drawn to the attention of the Inspector.
- 11.10 In addition, until certain preliminary work is undertaken, it will not be possible to gauge the full impact of the revised work. If the fresh studies throw up matters which require very significant modification to the Plan, it may not be possible to proceed – for it will be a wholly different plan which is being created. Consequently, even if further studies are conducted, there remains the potential for the Plan to be withdrawn if it becomes apparent that substantial and radical change is required.
- 11.11 Although the Inspector has identified serious shortcomings with aspects of the plan, he has not indicated that they are so severe that the Plan cannot be amended, with support from suitable additional technical work. In the light of comments made the Council has drawn up a schedule of additional work. This concentrates on the following:
- Clarify and revise our Economic & housing strategies
 - Revise the calculation of Objectively Assessed Need
 - Update the Green Belt assessment
 - Revise the spatial distribution of development.
- 11.12 The Council is currently seeking clarification on this programme from the Inspector and on certain aspects of his Interim Views. Accordingly it is suggested that the formal request to suspend should be made once a response on these matters is received. It is recommended therefore that this task be delegated to officers, in consultation with the portfolio holder.

12.0 Access to Information

- 12.0 The background papers relating to this report can be inspected by contacting the report writers:

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