

Meeting: Executive
Portfolio Area: Environment
Date: 11 February 2004

STEVENAGE DISTRICT PLAN 2ND REVIEW – SCHEDULE OF DECISIONS AND PROPOSED MODIFICATIONS

(Department of Environmental Services)

KEY DECISION

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1 PURPOSE

- 1.1 To apprise Members of the progress on the District Plan Second Review since the receipt of the Inspector's Report and to set out a schedule of proposed modifications to the plan in the light of those recommendations.
- 1.2 To recommend Council to approve the council's responses and to authorise the carrying out of a six weeks period of statutory consultation/public consultation on the proposed modifications.

2 RECOMMENDATIONS

- 2.1 To recommend Council to endorse the publication of the Borough Council's schedule of responses to the Inspector's Report and schedule of proposed modifications to the District Plan Review.
- 2.2 To recommend Council to authorise the carrying out of a six weeks period of statutory public consultation on the proposed modifications.

3 BACKGROUND

- 3.1 The Stevenage District Plan Second Review was first published for public consultation (1st deposit) in November 1999 with a revised version (revised deposit) following in May 2001. The council then held a public inquiry into the comments that it had received on the plan.
- 3.2 The public local inquiry took place between September and December 2002. An independent inspector was appointed to consider the objections to the plan and he set out his conclusions and recommendations in the summer (see Executive Report 15th October 2003). The Inspector's Report runs to some 600 pages in length and contains approximately 750 individual recommendations.
- 3.3 The Borough Council is statutorily required to consider the contents of the report, to respond to and to decide what action to take in respect of each of the inspector's recommendations. Under the current legislation, the council is not obliged to accept

all of the inspector's recommendations. However, officers consider that it is appropriate to accept the inspector's recommendations as a matter of principle, other than where there are material considerations or good planning reasons to differ from the inspector. This is the appropriate approach to take given that the council has paid for an independent inquiry and adjudication. Also, new planning legislation later in the year will make local plan inspector's recommendations binding on local authorities. It is clear that the Government considers that following scrutiny by an independent inspector, the recommendations that follow should be accepted.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

4.1 The council must respond to each of the recommendations and set out the changes it would like to make to the plan, in the form of proposed modifications. Many of the proposed modifications to the plan, as set out in the appendix to this report, are changes to the plan put forward by the council to the inspector (in the form of previously approved) Pre Inquiry Changes and Further Proposed Changes). In the majority of cases, the inspector has agreed with these changes, but because they were put forward at non-statutory stages of the plan process, they now need to be formalised through the statutory part of the process. Where the inspector has not agreed with one of the council's Pre-Inquiry Changes or Further Proposed Changes this is stated in his recommendation.

4.2 Stevenage West

The inspector supported the case that the council put forward at the public local inquiry and agreed that a residential allocation at Stevenage West should be included in the plan. It is proposed to accept the recommendation that the inspector made in relation to policy H2, which states that land should be identified to meet the provisions of the adopted 1998 Structure Plan pending further consideration and acceptance of its strategic justification. The council has already asked EERA to carry-out this reconsideration as part of the regional planning guidance process, and the Planning and Development Committee considered the Stevenage West planning applications on this basis.

The inspector has also made his own recommendations to amend the following Stevenage West policies: policy SW5, transport principles; policy SW7, potential use of existing A1(M) crossings together with parts of the reasoned justification; policy SW9, replacement of Meadway Park; policy SW11(E), natural, semi-natural and historic environment. It is proposed to accept all of these recommendations.

4.3 Housing

The inspector agreed with the council's overall housing strategy to allocate a mixture of brownfield and urban greenfield sites. The council agreed with the recommendation to undertake a survey to determine the dwelling mix of new developments to meet local needs, and has commissioned a study from consultants to this effect.

It is also proposed to accept his recommendation that the level of affordable housing at Stevenage West should be brought into line with the level of provision for the rest of the town.

It is proposed to modify the plan in respect of two small sites which were allocated in the Revised Deposit Plan: 32 Essex Road and land to the rear of Fieldcroft. Whilst

the inspector recommended that the sites should be included in the plan (a view with which the council concurs) it has subsequently become clear through discussions with the site owners that these sites will not be brought forward for development during the plan period. The owners have asked that the sites be withdrawn from the plan. As a result, it is not practicable to retain these sites and their deletion is recommended.

It should be noted that this will not adversely affect the council's ability to meet its structure plan housing requirement to 2011 as there will remain an adequate overall housing land supply.

4.4 Employment

The inspector has supported the employment strategy in the plan and accepted the sites allocated for employment development in the Gunnels Wood Employment Area. He also supported the council's approach towards the use of land in the employment areas and supported the retention of the ABB site for employment development. However, the inspector did not support a distinction between strategic and local employment sites being made in the plan and recommended that all sites should be identified simply as employment sites. These recommendations are all accepted.

4.5 Town centre and retailing

The inspector's acceptance of the council's retailing strategy and the Town Centre Regeneration Strategy is reflected in the council's acceptance of his recommendations.

4.6 Environment

The inspector recommended that the playing fields at Ridgemoor Park be identified as part of a green link i.e. protected from development. The council's original position was that the site should not be so designated. However, the Inspector considered – inter alia - that the site met the criteria for green link designation. It is proposed that this recommendation should be accepted. This designation will not affect the college buildings or their curtilage.

4.7 Social and community

The inspector recommended a change to policy SC9 on redundant school buildings. It is proposed to accept his recommendation, which will strengthen the policy and enable the council to require redundant school buildings to be used for community uses even where the school had not been previously used in this way.

The Way Forward

4.8 The council must publish a statement of its decisions together with its reasons for those decisions, where the council disagrees with the Inspector's recommendations. The council's stance is that it accepts all of the inspector's recommendations. The council must also prepare Proposed Modifications to the District Plan Review, which must be published for public consultation for a period of six weeks. It is proposed that the statement of decisions and reasons and the schedule of proposed modifications are published as one schedule, as set out in the appendix to this report.

4.9 The schedule will be published for public consultation in March 2004. At this time the council will invite representations on the proposed modifications only. There is no

opportunity at this stage for objections to be made on the contents of the 1st deposit or revised deposit versions of the plan.

- 4.10 After this period of public consultation, the council must carefully consider all of the objections made and decide whether it is necessary to hold a further public inquiry. If objections are made but the council decides that neither further proposed modifications which materially affect the content of the plan are necessary nor a new local plan inquiry is necessary, the council can then give formal notice of its intention to adopt the plan after 28 days. The representations received during this consultation period will be the subject of a further report to Executive and Council in due course.
- 4.11 Once the council has published notice that the plan has been adopted, any person aggrieved by the plan can challenge its validity (on certain grounds). The aggrieved party can apply to the High Court to have parts of, or the whole, plan quashed. Such an application must be made within six weeks from the date of the first advertisement.

The possibility of legal challenge

- 4.12 It should be noted that the West Stevenage Consortium have stated in evidence to the Stevenage West call-in inquiry that it considers that the part of the inspector's recommendation which relates to the need for a re-assessment of the Stevenage West allocation is ultra vires. The Consortium states that they are likely to make a legal challenge to the plan if this recommendation is accepted by the council.
- 4.13 However, having taken leading Counsel's opinion, officers believe that acceptance of the recommendation is the proper way forward. Officers consider that if this particular recommendation from the inspector is not accepted by the council, there are likely to be challenges from other interested parties.
- 4.14 Counsel is of the view that the recommendation is not ultra vires and should be accepted. This advice has formed a key tenet of the council's actions in the advancing the Stevenage West development since the receipt of the inspector's report. This understanding underpins the following council decisions since August 2003: the decision to ask EERA to conduct the strategic re-appraisal and acceptance of the need for Stevenage West (confirmed by Executive in Oct); the report to Planning and Development Committee on the Stevenage West planning applications (Nov); and the Borough Council's statement to the call-in inquiry (Dec).
- 4.15 It should also be borne in mind that it is not possible to identify with any certainty whether any High Court challenge will, in fact, be made, notwithstanding any such assertions made at this time. No such challenge can be made until the next stage in the process, when the notice of adoption is published, which is unlikely to occur until the autumn.

5 IMPLICATIONS

5.1 Financial Implications

The work associated with progressing the district plan has long been anticipated and adequate budgetary provision has already been made.

5.2 Legal Implications

The Planning Acts set out a long and prescribed procedure for the adoption of local plans, which local planning authorities are statutorily required to produce. Receipt of the inspector's report, the preparation of the statement of decisions and the publication of the Proposed Modifications represent the latest stages of a process that began in 1998, following adoption of the Hertfordshire Structure Plan.

The possibility of a legal challenge is addressed in the main body of the report at 4.12 - 4.15. Members are advised to accept all of the recommendations in the inspector's report.

5.3 Planning Implications

The adoption of the District Plan Second Review will give the council an up to date development plan, in line with Government advice.

5.4 Other Implications

There are no other direct implications to report at this time.

BACKGROUND DOCUMENTS

- Stevenage District Plan 2nd Review 1991 – 2011 Deposit version, November 1999.
- Stevenage District Plan 2nd Review 1991 – 2011 Revised Deposit version, May 2001
- Stevenage District Plan 2nd Review 1991 – 2011 Pre Inquiry Changes, March 2002
- Stevenage District Plan 2nd Review 1991 – 2011 Schedule of Further Proposed Changes, December 2002

APPENDIX

- Stevenage District Plan 2nd Review, Statement of Decisions and Reasons in response to the Inspector's Recommendations and Schedule of Proposed Modifications February 2004 - Available in the Members Library