

**Meeting:** Executive

Portfolio Area: Environment

**Date:** 24 November 2004

**STEVENAGE DISTRICT PLAN 2<sup>ND</sup> REVIEW - ADOPTION**

(Department of Environmental Services)

**KEY DECISION**

Authors – Clare Skeels Ext. 2823 and Richard Javes

Lead Officer – Peter Bandy Ext. 2288

Contact Officer – Richard Javes Ext. 2962

**1 PURPOSE**

- 1.1 To inform Members of the representations received to the proposed modifications and recommend the council's responses to those representations.
- 1.2 To advise that Council be asked to approve the Stevenage District Plan 2<sup>nd</sup> Review 1991 – 2011 and adopt it as the statutory local plan for Stevenage.

**2 RECOMMENDATIONS**

- 2.1 To recommend Council approve the responses to the representations received in respect of the proposed modifications.
- 2.2 To recommend Council to adopt the Stevenage District Plan Second Review, 1991 – 2011 as the statutory local plan for Stevenage.
- 2.3 To recommend Council to grant the Director of Environmental Services delegated powers to make such minor and factual changes to the plan as are necessary or appropriate prior to its publication.

**3 BACKGROUND**

- 3.1 After seven years of preparation the council is in a position to adopt its third and final statutory local plan since the Stevenage Development Corporation was wound up in 1980.
- 3.2 The Stevenage District Plan Second Review was first published for public consultation (1<sup>st</sup> deposit) in November 1999, with a revised version published in May 2001. A public inquiry was held into the representations that were received on the plan between September and December 2002. An independent inspector considered all the objections to the plan and set out his conclusions and recommendations in a report to the council, published in August 2003.
- 3.3 Full Council considered the inspector's report in February 2004 and resolved to accept all of his recommendations. The subsequent combined statement of the

council's decisions (and the reasons for them) and a schedule of all of the proposed modifications was published in February 2004 for public consultation purposes.

#### **4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

- 4.1 A seven weeks period of public consultation was undertaken from March through to May 2004. During the consultation process, only a modest total of 22 objections to the modifications were received, along with 2 representations in support of the proposed modifications. The council must now consider those representations and decide whether it is necessary to either (i) hold another public inquiry into any of these representations; or (ii) to make further modifications; or (iii) to proceed to adopt the plan unchanged.
- 4.2 The objections received relate to several areas of the plan, including the housing, town centre and retailing, social and community and the Stevenage West chapters. A full schedule of the representations and the council's proposed responses are attached as appendix A. The key points made in the two most significant objections are set out below.
- 4.3 Sixteen of the objections have been made by the West Stevenage Consortium. They principally relate to the changes made to policy H2, the strategic allocation of land at Stevenage West, and the consequential changes made to other policies and paragraphs in the plan.
- 4.4 The inspector recommended that the plan should state that the land at Stevenage West should be identified to meet the provisions of the Structure Plan, pending further consideration and acceptance of its strategic justification. The principal objection from the West Stevenage Consortium objects to this caveat in the policy, stating that:
- none of the Stevenage West policies in the structure plan are in any way contingent nor do they provide for any form of further consideration of the principle of development before provision is made in the local plan, or planning permission is granted;
  - in accordance with the Town and Country Planning Act 1990, the local plan is required to be in conformity with the structure plan;
  - the provision in the local plan that the Stevenage West development becomes contingent on a strategic review is in conflict with structure plan policies and that this part of the plan will not be in conformity with the structure plan. Consequently, the local plan would not meet the requirements of the Act and the council would be acting unlawfully in adopting the plan.
- 4.5 The council took legal advice, as reported in February 2004, and it is considered that it would not be acting unlawfully in adopting the plan in the manner suggested. In consequence, it is recommended that the plan should be adopted with the policy provisions that were recommended by the local plan inspector.
- 4.6 An objection has also been received from the County Council in relation to the proposed modification recommended by the inspector to policy SC9. The inspector recommended that the policy should be strengthened to enable the Borough 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 County Council consider that

the proposed modification is unreasonable and that the plan should be amended so that before such a provision is required a number of criteria should be met. The issues and the representations in respect of policy SC9 were considered at the local plan inquiry. Although this was not a change sought by the Borough Council, given the inspector's consideration of the issue, Council should adopt the policy as proposed by the inspector and reflected in the published modifications.

### **The way forward**

- 4.7 All of the objections to the modifications relate to matters properly considered by the inspector at the inquiry. The inspector took into account all the evidence in relation to these areas of the plan referred to by objectors and, after proper deliberations, made his recommendations, which the council subsequently accepted. Consequently, there is no need to hold another public inquiry into any of these representations.
- 4.8 No matters have been raised that justify any further modifications to the plan and there have been no material changes in circumstances that would justify further modifications rather than proceeding directly to adoption. Consequently, there are no reasons to further modify the plan in response to those objections.
- 4.9 In the light of neither a need to (i) hold another public inquiry into any of these representations; nor (ii) to make further modifications to the plan, the council can proceed to formally adopt the plan.
- 4.10 This will mean that the Stevenage District Plan Second Review, 1991 – 2011 will supersede the Stevenage District Plan Review of 1994 as the local plan for the Borough. It will form a key part of the statutory development plan for Stevenage, alongside the 1998 Hertfordshire Structure Plan, the 1999 Hertfordshire Waste Local Plan and the 1998 Hertfordshire Minerals Local Plan.
- 4.11 A full copy of the revised text of the plan is available as appendix B in the Members' Library. A number of statutory procedures must be followed following Council's resolution on 8 December: a formal notice must be published in the London Gazette and local newspapers; notice must be served on those people and organisations that have asked to be notified of adoption; and the plan must also be made available for inspection at the original deposit point, Daneshill House. For ease of public access, the plan will also be made available at the two libraries and on the council's web site.

### **Legal challenge in the High Court**

- 4.12 Once the notice of adoption has been published, any person aggrieved by the plan and who wishes to challenge its validity can apply, on certain grounds, to the High Court to have the plan, or parts of the plan, quashed. Any application to do this must be made within six weeks from the date of the first advertisement of the notice that the plan has been adopted. Although full Council will, hopefully, give effect to this resolution on 8 December it will not be until Friday 10 December that the formal notice will first be published. The six weeks period for a High Court challenge will, thus, end on Friday 21 January 2005.
- 4.13 As reported above and in February 2004, the West Stevenage Consortium stated in evidence to the Stevenage West call-in inquiry that the Consortium would be likely to make a legal challenge if the plan is adopted with the policy H2 contents as now recommended. Officers took advice from Queen's Counsel on this matter. The plan as recommended to be adopted is considered to be lawful.

- 4.14 Officers consider that if the plan had not been amended in line with the inspector's recommendations, there were likely to be challenges from other parties. Other parties, who have not publicly announced their intentions, will also have the opportunity to challenge the plan if they so wish.
- 4.15 The High Court has the power to quash all or part of an adopted local plan if a challenge is made within the six weeks period. A hearing in the High Court would be sought at the earliest opportunity and both the Borough Council and the aggrieved party would have the opportunity to advance evidence and have that evidence challenged.
- 4.16 Should the court choose to quash all or part of the plan, those quashed parts are treated as if they had never been included in the plan when it was deposited but any remaining un-quashed parts of the plan retain adopted status. It is not considered likely that a successful legal challenge to the plan can be sustained. However, should all or part of the plan be quashed the council will have the power to bring forward again - through the new Local Development Framework (LDF) - any policies or proposals that are quashed.
- 4.17 Following the close of the period for challenge, officers will proceed to have the plan printed and made publicly available. At this point it will be necessary to carry out some minor changes to the plan to correct errors, update the plan and ensure that it complies with current legislation and statutory instruments (the plan, otherwise, effectively having been frozen in time with the receipt of the inspector's report). None of this work will affect the policy provisions or proposals of the plan and, therefore, does not require statutory advertisement. However, the Director of Environmental Services requires delegated powers to make such minor and factual changes to the plan as are necessary or appropriate prior to its publication.

## **5 IMPLICATIONS**

### **5.1 Financial Implications**

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

### **5.2 Legal Implications**

The adoption of the local plan is the final stage in a lengthy and prescribed statutory process. The possibility of a legal challenge is addressed in the main body of the report.

### **5.3 Planning Implications**

The adoption of the Stevenage District Plan Second Review will give the council a local plan that is in conformity with the adopted Hertfordshire Structure Plan 1998 as part of the development plan for the Borough.

Following the commencement of the relevant parts of the 2004 Planning and Compensation Act on 28 September, the Stevenage District Plan Second Review is a "saved" plan whose provisions will now have statutory force for only 3 years unless the council applies to the First Secretary of State for an extension to that period.

The new Act has brought in a whole new development plan system, which was the subject of a MIB in September (now appended as appendix C). Council will be asked

to approve the Local Development Scheme (setting out the nature of, and programme for, the Stevenage Borough LDF) at its meeting in February. The LDF will supersede the district plan.

#### **5.4 Other Implications**

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

### **BACKGROUND DOCUMENTS**

- Stevenage District Plan 2<sup>nd</sup> Review 1991 – 2011 Deposit version, November 1999
- Stevenage District Plan 2<sup>nd</sup> Review 1991 – 2011 Revised Deposit version, May 2001
- Stevenage District Plan 2<sup>nd</sup> Review 1991 – 2011 Pre Inquiry Changes, March 2002
- Stevenage District Plan 2<sup>nd</sup> Review 1991 – 2011 Schedule of Further Proposed Changes, December 2002
- Stevenage District Plan 2<sup>nd</sup> Review 1991 – 2011 Inspectors Report, August 2003
- Stevenage District Plan 2<sup>nd</sup> Review 1991 – 2011 Combined Statement of Decisions and Reasons and Schedule of Proposed Modifications, March 2004

### **APPENDICES**

- A. Summary of representations and schedule of responses to the Proposed Modifications [attached]
- B. Stevenage District Plan 2<sup>nd</sup> Review, 1991 – 2011 (version to be adopted) [lodged in Member's Library and on the council's web-site]
- C. Implications of the Planning and Compulsory Purchase Act 2004 for the District Plan [attached]