

Meeting COUNCIL
Portfolio Area ENVIRONMENT AND REGENERATION
Date 22 May 2019



STEVENAGE BOROUGH LOCAL PLAN: ADOPTION

KEY DECISION

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1 PURPOSE

- 1.1 To inform Members of the key outcomes of the Main Modifications consultation.
- 1.2 To inform Members of the content of the Inspector's Report and to report any further changes recommended by the Inspector (over and above the Main Modifications proposed).
- 1.3 To inform Members of the firm proposal of Executive, having had regard to the outcomes of consultation with the Overview and Scrutiny Committee.
- 1.4 To seek agreement to adopt the Stevenage Borough Local Plan, incorporating main and minor modifications, and to subsequently revoke the District Plan Second Review 2004.

2 RECOMMENDATIONS

- 2.1 That the outcomes of the Main Modifications (and associated Sustainability Appraisal) consultation be noted (responses summary attached as Appendix A).
- 2.2 That the content of the Inspector's Report be noted (attached as Appendix B).
- 2.3 That the firm proposal of Executive, having had regard to the outcomes following consultation with the Overview and Scrutiny Committee, be noted.
- 2.4 That Council accepts the Inspector's recommendation to adopt the Stevenage Borough Local Plan, incorporating main and minor modifications (attached as Appendix C), and associated Policies Map, and also to revoke the District Plan Second Review 2004 (BD1).

3 BACKGROUND

- 3.1 In September 2012, the Executive authorised the preparation of a new local plan for Stevenage: the Stevenage Borough Local Plan (SBLP).
- 3.2 The new Plan will set out a spatial vision for the town to 2031 and contain detailed land-use policies for the Borough. Once adopted, it will supersede the existing District Plan Second Review (adopted 2004) as the statutory local plan for the Borough and will be used to determine applications for planning permission.
- 3.3 The preparation of local plans is subject to an extensive legal framework, as set out in relevant acts and regulations and interpreted through case law. This is supplemented by national planning policies and guidance which set out the clear principles and expectations of the planning system.
- 3.4 The Council carried out public consultations on the draft Local Plan and its accompanying Sustainability Appraisal, in June 2013, June 2015 and January 2016. The Stevenage Borough Local Plan (BD2) was submitted to the Secretary of State on 21 July 2016, which started the Public Examination process. A series of hearing sessions were held between January and March 2017, during which the Inspector heard evidence from the Local Planning Authority and relevant representors on particular issues and points she felt were fundamental to the soundness of the plan.
- 3.5 In response to issues raised by the Planning Inspector, the Council drafted a series of Main Modifications to the Plan, which were considered necessary to make the plan sound. These Main Modifications (BD3) and accompanying Sustainability Appraisal (BD4) were considered by the Executive in May 2017 and approved for public consultation. A number of minor modifications and changes to the Policies Map (BD5 & 6) were also proposed, but these were not subject to public consultation, being corrections or immaterial changes.
- 3.6 Representations made in response to the consultation were then collated and summarised by officers and passed to the Planning Inspector for her consideration when drafting her report into the Local Plan.

- 3.7 The Inspector's Report was received by the Borough Council on 18 October 2017. The Inspector's overall conclusion and recommendation is cited as follows:
- "I conclude that with the recommended main modifications set out in the Appendix the SBLP satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework."*
- 3.8 In accordance with the Council's Budget and Policy Framework rules, the process leading to adoption of the Local Plan began in November 2017, with Executive considering the draft Local Plan at its meeting on 7 November 2017. At that meeting, Executive resolved *"that the Overview and Scrutiny Committee be informed that the Executive's initial proposal is to recommend to Council to accept the Inspector's recommendation to adopt the Stevenage Borough Local Plan, incorporating main and minor modifications (attached as Appendix C), and associated Proposals Map, and also to revoke the District Plan Second Review 2004 (BD1)"*.
- 3.9 The matter was due to be considered by Overview and Scrutiny Committee on 13 November 2017, but before it could do so, the Secretary of State issued a temporary Holding Direction to prevent the Council from adopting the Plan, so that he could consider representations from the local MP largely relating to town centre regeneration and green belt issues.
- 3.10 Officers worked closely with MHCLG officials, providing detailed information and answering all of the questions raised by the end of January 2018. Council Officers continued to liaise with MHCLG to request that the Holding Direction be lifted, given the extensive time taken for a decision to be reached. In September 2018 the Council opted to issue a pre-action protocol letter to MHCLG to seek a decision on the Plan. In response MHCLG indicated a decision would be taken by 13 November 2018. Contact was maintained up to and beyond that date to seek a decision.
- 3.11 At the end of January 2019, with no other routes available to resolve the matter at that time, the Council opted to launch Judicial Review proceedings to address the delay and obtain a clear response from Government into the temporary Holding Direction on the Local Plan. The Council maintained it would keep all options open for a positive and constructive resolution.
- 3.12 The Council has worked proactively since the Holding Direction was put in place on 13 November 2017 to attempt to get the Direction lifted. There were no technical issues outstanding at the end of January 2018. A number of meetings and visits between Council Members and officers and civil servants and the Secretary of State have taken place during this time, alongside constant requests to MHCLG to release the Direction. The support of other Hertfordshire Local Government Authorities and professional planning bodies during this period has been appreciated.
- 3.13 The Holding Direction was lifted on 25 March 2019 by the Secretary of State, providing a resolution to the issue. The letter from the Secretary of State (Appendix D) withdraws the direction on the understanding that the Council commit to the following actions:

Update the LDS (to be adopted before or at the same time as the Local Plan is adopted) to include the preparation of an Area Action Plan (AAP) for the Stevenage 'Station Gateway' area (Site TC4 in the Local Plan). The AAP should be timetabled for adoption in December 2020 or sooner.

Provide monthly updates to MHCLG on preparation of the Area Action Plan

The Council was minded to undertake more detailed work on this area in any case, to ensure its aspirations for the railway station and the surrounding area are delivered to their full potential. An Area Action Plan has been scheduled for production, as set out in the revised Local Development Scheme (LDS) approved by Executive on 30 April. The Council will provide monthly updates as requested.

Publish for public consultation a Master Plan for the regeneration of the Stevenage Town Centre sites identified in the Local Plan as TC5 and TC2.

MACE will be producing a Master Plan for the regeneration of sites TC2 and TC5 as part of their planning application for the wider town centre regeneration. This is entirely consistent with the Council's approach to complex planning matters, as Local Plan policy SP8 requires all significant developments to be masterplanned.

Designate a lead Councillor and lead official to be responsible for progressing the preparation and implementation of the Area Action Plan, and for the implementation of the Local Plan itself.

These would automatically be overseen by Councillor John Gardner, as Portfolio-holder for Planning and Regeneration and the Assistant Director for Planning and Regulation (presently Chris Berry covering this role as Interim AD for this service area) as standard council practice for the preparation and implementation of local Development Plan Documents.

Remove references in the Local Plan to a new train station before adoption.

Two Main Modifications (referenced as MM7 & MM23 in the Main Modifications schedule, attached as BD3) were proposed and approved by the Planning Inspector as part of the Examination process. Whilst they did not go to matters of soundness, these amendments (to Policies SP4 and TC4) were welcomed by the Council to provide clarity in terms of how the station is referred to, and to clarify that the Plan encourages and supports an 'extended and regenerated train station' rather than proposing a 'new' station.

- 3.14 Following discussions with MHCLG, two further references where the word 'new' should be replaced or deleted have been identified, as follows:

Para/Section of Local Plan (reference relates to submission version)	Existing text	Proposed minor modification
Para 5.33	...with a new train station at its heart...	Replace the word 'new' with the word 'regenerated'
Mobility Strategy (added as Appendix B to the Plan).The Local Plan identifies (Policy TC4 iv) a proposal for a radically improved new Stevenage railway station....	Deletion of 'new'

- 3.15 These are Minor Modifications that do not affect the soundness of the Plan and do not require public consultation. These changes are directly in line with those already proposed.
- 3.16 There are no other changes or updates to the draft Local Plan as a result of the Holding Direction or its release.
- 3.17 Once the Holding Direction had been withdrawn, the Local Plan adoption process began once again.
- 3.18 In accordance with the Budget and Policy Framework rules in the Council's Constitution, initial proposals were taken to the Executive on 30 April and then submitted to the Overview and Scrutiny Committee for consultation. A report was then taken to the Executive on 14 May to inform them of the Overview and Scrutiny Committee's responses to the consultation and recommend firm proposals to be submitted to Council. The timetable is set out below:

Date	Meeting	Report
30 April	Executive	Draft proposals
30 April	Overview and Scrutiny Committee	Draft proposals
14 May	Executive	Finalised proposals (taking into account feedback from Overview and Scrutiny)
16 May	Overview and Scrutiny Committee	Finalised proposals
22 May	Council	Adoption of the Plan

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

Recommendation 2.1:

That the outcomes of the Main Modifications (and associated Sustainability Appraisal) consultation be noted (Appendix A).

- 4.1 Consultation on the Main Modifications, and associated Sustainability Appraisal (“SA”), was held between 12 June 2017 and 24 July 2017.
- 4.2 A total of 56 representations were received to the Main Modifications, from 15 representors. A further 4 representations were made against the SA.
- 4.3 Responses were received from:
- **Organisations:** Sport England, Friends of Forster Country, Graveley Parish Council, London Luton Airport, Transport for London, East and North Herts NHS Trust, North Hertfordshire District Council, Historic England, and Environment Agency.
 - **Landowners/developers:** Taylor Wimpey/Persimmon (Stevenage West), RPF developments and Bragbury End Sports Ltd. (South East Stevenage), Wyvale Garden Centres Ltd., and Hertfordshire County Council (as landowner of allocated housing site).
 - **Four individuals**
- 4.4 Of these representations, 18 offered clear support for a Modification, 19 representations were objecting to a Modification, and the remaining 23 representations were either general comments, or did not provide a clear overall view either way.
- 4.5 The key responses raised have been summarised below. A full summary of responses can be found in Appendix A and the full responses can be viewed via our consultation portal (BD5):
- General support and support for specific modifications.
 - Objections to modifications relating to modal shift – people will still use cars. Traffic impacts will be significant. Removing funding/capacity for roads and reallocating to sustainable transport modes is unacceptable.
 - Objections to the wording relating to the requirement for a Masterplan at Stevenage West (from the prospective developers).
 - Welcome the clarity provided, but modifications proposed still do not justify why affordable housing above the HO7 targets should be required if a scheme fails to meet other policy requirements.

- Modifications demonstrate that the Gypsy and Traveller site allocated is not deliverable.
- Modifications do not address the need for some market residential development being required on the hospital site to make a scheme for new staff accommodation viable.
- Modifications are contradicted by the intention to build on Forster Country.
- Further minor wording changes suggested to some of the modifications proposed.

4.6 It is not for the Borough Council to respond to these objections. Instead, the Inspector has considered them in making her final report, and has recommended further changes to the modifications, as required.

4.7 Members are requested to formally note the outcome of the public consultation.

Recommendation 2.2:

That the content of the Inspector's Report be noted (Appendix B).

4.8 The Inspector's Report into the Local Plan was received by the Borough Council on 18 October 2017.

4.9 The report concludes that the Stevenage Borough Local Plan, as currently drafted (Publication version), does not comply with the tests of soundness. However, the Council formally requested that the Inspector recommend any Main Modifications necessary to make the Plan sound, as part of the Examination process.

4.10 The Inspector's report concludes that with the Main Modifications proposed (as contained in the Appendix to the Inspector's report (Appendix B of this report), the Stevenage Borough Local Plan can be considered sound, and is therefore recommended for adoption.

4.11 The Main Modifications (BD3) all concern matters that were discussed at the examination hearing sessions and were considered necessary to make the plan sound. The Main Modifications and accompanying Sustainability Appraisal (BD4) were considered by the Executive in May 2017 and approved for public consultation. The modifications were subject to public consultation in June/July 2017.

4.12 The Inspector's report confirms these modifications and sets out why they are deemed necessary to make the plan sound.

4.13 Beyond those modifications already consulted upon, the Inspector only recommends further amendments to the plan in terms of the detailed wording of five of these Main Modifications (in response to the consultation responses received).

4.14 These amendments relate to the following issues:

- MM52 – deletion of modification. The modification sought to mitigate against the loss of sports facilities at the former Pin Green School Playing Field. Due to the playing fields not being used for over 10 years and the fact that they would be surplus supply according to the Sports Strategy, mitigation would be unreasonable.
- MM55 – minor wording change of modification relating to sports provision at Stevenage West, from ‘demand’ to ‘need/insufficient need’.
- MM71 – correction of a typographical error within the modification relating to Gypsy and Traveller Provision, to replace reference to ‘Section 236’ with ‘Section 226’.
- MM28 and MM7 – insertion of the word ‘comparison’ in addition to the insertion of ‘convenience’ proposed within the modifications relating to retail provision, to provide further clarification.

4.15 Members are requested to formally note the content of the Inspector’s Report.

Recommendation 2.3:

That the Executive’s firm proposal, having had regard to the outcomes following consultation with the Overview and Scrutiny Committee, be noted.

Feedback of the Overview and Scrutiny Committee

4.16 The Overview and Scrutiny Committee considered the 30 April Executive Report at their meeting on 30 April.

4.17 Questions were raised in relation to a number of different issues. A summary of the key issues raised and officer responses is below:

Reference to ‘new’ railway station

4.18 Members questioned the significance of the removal of references to a ‘new’ railway station (in line with the Secretary of State’s letter lifting the holding direction) and whether this would impact delivery of improvements. Officers explained this was of no major significance to the draft Local Plan. Both

amendments requested by the Secretary of State were minor modifications and it had always been the intention of the Council to press for an improved and regenerated Station, as supported by residents and local businesses.

Affordable housing

- 4.19 Members questioned the origins of the removal of the words 'at least' in Main Modification 57 (MM57), in relation to the 30% affordable housing provision requirement of Policy HO3. Officers clarified that this modification was put forward by the Planning Inspector. In her view, Policy HO3 (Land North of Stevenage) should not be seeking an affordable housing level above those rates set out in Policy HO7 (Affordable housing targets). The Council will still be able to allow and encourage a greater proportion of affordable housing, but will not be able to insist upon it.
- 4.20 Members were concerned that the delay in adopting the Local Plan may have caused the Council to lose potential affordable housing, as it could not successfully negotiate on viability. Officers explained that the Council has been using the draft Local Plan as a material consideration in determining planning applications, despite it not being adopted. Officers undertook to provide Members of the Committee with details of any potential loss of affordable housing provision in the Borough as a result of the prolonged imposition of the Holding Direction.

Development not set out in the Local Plan

- 4.21 Members questioned whether development not set out in the Local Plan could still come forward once the plan was adopted. Officers explained that the Plan sets out a strategy defining the use of various sites across the town, but the details of each development would be matters for consideration by the Planning and Development Committee. However, all major site allocations would be subject to the production of Master Plans. The Plan takes a positive approach to development and would not preclude planning applications to be considered by the Planning and Development Committee for sites and matters not contained within it.

Financial implications

- 4.22 Members questioned how much money the Holding Direction has cost the Council since it was put in place. Officers confirmed that the Council would be seeking to reclaim its legal costs associated with work on the Council's Judicial Review application, and undertook to provide Members of the Committee with figures relating to these legal costs, together with an estimate of officer time spent over the past 18 months on matters relating to attempts made to obtain a lifting of the Holding Direction. Officers indicated that legal costs could be made publically available.

General comments

- 4.23 A Member commented that he was pleased we can move ahead with the word 'regenerated' replacing 'new' in relation to the station, and that regeneration of the station was much needed.
- 4.24 A Member commended and thanked the Portfolio Holder for Environment and Regeneration, other relevant Members and officers for their determination and perseverance over the past few years which had finally led to current position.
- 4.25 The Overview and Scrutiny Committee had no other comments on the Executive's initial proposal to recommend to Council to accept the Inspector's recommendation to adopt the Stevenage Borough Local Plan, incorporating main and minor modifications (attached as Appendix C to the Executive report) and associated Proposals map, and also to revoke the District Plan Second Review 2004.
- 4.26 A report was taken back to Executive on 14 May, which informed Members of the outcomes of consultation with the Overview and Scrutiny Committee and recommended that firm proposals were submitted to Council.
- 4.27 Further discussion was held on these points. Executive thanked the Members of all parties on the Overview and Scrutiny committee for their support. Executive also added to the officer response to the Overview and Scrutiny committee on affordable housing, stating that there was an additional opportunity to encourage and deliver more affordable housing via the Council's own house-building programme and its good relationships with Registered Social Landlords, and that delivering genuinely affordable housing remains a high priority for the council. Executive agreed the financial and resource implications of the holding direction were significant and had resulted in lost opportunities for investment and the delivery of other Council objectives.
- 4.28 Executive Members thanked the Overview and Scrutiny Committee for the helpful and interesting points made in their discussions.
- 4.29 At its meeting on 14 May Executive agreed:
- (i) That the outcomes following consultation with the Overview and Scrutiny Committee be noted.
 - (ii) That Executive inform Council that its firm proposal is that Council accept the Inspector's recommendation to adopt the Stevenage Borough Local Plan, incorporating main and minor modifications (attached as Appendix B), and associated Policies Map and that Council be asked to revoke the District Plan Second Review 2004 (BD1 to the Executive report on 30 April 2019).

Recommendation 2.4:

That Council accepts the Inspector's recommendation to adopt the Stevenage Borough Local Plan, incorporating main and minor modifications (attached as Appendix C), and associated Policies Map, and also to revoke the District Plan Second Review 2004 (BD1).

- 4.30 Upon receipt of the Inspector's Report, the Council can either adopt the Stevenage Borough Local Plan, with the recommendations proposed by the Inspector, or it must withdraw the Plan completely.
- 4.31 The final draft version of the Local Plan, incorporating the main modifications recommended by the Inspector, as well as any minor modifications, is attached to this report at Appendix C.
- 4.32 Once adopted, the Local Plan will replace the existing 2004 District Plan.

5 IMPLICATIONS

Financial Implications

- 5.1 The preparation of the Local Plan has been funded from within the approved General Fund budgets.
- 5.2 The delays caused by the Holding Direction had resource implications in terms of both legal costs and officer time. It is thought likely that the Council will receive a payment from MHCLG to cover some of its direct costs. However this will be a matter of negotiation and at the time of writing this report the final position is not known.
- 5.3 A legal challenge(s) to the Local Plan following its adoption would have financial implications for the Borough Council. Any such costs would be dependent upon the nature of the challenge(s).
- 5.4 If the remaining costs of adopting the Local Plan, or any subsequent legal challenges, exceed/are likely to exceed the funds available, an in year budget pressure will be reported as part of the quarterly monitoring process.
- 5.5 Adopting an up-to-date Local Plan will reduce the risk of costs associated with planning appeals and should provide a firm basis for seeking S106 contributions to fund key infrastructure projects.

Legal Implications

- 5.6 Preparation of a local plan is a statutory duty upon every Local Planning Authority. Local plans are prepared within the framework set out in the Planning and Compulsory Purchase Act 2004 ("the Act"), as amended by the Localism Act 2011.

- 5.7 Once adopted, the Local Plan will become part of the statutory Development Plan. Section 38(6) of the Act requires planning decisions to be made in accordance with the plan unless material considerations indicate otherwise.
- 5.8 An assessment of the likely environmental effects of new local plans is statutorily required by European Directive 2001/42/EC, as translated into English law by the Environmental Assessment of Plans and Programmes Regulations 2004.
- 5.9 The Act requires an appraisal of the sustainability of the plan. This incorporates social and economic impacts alongside environmental effects.
- 5.10 Section 39(2) of that Act imposes a positive duty on the Borough to contribute to the achievement of Sustainable Development.
- 5.11 The implementation of these acts, directives and regulations has been tested through the courts. Regard has been had to relevant case law and the Inspector is satisfied that the relevant statutory requirements have been complied with.

Risk Implications

- 5.12 The potential risks to the Council in undertaking the preparation of a new local plan are monitored within the Planning Policy team on an on-going basis. Mitigation measures are identified to alleviate the risks.

Policy Implications

- 5.13 The statutory development plan for the Borough forms a part of the Borough Council's overarching policy framework. It has potentially wide-ranging policy implications beyond the field of spatial planning.
- 5.14 There will be a need for positive interaction between the Plan, and other plans and strategies of the Borough Council (and other stakeholders) to ensure that a consistent and holistic approach is adopted.

Planning Implications

- 5.15 Once adopted, the new Stevenage Borough Local Plan will replace the Stevenage District Plan Second Review (SDP2R), adopted in 2004 and as saved with amendments in 2007. The new Stevenage Borough Local Plan will form a part of the statutory development plan for the Borough from its adoption, although it is already being used as a material consideration in the determination of applications.
- 5.16 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.17 By taking these steps, planning decisions will be informed by policies that are up-to-date, relevant and in line with national policy and guidance.

Environmental Implications

- 5.18 There will, inevitably, be considerable environmental implications from the development of a new local plan. These are assessed in the Sustainability Appraisal (BD4), statutorily required by European Directive 2001/42/EC, as translated into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, and the 2004 Planning and Compulsory Purchase Act.
- 5.19 Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora requires local planning authorities to decide if their plans will affect any protected European Sites. The requirements have been translated into English law by the Conservation of Habitats and Species Regulations 2010. The Appropriate Assessment Screening Opinion fulfils these requirements.

Equalities and Diversity Implications

- 5.20 An Equality Impact Assessment of the Planning Policy service has previously been carried out. It identified that the unit's responsibilities and methods would not discriminate against people on grounds of age; disability; gender; ethnicity; sexual orientation; religion/belief; or by way of financial exclusion.
- 5.21 A further EQIA of the plan has been completed (Background document to this report – BD7).

BACKGROUND DOCUMENTS

- BD1 [District Plan Second Review 2004](#)
- BD2 [Stevenage Borough Local Plan - Publication draft](#)
- BD3 [Schedule of Main Modifications \(as consulted upon\)](#)
- BD4 [Sustainability Appraisal](#)
- BD5 [Schedule of minor modifications](#)
- BD6 [Schedule of modifications to the Proposals and Inset Maps](#)
- BD7 [EqIA of the Stevenage Borough Local Plan](#)
- BD8 [Local Plan Executive Report and notice of decisions, 30 April](#)
- BD9 [Local Plan Executive Report, 14 May](#)

APPENDICES

- A Main Modifications consultation response summary
- B Inspector's Report
- C Stevenage Borough Local Plan – incorporating major and minor modifications
- D Letter from the Secretary of State, March 2019