

NON EXEMPT

HAVANT BOROUGH COUNCIL

Cabinet

1 July 2020

HAVANT BOROUGH LOCAL PLAN: CHANGES TO THE PRE-SUBMISSION LOCAL PLAN

Planning Policy Manager

Report No HBC/007/2020

FOR DECISION

Portfolio: Cabinet Lead for Planning, Regeneration and Communities

Head of Service: Director of Regeneration and Place

Key Decision: Yes

1.0 Purpose of Report

- 1.1. To set out progress on the Havant Borough Local Plan since the approval of the Pre-Submission Local Plan on 30th January 2019¹, to seek approval of changes to that plan and to authorise consultation on those changes prior to the submission of the plan to Government for its Examination.

2.0 Recommendations

- 2.1. That the Cabinet recommends to Full Council that it:
- i. Approves the publication of the changes to the Pre-Submission Havant Borough Local Plan (Appendix A);
 - ii. Approves the consultation on the changes on the Pre-Submission Havant Borough Local Plan (Appendix A);
 - iii. Authorises the Planning Policy Manager², in consultation with the Cabinet Lead for Planning Regeneration and Communities² and the Cabinet Lead for Communications² to prepare relevant consultation material;
 - iv. Delegates authority to the Planning Policy Manager², in consultation with the Cabinet Lead for Planning, Regeneration and Communities² to make any necessary additional changes to the Havant Borough Local Plan prior to the start of the consultation;

¹ Agenda, papers and minutes are available at <https://havant.moderngov.co.uk/ieListDocuments.aspx?CId=126&MIId=10792&Ver=4>

² Or successor in similar or equivalent role

- v. Notes that following any approval under (i) the changes to the Havant Borough Local Plan would have material planning weight and would be a material consideration in decision making;
- vi. Notes the publication of the additional submission documents (the Sustainability Appraisal, the Habitats Regulations Assessment, Integrated Impact Assessment, evidence base, Statements of Common Ground);
- vii. Notes the Borough's five year housing land supply position as of December 2019 (available at www.havant.gov.uk/localplan/evidence-base);
- viii. Notes the change in title of the plan to "Havant Borough Local Plan" and the resultant need to amend any emerging Council strategies;
- ix. Delegates authority to the Planning Policy Manager² to prepare a report, which forms one of the required documents to submit to the Secretary of State, noting the number of representations made through the consultation (recommendation ii) and a summary of the main issues raised;
- x. Approves the submission of the Havant Borough Local Plan, including the proposed changes, to the Secretary of State for Housing, Communities and Local Government following the consultation (ii) and the publication of the consultation report (vi); and
- xi. Delegates authority to the Planning Policy Manager¹ to prepare a schedule(s) of proposed changes for the Planning Inspector to consider before and/or throughout the examination of the Local Plan.

3.0 Executive Summary

- 3.1. The Local Plan remains one of the most important functions of the Borough Council. Whilst there have been extensive changes to the planning system in recent years, this has only emphasised the role of the Local Plan in the development process in the UK and increased the necessity of having an up-to-date Local Plan.
- 3.2. A local plan is an overarching strategy shaping the Borough of Havant as a place. It is not merely a collection of development sites but instead a high level strategy for development of the Borough as a whole. It is for this reason that the first sections of the plan deal with key projects, critical to the delivery of the strategy, together with policies on infrastructure provision and environmental protection. The plan should of course be read as a whole and it is only after these policies that one finds development allocations. Collectively, these provide for housing need, economic growth and environmental sites.
- 3.3. The Council highlights the importance of an up-to-date Local Plan in the Corporate Strategy. On 7th November 2018, the Council also approved and adopted the Opportunity Havant Regeneration Strategy. This clearly sets out the Council's commitment to the regeneration of the Borough, the priority of the initial projects and the drive to see delivery of regeneration schemes on the ground.

- 3.4. The Local Plan is intrinsically linked to the Regeneration Strategy and the Council's wider goals regarding regeneration. It is a key mechanism for moving the sites in the strategy forwards towards delivery by setting out the principles for the development of the sites and reinforcing the message to the investment market that Havant Borough is open for business.

The need for development and for a Local Plan to guide it

- 3.5. The National Planning Policy Framework (NPPF) sets out Government's policies and priorities regarding development and the planning system. This is the first Local Plan the Council has prepared in line with the NPPF. The NPPF includes a requirement for Local Authorities to produce local plans which fully met the need for development in their area.
- 3.6. Since the first NPPF's introduction in 2012, successive Governments have made clear that significantly increasing the supply of housing is a national priority and that the planning system has to address this. The need for housing in the Borough is clear in order to address the needs of a growing and aging population. New development is inevitable and every part of the Borough will inevitably see housebuilding taking place in the coming years.
- 3.7. The NPPF requires authorities to meet the need for new homes, to have a five year supply of deliverable housing sites and to assist nearby local authorities less able to meet the need for development, as part of the duty to cooperate.
- 3.8. As such, it changes the question before the Council and the Borough's communities. It is no longer a question of whether development should happen. It is instead whether the benefits that the development can bring should be grasped. If development is to take place, it should be of a high quality and stand the test of time, it should include the infrastructure necessary to mitigate its impact, and it should preserve and enhance our built and natural environments.
- 3.9. The Council has historically prioritised having an up-to-date Local Plan so that development decisions could be made locally and shaped to meet our needs. The Borough's existing Local Plan is the Havant Borough Local Plan (Core Strategy) and the Havant Borough Local Plan (Allocations Plan). However the Local Plan is now out-of-date. This was confirmed through a planning appeal in Purbrook in the summer of 2016.
- 3.10. A new local plan, which accepts the quantity of development needed and where that will have to go, will put the Council in the best position to influence inevitable development. It will mean that development can be directed away from sites that are genuinely unsustainable, that development quality can be pushed up and that infrastructure is provided.

The consequences of not having an up-to-date Local Plan

- 3.11. A Local Plan will help to realise the benefits of development and make sure that the new development that is inevitable. The adopted Local Plan can no longer do this as it was produced under the previous national planning system.

- 3.12. Without a new Local Plan, it is not possible to exert the necessary influence over new development to ensure that it comes forward at the correct quality, that infrastructure is put in place and that environmental safeguards are provided.
- 3.13. The Borough risks development being permitted through the planning appeal process. This would put at risk the quality of that development, reduce the likelihood of infrastructure being provided, and weaken the environmental safeguards that are proposed through the Local Plan. This has been the case in the past in Havant Borough with the decision at appeal to allow 131 dwellings at 'Land North of Goldring Close'³. More recently, at London Road, Purbrook, an appeal was allowed for a housing site on a former employment area. In making the decision, the inspector determined that the provision of housing, and the lack of a five year housing land supply, overrode the retention of the employment site. In our neighbouring local authority of East Hampshire, several planning appeals were allowed due to the fact that the local authority had not met the need for housing and was not maintain a sufficient five year housing land supply.
- 3.14. Ultimately, the need for development is such that sites where development was resisted only a few years ago are now having to be identified for development. Further new sites are needed on top of those previously considered sites and no stone can be left unturned in looking for sites that can provide sustainable development.

The development of the Havant Borough Local Plan

- 3.15. Work on the new Local Plan started at the beginning of 2016. The important milestone of the Pre-Submission Consultation took place in 2019. This followed a number of previous stages of consultation with the Borough's communities and extensive research into the issues which face the Borough and so need to be addressed through the plan.
- 3.16. It is for the same reasons that it is imperative to progress with the new Local Plan for the Borough as quickly as possible. The same consequences of not having a Local Plan will also apply if one is not progressed as quickly as possible. The Council has a legal responsibility to determine planning applications that are submitted. It is not possible to delay their determination or prevent them being submitted and refusal on grounds of prematurity towards the Local Plan preparation process is not possible other than in exceptional circumstances.
- 3.17. Whilst there has been a need to delay the submission of the Local Plan while the Council puts in place a strategy to respond to the requirements of The Dutch Case (see below), this is now coming into place. As such, it is necessary to consult on the changes necessary to the Local Plan, submit it to Government to examine and ultimately adopt it as soon as possible.

The need for changes to the Pre-Submission Local Plan

- 3.18. Since the approval of the Pre-Submission Local Plan, external factors and continuing discussions with statutory stakeholders have led to officers

³ Application APP/12/00966, overturned by appeal APP/X1735/A/13/2192777, Land North of Goldring Close and My Lords Lane, East of St Margarets Road and South of Beech Grove and Hawthorne Grove, Hayling Island

considering a number of proposed changes to the plan. These are set out in a tracked changes version of the Pre-Submission Local Plan at Appendix A.

- 3.19. In order for any changes proposed at this point to be considered by the Inspector as part of the Council's plan, they must first be subject to public consultation. More minor changes are possible to submit to the inspector for them to consider as potential changes. However, some of the changes necessitated new or substantial changes to policies. These require sustainability appraisal. As such, they should be formally included as part of the plan the Council submits to Government rather than be suggested changes for the Inspector to consider.
 - 3.20. This will enable the Planning Inspectorate to undertake the examination on a consolidated version of the Local Plan, including the proposed changes. The more significant changes, those that in and of themselves require sustainability appraisal, have been specifically highlighted with change references in Appendix A.
 - 3.21. For completeness, approval of the full suite of proposed changes is sought together with approval to consult on them. Nonetheless, this does not remove the approval and authorisation of the Pre-Submission Local Plan in 2019 together with the strategy, policies and sites that it contains. Approval of these recommendations would sit alongside the existing approval of the overall Pre-Submission Local Plan on 30 January 2019, forming one consolidated plan to be submitted for examination.
 - 3.22. As the consultation would be under the same regulation as that which took place in 2019, the consultation would be carried out in a similar way and the same questions asked. Nonetheless, officers will be able to use the experience of how the 2019 consultation was received to improve the layout of the consultation form to make it easier to fill in.
 - 3.23. It should be noted that the focus of the consultation will be on the changes proposed. It is not the purpose of this consultation to open up the whole plan for comment again. Consultation material will make clear that comments previously made will still stand, and that all representations received in 2019 will be passed to the inspector for examination.
 - 3.24. Following the consultation on the changes, a report would need to be prepared setting out the number of representations made and the main issues raised. The plan would then be submitted to the Secretary of State for examination.
- The 'Dutch Case'**
- 3.25. Since the consultation of the Pre-Submission Local Plan last year, the full implications of the *Dutch Case*, a judgement of the European Court of Justice, has come to light⁴. It relates to the impact of additional nutrient loads in the harbours, including from development, and has had a significant impact across the Solent in terms of the ability to grant planning permission for residential development. This has been considered extensively at the

⁴ Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>

Partnership for South Hampshire's Joint Committee⁵ and the Cabinet's decision to approve a Position Statement on Nutrient Neutral Development in June 2019⁶.

- 3.26. Responding to this issue has delayed the production of the Local Plan. This means that there would no longer be a 15 year time horizon from the period of adoption. As a result, the plan period will need to be extended to 31st March 2037. This results in substantive changes to the plan, including the development trajectory and an increase in the need for development to accommodate the additional year. Following this, the title of the plan should also be amended, to simply "Havant Borough Local Plan".
- 3.27. Some of the key proposed changes to the Havant Borough Local Plan respond to *The Dutch Case* and include measures which ensure that it can be overcome.
- 3.28. It has been confirmed that a mitigation package will be needed to support any development resulting in a net increase in overnight accommodation. This is principally residential development but also includes hotels, care homes and some other scheme. Furthermore, some particularly water intensive commercial development may be affected.
- 3.29. A solution is being actively pursued by the Council with the agreement by the Cabinet on 3 June 2020⁷ of a land transaction to facilitate a mitigation plan to ensure future development can be nutrient neutral. The Council's Position Statement on Nutrient Neutral Development⁸ will be updated in order to enact the mitigation scheme when it is ready for launch. This was authorised by the Cabinet on 26 June 2019⁹.

Statements of Common Ground with key stakeholders

- 3.30. Officers have engaged with a number of key statutory stakeholders in the Local Plan throughout the production of the plan. Discussions in 2019 focussed on the responses to the Pre-Submission consultation and whether any concerns could be overcome. This has led to a number of proposed changes to the plan which substantially reduce the concerns from those key stakeholders. This should make the examination simpler.
- 3.31. These discussions have been noted through Statements of Common Ground. These have been published at www.havant.gov.uk/localplan.

Transport Assessments

- 3.32. There are two transport assessments which support the Havant Borough Local Plan. The first covers the mainland section of the Borough and the second covers Hayling Island and the A3023 corridor.

⁵ See Joint Committee meetings for July 2019, October 2019 and February 2020, available at <https://www.push.gov.uk/work/our-meetings/joint-committee/>

⁶ Report and minutes available at <https://havant.moderngov.co.uk/ieListDocuments.aspx?CIId=128&MIId=10857&Ver=4>

⁷ <https://havant.moderngov.co.uk/ieListDocuments.aspx?CIId=128&MIId=11072&Ver=4>

⁸ www.havant.gov.uk/nitrogen

⁹ <https://havant.moderngov.co.uk/ieListDocuments.aspx?CIId=128&MIId=10857&Ver=4>

- 3.33. As part of the considerations at Cabinet and Council in 2019, officers were instructed to publish version 2 of both of these transport assessments prior to the submission of the Local Plan to the Secretary of State.
- 3.34. The version 2 of the mainland transport assessment takes the form of a study into the need for the strategic link from Southleigh to the Warblington junction onto the A27. This study is ongoing and will be published prior to submission. However regardless of the findings of the study, no changes to the Local Plan would be needed to enact this as it already safeguards the land for the link.
- 3.35. Version 2 of the Hayling Island Transport Assessment takes the form of an addendum to the original study. This has now been published. The Addendum consolidates the proposed mitigation measures into a single preferred package. Some of the measures fall outside what would be specifically required from new development, reflecting how the Hayling Island Transport Assessment has gone beyond what is required as part of the evidence base work for a local plan and forms an informal strategy for the development and improvement of the island's transport network.

Responding to the COVID-19 pandemic

- 3.36. It is absolutely correct to consider the restrictions which remain in place as a result of the pandemic together with changes to everyday life and the economy that could have more lasting impacts.
- 3.37. An analysis has taken place as to whether any changes are required to the Local Plan or its policies to help our communities respond to the pandemic and adapt to a 'new normal'. It was concluded that no changes are needed. However the pandemic and its effects reiterates the need for a number of measures being introduced for the first time through this Local Plan.
- 3.38. These include the need for minimum space sizes of new dwellings and requirements for outdoor space, to support residents' health and wellbeing and allow for space to work if confined to the home either by choice or as more employers encourage or require home working.. Enhanced infrastructure in the form of sustainable travel routes and healthy and safe off-road cycling and walking infrastructure could also be considered even more necessary as a result of the pandemic.

Other evidence base which has been updated

- 3.39. Alongside the evidence base set out above, there have been further updates and changes to ensure that it is up-to-date and robust:
- i. Local Green Spaces in Havant Borough
 - ii. A compliance statement with the 2019 NPPF
 - iii. Employment Land Review 2019 update
 - iv. Five year supply and housing need summary
 - v. Update to the Specialist Housing Analysis
 - vi. Update to the Strategic Housing Land Availability Assessment
 - vii. Update to the Town Centres Study

The need to maintain a five year supply of housing delivery and continue to make decisions

- 3.40. Significantly boosting the supply of housing is a key consideration for Government and this is highlighted through the National Planning Policy Framework.

- 3.41. Key to the Government's drive to boost the supply of housing is the requirement for all areas of the country to have a five year rolling supply of housing land. A five year supply update was published in December 2019 and confirms that the Borough currently has a five year supply. Nonetheless, it also highlights that there is a need to maintain this moving forward. It also highlights the need to take any steps possible to facilitate the delivery of housing development as the Council is now also assessed under the Housing Delivery Test.
- 3.42. Several development schemes have come forward which came from their identification in the Local Plan Housing Statement or the Pre-Submission Local Plan.
- 3.43. Other sites in the Pre-Submission Local Plan, are also needed in order to maintain a five year housing land supply. As such, the Council will need to continue to determine any applications which come forward before the adoption of the plan. The NPPF sets out that it is not possible to refuse planning permission due to prematurity unless there are exceptional circumstances, which are not considered to apply here.
- 3.44. Nonetheless, the Council wrote to Government in January to seek relief from the Five Year Supply and Housing Delivery Test requirements, on the basis that need for development to be nutrient neutral significantly restricts the ability for the Council to grant planning permission for schemes¹⁰. However Government are not proposing to make such an exception, nor as a result of any slowdown in housing delivery as a result of the pandemic.

Consultation arrangements

If approved by the Full Council, the consultation on the Changes to the Pre-Submission Havant Borough Local Plan would take place shortly thereafter.

- 3.45. The plan, with changes highlighted and change references marked out, will form the basis of the consultation. A consultation form and guidance will also be prepared to help stakeholders respond. This will highlight that the consultation is only on the changes and that it is not necessary to resubmit comments made in 2019.
- 3.46. Some elements of the consultation will have to be run differently from usual consultation periods, due to Coronavirus restrictions. Due to the closure of the Council's principal office, the Public Service Plaza, it will not be possible to have a copy of the Local Plan available for inspection. If this changes throughout the consultation then one will be made available. Officers will of course also not be available to answer questions in person. If any residents have queries about the local plan, officers will be available to answer them by phone and email while FAQs will also be made available. It is considered that appropriate access to information and opportunity to engage is possible even with the restrictions in place. For any individuals who may find the arrangements more challenging, many groups also exist which represent the Borough's communities and who can, and already do, engage in planning

¹⁰ This letter was included in the material that was considered by the Operations and Place Shaping Board on 28 January 2020, pages 29-32 in the report pack at <https://havant.moderngov.co.uk/mgChooseDocPack.aspx?ID=10958>

matters and who residents can join and engage with to ensure their voices are heard.

- 3.47. However it should be stressed that the proposed consultation is a targeted consultation on the changes and at a late stage in the plan's production. It is not comparable to earlier consultations where maximum engagement on all matters was encouraged and significant outreach was planned as a result.

Next steps and the examination of the Local Plan

- 3.48. If approved by the Full Council, following the public consultation, officers will prepare a summary of the main issues raised, as required by the regulations.
- 3.49. This, alongside all of the required documents, would then be submitted to the Secretary of State for Housing, Communities and Local Government.
- 3.50. The Secretary of State (in practice the Planning Inspectorate) will then appoint an inspector to undertake an examination of the Local Plan.
- 3.51. It is expected that the Local Plan would be submitted to the Secretary of State in quarter 4 of calendar year 2020. Subject to and following the examination, the plan would be adopted by the Council the following summer.

4.0 Additional Budgetary Implications

- 4.1. There is no additional cost proposed over and above the budget. The delay to the local plan process as a result of the pandemic will result in less expenditure on the examination in the current financial year.

5.0 Background and relationship to the Corporate Strategy and Directorate Business Plan(s)

- 5.1 There are extensive links between the Local Plan and the emerging Corporate Strategy and Regeneration Strategy specifically. The Local Plan forms a key delivery mechanism for the Corporate Strategy, promoting and facilitating the development and economic growth which is necessary to improve the prosperity of the borough's residents.
- 5.2 In particular, the Local Plan is intrinsically linked to the recently adopted Regeneration Strategy and two are heavily linked. The inclusion of the sites in a Local Plan is essential to bring them forward and particularly if looking towards the use of compulsory purchase powers.
- 5.3 Moving forward towards the implementation of the Regeneration Strategy thus requires a robust, adopted Local Plan. The proposed changes and their consultation will achieve this.

6.0 Options considered and reasons for the recommendation

- 6.1. There are two potential alternative routes forward. The first would be to submit the Local Plan as it is currently drafted. This is not recommended. The Local Plan would then not respond to a key piece of case law that has emerged since it was approved and would not have a 15 year time horizon from the date of adoption as required by the National Planning Policy Framework.

- 6.2. The other potential route forward would be to submit the plan as it is currently drafted along with a schedule of proposed changes for the inspector to consider. Under the Planning Inspectorate's Procedural guidance¹¹, these would then be considered by the inspector. That would be sufficient to address some of the concerns raised by statutory consultees (particularly the minor ones), and could have been a way forward. However, the extensive changes required to address the nutrient neutrality issue, and to extend the plan period, are fundamental to the content of the plan itself and go beyond minor amendments that should be suggested without consultation taking place.
- 6.3. The proposed way forward consists of consulting on the proposed changes and including them as part of a consolidated plan to submit to the Secretary of State. This addresses the issues with the alternative options and provides a cleaner and simpler way forward with the examination of the Local Plan.

7.0 Resource Implications

- 7.1. Financial Implications – the need for this consultation was built into the 2020/21 budget setting process. The costs of the examination have fed into the 2020/21 budget setting process. Given the timeframes, the examination (certainly expenditure related to it) would take place in the 2021/22 financial year.
- 7.2. Human Resources Implications – there are no additional staffing requirements from the proposed course of action.
- 7.3. Information Governance Implications – none.
- 7.4. Other Resource Implication – none.

8.0 Legal Implications

- 8.1. The preparation of a Local Plan is governed by the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The proposed consultation would form a consultation under Regulation 19 of those regulations.

9.0 Risks

- 9.1. The Local Plan, since its inception, has been prepared in accordance with the relevant regulations and is underpinned by an extensive evidence base and statutory assessments. Some of the changes required are due to case law, which has not yet been further tested. As such, there is an element of intrinsic risk. However the proposed approach seeks to follow and implement the Council's obligations robustly.

10.0 Consultation

- 10.1. Please see the main body of the report.

¹¹ Available at www.gov.uk/government/publications/examining-local-plans-procedural-practice

11.0 Communication

11.1. Please see the main body of the report

12.0 Appendices: Appendix A: Havant Borough Local Plan with proposed changes.

13.0 Background Papers: Pre-Submission Havant Borough Local Plan 2036, available at www.havant.gov.uk/localplan.

Agreed and signed off by:

Monitoring Officer: 18 June 2020

S151 Officer: 18 June 2020

Director: 15 June 2020

Portfolio Holder: 12 June 2020

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