

---

**NON-EXEMPT**

# **HAVANT BOROUGH COUNCIL**

PLANNING POLICY COMMITTEE (22 FEBRUARY 2022) FOR RECOMMENDATION TO  
FULL COUNCIL (16 MARCH 2022)

## **UPDATE ON THE EXAMINATION OF THE HAVANT BOROUGH LOCAL PLAN, WITHDRAWAL OF THE HAVANT BOROUGH LOCAL PLAN FROM EXAMINATION AND CONSIDERATION OF THE HOUSING DELIVERY POSITION STATEMENT**

### **FOR DECISION**

Portfolio Holder: **Cllr Clare Satchwell**

Key Decision: Yes

Report Number: *HBC/443/22*

---

### **1. Purpose**

- 1.1. This paper is submitted to the Planning Policy Committee for consideration and to Full Council for decision.
- 1.2. This paper updates members on the submission and examination of the Havant Borough Local Plan following the approval by Full Council of the changes to the Havant Borough Local Plan in September 2020.
- 1.3. This paper follows the receipt of the Inspectors' Interim Findings Report regarding the Examination of the Havant Borough Local Plan. The findings recommended a withdrawal of the local plan, which inevitably results in a longer period before a new local plan is in place. As a result, there is also a significant reduction in the Council's anticipated land supply which has further reduced the Council's five year housing land supply.

- 1.4. An up-to-date local plan is the only way to ensure that development takes place in a coordinated way, providing the necessary infrastructure and environmental safeguards. As such, the Full Council is recommended to authorise the preparation of a new plan as a matter of priority.
- 1.5. Nonetheless, whilst there will inevitably be a delay in getting an up-to-date local plan in place, the result of the Interim Findings Report and the Borough's Five Year Housing Land Supply will be an increase in development pressure.
- 1.6. Planning Policy Committee are recommended to consider and approve the Housing Delivery Position Statement, which highlights the relevant material considerations for decision-making on planning applications for new housing.
- 1.7. The purpose of the Housing Delivery Position Statement is therefore to provide the Borough's residents and the development industry with certainty as to how planning applications for housing proposals will be considered until such time a Local Plan has successfully passed through Examination. In particular, the Position Statement sets out what the Council considers to be 'sustainable development' in assessing proposals on sites which are not in the adopted or emerging local plans.

## **2. Recommendations**

- 2.1. Members are requested to:

### **Update regarding the Havant Borough Local Plan examination**

- a. Note the outcome of the examination of the Local Plan, the Inspectors Interim Findings Report (examination library document reference CR18), the response to it (CR19) and subsequent communications (CR20, CR21, CR22 and CR23);
- b. Note the correspondence between the Council Leader and the Secretary of State for Levelling Up, Housing and Communities regarding the need for the NPPF to recognise more strongly the relevance of a plan led approach to development and to not penalise communities whilst plans are being put in place (Appendix 1);

- c. Authorise the withdrawal of the Havant Borough Local Plan from Examination in line with Section 22 (1) of the Planning and Compulsory Purchase Act 2004 (as amended);

### **Preparation of a new Local Plan and CIL Charging Schedule for Havant Borough**

- d. Authorise the preparation of a Local Plan to replace the Havant Borough Local Plan (Core Strategy) and the Havant Borough Local Plan (Allocations Plan);
- e. Authorise the preparation of an updated Community Infrastructure Levy Charging Schedule for Havant Borough;
- f. Delegate authority to the Planning Policy Manager<sup>1</sup>, in discussion with the Cabinet Lead for Planning, Hayling Seafront Strategy and Coastal Management<sup>1</sup> to prepare and publish a Local Development Scheme and keep this updated as necessary;
- g. Delegate authority to the Cabinet Lead for Planning, Hayling Seafront Strategy and Coastal Management<sup>1</sup> to consider for approval, following scrutiny by the Planning Policy Committee<sup>2</sup>, an update to the Hayling Island Transport Assessment, to consider the impact of development on summer traffic conditions;

### **Decision making on planning applications for new housing**

- h. Note the Borough's five year supply of 3.9 years and the implications that the delay in the local plan's examination have for this issue;
- i. Approve the publication of the Housing Delivery Action Plan (Appendix 2);
- j. Adopt the Housing Delivery Position Statement (Appendix 3);
- k. Delegate authority to the Cabinet Lead for Planning, Hayling Seafront Strategy and Coastal Management<sup>1</sup> to consider for approval, following

---

<sup>1</sup> Or successor in similar or equivalent role

<sup>2</sup> Or any future scrutiny meeting of similar or equivalent role

scrutiny by the Planning Policy Committee<sup>2</sup>, updates to the Housing Delivery Position Statement

### **Other**

- I. Delegates authority to the Planning Policy Manager<sup>1</sup> to make any necessary minor amendments to the documents listed in this report. These shall be limited to the inclusion of page numbers, a contents page, a glossary, factual updates, correction of minor errors, typographical errors and other minor changes that do not change the meaning of the material.

## **3. Executive Summary**

- 3.1. The Havant Borough Local Plan has been in preparation since 2016, consistently being considered as a key corporate priority for the Council. The plan entered its final stage in February 2021 when it was submitted to the Secretary of State for examination.
- 3.2. The Interim Findings Report produced by the inspectors following stage 1 of the examination raises a number of matters which require addressing. The inspectors recommend that the Local Plan is withdrawn and a new one developed. This is regrettable in that it will increase the amount of time which it will take to get a local plan for the Borough in place. This in turn means that the development quality will invariably be lower than that expected through the plan.
- 3.3. Nonetheless, the need for housing does not diminish in this situation – there is a clear need to significantly boost the supply of housing in line with the National Planning Policy Framework (NPPF). Due to lower than required levels of housing delivery over the last few years due to a number of circumstances outside of the Council's control, the Borough has scored below 75% in the Housing Delivery Test for two consecutive years, meaning that the 'tilted balance' under the NPPF is in effect.
- 3.4. As a result, to ensure that there is not a policy vacuum following any withdrawal of the Local Plan from examination, a Housing Delivery Position Statement is proposed.

3.5. The Housing Delivery Position Statement will provide residents and the development industry with a clear statement of intent about how the Council will consider planning applications for housing proposals in advance of the Local Plan's adoption.

#### **4. Additional Budgetary Implications**

4.1. Additional budgetary implications are set out in the table below:

	<b>2021/22 (budget)</b>	<b>2021/22 (likely)</b>	<b>2022/23 (proposed)</b>
Planning Policy Consultancy	<b>£246,000</b>	<b>£236,000</b>	<b>£220,000</b>

#### **5. Background and relationship to Corporate Strategy and/or Business Plans**

5.1 The preparation of an up-to-date local plan for the Borough has been a key corporate priority since its first consultation in 2016. 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.

5.2 The Local Plan is intrinsically linked to the Corporate Strategy and, together with the Regeneration Strategy, constitute the key Council strategies related to place-making. It is a key mechanism for moving development sites forward to 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.

5.3 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 meet the need for development in their area, which was not the case when the Adopted Local Plan was prepared.

5.4 The need for housing in the Borough, as defined by Government, is significant. In the adopted Local Plan, there is a target of 315 dwelling per year. This rose to 450

at the start of the preparation of the Havant Borough Local Plan, culminating at 504 dwelling per year when the Local Plan was submitted.

- 5.5 The sharp increase in the amount of housing to be provided within a constrained Borough 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.
- 5.6 This approach intrinsically informed the Havant Borough Local Plan – which allocated sufficient sites to meet the need for housing but also included environmental safeguards, infrastructure requirements and quality standards which are not part of the Adopted Local Plan.

#### **An update on the examination of the Havant Borough Local Plan**

- 5.7 The Havant Borough Local Plan was submitted for examination on 12 February 2021. The examination takes place in a completely open and transparent way, with all correspondence and documents available on the Council's website in the examination library. Several of these documents are referred to by their references in this report and are available at [www.havant.gov.uk/examination-library](http://www.havant.gov.uk/examination-library).
- 5.8 The Council has now received the Inspector's Interim Findings report (CR18) following the Stage 1 Hearings which took place in July 2021. The letter does not set out all the Inspectors' findings on all of the issues discussed during the Stage 1 hearings, and instead focuses on areas of concern.
- 5.9 The Inspectors highlight that further information or updates to evidence base studies are needed in relation to the deliverability of a number of housing sites which mean that the Council is unlikely to be able to meet its housing need over the plan period. The letter is clear that not all of the Plan has been examined.
- 5.10 The inspectors concerns cover a variety of matters, set out within the report and are not repeated in detail in this report. Many of the concerns raised would be

possible to reach a conclusion on with further evidence, which would often need to be provided by site promoters<sup>3</sup>. Some of the issues can be addressed through further assessments.

- 5.11 Since this point, further correspondence has been sent to and received from the inspectors (documents CR19-CR23) which has provided useful clarifications on a number of points. Nonetheless, on the principal matter of how to get a local plan in place as swiftly as possible, the inspectors reiterate their view that a withdrawal of the Havant Borough Local Plan and the preparation of a new plan is necessary.
- 5.12 The Leader has also written to Secretary of State for Levelling Up, Housing and Communities in order to highlight the hurdles which the Council has overcome in recent years and seek reassurance that Government will support Local Planning Authorities to get Local Plans in place.
- 5.13 As a result, it is recommended that the appropriate course of action at this point is that the Havant Borough Local Plan is withdrawn from examination.

### **A new Local Plan for Havant Borough**

- 5.14 The need for an up-to-date local plan for the Borough has not changed due to recent events, it is still as necessary as ever. Government has a target for all local planning authorities to have an up-to-date Local Plan in place by December 2023. Whilst failure to achieve this target will be assessed on a case-by-case basis, there are powers in place for Government to intervene in the plan-making process, taking this away from local authorities. As such, it is critical that swift progress is made on a new local plan for the Borough.
- 5.15 The Council also has an ambitious regeneration and economic development agenda set out in the Corporate Strategy. This involves bringing a number of key sites forward for development. However, this cannot be delivered by the Council in isolation and so involves creating and maintaining an open for business approach to ensure that private sector schemes come forward.
- 5.16 Alongside a new local plan, a new Community Infrastructure Levy (CIL) Charging Schedule will also need to be prepared. A new CIL charging schedule was

---

<sup>3</sup> it should be noted that for some sites, the site owner is Havant Borough Council.

prepared in tandem with the Havant Borough Local Plan. This was examined in 2021 and found to be sound. However, the proposals within the charging schedule are intrinsically linked to the Havant Borough Local Plan and it also relies on the same evidence base. As such, given that this evidence, particularly the viability study, will need to be updated, it will also be necessary to prepare a new CIL Charging Schedule.

- 5.17 A great deal of the evidence which supports the Havant Borough Local Plan will be relevant to the new local plan as well. However, there are also a number of workstreams and studies which will need to be prepared in order to address the inspectors concerns with the Havant Borough Local Plan through the new plan.
- 5.18 Chief amongst these will be working with neighbouring local authorities in order to assess whether there is any capacity to be able to accept any unmet housing need from Havant Borough.
- 5.19 Related to this workstream will be the ongoing work through the Partnership for South Hampshire (PfSH) to establish an updated Joint Strategy for the sub-region. Substantial workstreams regarding this are due to report to the PfSH Joint Committee by quarter three 2022.
- 5.20 Another workstream that officers have started considering the response to is the Hayling Island Transport Assessment<sup>4</sup>. As part of this, a proposed methodology was provided to the inspectors through CR22, which was received positively. This workstream is being taken forward as a matter of priority in order to provide certain to residents and the development industry, given current planning applications on Hayling Island and in Langstone which will need to be determined.

### **Decision making on planning applications for new housing**

- 5.21 Whilst there is now a further delay in getting an up-to-date local plan in place for the Borough, the national requirements to ensure a continuous supply of new housing do not fall away in the meantime.
- 5.22 A result of the Inspectors' initial findings is that the Borough's five year housing land supply has further decreased. As of September 2021, the Council's Five Year

---

<sup>4</sup> See paragraphs 3-10 of CR18 in particular.

Supply Housing Update sets out the Borough has a 4.3 year supply. As a result of the removal of some sites from supply from the Inspector's interim report, this position has fallen to 3.9 years supply, which is substantially below the five year housing land supply threshold.

- 5.23 In the absence of a five year housing land supply and in the context of the Council's Housing Delivery Test measurement (74%)<sup>5</sup>, the 'tilted balance' under paragraph 11 d) of the NPPF is engaged. In these circumstances, the policies most important for determining the application are considered out of date. This means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.24 Without having an up-to-date Local Plan in place, these provisions have significant implications for the Borough both in the short and medium term. Whilst the development plan remains the starting point for decision-making, the NPPF is clear that both the need to significantly boost the supply of housing and the tilted balance should be afforded substantial weight in the planning balance.
- 5.25 This was shown to the case in a recent appeal decision for 'Land South of Lower Road'<sup>6</sup> where the urban area boundaries in the Adopted Local Plan could only be afforded very limited weight as they were predicated on out-dated levels of housing need. In contrast, the substantial deficit in the Borough's Five Year Supply was afforded substantial weight in the overall planning balance, leading to the appeal being allowed and planning permission granted. A similar pattern can also be seen in a recent appeal decision in Fareham Borough Council<sup>7</sup> where the appeal was upheld and planning permission granted, despite the local planning authority's concerns regarding design and layout.
- 5.26 These matters were noted extensively in the officer report which accompanied a recent planning application at Land West of Hulbert Road, Havant (APP/20/00441). The site in question was not identified in either the Adopted

---

<sup>5</sup> A result of less than 75% indicates which indicates that housing delivery was substantially below the housing requirement over the previous three years (footnote 8 of the NPPF).

<sup>6</sup> Appeal reference APP/X1735/W/20/3259067

<sup>7</sup> Appeal reference APP/A1720/W/21/3275237

Local Plan or in the Havant Borough Local Plan where it is an omission site. Housing supply was highlighted extensively in the officer's report as a matter of substantial weight in the planning balance. The Planning Committee resolved to grant planning permission in this instance. Moving forward, there will inevitably be many similar cases of sites which are contrary to the Adopted Local Plan which would need to be determined.

5.27 In the short term, it is essential that the Borough is able to determine planning applications and that this is done in a clear way. This is necessary both in terms of maintaining its current position, and where possible improving the supply deliverable housing sites. Such a statement would provide a clear statement of how the Council intends to consider planning applications for housing proposals until such time the Local Plan has successfully passed through Examination.

5.28 In light of the above, in order to manage the development pressure prior to a new local plan being in place, it is proposed to adopt a Housing Delivery Position Statement (Appendix 3). This would:

- a) Provide a clear statement of intent of how the Council will consider planning applications for housing development until such time the Havant Borough Local Plan has successfully passed through Examination.
- b) Confirm that the principle of residential development on proposed allocations in the emerging Local Plan is acceptable where they meet the other requirements in the Adopted Local Plan and the Position Statement.
- c) Identify where the principle of development might be otherwise be acceptable where proposals can be shown to constitute 'sustainable development'
- d) Indicate the standards expected from housing development which the Council considers necessary in order to justify a departure from the Adopted Local Plan.
- e) Identify the need to comply with the Habitats Regulations in terms of ensuring that all likely significant effects on European Sites are appropriately mitigated.
- f) Confirm the Council's position that it will only accept the comprehensive development of the Southleigh Strategic Site; and any development proposals that would prejudice the delivery of the junction will be refused.

g) Confirm the approach to planning applications for new homes on Hayling Island and Langstone prior to the conclusion of the additional work on the Hayling Island Transport Assessment.

- 5.29 For transparency, it is intended that a comprehensive table of emerging allocations in Submission Plan is included in the statement. Those sites have been subject to a rigorous site assessment which provides high level assurance of their suitability. Whilst it is acknowledged that the Interim Findings Report outlines additional work needed in order to demonstrate the deliverability of a number of sites, this would need to be provided as part of the application process anyway.
- 5.30 Illustrative material would also be provided alongside the Position Statement in the form of an expanded flow chart on the tilted balance, maps of sites in table 1 of the Position Statement and a map of environmental designations. These are provided at appendices 3a – 3d of this report.
- 5.31 It should also be acknowledged that the Council has already granted for many of the sites allocated in the Submission Local Plan. As there are live planning applications for over 1,000 homes on site allocations in the Submission Local Plan, it is considered essential that the Council is able to continue securing high quality development. Though five year supply has substantial weight in decision-making, there is also a clear necessity that new housing creates sustainable places which supports the health and wellbeing of the Borough's residents.
- 5.32 Recognising that the Housing Delivery Position Statement would provide for housing to come forward on sites like West of Hulbert Road not supported by either the adopted local plan or the Havant Borough Local Plan, the statement would also require evidence from the developer to show that the site would be deliverable within the first five years. This would include the use of conditions to require a shorter than standard timeframe for the submission of a valid reserved matters application (in the case of an outline planning application) or for the commencement of development (in the case of a detailed planning application).
- 5.33 The Housing Delivery Position Statement would not be the first statement of its kind to be adopted by the Council for decision-making purposes. Indeed, the 2016

Local Plan Housing Statement identified a number of housing sites suitable for 'early release' in advance of the adoption of the Local Plan.

## **6. Options considered**

- 6.1 There are alternatives to each of the sets of recommendations at the start of this report.

### **Update to the Havant Borough Local Plan examination**

- 6.2 The main alternative to withdrawing the Havant Borough Local Plan from examination would be to continue to seek to address the issues raised by the inspectors through the examination of the Havant Borough Local Plan, with the inspectors making any necessary changes to the plan in order for it to be found sound.
- 6.3 Whilst attractive as a means of achieving a local plan as swiftly as possible, on balance this is not recommended.
- 6.4 The inspectors are clear in their advice recommending a withdrawal. It would be possible to undertake the additional work which is necessary and return to the examination swifter than withdrawing the plan. However, the inspectors are correct to highlight that the subsequent examination would invariably be more complex with three sets of Regulation 19 representations on different versions of the plan.
- 6.5 Extensive communication has taken place with the inspectors in order to explore whether this represents a viable means to getting a local plan in place. The inspectors are clear in their view across several letters that it is not.

### **Preparation of a new Local Plan and CIL Charging Schedule for Havant Borough**

- 6.6 The main alternative to preparing a new local plan following a withdrawal, would be a 'do nothing' approach of not preparing a local plan. This is not considered an appropriate option. This is principally due to the fact that development will ultimately come forward, however without a local plan there will be no coordination of development or minimum standards to achieve. Furthermore, it is

likely that if the Council were intransigent in putting together a local plan, eventually, Government would intervene and put one in place regardless.

### **Decision making on planning applications for new housing**

6.7 The main alternative to adopting the Housing Delivery Position Statement would be a 'do nothing' approach. Nonetheless, without the position statement, the 'tilted balance' would still apply. The recent appeal decision for Land South of Lower Road clearly shows the substantial weight which must be applied to the delivery of new housing. As such, the tilted balance would apply regardless of the presence of a Position Statement. However, with a Position Statement in place, there is a clear message to the development industry of the standards which the Council would look for them to achieve in order to move forward.

## **7. Resource Implications**

7.1 Financial Implications – the response to the inspectors Interim Findings Report and the preparation of the Housing Delivery Position Statement have all been achieved within budgets for the 2021/22 year. The implications for the 2022/23 year have fed into the budget setting process. The preparation of a new local plan will also have financial implications across the medium term which will need to feed into future budget setting processes.

### **Section 151 Officer comments**

Date: 4 February 2022

The additional revenue required to support the delivery of the revised Local Plan are included within the budgetary framework for 2022/23.

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 Links to Shaping our Future Programme.

**Shaping our Future Lead comments/sign-off**

Date: 20 January 2022

This decision does not have a direct impact on the Shaping Our Future Programme.

7.5 Other resource implications – none.

**8. Legal Implications**

- 8.1 The preparation, examination and adoption of a Local Plan is governed by the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012, the NPPF, and planning policy guidance.
- 8.2 The duty of the inspector appointed to examine the plan is to determine (i) whether it is "sound" and (ii) whether the local authority have complied with the legislative requirements (including the duty to co-operate).
- 8.3 "Sound" is not a term defined in the legislation. The Government has provided what it considers to be criteria for soundness at para.182 NPPF namely that a plan is: (i) positively prepared, (ii) justified, (iii) effective and (iv) consistent with national policy. However, soundness is a matter for the examining inspector and he may depart from the NPPF guidance with reasons.
- 8.4 If the inspector is not satisfied the local plan (as drafted) is sound he must not recommend adoption and give reasons. However, if requested by the authority to recommend main modifications to make the plan sound, he must publish recommendations. The proposed main modifications to the plan would have to be approved by full council.
- 8.5 There is a requirement for the local authority to consult on any proposed main modifications to the local plan. The inspector then will consider any further representations on the papers or at a further hearing.

- 8.6 The inspector has indicated in his preliminary findings that the modifications required are likely to be extensive and has suggested the plan is withdrawn rather than modified. The Planning Policy guidance states “where the changes recommended by the Inspector would be so extensive as to require a virtual re-writing of the local plan, the Inspector is likely to suggest that the local planning authority withdraws the plan”.
- 8.7 If the authority were to decide to withdraw the local plan then there is a requirement to publish a notice to this effect and the reasons for doing so.

### **Monitoring Officer comments**

Date: 8 February 2022

The Constitution places the Local Development Plan and Development Plan Documents as part of the Policy Framework reserved to full Council for approval/determination (paragraph 3.2.2 (c) of Part 2 Section B). The recommendations contained within this report are accordingly for Planning Policy Committee to consider and for Full Council to determine.

## **9. Risks**

- 9.1 The Borough’s Housing Delivery Test measurement and absence of an up-to-date five year housing land supply position mean that the Council is in a weakened position to defend speculative developments and negotiate some of the development quality standards included in the Submission Local Plan. However, the Housing Delivery Position Statement provides a clear statement of intent as to how the Council will consider such applications, and the requirements of them as a departure from the Adopted Local Plan.

## **10. Consultation**

- 10.1 There is no requirement for the Housing Delivery Position Statement to be subject to public consultation as a non-statutory document.
- 10.2 The Housing Delivery Position Statement sets out how a national policy will be applied in Havant Borough, bearing in mind the particular circumstances present

at this time. The application of these national policies is not a matter which can be consulted on.

- 10.3 There would need to be consultation on a new local plan in accordance with the pertinent regulations.

## **11. Communication**

- 11.1 Throughout the preparation of the Havant Borough Local Plan, there has been extensive communication, both within formal consultation periods and outside them, with stakeholders. It is proposed that the same ethos be taken towards the preparation of a new local plan.

## **12. Appendices**

Appendix 1 – Correspondence with the Department for Levelling Up, Communities and Housing

Appendix 2 – Housing Delivery Action Plan

Appendix 3 – Housing Delivery Position Statement

Appendix 3a – Environmental designations map

Appendix 3b – Tilted balance flow chat

Appendix 3c – Position Statement Map (north)

Appendix 3d – Position Statement Map (south)

## **13. Background papers**

None

### **Agreed and signed off by:**

Portfolio Holder: Cllr Clare Satchwell (Cabinet Lead for Planning, Hayling Seafront Strategy and Coastal Management), 8 February 2022

Director: Simon Jenkins (Director of Regeneration and Place), 8 February 2022

Monitoring Officer: Alan Harrisson on behalf of Daniel Toohey, 8 February 2022

Section 151 Officer: Lydia Morrison, 4 February 2022

### **Contact Officer**

Name: David Hayward

Job Title: Planning Policy Manager

Telephone: 023 9244 6174

E-mail: david.hayward@havant.gov.uk