

THURSDAY, 19 MARCH 2020

**REPORT OF THE PORTFOLIO HOLDER FOR REGULATORY & COMMUNITY SAFETY****LOCAL PLAN REVIEW****EXEMPT INFORMATION**

None.

**PURPOSE**

To seek Cabinet approval for a revised approach to the review and subsequent preparation a new local plan and for the publication of the Local Plan Review document.

**RECOMMENDATIONS**

It is recommended that Cabinet:

1. Acknowledge that the recommendations set out in this report supersede those in the 05 July 2018 Local Plan Review Update Cabinet report
2. Endorse the conclusions of the Local Plan Review document and approve the commencement of work to produce a new local plan
3. Approve the publication of the Local Plan Review document
4. Acknowledge that a future report will be brought to Cabinet setting out the timescale for the development of a new local plan

**EXECUTIVE SUMMARY**

At the 05 July 2018 Cabinet meeting, members approved the commencement of a local plan review with the intention of adopting a new local plan during 2020/21. The recommendation to do so was based on an incorrect interpretation of the legislation that took the meaning of 'review' to include the production of a new plan. The subsequently published Local Development Scheme (LDS) set out an ambitious timeframe for the production of a new plan. On further consideration of the relevant legislation it is clear that the requirement to review the Local Plan within five years of adoption does not also include any subsequent changes to the plan.

This report sets out a new, more appropriate approach to the review and subsequent changes to the adopted Local Plan and seeks Cabinet approval for both the approach and publication of the associated Local Plan Review document attached at Appendix 1. It is acknowledged that the timeframe set out in the current LDS is not applicable and a new LDS setting out a new timeframe will be presented to Cabinet at a later date for approval.

## **OPTIONS CONSIDERED**

1) One option is to continue with the approach previously agreed at the 05 July 2018 Cabinet meeting. For the reasons set out in background information below, this is no longer possible and so an alternative approach is required.

2) The do nothing option would mean not publishing the review document and not commencing work on a new local plan. Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires a local planning authority to complete a review of a local plan every five years starting from the date of adoption of the plan. This means that a review of the Local Plan would need to be completed and published by February 2021 at the latest in order to comply with the regulations. It is recognised that this timescale is short in any event.

3) The preferred option is to publish the review document now to ensure compliance with the relevant regulations and commence work on a new local plan. Whilst the regulations do not require a review to be completed until 2021 at the latest, there are a number of triggers for an early review included in the Local Plan. This, along with recent changes to national policy, means that now would be an appropriate time to complete a review and begin work on producing a new local plan.

## **RESOURCE IMPLICATIONS**

The process of evidence gathering and producing a new local plan requires officer time and resources as well as external resources to provide expert advice. In anticipation of this a policy change request was approved in 2018/19 which increased the local development framework budget to £50,000 for 2018/19 and £90,000 for 2019/20. A further policy change was approved in 2019/20 to increase the budget for 2020/21 to £115,000 after which it will return to £10,000 per year. Given that work has not progressed at the rate expected when the policy changes were made, there has been a significant underspend over the period 2018 – 2020. It is therefore anticipated that approximately £60,000 will be added to the existing reserve of £59,000 at the end of 2019/20 and that this underspend will be carried forward into future years. This gives an overall remaining budget of approximately £235,000.

The cost of preparing and adopting the current local plan was approximately £257,000 and this cost has been used as the basis for estimating the potential cost of a new plan. However, since the current plan was adopted, a number of national policy changes have been implemented, particularly in relation to biodiversity and climate change, which are likely to require additional evidence leading to an increase in overall cost. At the current time the total cost is not known, however it is estimated that it would likely be in the region of £300,000. As the additional budget is unlikely to be required until at least 2022/23, any additional cost will be dealt with through the budget setting process at the appropriate time.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) was introduced in 2017 and states that a local planning authority must complete a review of its local plan every five years starting from the date of adoption. This means that the Council must have completed a

review of the adopted Local Plan by the end of February 2021. Whilst there is currently no indication of the consequences for not complying with the regulation, not doing so would leave the Council exposed to potential risk were such consequences to be introduced at a later date.

Having reviewed the plan, it is clear that to varying degrees some of the policies contained therein are out of date. Where policies of the plan are considered out of date the presumption in favour of sustainable development set out in the NPPF takes effect and they cannot be used in decision making on planning applications. Therefore to not ensure the plan is considered up to date runs the risk of having decisions on local developments taken without full consideration of local circumstances.

## **EQUALITIES IMPLICATIONS**

There are no direct equalities implications resulting from the proposals set out in this report. Any new local plan would be accompanied by an equalities impact assessment at each relevant stage that would ensure compliance with the Equality Act 2010 and the Council's own policies on diversity and equality.

## **SUSTAINABILITY IMPLICATIONS**

There are no direct sustainability implications resulting from the proposals set out in this report. Any new local plan would be required to be in accordance with the policies contained within the National Planning Policy Framework which has sustainability at its core. Any new plan would also be accompanied by a sustainability appraisal that would consider the potential sustainability implications at an appropriate stage.

## **BACKGROUND INFORMATION**

At the 05 July 2018 meeting, Cabinet approved the recommendations contained within the report of the Portfolio Holder for Heritage and Growth on the Tamworth Local Plan Review Update. There are two areas within this report that require further clarification. Firstly the report introduced two conflicting recommendations that sought approval not to undertake an early review of the Local Plan and also to commence a review of the Local Plan with the aim of adopting a new plan in 2020/21. Secondly, the regulations governing the requirement to review a plan are ambiguous. Terminology used in relation to two slight variations of the word 'review' within Government legislation and guidance is confusing and led to the previous report being unintentionally misleading.

Previously, the word 'review' has been used to refer to the process of updating or replacing a local plan. For the avoidance of doubt, in this report the word 'review' (in the context of a local plan review) should, unless otherwise specified, be taken to mean an assessment of the Local Plan to establish how it is performing against its own objectives and any relevant national policy and guidance. Any subsequent changes to the plan following a review would take the form of either an update to the existing plan or the development of a new plan.

Following on from the resolution of Cabinet on 05 July 2018, a new Local Development Scheme (LDS10) setting out a timeframe for work to develop a new local plan was drafted and subsequently approved by Cabinet. The timescales set out within the document were based on an incorrect interpretation of unclear legislation and Government guidance meaning they were overly optimistic and, with hindsight, were always likely to be difficult to achieve.

It is now clear that the requirement of the legislation to complete a review of the local plan within five years relates only to the definition as set out above and not to the interpretation of review used previously that also includes any subsequent amendments to the plan or the production of a new plan. It is therefore recommended that Cabinet acknowledge that the previous approach was based on an incorrect interpretation of the relevant regulations and that the recommendations set out in this report supersede those in the 05 July 2018 report.

There is no prescribed format for a local plan review; however, there is guidance contained within the national Planning Practice Guidance (PPG) as to the range of information and factors which local planning authorities could consider when undertaking a review, including:

- Conformity with national planning policy
- Changes to local circumstances; such as a change in local housing need
- Their Housing Delivery Test performance
- Whether the authority can demonstrate a 5 year supply of deliverable sites for housing
- Their appeals performance
- Success of policies against indicators in the Development Plan, as set out in their Authority Monitoring Report
- Plan-making activity by other authorities, such as whether they have identified that they are unable to meet all their housing need
- Significant economic changes that may impact on viability
- Whether any new social, environmental or economic priorities may have arise

Once a plan has been reviewed there are three potential outcomes.

1. It is decided that no changes are required to the plan, and the council publishes a statement to that effect setting out the reasons for the decision;
2. It is decided that some changes are required and work commences on an update to the plan;
3. It is decided that more substantial changes are required and work commences on a new plan.

Officers have completed a review of the adopted Local Plan taking account of those factors listed above and a report setting out the findings is attached at Appendix 1.

In general the plan is performing well against the targets set out in the monitoring framework and decisions on planning applications are rarely being overturned at appeal. Where decisions have been overturned these have been on design grounds, which is a subjective issue with room for interpretation by an inspector. There have however been a number of changes to national policy since the plan was adopted that have an impact on the policies contained within it. These relate to a variety of issues which are considered by Government to be of national importance, such as climate change mitigation and biodiversity enhancement, as well as the introduction of a standard method for establishing housing need. It is also clear that the town centre policies do not reflect current ambitions.

It is therefore considered that a number of policies within the adopted Plan are in need of changes to ensure compliance with national policy. The review has also demonstrated that a number of the policies may benefit from updating as a result of new evidence. This particularly relates to policies around housing numbers and mix as well as Gypsy, Traveller and Travelling Showpeople provision where new evidence has recently been procured. There are also a number of policies which it is considered would benefit from minor amendments to the wording that would not in themselves justify an update to the plan but could be implemented as part of wider changes.

Taking into account the impact of changes to national policy along with the more minor amendments that would be beneficial to the plan; it is considered that changes are required to the existing plan. In reality there is not a significant difference between an update to the plan and the production of a new plan as both options would require updated evidence to be gathered and an examination in public. Given the scale of change in the town centre and the importance of that in meeting Council priorities, it is recommended that a new local plan is prepared rather than a partial amendment. This is further supported in the knowledge that the current Local Plan looks back as well as forward. A new Local Plan can truly start again and only look forwards.

It is therefore recommended that Cabinet endorse the conclusions of the Local Plan Review and approve the commencement of work on a new local plan. It is also recommended that Cabinet approve the publication of the Local Plan Review document in order to demonstrate compliance with the requirements set out in Regulation 10A to complete a review within five years of adoption.

For the reasons set out above, the timescales set out in the current published LDS (LDS 10) are no longer accurate and require updating. In order to ensure that a revised LDS sets out a more realistic timeframe, further work is required to establish more accurately what that might be. It is therefore proposed to bring a revised LDS before Cabinet for approval later in 2020.

## **REPORT AUTHOR**

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## **LIST OF BACKGROUND PAPERS**

Report of the Portfolio Holder for Heritage and Growth – 05 July 2018 Cabinet – Tamworth Local Plan Review Update.

## **APPENDICES**

Appendix 1 – Local Plan Review

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