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<b>REPORT TO:</b>	Full Council	<b>AGENDA ITEM: 13</b>
<b>DATE OF MEETING:</b>	<b>3<sup>rd</sup> July 2014</b>	<b>CATEGORY:</b>
<b>REPORT FROM:</b>	Director of Community & Planning	<b>OPEN PARAGRAPH NO:</b>
<b>MEMBERS' CONTACT POINT:</b>	Nicola Sworowski x5983 nicola.sworowski@south-derbys.gov.uk	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Local Plan Part 1</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	District	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

- 1.1 To agree that the proposed modifications are not so significant as to warrant a re-consultation and submission is to include them (option B para.4.8).
- 1.2 That the Policy Manager with the Director of Community and Planning is authorised to prepare and submit reports, statements and proofs of evidence that reflect the Council's agreed position during the post submission period.
- 1.3 In the interests of expediency allow delegated authority to the Planning Policy team in agreement with the Planning Services Manager to make further changes during the examination of the Local Plan in line with the Council's agreed position.
- 1.4 To agree an option in order to allow the submission of the Local Plan Part 1 to the Secretary of State (para. 4.20).

## **2.0 Purpose of Report**

- 2.1 The report is being submitted to bring Members up to date with the latest position on the Local Plan and to seek endorsement for the next steps in the process. The Committee is being asked to consider whether the Local Plan Part 1 alongside the suggested modifications to be submitted to the Secretary of State for examination by an independent Inspector.

## **3.0 Executive Summary**

- 3.1 The main issue under consideration in this report is the progression of the Local Plan Part 1. The report sets out that the plan has been through all of the statutory consultations required and that following the final consultation a list of modifications are proposed to the Plan. Many of these modifications are to clarify a position or policy or to pick up on grammatical errors.

The report also picks up on the current Derby Housing Market Area position regarding the housing increase that has been highlighted following Amber Valley's Inspection recently. The options that this brings forward for South Derbyshire are discussed in the report.

## 4.0 Detail

### Background

- 4.1 The Local Plan Part 1 will be the first of two parts that will replace the 1998 Local Plan. Part 1 will include strategic allocations and key development management policies and Part 2 will set out the location of new education facilities contain non-strategic allocations and the remaining development management policies.
- 4.2 There have been seven rounds of consultation throughout this process of the Local Plan Part 1 originally referred to as a Core Strategy. This culminated with the Pre-Submission Local Plan Part 1 consultation in March this year known as a Regulation 19 consultation. The process started in 2009 as aligned working as part of the Derby Housing Market Area (HMA). The authorities of the Derby HMA are South Derbyshire, Amber Valley and Derby City.
- 4.3 Since 2009 South Derbyshire have worked alongside the other two HMA authorities on aligned Core Strategies and then Local Plans. This was the case up until Amber Valley's submission in December 2013.
- 4.4 The regulation 19 consultation which is a statutory consultation concerned with the soundness and legal compliance of the Local Plan Part 1. As was reported to Environmental and Development Services Committee on 5<sup>th</sup> June, comments from 127 people were received which created 615 comments. The key issues raised from this consultation can be seen at appendix A.
- 4.5 All representations received will be included in the evidence that is submitted to the Secretary of State and passed on to the Planning Inspectorate and subsequently an independent Inspector from the Planning Inspectorate that will examine South Derbyshire's Local Plan Part 1. The Inspector will set the agenda for the hearings based on the information that is submitted and may ask initial questions of the Authority prior to hearings to clarify its position.
- 4.6 The Local Plan will be examined to assess whether the Plan that has been submitted can be considered 'sound'. As set out in paragraph 182 of the National Planning Policy Framework (NPPF) the plan will be assessed as to whether it "has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound." The tests of soundness, again from paragraph 182 of the NPPF, are as follows:
- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
  - **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
  - **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and

- **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.”

### **Current South Derbyshire position**

- 4.7 Following the Regulation 19 consultation a review of all the comments received and further review by officers has led to a proposed list of modifications to the Plan. These modifications predominantly address issues of clarity in policies or the supporting text. There is no addition of allocations and only one change to a site which is the removal of part of the Etwall allocation at Sutton Lane with the rest of the allocation remaining. The proposed list of modifications can be seen in appendix B.
- 4.8 Notwithstanding what will be discussed in the next part of this report in regards to the Derby HMA as whole there are three options that Council has:
- A. To submit the plan as it is without any of the proposed changes.
  - B. To submit the plan with the proposed changes. The changes would be tested through examination. The concern is whether the changes are classed as minor or major changes. If the Inspector considers them to be major then the Inspector needs to support the changes. It is also possible that the Inspector will suggest a period of consultation on the major changes before the examination can close.
  - C. To accept the proposed changes but consult on these changes prior to submission.
- 4.9 It is not unusual for Local Authorities to submit proposed changes along with their Plans. The changes represent issues that have been raised through the Regulation 19 consultation which the Inspector will receive every consultation response. However, there are certain changes that it is felt should be made and option 2 is the most appropriate way to undertake this process.
- 4.10 Where any changes to the Plan are agreed the Authority will look to update its sustainability appraisal prior to submission to reflect the proposed minor modifications made to the Plan.

### **Current Derby HMA position**

- 4.11 As work has been ongoing with the HMA since 2009 there has been much evidence base collected on a HMA wide basis including the housing and employment information. On this basis both the housing and employment targets were originally derived as HMA totals and then split across the three local authorities. The reason for discussing the current HMA position is a recent change to the housing evidence base.
- 4.12 A housing requirements study was finalised in September 2012 which set the housing target which following revisions was increased in through the Strategic Housing Market Assessment update in July 2013 following reconsideration of migration and household formation data. This update gave a total housing requirement of 35,354 across the HMA with South Derbyshire's share of that being 13,454 with 2,551 helping Derby to meet its assessed needs that it cannot meet within its own boundary.
- 4.13 Following the conclusion of the study Amber Valley undertook their final consultation and submitted their plan in December 2013. They have now undertaken 9 days of hearings in March and April this year. Following these hearings the Inspector

recommended that the process be suspended for 6 months to allow them time to answer some of his concerns.

- 4.14 One of these concerns is the Derby HMA housing requirement. Amber Valley's Inspector asked for sensitivity testing to be undertaken on the Housing Requirement figure which resulted in 4 scenarios. The Inspector has made clear that he supported the option that tracked the midpoint between 2011 and 2008 based rates. This has resulted in an increase of 1,474 dwellings to the Derby HMA total. This is in its entirety due to increased growth within Derby City and not in South Derbyshire or Amber Valley.
- 4.15 Through the Duty to Cooperate it has been agreed at Joint Advisory Board (attending by Portfolio Holder Members from the Derby HMA authorities and the County Council along with Officers) and through Environmental and Development Services Committee, that Derby City is not able to provide its fully objectively assessed housing need with its boundary. Following this, Amber Valley's Inspector has stated in his letter to AVBC dated 12th May (appendix C) that the HMA authorities "revisit the Duty to Cooperate (DtC) to review the way in which the City of Derby's increased unmet needs should be distributed between Amber Valley and South Derbyshire, bearing in mind agreement that Derby's ability to meet its own needs is capped by its fixed physical capacity".
- 4.16 The concerns that this approach taken by the Inspector raises is that he is accepting of Derby City's capacity constraints without having examined their Plan though based on previous agreements across the three authorities. Also he is placing an assumption on South Derbyshire for further housing growth again not having examined the Plan. However, the Inspector from his letter is clear that the issue should be concluded between the two authorities.
- 4.17 Amber Valley has submitted a timetable to cover its six month period of suspension to show the steps they will take including a further round of consultation in order to address the Inspector's concerns regarding their five year supply and also the Derby HMA housing increase.
- 4.18 What is suggested currently in both Local Plans of South Derbyshire and Amber Valley will provide for its objectively assessed housing needs plus provide some further housing to accommodate needs that Derby City is unable to provide for itself. In South Derbyshire this number is 2,551 dwellings (22% of total) whilst Amber Valley are providing 1,074 dwellings (11% of total).
- 4.19 Under the Duty to Cooperate an officer and Member meeting was arranged with Amber Valley and Derby City to discuss the housing number increase and how this may be dealt with. Derby City made clear that their position of being capacity capped was still the situation. Amber Valley are currently re-appraising many of their existing sites and also appraising new potential housing sites.
- 4.20 As reported to Environmental and Development Services Committee on the 5<sup>th</sup> June there are 3 possible options with a further sub option presented at Committee. These options that are to be considered are as follows:

- 1 – Accept no further housing increase
- 2– Accept X of housing increase and defers selection of sites to Part 2
- 2A - Accept X of housing increase and defers selection of sites to Part 2 as a strategic site
- 3 – Accept X of housing increase dealt with as a strategic site through Part 1

- 4.21 The Committee noted the options. A suggestion made at Committee was for the Local Plan Member Working Group to reconvene to discuss the options further. Following this meeting it was felt that option 1 would be the most appropriate option.
- 4.22 A legal opinion has been sought by the Council regarding all of the four options which is not available at the time of writing this report but a verbal update will be provided at Full Council.
- 4.23 Whilst concerned about the Duty to Cooperate element of the examination it has now reached the point where it is no longer mutually beneficial to South Derbyshire to take any further of Derby City's growth. The benefit received by Derby City in South Derbyshire accommodating 70% of its excess growth cannot continue as it may start to become harmful to South Derbyshire to make further allocations that are likely to be in unsustainable locations and not supported by the required infrastructure.
- 4.24 The extent of the housing and the strategy that is suggested through the Local Plan Part 1 and the requirement that has been set aside for Part 2 has reached a capacity for South Derbyshire. The current strategy puts forward suitable and deliverable sites that enable a five year supply to be demonstrated.
- 4.25 Whilst there is undeveloped land across the District, the recent review of the SHLAA sites highlighted that it would be unlikely to provide sustainable development in accordance with the NPPF beyond what is already being suggested as developments. The councils concern is in regard to the housing number but the rest of the Plan cannot be removed from this equation as the Local Plan as a whole needs to deliver development to meet the vision of sustainable growth, renewal and opportunity.
- 4.26 There are limited options in that no further growth can take place in both Swadlincote and the edge of Derby and beyond the Part 2 allocations further sites in the villages would start to become detrimental. Many of the villages have seen strategic sites to deal with previous increase in numbers so to find further non-strategic sites would be extremely difficult.
- 4.27 South Derbyshire is already in a position of needing at least one new secondary school, new primary schools on sustainable urban extensions and in Hilton, new roads and numerous other pieces of infrastructure. This can be dealt with through the suggested allocations being made in the Plan as that is what has been planned and consulted on.
- 4.28 There are risks involved with this approach as there would be with any route taken due to South Derbyshire being affected by another Authority's plan whilst its own has not yet been submitted. The Authority will need to address the Duty to Cooperate which is likely to be tested at Amber Valley's reconvened examination in November this year. The issue of soundness may also be raised by developers/agents if not the Inspector. The two elements will be positively prepared and justified. South Derbyshire's Local Part 1 has been positively prepared and the Plan as a whole can be justified. Whilst this one part of the Plan is likely to be the focus of much

discussion it is important to remember that the Plan is dealing with many other constraints and opportunities beyond that of the housing target increase.

4.29 What is fundamental to the decision on the way forward is the delivery of the Local Plan bearing in mind that we are currently reliant on a 1998 plan and are not able to demonstrate a five year supply due to not allocating further housing sites.

4.30 The current Local Development Scheme states that South Derbyshire will submit to the Secretary of State in July this year. This date was set prior to the concerns received from Amber Valley's examination. Due to the uncertainty and being unable to confirm to PINS a specific date in July and are awaiting PINS who suggest that the beginning of August will be more appropriate due to scheduling they need to make.

## **5.0 Financial Implications**

5.1 None arising directly from this report.

## **6.0 Corporate Implications**

6.1 There is a risk of further delay to the Local Plan process without submitting the Plan to the Secretary of State which is an action within the Sustainable Growth and Opportunity theme of the Corporate Plan. It also has the potential to impact on other themes within the Corporate Plan as the Local Plan sets out development requirements to 2028.

## **7.0 Community Implications**

7.1 An adopted Local Plan will ensure that development across the District is achieved in as sustainable manner as possible and in a way that provides the infrastructure of community facilities for both the new residents but also existing residents.

## **8.0 Background Papers**

8.1 Pre Submission Local Plan

8.2 Sustainability Appraisal

### Appendix

A Key Issues from Regulation 19 consultation

B Proposed list of Modifications

C Letter from Roy Foster, Inspector to Amber Valley dated 12<sup>th</sup> May