

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
CABINET

Date: 16 SEPTEMBER 2015

1. **REPORT TITLE:** **Interim Planning Policy Statement; Mid-year 5-year Housing Land Supply statement; and Local Plan timetable**
- Submitted by:** **Executive Director – Regeneration & Development**
- Portfolio:** **Planning and Housing**
- Ward(s) affected:** **All**

Purpose of the Report

To provide Members with updates and advice to enable consideration of:

- (a) Preparation of an Interim Planning Policy Statement;
- (b) Production of a mid-year 5-year housing land supply statement and;
- (c) A refreshed process and timetable for preparation of the Joint Local Plan.
- (d) To consider the views of the Planning Committee in respect of the above matters.

Recommendations

- (a) That officers be authorised to prepare a Housing Clarification Statement on the basis set out in the report.**
- (b) That officers take the necessary steps to prepare a mid-year 5-year housing land supply statement.**
- (c) That the revised Local Plan process be approved.**

Reasons

It is necessary for members to consider whether to prepare some form of Interim Planning Policy Statement as a response to the Planning Peer Review process. In so doing it is appropriate to consider the current five-year housing land supply context for such action including the preparation of evidence for the forthcoming Local Plan and to advise members of the most efficient process for addressing relevant matters.

1. **Background**

- 1.1 On 22 July 2015 Cabinet received a report on the progress made in implementing the Action Plan agreed by the Council in response to the report of the Planning Advisory Service (PAS) following its Planning Peer Review of the Planning Service in 2014. Members are reminded that the PAS report contained a recommendation that the Council should consider developing an interim local planning policy statement. This proposal arose from the consequences of the Council not being able to demonstrate five year supply of deliverable housing sites (as required by Paragraph 49 of the National Planning Policy Framework) (NPPF).
- 1.2 The advice of the Planning Review Team was that **'Interim guidance offers clearer potential to make consistent decision making processes and to provide longer term land allocations to support new jobs and houses. Stronger spatial guidance based on objectively assessed needs would also encourage councillors to look beyond the**

short term local ward issues and inspire vision among their communities for long term quality of life improvements in terms of income, opportunities and homes.' The Review Team considered that *"the more specific the Council is able to be on the locations of growth and restraint, the greater the prospect that the Council will be able to address and maintain a five year housing land supply and thereby guide and control development while the full plan is being developed. Establishing a firm position on the need for and broad scale of any green belt review will also be a key milestone"*

- 1.3 The Planning Review Team did not go on to offer any further advice on the form or content of the interim guidance or comment on the weight that any such guidance could be given in decision making.
- 1.4 The Council's Action Plan subsequently contained an action to bring forward a report on the development of an Interim Planning Policy Statement. Cabinet in July agreed that officers should bring a report on the development of an Interim Planning Policy Statement to Cabinet on the 16 September with comments from an earlier Planning Committee.
- 1.5 The contents of this report will be considered by the Planning Committee on the 15 September so their views can be taken into account by Cabinet.
- 1.6 In accordance with agreed Action 3a) from the Action Plan the report is required to consider **the benefits and costs of such an approach including its implications for the existing Local Plan timetable and the weight such a statement could have in development management decisions.**
- 1.7 For this matter to be considered properly it is necessary for Members to contextualise the Action Plan requirement with the current position regarding both the Council's 5-year housing land supply and the progress being made with preparation of the Local Plan.

2. **Issues**

A. Interim Planning Policy Statement (IPPS)

- 2.1 Since the decision to agree what actions should be taken in response to the Planning Peer Review Team's report a further 5 year housing land supply statement has been presented to the Planning Committee. Whilst the Statement, reflecting the position as at 1st April 2015, indicates that the Council has 5.07 years of supply, taking into account the appropriate buffer, the advice of officers has been that the Council cannot demonstrate a five-year supply of deliverable housing sites.
- 2.2 This position was initially reported to the Planning Committee at its meeting on the 3rd June. The Committee deferred consideration of the item and further information was provided to them at their meeting on the 21st July and they resolved as follows:
 - (i) That, the results of the 5 year housing supply report to 3rd June 2015 Planning Committee be noted.
 - (ii) That, Officers give active consideration to the preparation of a revised supply statement following the publication of the Strategic Housing Market Assessment.
 - (iii) That, the significance of the 5 year supply position in Development Management decision making as described in report to 3rd June 2015 Planning Committee be noted.
- 2.3 The primary function of any interim planning policy statement is to bridge the gap between the Council's pre-NPPF planning policies (i.e. saved policies from the Local Plan 2011 and Core Spatial Strategy) and the post-NPPF Joint Local Plan. The objective would be to assist transparent decision making and to provide a consistent basis for making decisions, until we are able to adopt a new Local Plan, which will provide greater clarity over how decisions ought to be made locally.

- 2.4 It is quite clear from the Local Planning Regulations that the setting or creation of policy is the role of a Local Plan. The implications of this are that any document the Council prepares to 'bridge the gap' outside the regulatory framework cannot seek to produce new policy. It is therefore unrealistic to consider developing a statement which seeks either to control the location of development or to restrain it (as appears to have been envisaged by the Planning Peer Review Team) and in this respect it is important to manage expectations of all stakeholders. Any statement would, in your officer's view, be most appropriately framed as a "Housing Clarification Statement".
- 2.5 In the light of the above officers have given consideration to the idea of developing a Statement which seeks firstly to provide clarification on interpretation of existing policy and the emerging local plan evidence base and secondly for the purposes of interpreting paragraph 55 of the NPPF i.e. the promotion of sustainable development in rural areas.

B. Five-year housing land supply implications

- 2.6 It is appropriate to review the current position with regard to the five year housing land supply because whilst the Clarification Statement will not change this it can seek to manage some of its effects.
- 2.7 Currently the Council can only use the national household projections to assess whether it has a five year housing land supply (see paragraph 2.1).
- 2.8 The PPG indicates that household projections can be given only limited weight in the calculation of any area's 5 year housing land supply. For this reason Government make it clear that without adjustment the household projections are not an accurate or reliable picture of local housing need. The same position has, it is understood, been adopted by Inspectors in appeal decisions.
- 2.9 A more accurate picture is provided by an 'Objectively Assessed Need' (OAN) for housing because this takes into account local factors across the housing market area and limited weight can be attached to a 5-year housing land supply calculation on this basis. Of course the most watertight housing requirement is that published in a Local Plan and is much less open to challenge at appeal.
- 2.10 An accurate picture of local housing need is, therefore, required both for a robust five year housing land supply and the Joint Local Plan. To begin providing a clearer picture the Council is preparing a Strategic Housing Market Assessment (SHMA) and Employment Land Review (ELR). These set out the demands on the area in terms of housing and the economy. The SHMA is the starting point for calculating the OAN. It will present a range of housing need figures, (rather than recommending a single figure) which the ELR will help to narrow down. The aim will then be to narrow this range down further to a single figure through consultation on the Joint Local Plan. In other words it will not be until the Draft Local Plan is prepared that the Council will have all the pieces of the puzzle in place to be able to prepare a robust five year housing land supply calculation.
- 2.11 In the meantime to assist development management decisions and to inform the development of strategic issues to consult the public on, as part of the Joint Local Plan process, it is considered appropriate to prepare a revised mid-year housing land supply statement using the housing need figures from the SHMA and ELR. Members will recall that it was a recommendation of the 21st July Planning Committee that officers gave active consideration to doing this. The SHMA and ELR once signed off by both authorities would constitute a significant change in the evidence used to calculate the housing land supply and would justify such a revision. Planning Practice Guidance makes it clear that updates should only be done annually unless significant new evidence comes to light, particularly when this

is more up to date and reliable than existing evidence (in this case the household projections).

- 2.12 The SHMA and ELR are at an advanced stage and are on track to be signed off by mid-November. It is considered that this could coincide with the preparation of an updated five year housing land supply statement, with a view to this being published towards the end of November.

C. Local Plan Implications

- 2.13 The Planning Peer Review Team recommended that an Interim Planning Policy Statement was prepared in parallel with the consideration of key elements of the Local Plan. This was because they acknowledged the importance of avoiding any significant delays in preparing the Local Plan. In addition they envisaged that key pieces of evidence, such as the SHMA and ELR would inform the Statement. This report suggests that the proposed Clarification Statement would rely on different evidence, namely an update of the 2011 Rural Services Study and Rural Accessibility Mapping (as set out in Appendix1) and the mid-year five year housing land supply calculation will use information contained in the SHMA and the ELR.
- 2.14 However, the preparation of this evidence including the revised housing land supply statement are necessary pieces of work for the Joint Local Plan. They will play a key role in informing the identification of strategic issues (key demands on the area), which will then be the subject of public consultation. The SHMA and ELR have experienced some delay but will be completed late-autumn when the Rural Accessibility Mapping is also expected to be completed. The update of the 2011 Rural Services Study is not likely to be completed until the end of the year. This indicates that a Clarification Statement could be published early in the New Year.
- 2.15 According to the agreed Local Plan timetable, public consultation on an Issues and Options paper was scheduled for the third quarter of 2015, but in part due to the delay in finalising the SHMA and the ELR this is now not possible. Officers at both authorities have considered the impact of this on the overall timetable and have considered options for moving onto the Strategic Issues and Options stage in the most expedient way.
- 2.16 There are considered to be a number of key pieces of work which need to be completed before options can be prepared on where development can be located. However the more strategic pieces of work regarding the projections for growth are considered to be at an advanced stage of production and robust enough to consult on these as issues.
- 2.17 It is proposed therefore that the original timetable to consult on Strategic Issues and Options should be amended to split these two elements of work into separate consultations, provided momentum can be maintained between consultations.
- 2.18 This approach would allow the frontloading of key issues (demands on the area) to be consulted on during January / February 2016 (with the decision making process starting in November/December 2015) and follow up with consultation on the Strategic Options (land supply in response to the issues) in the middle of next year (July/August 2016).
- 2.19 Postponing the consultation on strategic issues until early next year is likely to be less problematic than if the Strategic Issues and Options consultation is kept together and delayed.
- 2.20 The effect on the overall timetable (published as to be adopted end 2018) is likely to be minimal as this front loading will ensure key issues are recognised early before more detailed work is carried out on the Draft Plan. The Draft Plan would also be developed on a sounder footing having been through two previous consultations and this revised timetable provides time for any additional supporting work to be completed. The delay to the options element (of the consultation) is therefore anticipated to be made up during the later production phases of the plan.

- 2.21 This issue has been the subject of extensive discussion at the Joint Advisory Group (JAG) upon which senior Members from both Councils sit.
- 2.22 If the approach set out above is accepted by Members it is suggested that your officers work with officers at Stoke-on-Trent City Council to take this forward and to also reach agreement on a revised timetable for the preparation of the Local Plan, which takes account of the need for a mid-year five year housing land supply statement and Clarification Statement and for this to form a separate report submitted with the proposed Issues consultation paper for consideration by Cabinet at its meeting in December.

3. **Proposals**

- A. It is recommended that officers be instructed to prepare a Housing Clarification Statement including the broad content as set out in Appendix 1.
- B. It is recommended that officers take the necessary steps to prepare a mid-year 5-year housing land supply statement to assist decision-making in Development Management.
- C. It is recommended that members note the update in respect of the Local Plan timetable and approve the proposed changes to the process.

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 4.1 The matters referred to in this report contribute towards the achievement of objectives relating to creating a Borough h of Opportunity.

5. **Legal and Statutory Implications**

- 5.1 In preparing an interim planning policy statement it's necessary to consider the requirement of the Local Planning Regulations. The Town and Country Planning (Local Planning) (England) Regulations 2012 (Part 3 Section 5 (1) (a) (i) and Section 5 (1) (a) (iv)) set out what documents can contain development management policies on sites in a local authority area. These Regulations are explicit that a document can only contain policies on acceptable land uses and development management if it is prepared as a Local Plan in accordance with the relevant regulations and acts.
- 5.2 Therefore, if a document is not a properly prepared Local Plan, it cannot form the basis of development management decisions. Section 70 (2) of the Town and Country Planning Act indicates that in dealing with applications (development management) the local planning authority shall have regard to:
- (a) the provisions of the development plan, so far as material to the application
 - (b) any local finance consideration so far as material to the application and
 - (c) any other material consideration.
- 5.3 An interim planning policy statement (Housing Clarification Statement) would not have the status that the development plan does, and could not be given any significant weight in development management decisions because of this. Nevertheless it would assist transparent and consistent decision making, until such time as the Council is able to adopt a new local plan.

6. **Financial and Resource Implications**

6.1 There are no significant additional financial implications arising from the proposals in this report. The assumption is based upon existing officer capacity being utilised to undertake the tasks referred to and this may require some re-prioritisation of workloads, particularly in preparing the mid-year 5-year housing land supply statement.

7. **Major Risks**

- a) An interim planning policy statement wouldn't carry the same weight in decision making as development plan policy and therefore there is potential for such a statement to confuse decision making rather than to guide it.
- b) The lack of weight that could be attributed to any such statement means that it cannot be seen as a panacea for the consequences of the lack of a five year housing land supply.
- c) Because the statement can't control development it may not affect the outcome of what sites come forward and it won't stop development from happening.
- d) Ultimately the statement might reinforce/support the current rural settlement hierarchy as set out in the Core Spatial Strategy and again not change anything thereby failing to improve public perceptions.
- e) It could however provide an early indication of what the new Joint Local Plan strategy may be when informed by up to date evidence.
- f) It could provide evidence to support professional judgements of development management officers in determining whether a proposal is in a sustainable rural location. However, this won't necessarily prevent/reduce public criticism, particularly if the evidence doesn't indicate a change in the rural settlement hierarchy, or indicates that this should change and development should be directed to new parts of the rural area.
- g) It will aid transparency in decision making and clarify the Council's policy position.

8. **Key Decision Information**

8.1 This is a key decision.

9. **Earlier Cabinet/Committee Resolutions**

9.1 There have been a number of reports considered by Cabinet over the past 18 months in relation to both the Planning Peer review and the Local Plan preparation.

10. **List of Appendices**

10.1 Appendix 1 - Summary content of Housing Clarification Statement