Proposed Joint Local Plan

Submitted by: Executive Director of Regeneration and Development

Portfolio: Economic Development, Regeneration, and Town Centres

Ward(s) affected: All

Purpose of the Report

a) To report the views of the Planning Committee on the Cabinet's resolution to cease work on the Site Allocation and Policies Local Plan and options for proceeding with an alternative Local Plan.

b)To seek authority to formally withdraw the Site Allocations and Policies Local Plan and to proceed with the preparation of a joint Local Plan with the Stoke-on-Trent City Council covering the borough and City of Stoke-on-Trent

c) To advise on the implications for the Council's CIL process of preparing a new land use plan.

Recommendations

1) That Cabinet agree to the formal withdrawal of the Site Allocations and Policies Local Plan.

2) That Cabinet agree to proceed with the preparation of a new joint Full Local Plan in partnership with Stoke-on-Trent City Council (Option C) and that your officers work with officers at Stoke-on-Trent City Council to reach agreement on a timetable for the preparation of the Local Plan.

3) That if Stoke-on-Trent City Council do not approve the preparation of a joint Local Plan or agreement can not be reached on the timescale for the completion of the Plan that Cabinet agree to proceed with the preparation of a borough-wide Local Plan.

4) That a further report is submitted to the Cabinet to receive an update on Stoke-on-Trent City Council's formal stance in this matter and if necessary to consider the need to establish a joint advisory group to support the governance arrangements of each Council.

5) That Cabinet note the implications arising from the need to re-appraise the adopted Core Spatial Strategy for the Council's CIL process and seek a further report in this regard at the earliest opportunity.

Reasons

To reduce the council's exposure to the risk of being found 'unsound' at examination. To ensure that the Borough Council takes the necessary steps to create a development plan that reflects the vision and aspiration of its communities and contributes to the achievement of sustainable development.

1.0 Background

1.1 Members will recall that on the 16 October, 2013, the Cabinet agreed to suspend preparation of the Site Allocations and Policies Local Plan and to seek the views of the Planning Committee on this, as well as, a proposal to prepare a new Local Plan either for the borough as a whole or jointly with the Stoke-on-Trent City Council. It was further resolved to receive an update on Stoke-on-Trent City Council's formal stance on this matter and that the financial implications of the report be addressed through the Medium Term Financial Strategy and the respective budget-setting processes.

1.2 Planning Committee

1.3 At its meeting on the 29 October, 2013, the Planning Committee considered a report which outlined a number of serious issues arising from the Site Allocations and Policies Local Plan process and which meant there was a strong risk of the Plan ultimately being found unsound on a number of counts when subject to an independent examination by the Planning Inspectorate. Members' views were also sought on a number of alternative plan making options. It was resolved that the Cabinet be informed that the Planning Committee agrees with the principle of ceasing to prepare and withdraw the Site Allocations and Policies Local Plan and to instead proceed with the preparation of a new Local Plan either on a borough- wide only basis, or jointly with the Stoke-on-Trent City Council.

1.4 The Planning Committee will be made aware of the contents of this Cabinet Report at its meeting on the 10 December 2013 and will be given an opportunity to give its views so that these may be taken into consideration by Cabinet.

1.5 Summary of key issues of 'soundness'

1.6 The previous Cabinet Report on this matter set out in some detail the justification for withdrawing the Site Allocations Local Plan and to instead take forward a new type of land use plan. It is not considered necessary in this report to restate the case, but a summary of the main issues which were raised is provided below to act as a helpful reminder. Essentially a re-appraisal of the borough's overall development strategy is warranted due to:

- The evidence assembled during the preparation of the Site Allocations and Policies Local Plan clearly indicates that it would not be possible to implement or deliver the adopted Core Strategy. Furthermore attempting to change the strategy (of housing delivery) through the Site Allocations and Policies Local Plan would be an 'unsound' approach;

- A shortage of commercially attractive and viable employment sites.

- Today's new economic landscape for the provision of housing, which is very different from the Housing Market Renewal Pathfinder Programme, in which the adopted Core Spatial Strategy is firmly rooted; and

- The need to put in place a development strategy, which protects the areas economic prosperity, particularly in the light of the growth

strategies being pursued by the neighbouring authorities of Cheshire East Council and Stafford Borough Council over the next twenty years.

1.7 Stoke-on-Trent City Council

1.8 Members will be aware that the previous Cabinet Report stated that it was the intention of Stoke-on-Trent City Council to take a report to their Cabinet, on the 24 October, 2013, which would review their plan making programme, including giving further consideration of their position that the City could not support a review of the Core Strategy before 2016/17. In fact this report will now be considered at the City Council's 19th December Cabinet meeting. The publication of the City Council's Cabinet Agenda will be on the 12 December and so the formal recommendations of officers are currently not known at the time of writing this report.

1.9 However, in due regard to the legal duty to co-operate, your officers have been in discussions with planning officers at the City Council regarding the need for a new development strategy and at the same time the potential issues which might arise if a decision was taken to prepare a joint Local Plan have been explored.

1.10 A joint meeting involving Members from both Councils has also recently taken place in an attempt to reach a consensus on the way forward. There was unanimous agreement that a re-appraisal of the current development strategy was necessary and that it was vitally important to speak with a single coherent voice in order to protect and enhance the economic prosperity of both the Borough and the City of Stoke-on-Trent. This led both parties to agree in principle to take forward a joint Local Plan.

2.0 Options Considered

2.1 The previous Cabinet report set out three potential plan options of which all three involved strategic review and could take between 3- 5 years to reach adoption. It is considered helpful to remind Members what these were and to describe the potential pros and cons of each option before Cabinet makes a formal decision on the way forward

- Option A – **Joint Core Strategy Review** with the Stoke-on-Trent City Council, followed by a **separate Site Allocations and Policies Local Plan** for the borough.

- Option B - **separate full Local Plan** covering the borough only.

- Option C - **Joint full Local Plan** covering the administrative areas of Newcastle-under-Lyme and the City of Stoke-on-Trent.

2.2 Option A retains the notion of producing a site allocations document but would defer this until a formal review of the Core Spatial Strategy had first been carried out. The original Local Development Framework (LDF) model is thus followed albeit that the allocations document will be produced under a revised version of the current Core Spatial Strategy. Both the Planning and

Compulsory Purchase Act 2004 and the Local Planning Regulations allow for such an approach but the Government's preferred approach is to have a single Local Plan. Given that a consensus appears to have now been reached with Stoke-on-Trent City Council that the Core Spatial Strategy needs to be reviewed it would not appear to be sensible to adhere to an LDF model (which is also not preferred by the Government) rather than take the opportunity to prepare a new style Local Plan. While this approach could help to achieve a coherent spatial plan it would also retain the risk of divergence between strategy and delivery, which would be very costly both in financial terms and in terms of the extra delay that this would cause to getting a plan in place. It would prolong the uncertainty in the borough about site allocations for both housing and employment because the plans would have to be prepared sequentially. Finally this option is also likely to incur the greatest costs because it will involve two consecutive processes and at least two examinations.

2.3 Option B – separate borough-wide Local Plan is a more cost effective option than Option A and is also likely to be a more streamlined process than preparing one larger joint Local Plan (Option C), which would potentially involve a lengthier and more costly examination. The key advantage of preparing a single Local Plan for the Borough is that it would make it possible for the Council to consider the most appropriate strategy for the borough independently of Stoke-on-Trent City Council. However, to have any prospect of passing the 'duty to cooperate' test this would require close public and signed off joint working particularly by, but not solely, with the Stoke-on-Trent City Council on issues including delivery and require joint evidence bases including a Strategic Housing Market Assessment. In other words the level of cooperation required would not differ greatly from the production of a joint plan. The need to have a joint evidence base also means that the Council would not have full control over the timetable for the Local Plan.

2.4 The main issue to consider in deciding to prepare a borough-wide Local Plan is not one of timing, or even the future soundness of such a Plan, but in fact arises from the related issue of the duty to cooperate and the exemplar partnership created as a result of adopting the joint Core Spatial Strategy. Section 33A(6)(b) of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism act) requires a local planning authority to consider "whether to agree under section 28 to prepare joint local development documents." Consequently, both Councils need to give specific consideration to why the past joint plan approach should not be followed in the future. If the decision was made to pursue independent Plans, this would raise questions at the examination of any borough-wide Local Plan in relation to the duty to cooperate obligation. Given the previously well established partnership and context of shared housing and employment markets, this will impose a new requirement to justify the decision to pursue a separate strategy. In addition it would send negative signals which could potentially impact on the borough's ability to attract external funding and further undermine the validity of the Core Spatial Strategy to guide development management decisions in the interim.

2.5 Option C – Joint full Local Plan would be the most effective way of discharging the duty to cooperate. It would also enable the close interdependencies between the two areas to be reflected in a new comprehensive and coherent spatial plan for the area (acknowledging both the functional economic geography of North Staffordshire as well as the nature of the housing market). Undoubtedly this option would not be without

its difficulties. The wider the scope of the Plan, the more there is to get right and gaining agreement on the key strategic priorities and growth strategy options is likely to present challenges. One way of managing the process of cooperation could be through the establishment of a joint advisory group. It is proposed to explore this option with officers at the City Council and if it appears necessary to establish new governance arrangements then a report will be brought to Cabinet and if necessary Council to deal with this matter.

2.6 This option could ultimately achieve greater cost savings as it would make it possible to share the examination costs for example and although the borough would not be in control of its own timetable it would not be in the interests of the City Council to unduly delay the process because the joint evidence base would have a limited life.

3.0 Proposal

3.1 It is proposed to withdraw the Site Allocations and Policies Local Plan and to prepare a joint Local Plan covering the borough and City of Stoke-on-Trent, subject to clarification of the City Council's position. The joint Local Plan would contain: a spatial vision; a set of strategic objectives for both councils; core policies, that will set the basis for directing change, preferably over a 15 year time period in line with the National Planning Policy Framework (effectively these combine to create the spatial strategy to guide investment decisions), site allocation proposals and finally a set of generic development management policies.

4.0 Major Risks

4.1 Due to the multiple issues that have been identified it would be a high risk strategy to proceed to examination of the Site Allocations and Policies Local Plan; the Plan would be unlikely to conform to all four tests of soundness, set out in paragraph 182 of the National Planning Policy Framework (NPPF). Failure at examination would incur significant costs both financially (for the Council and other stakeholders) and in terms of reputation. More importantly it would fail to deliver necessary allocations of land for housing and employment thereby undermining future economic growth of the borough. Therefore, officers consider that the Council has no option but to withdraw with the Site Allocations and Policies Local Plan.

4.2 The adopted Newcastle-under- Lyme and Stoke-on-Trent Core Spatial Strategy will remain part of the approved development plan for the area, as will the saved policies of the Newcastle-under-Lyme Local Plan 2011 and planning applications will continue to be assessed against these policies, although the weight given to them is dependent upon their closeness to policies within the National Planning Policy Framework. Nevertheless it can be expected that there will be an increased risk of challenges to the adopted Core Strategy. Members are, of course, aware that relevant policies for the supply of housing would only be considered up to date once the council is able to demonstrate a five year housing land supply (the approach to mitigating this risk has been agreed at a meeting of the Planning Committee on 4 June 2013).

4.3 <u>Partnership Working</u>

4.4 Working in partnership with another local authority will be challenging and the potential for a divergence of views exists. Section 2.6 considers some practical arrangements which can facilitate the process of cooperation but it is important to note that the statutory Town Planning Process, which is firmly rooted in evidence based policy, works to ensure that any new development strategy for the borough is both "sustainable" and "realistic" and has been through substantial local consultation.

4.5 Your officers are aware that Members have some concerns about the setting of development targets in partnership with another local authority. In driving economic growth the National Planning Policy Framework states that Plans must pay attention to market signals and be sufficiently flexible to respond to changing economic circumstances. If then there is pressure to plan for employment growth above any objectively assessed needs it wouldn't be possible to put this in a Plan unless the market indicated that this was feasible. However, it would be perfectly appropriate to develop a strategy which laid the foundations for that growth in the early part of the plan period and to only allow more growth to take place should the economic landscape signal that this can be accommodated later.

4.6 To facilitate employment growth we will need to ensure that there are sufficient homes. Now that the West Midlands Regional Spatial Strategy has been revoked the overall scale of housing will be informed by an objective assessment of need through a joint strategic housing market assessment (with the Stoke-on-Trent City Council), which will consider demographic and housing market evidence including population growth, changes in household size and composition plus patterns of migration. These key factors will need to be set against matters that work to constrain supply; these include Green Belt, infrastructure limitations, highway capacity and environmental designations. The prospects for job creation will be critical too. Having factored together these issues it will then be possible to judge how realistic any aspirations for housing growth beyond the identified objectively assessed needs are.

4.7 If the Borough Council were to prepare its own Local Plan independently of the City of Stoke-on-Trent it may ultimately be necessary to justify why it could not accommodate their growth aspirations (providing they were sustainable and supported by valid evidence) and if we could not do this satisfactorily then our own Local Plan could be found unsound.

4.8 In such circumstances it makes sense to go forward on the basis of preparing a joint strategy to work out the detail of at least three growth scenarios - high, medium and natural growth and if no agreement can be reached regarding the correct approach to setting development targets then it would be quite feasible for the Borough Council to opt to prepare a separate borough-wide Local Plan.

5.0 Legal and Statutory Implications

5.1 Formal withdrawal of a development plan document

5.2 In accordance with section 22(1) of the Planning and Compulsory Purchase Act, 2004 a local planning authority may at any time withdraw a local development document before it is adopted. Section 27 of the Local Planning

Regulations, 2012, identifies the steps that need to be taken as soon as reasonably practicable after withdrawing a local plan including:

i) make available a statement of the fact and;
ii) send, to each of the consultation bodies notified under regulation 22(3) (b), notification that the local plan has been withdrawn and;
iii) cease to make any documents relating to the withdrawn local plan available on the local planning authority's website.

5.3 These steps will be taken subject to members resolving to withdraw the Site Allocations and Policies Local Plan.

5.4 Community Infrastructure Levy (CIL)

5.5 In response to questions raised by your officers and Stoke-on-Trent City Council officers, Stoke-on-Trent City Council has obtained Counsel opinion on the possible impact on CIL which would be created by a decision to re-appraise the Core Strategy and have shared this legal advice with your officers. Sections 5.6 to 5.8 summarise the legal advice received. It should be noted that because the Borough Council was not the client the advice cannot be relied upon in a legal sense. However your officer agrees with the advice.

5.6 Any decision to re-appraise the Core Spatial Strategy will impact on the Council's decision to implement a charging schedule under the CIL regulations. Paragraph 4 of the CIL Guidance provides that "charging schedules should be consistent with and support the implementation of **up-to-date** Local Plans in England."

5.7 The Core Spatial Strategy is a Local Plan for the purposes of paragraph 4 of the CIL Guidance. Your officers consider that the Core Spatial Strategy is broadly in conformity with the National Planning Policy Framework and therefore remains valid for development management purposes. However, a question arises as to whether the Plan can be considered 'up to date' for the purposes, of CIL. Members are reminded that the preliminary draft charging schedule, which the Council consulted on earlier this year, makes clear that the Council is promoting a charging schedule which levies funds on residential and retail development only. The evidence in respect of housing land supply is now pointing to the need to re-appraise the Core Spatial Strategy. In addition the Council's policies relating to housing land supply are not considered up-to-date because the Council does not currently have a five year land supply. The implications of this are that there is a significant risk that the Core Spatial Strategy would no longer be considered up-to-date at the examination of the Council's Charging Schedule under the CIL Regulations 2011 (as amended).

5.8 In such circumstances it is recommended that at this point in time no further action is taken to progress the current work on implementing a CIL charging Schedule.

5.9 The correct way forward, in order to ensure appropriate coordination of processes, would be to develop the CIL charges and test them alongside the emerging Local Plan as envisaged in paragraph 11 of the CIL Guidance and paragraph 175 of the National Planning Policy Framework.

5.10 The financial implications of ceasing work on the implementation of a CIL Charging Schedule are dealt with in section 6 below.

6.0 Financial and Resource Implications

6.1 Members will recall that the October Cabinet report considered in some detail the financial and resource implications of going forward with a new type of Local Plan and it was resolved that the financial implications of the report be addressed through the next Medium Term Financial Strategy and the respective budget-setting processes. However, it is worth reiterating the fact that this stream of work will be based on the amount of commissioned work and on the assumption of existing staff resources.

6.2 Consequences of postponing the introduction of a Community Infrastructure Levy

6.3 If the Council is unable to carry on with the current work on the Community Infrastructure Levy Charging Schedule (because we are considered to not have an up-to-date Local Plan for the purposes of the CIL guidance and regulations) it ultimately means that it will not be possible to fund infrastructure from the levy in advance of a new Local Plan. However it should be noted that the Community Infrastructure Levy represents an alternative method of funding infrastructure to the existing method of Section 106 obligations alone and essentially draws on a similar pool of funds as through the use of Section 106 obligations. However there are some important differences and issues to consider.

6.4 The Council, as Local Planning Authority, will only be able to fund very limited site specific infrastructure through Section 106 contributions until a Community Infrastructure Levy Charging Schedule is adopted at a later stage. From 6th April 2015, the Council will be restricted in its use of planning obligations for pooled contributions (back dated to 2010). Pooled contributions may be sought from up to five separate planning obligations for an item of infrastructure. Critically the Government's latest CIL consultation makes it clear that the limit of five applies to types of general infrastructure contributions, such as education, transport and open space. This is to incentivise places to adopt the levy (as the Government's preferred vehicle for developer contributions). As a consequence there could be significant financial implications although the Council has no alternative due to the Regulations. The extent of these implications will require further consideration and reporting back to members at the earliest opportunity.

7.0 Earlier Cabinet Committee Resolutions

7.1 Cabinet approval of the Site Allocations and Policies Local Plan Issues and Options Paper for consultation purposes, 18 July, 2012.

7.2 Cabinet approval to cease preparation on the Site Allocations and Policies Local Plan, 16 October, 2013.

8.0 Background Papers

- Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy, 2009
- Site Allocations and Policies Issues and Options consultation Paper

- National Planning Policy Framework, March, 2012
- Draft schedule of work packages (including cost estimates) to be commissioned to provide the evidence base for the new Plan
- Stoke-on-Trent Plan Making Advice – Alan Evans, Kings Chambers, 8 November 2013