

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF PLANNING POLICY SUB-COMMITTEE ON 17 DECEMBER 2019

PART A : REPORT

SUBJECT: LOCAL PLAN OPTIONS

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EXECUTIVE SUMMARY:

All Councils are under a statutory obligation to prepare a Local Plan, and the National Planning Policy Framework (NPPF) requires Councils to review Local Plan policies every five years. Para 12.1.12 of the existing Arun Local Plan indicates that if our housing delivery is below the required levels for two consecutive years, the Council will initiate a partial review of the Plan (in order to increase provision). There is therefore now a requirement to commence work on a review of some of the Local Plan and this report explores the options available to the Council.

RECOMMENDATIONS:

That Planning Policy Sub-Committee recommend to Full Council that:

- i. A combination of options 1 and 3 are pursued.
- ii. The update of the Local Plan commences that will update the Development Management (DM) policies in the Local Plan, so that these can be used by the Council in the short term, before completing an update of the full Plan. This would involve gathering evidence to supported updated policies, formal and informal consultation and agreement of Full Council.
- iii. Notes the likely costs of approx. £1mil and timescales of this process.
- iv. Future reports to Planning Policy Sub-Committee will report on progress at relevant stages of this process and the scope of evidence.

BACKGROUND:

1. The Arun Local Plan was adopted in July 2018.
2. A Local Plan's main role is to be used by the Council to determine planning applications. This can range from simple "householder" applications (such as extensions and conservatories), through to more complex strategic ones (such as major new residential sites). It is also important to have a Plan in place to assist the Council in negotiating what infrastructure and local improvements it can secure

through these larger applications. Having an up to date Local Plan also provides a coordinated approach to development which enables the assessment of cumulative implications and requirements for speculative applications. Those looking to invest in the district also look to the Council having an up to date Plan as a measure of the scale of risk for any investment. The Local Plan will also be a key document in planning enforcement matters and helping the Council in defending appeals against its planning decisions and speculative planning applications.

3. All Councils are under a statutory obligation to prepare a Local Plan, and the National Planning Policy Framework (NPPF) requires Councils to review Local Plan policies every five years. This is set out in Section 19(1B) - (1E) of the Planning and Compulsory Purchase Act 2004 and Section 10(A) of the Town & Country Planning Regulations 2012.
4. National Planning Guidance confirms that 'to be effective plans need to be kept up-to-date. The National Planning Policy Framework states policies in Local Plans and spatial development strategies, should be reviewed to assess whether they need updating at least once every 5 years, and should then be updated as necessary.' Under regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) local planning authorities must review local plans, and Statements of Community Involvement at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community.
5. It is important to note that the requirement to 'review' is not automatically a requirement to 'update'. A review of a Local Plan could conclude that the Plan is up to date and does not need to be updated or it could conclude that only parts of the Plan need updating. Any update to a Plan will need to be supported by evidence that is consulted upon and examined before those parts can be adopted.
6. Following the District Elections in May 2019, the new Council has agreed the strategic targets for the new administration (13 November 2019). These include, as a high priority, to develop a new planning framework to improve the level of sustainability and infrastructure and revise the Development Management policies as part of a Local Plan review to reflect the change in the council's priorities.
7. Planning Policy Sub-Committee (15 October 2019) have resolved to declare a Climate Emergency and to proceed with gathering evidence with the aim of achieving higher sustainable design standard to achieve zero carbon developments by 2030. These resolutions will go forward to the Environment and Leisure Working Group (7 November 2019) and Full Council (8 January 2020).
8. It should be noted that at para 12.1.12 of the existing Local Plan it indicates that if our delivery is below the required levels for two consecutive years, we will initiate a partial review of the Plan (in order to increase provision). Delivery over the past two years has been 704 and 603 against a requirement of 930 and 930. There is therefore now a requirement to commence work on a review of some of the Local Plan. However, it is worth exploring other options as part of this process as something more comprehensive could be undertaken if the Council felt that there was a need to do so.

Option 1 – New Local Plan

9. The adopted Arun Local Plan covers the period 2011 – 2031 and includes a housing requirement of 1,000 dwellings per year (919 for Arun and 81 for neighbouring authorities) This option would involve an assessment of the District's updated housing needs (currently approx. 1,200 per annum) and 'roll' the Plan forward 5 years up to 2036. Therefore, it would need to accommodate an additional 5 years' worth of housing needs. It would also require full formal consultation and therefore the likely minimum timescale is at least three years. It is difficult to precisely predict the cost because the costs are often influenced by whether any work must be updated if there are delays in the process. For example, in the preparation of the last Local Plan the Council was unsuccessful in trying to sustain its argument (at the examination) for a lower level of housing than the evidence suggested and therefore the subsequent postponement of the examination led to significant additional costs for refreshing the evidence base based on the assumptions of higher housing numbers.
10. In terms of timescales, a full review of the Local Plan would take a minimum of 3 years, but it would be more likely to be over 4 years. One of the recently agreed Strategic Priorities of the Council is to improve engagement with the public. The preparation of the current Local Plan involved a significant amount of consultation over a long period of time (some statutory with additional informal consultation) and additional consultation will have implications on timescales. It should also be noted that it is unlikely that a full update of the Local Plan would be achieved prior to the District elections in 2024.
11. One further outcome of pursuing this option is that it would be sensible, after initial publication, to halt further work on a separate Small Sites Development Plan document to address the remaining 1,250 homes that need to be found under the terms of the current Local Plan. Instead this work could be absorbed into the work on creating a new Local Plan.
12. Whilst detailed cost estimates are unable to be made at this time, it is reasonable to assume that this option is likely to be around £1mil. This was set out in the report to Full Council on 13 November 2019.

Option 2 – Revised Strategic Housing Allocations

13. To seek to extinguish the existing strategic allocations would be incredibly risky for a number of reasons and is not an option Officers would consider has any realistic prospect of success. It would also be futile because the majority of current strategic allocations have received planning permission or will have planning application submissions within the next 12 months.
14. Notwithstanding the timing issue for the Council, to succeed with such a review at examination would require the Council to demonstrate why the allocations being extinguished are unsound. This is not the same as saying the site is not liked and robust evidence will be required to justify this. The Council would have to be able to demonstrate why its own evidence obtained in recent years is manifestly wrong now. Given the Council concluded that the allocations were sound less than two years ago

it would prove very challenging to now argue the opposite. The Council would also have to demonstrate that there are viable alternatives that could deliver the required Housing Land Supply.

15. Furthermore, any resolution to approve a course of action that promoted such a change would almost certainly be challenged in the courts by those who faced losing a significant uplift in the value of their asset. There is also considerable risk to the delivery of the necessary and planned strategic infrastructure e.g. Secondary School, A29 and Ford bridges – as well damage to the Councils reputation.
16. At an examination it is highly likely that the Inspector will require the Council to have addressed the higher housing requirements in any revised plan. It will not be possible to divorce revised site allocations from housing need requirements.
17. This option would result in the Council entering into a very long and expensive litigious process while at the same time having to establish new allocations based on newly commissioned evidence to accommodate the higher housing numbers (thereby having to find more sites than we currently have). This would have significant risks in terms of costs as well as minimal prospect of success.

Option 3 – Updated Development Management Policies

18. In terms of the process to be followed it would be very similar to options 1 and 2 and would therefore take approximately 2 years. The intention would be look at each of the 'Development Management' policies such as the climate change policies to determine whether any changes were necessary to make them more robust or to improve the quality of the outcomes they were seeking, particularly in response to the Council's Strategic Priorities or changing or Government requirements had increased. For example, the Government is introducing new legislation regarding 'Net Biodiversity Gain' for all developers. Our policies could be modified to assist in the delivery of this objective.
19. As mentioned at para 6, the Council has recently agreed our Strategic Targets for the period 2019 – 2023. The High Priority targets include;
 - Responding to a Climate Emergency
 - Develop a new planning framework to deliver the Council priorities by improving sustainability and infrastructure through new and updated planning policies
 - Maximising social housing
 - Better public engagement
20. In terms of cost for this element alone, there would be the need to produce an updated evidence base which would also include the need to produce a viability impact analysis of any new requirements upon development as well as other documents (which may include a need to update the CIL Charging Schedule). The likely total costs would be between £200k and £400k.
21. If option 1 was followed this option would be automatically be part of it. Also undertaking this option alone would impact upon other work proprieties and would potentially impact upon our ability to start a full update of the next Local Plan. It would

also mean that by the time the policies are updated, the process of preparing an updated Local Plan will be delayed and, during this time, the Council will likely be forced to accept more speculative developments in order to address housing needs.

22. It is recognised that the Sub-Committee have recently agreed to prepare the gathering of evidence in order to review climate change policies/standards which will start in 2020/21 with a view to updating these policies.

Option 4 – Supplementary Planning Documents

23. This option would involve identifying those policies in the Local Plan where it would be possible to develop Supplementary Planning Documents to improve the quality of the outcomes the Council is seeking without conflict with the wording of individual policies.
24. For example, policy ENV DM5 is 'Development and biodiversity'. There are no particular standards set in the policy, so guidance could be produced to assist in its interpretation and overall impact. However, policy ECC SP2 'Energy and Climate change mitigation' specifically refers to 10% of all energy usage coming from on-site renewables. Therefore, any SPD could not increase this figure only provide guidance on how best to deliver it. For it to be changed would require one of the other options to be followed. Current SPD's are progressing on Design and Open Space and these will add detail to policies in existing Local Plan. If different policies relating to standards/requirements for development in the District are sought, then SPD's will follow the adoption of updated policies and will accord with the recently approved Strategic Target of the Council.
25. In terms of how long this would take it would depend on whether the intention was to produce all the SPD's in one go or stagger their development. The former option would probably take a total of 18 months.
26. Any new guidance would need to be viability tested for its impact upon development and subject to consultation. The cost would again depend on how much guidance was being produced but a range of between £100k and £250k is envisaged.

Option 5 – Do Nothing

27. Preparing a Local Plan is a substantial cost for a Council. A full Local Plan could cost around over £1 mil over 3 – 4 years. At a time when the housing requirements are so significant and if the Council considers that achieving those requirements is unrealistic if the development industry is unable to keep pace with the requirements, one option is not to have a Local Plan. This option would then place a higher reliance on the NPPF to determine planning applications and may save money for other higher priorities, but the Council will need to accept the risks.
28. As demonstrated by the current Local Plan, the Council could spend a substantial amount of money to deliver a Local Plan that will (in part) be considered 'out of date' within 18 months of adoption. The Council will have to consider whether the benefits of having other Development Management and economic policies outweigh the cost of a Local Plan.

29. In considering this option, the Council have to be mindful of the requirements in Section 19(1B) - (1E) of the Planning and Compulsory Purchase Act 2004 that sets out that each local planning authority must identify their strategic priorities and have policies to address these in their development plan documents (taken as a whole). The risk of adopting this option would be that the Secretary of State could intervene if he/she considered that the Council were failing in their obligation to prepare a development plan. They could either 'direct' the Council to take specific action or remove the plan making function of the Council and prepare a plan for us (at the expense of the Council). This is set out in the Planning and Compulsory Purchase Act 2004 section 27) and the Town and Country Planning (Local Planning) (England) Regulations 2012 Schedule 2.
30. This option could also result in less infrastructure being delivered because, in the absence of a Local Plan, the Council's negotiating position and power would be diminished and planning by appeal would result whereby infrastructure asks may not be considered strategically and may not be agreed by Inspectors.
31. Whilst it appears inevitable that an updated Plan would result in higher housing requirements and that these requirements are very likely to be unrealistic and undeliverable, the significant costs probably outweigh the prospect of having plan making functions taken away from the Council and the risks associated with this.

General Comments - Process & Requirements

32. It is important that the Council has a clear vision of the place it is trying to create but this will always need to be set in the context of national planning policy. The key issue is usually the scale of any housebuilding in the district.
33. To establish the amount of homes a Local Plan provided the Council must go through three steps.
- i. The starting point is working out the housing need – historically the process was undertaken by individual councils. It would have excluded any policy aspirations that might drive the housing need higher. It would have also excluded at this stage any policy constraints (such as Agricultural Land Classification) that might mean the need cannot be provided locally. This process has now been replaced by a standard methodology set by the government (see below).
 - ii. The next step is to identify a housing requirement for the plan. This can take account of any policy commitments to boost growth in the area, as well as any constraints which may necessitate a reduction in the amount planned for. If the amount is reduced below the need, then the Council will have to reach agreement with its neighbours to export it as unmet housing need. The housing requirement is what the Council will assess its housing land supply against.
 - iii. Finally, the supply is the amount of homes that are allocated, or already committed, in the plan. This can exceed the requirement, but the plan won't be found sound if doesn't provide enough homes to meet it. The supply should exceed the requirement to ensure flexibility and to provide a buffer.

34. The NPPF and National Planning Practice Guidance (the Guidance) now direct how we should work out our housing need and requirement. For Arun this new standard methodology states that we should be working to a basic need of approx. 1,200 new homes per annum. This compares with the current Local Plan need of 919. The previous Local Plan (2003) required 580 homes per annum.
35. In terms of translating this into a housing requirement we need to consider factors such as economic growth. Officers believe that there is circumstantial evidence to suggest that the local market cannot sustain the current level of housing growth that is contained within the existing Local Plan or the updated housing requirement figures. However, to run an argument to say that the numbers are too high requires evidence of market failure and this would need to be a trend against the current supply proposed in the Local Plan and a need to allow sufficient time in which delivery on strategic allocations can be assessed.
36. In terms of the supply an emerging Local Plan can count “committed development” from the specified start date. Our current Local Plan start date is April 2011. In a review we would probably start as 2016 or 2021 depending upon when the review started. Committed development includes houses that have already been built, those with planning permission, as well as any site that already has an allocation (either through the Local Plan or Neighbourhood Plans).
37. Other key issues that any Local Plan Review might cover (in whole or in part) include the economy (further employment allocations); infrastructure provision; biodiversity; well-being and climate change.
38. There is certainly an opportunity to shape the development plan in a way which reflects the priorities of the Council, but this will always have to be done in the context of national guidance/policy. Failure to do so could ultimately lead in the medium term to the Council having its plan making powers removed and in the short term having an increase in adverse planning decisions at Appeal.

RECOMMENDATION

39. Officers consider that there is potential for updating the Local Plan over a 3 – 5 year period whilst at the same time carrying out and implementing an update of the Development Management (DM) policies so that these can be used by the Council in the short term (rather than having to wait until a full update is completed). Essentially, this would mean focussing the early stage of an update on the DM policies. This would be a combination of options 1 and 3 above.
40. This would involve identifying strategic objectives and a vision for the Plan, commissioning appropriate evidence, testing the impact of these updated policies on the viability of development and then undertake some public consultation. The Council could then adopt them (after considering the responses received) to assist decision making in planning. However, these policies would not carry the same weight as adopted Local Plan policies at that stage because they wouldn't have been tested through an examination but the Council could seek to use them in negotiations on individual schemes, recognising that we might not always be able to secure what

we want. An indicative process is set out below;

- Following Local Plan Options Report decision by PPSC - Update the Local Development Scheme accordingly – to be adopted by Full Council March 2020
- Member Working Party to be set up to review Vision and Objective for the Authority Spring 2020
- Methodology for the scope for reviewing the Local Plan to be agreed based on Key Issues and Objectives Summer 2020
- Early Duty to Cooperate engagement with authorities sharing Arun's Housing Market Area and Parish/Town Councils - Summer 2020
- Identify Evidence Base requirement and set base budget
- Agree Consultation Strategy and update Statement of Community Involvement
- Publish Issues & Options consultation document
- Evidence base procurement process
- Assess evidence base prior to policy formulation
- Agree set of draft Development Management Policies
- Full Council agree draft Plan
- Regulation 18 Draft Plan consultation
- Regulation 19 Publication plan
- Submission
- Examination
- Inspector's Report
- Adoption

41. Concurrently, an update of the Local Plan will also then start to focus on the site allocations and other strategic policies in the Plan.

42. The intention would be that the two streams of work would then merge to complete the Local Plan process. Depending on timing, we may need to review some of the work done in the first stream, particularly on viability, later in the process.

43. Overall this two-stream approach maybe slightly more costly than doing it as one stream, however it does allow you the opportunity to potentially use the improved standards you are looking for more quickly.

Conclusion

44. The frustration the Council has in terms of the unrealistic targets being set which are outside of its control is fully understood by officers. However, planning legislation and national policy require that these targets are included within Local Plans as a starting point and the advice in this report is based on what will be robust and deliverable options. There is no getting away from the fact that there will be difficult and unpopular decisions around housing numbers and sites at some point during the process of reviewing and updating a Local Plan.

45. Officers consider that a combination of options 1 and 3 would provide the new administration of the Council with an opportunity to set new development management objectives in policy. However, this process will have to be aligned with an update of the strategic elements of the Plan which will include updated housing

requirements and new housing allocations.

2. PROPOSAL(S):

3. OPTIONS:

The options are set out within the report. The council can select on from options 1 to 4 on the scope for reviewing the development plan or supporting polices or option 5 which is to do nothing.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		x
Relevant District Ward Councillors		x
Other groups/persons (please specify)		x
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	x	
Legal	x	
Human Rights/Equality Impact Assessment	x	
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability	x	
Asset Management/Property/Land		x
Technology		x
Other (please explain)		

6. IMPLICATIONS:

There are significant financial implications for the Council within this recommendation.

7. REASON FOR THE DECISION:

To ensure that Arun District Council maintains an effective and sound development plan which responds to the challenges of the future (e.g. Climate Change) and sets a sustainable pattern of growth and sustainable polices for the determination of development proposals and planning applications.

8. BACKGROUND PAPERS:

None