

Forest Heath District Council

(This report is not a key decision. This report has been subject to appropriate notice of publication under the Council's Access to Information Rules).

Report of the Cabinet Member for Planning, Housing and Transport

**LOCAL PLAN
WORKING GROUP**

30 OCTOBER 2013

**ANY OTHER
BUSINESS (1)**

JOINT DEVELOPMENT MANAGEMENT POLICIES SUBMISSION DOCUMENT: SUSTAINABILITY APPRAISAL ADDENDUM 2013

1. Summary and reasons for recommendation(s)

- 1.1 This report updates and reports on the latest stage of the Joint Development Management Policies Document.
- 1.2 The 'submission version' consultation of the Development Management Policies was to be considered by Council on 13 March 2013 with a recommendation to approve the Joint Development Management Policies for submission to Secretary of State for Examination. However the papers were withdrawn as legal advice was received on 10 March 2013, which indicated further work would be required to the accompanying Sustainability Appraisal and Strategic Environmental Assessment document in order for the Joint Development Management Policies to be legally compliant.
- 1.3 Further work has been undertaken to supplement the Strategic Environmental Assessment (SEA) which accompanies the Joint Development Management Document. This SEA Addendum is attached as Appendix A and Appendix B to this report.
- 1.4 This additional work needs to be subject to consultation and legal advice has been sought on how this consultation would fit procedurally with submitting the Joint Development Management Policies document for Examination. Counsel's advice supports consultation on the Addendum as soon as possible but states that this need not delay the submission of the document to the Secretary of State. The advice is summarised in this report.
- 1.5 A number of comments were received from statutory consultees and adjoining authorities to the submission (final) consultation on the Joint Development Management Policies document between October and December 2012. Three additional comments have since been received which were not previously reported to Committee and the Local Plan Working Group is asked to note these comments at Appendix C.

2. Recommendation(s)

2.1 That the Local Plan Working Group resolves to recommend to Cabinet that consultation on the SEA Addendum is commenced prior to the submission of the Joint Development Management Policies document to the Secretary of State.

2.2 That the Local Plan Working Group notes the additional consultation responses received to the Joint Development Management Submission Document.

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3. How will the recommendations help us meet our strategic priorities?

3.1 The SALPD relates to a number of corporate priorities including housing, community development, the environment and economic development.

4. Key issues

4.1 Following Forest Heath District Council withdrawing its recommendation to Council on 13 March 2013 and St Edmundsbury Borough Council's approval in March 2013 to submit the Joint Development Management Policies document for examination. In accordance with legal advice received, further work has been undertaken to assess alternatives to the policies in the submission document. This was undertaken as an addendum to the original Strategic Environmental Assessment (SEA) (this is incorporated into the Sustainability Appraisal (SA)).

4.2 The requirements for SEAs include that the report shall "identify, describe and evaluate the likely significant effects on the environment of (a) implementing the plan or programme; and (b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme." Whilst paragraph a) has been addressed in the Joint Development Management Policies Sustainability Appraisal (incorporating the SEA), the "reasonable alternatives" to the policies had not been separately assessed. The SEA Addendum addresses this omission.

4.3 A copy of the SEA Addendum is attached at Appendix A with the first of the two appendices, Appendix G - Summary of Assessment of alternatives (so numbered to follow sequentially the appendices to the SA and SEA published in October 2012). Appendix H is the technical Assessment Matrices and comprises a 298 page document that will be made available separately. In order to save

on printing costs, this document is available to view online as Appendix B to this report.

- 4.4 As an additional piece of work that would accompany the other submission documents, the SEA Addendum should be the subject of consultation to meet the requirements of the Town and Country Planning Regulations (2012) and the council's Statement of Community Involvement.

How does the SEA Addendum fit in with submitting the Plan for Examination?

- 4.5 The role of the SEA Addendum is largely explanatory in nature. It is a comparative assessment of options and an explanation of the choices made by the Councils on those options. It does not suggest that any changes are made to the Joint Development Management Policies that was the subject of consultation in October 2012. It will support the original SA and does not present primary evidence.
- 4.6 A 2012 High Court decision has made clear that the SEA is on-going, iterative process. The case also endorses the use of an addendum to SA/SEA in appropriate circumstances.

Summary of Counsel's advice

- 4.7 Counsel's advice was sought on proceeding with submitting the Joint Development Management Policies document as soon as possible, with the new SEA Addendum included as a supporting document. If this option were to be followed the intention would be that any further consultation would take place on the SEA Addendum as part of any major modifications consultation after the hearing sessions have taken place.
- 4.8 Counsel has advised that "it would be unlawful and in any event very unwise" to follow this route. Counsel considers a sensible option would be to allow the consultation to commence as soon as the Joint Development Management Policies document is submitted for independent examination. There would be sufficient time for this to take place in time for the appointed Inspector to consider the consultation responses as part of the examination from the outset, and take them into account in the formulation of any proposed Main Modifications. Counsel advises "I do not see that such a course would delay the progress that the Councils want to make on moving the Joint Development Management Policies forward to adoption and potentially it might shorten that process compared to the option that the Councils are currently contemplating."
- 4.9 Whilst not precisely following the regulatory sequence Counsel has advised that "if effective consultation is carried out as soon as the JDMP is submitted for independent examination, it is unlikely that the regulatory breach would result in the quashing of the Joint Development Management Policies."

Further consultation

- 4.10 It is anticipated that consultation on the SEA Addendum could be commenced toward the end of November, subject to approval by St Edmundsbury's Cabinet on 5 November 2013 and Forest Heath's Cabinet on 26 November 2013. This would be prior to the submission of the Joint Development Management

Document to the Secretary of State, as this is subject to approval from Forest Heath's Full Council on 11th December, and would allow sufficient time for responses to be forwarded to the appointed Inspector in line with Counsel's advice.

Statutory consultee responses

4.11 A number of comments were received from statutory consultees and adjoining authorities to the submission (final) consultation on the Joint Development Management Policies document between October and December 2012. Three additional submissions have since been received from the Homes and Communities Agency, The Theatres Trust and Bardwell Parish Council which were not previously reported to committee and are included at Appendix C for noting. These responses are available to view online with all of the other consultation responses received in relation to the submission version of the document at <http://westsuffolk.jdi-consult.net/ldf/>.

5. Other options considered

- 5.1 Members will recall the 'preferred options' previously consulted upon. Whilst not an alternative option per se they do highlight the iterative process to the formulation of the policies within the Joint Development Management Document.
- 5.2 The production of the SEA Addendum strengthens the work already undertaken on the assessment of policy alternatives in the Joint Development Management Policies Document.

6. Community impact

6.1 The intention of our Local Plan policy is to deliver a wide choice of high quality homes, to provide a range of job opportunities and to create sustainable, inclusive and mixed communities.

6.2 Crime and disorder impact *(including Section 17 of the Crime and Disorder Act 1998)*

6.2.1 The SEA Addendum will not impact upon the Crime and Disorder Act 1998.

6.3 Diversity and equality impact *(including the findings of the Equality Impact Assessment)*

6.3.1 An Equality impact assessment has been completed for Joint Development Management documents and will accompany the submission of the document to the Planning Inspectorate.

6.4 Sustainability impact *(including completing a Sustainability Impact Assessment)*

6.4.1 The SEA addendum strengthens and supports the Sustainability Appraisal of the Joint Development Management Submission document.

6.5 Other impact *(any other impacts affecting this report)*

6.5.1 None associated with this report.

7. Consultation *(what consultation has been undertaken, and what were the outcomes?)*

7.1 It is anticipated that consultation on the SEA Addendum could be commenced toward the end of November subject to approval by St Edmundsbury's Cabinet on 5th November and Forest Heath's Cabinet on 26th November.

8. Financial and resource implications *(including asset management implications)*

8.1 The SEA Addendum consultation can be delivered within the projected Local Plan budgets. This includes provision for professional fees and community consultation to ensure that the timetable for delivery of the Local Plan is met.

9. Risk/opportunity assessment *(potential hazards or opportunities affecting corporate, service or project objectives)*

9.1 Failure to proceed with this Local Plan document's preparation through to adoption will leave the Authority with an incomplete Local Plan, leading to less control over development across the district.

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Failure to consult on the SEA Addendum will leave the authorities open to challenge of not having adhered to the correct practice and procedure in the preparation of Local Plan documents	Low	Ensure consultation takes place as soon as possible after member approval	Low

10. Legal and policy implications

10.1 The Planning and Compulsory Purchase Act, (2004), requires Forest Heath District Council to prepare and keep an up-to-date Local Plan. A Local Plan is essential for the continuation of an effective planning service.

11. Ward(s) affected

11.1 All wards are affected by the provisions of this Local Plan document.

12. Background papers

12.1 Joint Development Management Policies document (Working Paper 2 of Cabinet Report CAB12/024 presented to Cabinet on 4 September 2012).

12.2 Local Plan Working Group - Joint Development Management Policies Submission – 4 February 2013

13. Documents attached

13.1 Appendix A – Summary of Assessment of Alternatives

13.2 Appendix B **(available online only)** - Technical Assessment Matrices.

13.3 Appendix C - Additional consultation responses