



**County Council
Tuesday, 11 February 2020**

ADDENDA

- 9. Arrangements for SODC Local Plan following Holding Direction by the Secretary of State. (Pages 1 - 14)**

Report by the Corporate Director for Place & Growth (CC9) **attached.**

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Division(s): South Oxfordshire

COUNCIL – 11 FEBRUARY 2020

SOUTH OXFORDSHIRE LOCAL PLAN

Report by Interim Corporate Director for Place & Growth

RECOMMENDATION

In the event of the receipt of an invitation by the Secretary of State to prepare or revise the South Oxfordshire Local Plan pursuant to powers under section 27A of, and paragraph 7B of Schedule A1 to, the Planning and Compulsory Purchase Act 2004, Council is RECOMMENDED to accept such an invitation subject to satisfactory assurances being received in relation to the recovery of its costs.

Executive Summary

1. The Secretary of State wrote to South Oxfordshire District Council on January 7th 2020 asking how the Council intended to take the Local Plan forward or to set out the exceptional circumstances preventing progress. The Secretary of State's decision is awaited as to how he now intends to proceed, including whether to exercise his option to formally invite the County Council to prepare the Local Plan on behalf of South Oxfordshire. Should the County Council agree to accept any such invitation then it would require satisfactory assurances that, as set out under the provisions of the Planning and Compulsory Purchase Act, its costs would be fully recovered.

Introduction

2. South Oxfordshire submitted its Local Plan to the Planning Inspectorate for examination in March 2019. The new administration, elected in May 2019, initiated a period in which it considered either withdrawing or significantly amending the local plan. In October 2019 the Secretary of State issued a Holding Direction (see Appendix 1) preventing it from either withdrawing its plan or from doing any further work on it. Since October discussions have continued to take place between the District Council and MHCLG to try and find a way to allow the examination of the local plan to continue. For now however the holding direction remains in place.

Secretary of State's Letter to SODC, 7 January

3. In his letter to South Oxfordshire District Council of 7th January 2020, (Appendix 2) the Secretary of State reiterated that the Government is committed to ensuring every area has an up to date and suitably ambitious Local Plan in place. In addition to considering Local Plan intervention under section 21 and 27 the Planning and Compulsory Purchase Act 2004 ("the

2004 Act”), he also stated that he is considering whether it is appropriate to exercise powers under section 27A of, and paragraph 7B of Schedule A1 to, the 2004 Act and invite Oxfordshire County Council to prepare the South Oxfordshire Local Plan.

4. Paragraph 7B of Schedule A1 to the 2004 Act provides:

“If the Secretary of State—

- (a) Thinks that a lower-tier planning authority are failing or omitting to do anything it is necessary for them to do in connection with the **preparation, revision or adoption** of a development plan document, and
- (b) invites the upper-tier county council to **prepare or revise** the document, the upper-tier county council may **prepare or revise** (as the case may be) the development plan document.”

5. It is important to note that the power remains with the Secretary of State to invite the County Council as the upper tier authority to undertake the preparation, revision and adoption of the Local Plan in place of the lower-tier authority; but it remains a matter for the County Council to decide whether it wishes to accept such an invitation. Furthermore, it is for the Secretary of State alone to make the determination that the lower tier authority is 'failing or omitting to do anything necessary' to prepare, revise or adopt the Local Plan. These powers derive from amendments to the Planning & Compulsory Purchase Act 2004 made by the Neighbourhood Planning Act 2017, specifically by incorporating Schedule A1 to the 2004 Act. Further provisions in that Schedule set out the specific obligation on the upper-tier authority, including the obligation to hold an examination of the Local Plan and to publish the reasons and recommendations from such an examination.

6. Paragraph 44 of the Explanatory Notes as set out in the Neighbourhood Planning Act (the amending legislation) states: 'Where a county council accepts the invitation, they are responsible for preparing the document and having it examined. They may then approve the document (or approve it subject to modifications recommended by the inspector).'

7. The Secretary of State’s letter sought a reply from South Oxfordshire District Council by 31st January explaining how it intended to take the Local Plan forward or to set out the exceptional circumstances preventing the Council from doing so. The Secretary of State’s decision is awaited as to how he now intends to proceed.

8. Should the County Council agree to accept the invitation if offered for the reasons set out in this report then it would be on condition that assurances, as set out under the provisions of the Planning and Compulsory Purchase Act, are received about costs.

Considerations

9. In making its decision Full Council will have full regard to the impact of its decision on the residents of South Oxfordshire and the wider county.
10. Having a sound, up to date Local Plan in place is key to reducing the risk of speculative applications for development and planning by appeal, and for ensuring that critical infrastructure takes place in the right form in the right places for the benefit of residents.
11. The contract with Homes England for the Didcot Garden Town Forward Funding Housing Infrastructure Fund Bid has in place a Homes England pre condition that SODC has an up-to-date Local Plan. This Government funded scheme provides £215M for essential infrastructure. This planned infrastructure is needed to relieve existing pressures on the road network and will put in place new cycling infrastructure in line with efforts to support alternatives to car use. Without this funding we cannot deliver these schemes.

Financial and Staff Implications

12. The costs of running a Local Plan process can be considerable and Councils who are taking their plans through to examination generally will have set aside sufficient funds to allow them to resource the process appropriately. As this is not something the County Council can have predicted then it has not identified any budget to do so. Government guidance on these powers indicates that there would no extra costs to the Council for taking on these powers.
13. The following quote is taken from the MHCLG New Burdens for Councils assessment template:

“These powers will also be used sparingly and the costs of the county council will be recovered from the local planning authority for whom the plan is being prepared. We consider that this measure will not place a new burden on county councils as it is an invitation and the county council could refuse”
14. The working assumption therefore, subject to confirmation, is that taking up of the Secretary of State’s invitation would be cost neutral to the County Council.
15. There are no staffing implications arising from this report although, should the invitation be received and the Council accept it, there will need to be detailed consideration given to how the work is costed and resourced, bearing in mind existing Council priorities, commitments, work programmes and budget.

Equalities Implications

16. There are no Equalities Implications arising directly from this report, although acceptance of the Secretary of State's invitation by the County Council would have the effect of ensuring residents are able to continue their engagement in the formal plan making process in South Oxfordshire and allow for issues relating to equality arising from the plan to be tested through the examination process.

PAUL FEEHILY

Interim Corporate Director for Place and Growth

Contact Officer: Paul Feehily

February 2020

Background papers: See Appendices

APPENDIX 1

Secretary of State Letter to South Oxfordshire District Council containing Holding Direction

APPENDIX 2

Secretary of State Letter of 7th January to South Oxfordshire District Council

APPENDIX 3

SODC response to Secretary of State of 17th January

APPENDIX 4

MHCLG Letter to Chief Executive, Oxfordshire County Council of 3rd February

APPENDIX 1



Ministry of Housing,
Communities &
Local Government

Cllr Sue Cooper
Leader
South Oxfordshire District Council
135 Eastern Ave
Milton, Abingdon
OX14 4SB

Rt Hon Robert Jenrick MP
*Secretary of State for Housing, Communities and
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Dear Sue

9 October 2019

Following South Oxfordshire District Council Cabinet's decision on 3 October to recommend withdrawing the emerging South Oxfordshire Local Plan ("the Plan"), I am considering whether to give a direction to South Oxfordshire District Council in relation to the Plan under section 21 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act").

The government remains committed to making sure every community has an up-to-date and sufficiently ambitious Local Plan. Withdrawing the Plan at this stage is instead likely to create uncertainty and expose communities to speculative planning applications.

Therefore, in exercise of the powers under section 21A of the 2004 Act (inserted by section 145(5) of the Housing and Planning Act 2016), I hereby direct South Oxfordshire District Council not to take any step in connection with the adoption of the Plan, while I consider the matter further. This direction will remain in force until I withdraw it or give a direction under section 21 of the 2004 Act in relation to the Plan.

I would like to work constructively with you to ensure that South Oxfordshire is able to deliver the high-quality homes and infrastructure required to support jobs and growth in the local community. As I set out in my letter to you on 26 August 2019, progressing the Plan is an essential step to delivering the Oxfordshire Housing and Growth Deal. I have therefore asked my officials to get in touch with your officers to discuss next steps and will keep you updated while I consider this matter further.

RT HON ROBERT JENRICK MP

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**Ministry of Housing,
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Local Government**

Cllr Sue Cooper
Leader
South Oxfordshire District Council
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Rt Hon Robert Jenrick MP
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7th January 2020

Dear Sue,

Consideration of Local Plan intervention under sections 21, 27 and 27A of the Planning and Compulsory Purchase Act 2004

Following South Oxfordshire District Council Cabinet's decision on 3 October to recommend withdrawing the emerging South Oxfordshire Local Plan ("the Plan"), I wrote to you on 9 October notifying you that I was exercising my powers under section 21A of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act), to direct South Oxfordshire District Council not to take any step in connection with the adoption of the Plan, while I consider whether to give a direction in relation to the Plan under section 21 of the 2004 Act. This direction will remain in force until I withdraw it or give a direction under section 21 of the 2004 Act in relation to the Plan. My officials are continuing to gather evidence to support me to make a decision as to whether I should give a direction under section 21.

I am also considering the use of powers under section 27 of the 2004 Act. Section 27(1) and (2) of the 2004 Act provides:

"(1) This section applies if the Secretary of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document.

(2) The Secretary of State may—

(a) prepare or revise (as the case may be) the document, or

(b) give directions to the authority in relation to the preparation or revision of the document."

Paragraph A9, of the 2017 Housing White Paper, Fixing Our Broken Housing Market, provides that the Government intends to make decisions on intervention on the basis of the following criteria. Where:

- the least progress in plan-making has been made
- policies in plans had not been kept up to date
- there was higher housing pressure; and
- intervention would have the greatest impact in accelerating Local Plan production

APPENDIX 2

Decisions on intervention will also be informed by the wider planning context in each area (specifically, the extent to which authorities are working cooperatively to put strategic plans in place, and the potential impact that not having a plan has on neighbourhood planning activity).

I am also considering whether it is appropriate to exercise powers under section 27A of, and paragraph 7B of Schedule A1 to, the 2004 Act and invite Oxfordshire County Council to prepare the Plan. Paragraph 7B of Schedule A1 to the 2004 Act provides:

“If the Secretary of State—

- (a) thinks that a lower-tier planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and
- (b) invites the upper-tier county council to prepare or revise the document,

the upper-tier county council may prepare or revise (as the case may be) the development plan document.”

In this context, I would like to take this opportunity to ask you to outline by 31st January 2020, if there are any exceptional circumstances as to why you do not have a plan in place that I should take into account when I make a decision on next steps.

Finally, I would like to reiterate that this Government is committed to ensuring every area has an up to date and suitably ambitious Local Plan in place. As such I would welcome your thoughts on any alternative options beyond those outlined above that would allow the Plan to proceed without the need for formal Government intervention.

I remain committed to working with you constructively to ensure that South Oxfordshire is able to deliver the high-quality homes and infrastructure required to support jobs and growth in the local community. My officials will be in touch with your officers to discuss next steps.

A handwritten signature in black ink that reads "Robert Jenrick." The signature is written in a cursive style and is followed by a horizontal line underneath.

RT HON ROBERT JENRICK MP



Listening Learning Leading

The Rt Hon Robert Jenrick MP,
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 Ministry of Housing, Communities and
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17 January 2020

Dear Mr Jenrick,

Thank you for your letter dated 7 January regarding your possible intervention around our Local Plan under sections 21, 27 and 27a of the Planning and Compulsory Purchase Act 2004. I would like to thank you for the opportunity to respond to your questions before you make your final decision on this matter, and I write on behalf of my Cabinet and our groups at South Oxfordshire District Council.

Since assuming control of the council in May 2019, the ruling Liberal Democrat and Green administration has given the emerging Local Plan 2034 (eLP2034) top priority. We have taken extensive advice from Officers and other relevant parties in order to ensure that our decisions are thoroughly researched and responsibly determined. My Cabinet remains committed to securing essential infrastructure funding from the Housing and Growth Deal and the Housing Infrastructure Fund (HIF). We are however frustrated that HIF funding is linked to eLP2034. High house-building rates in South Oxfordshire have already produced a desperate need for improved transport infrastructure.

Our Cabinet decision to recommend withdrawal of eLP2034 was made in the further context of the precarious financial situation that we have inherited. Significant underfunding and a failure by the previous Council administration to increase council tax in line with inflation, has left us with an escalating annual deficit. The additional cost of seeing eLP2034 through to adoption, on top of commencing a new plan immediately (required because I believe assumptions in eLP2034 are out-of-date and we will need to review the plan within 5 years) would be financially irresponsible. (It is worth noting that the additional council tax we receive from each new house built here does not even cover the cost of servicing it.) Cabinet's decision was further influenced by what we believe is a clear electoral mandate given to us by the residents of South Oxfordshire.

It is not the case that there is no local plan in place; the Core Strategy, adopted in 2012 provides planning policies until 2027. Against the Standard Method, we have a 9.75-year housing land supply (as at 31 March 2019) so in this respect we

believe we have a strong defence against speculative development. In recent years, SouthOxfordshire has delivered more new homes than many other districts and we are getting closer to delivering 40% Affordable Housing on major developments (33% last year).

The sustainability standards set out in the Core Strategy exceed those of eLP2034, but the impact by the Ministerial Statement by the Rt Hon Eric Pickles (March 2015) means we cannot rely on all of those. This combined with the need to address the climate emergency declared by our council was one of the primary reasons for our decision to recommend withdrawal of eLP2034. Furthermore, guidance from Government in terms of the 25y Environment Plan, the emerging Environment Bill and the change in the law to reach net carbon zero by 2050, require deep embedding of these issues into our local plan, in a way that they are not in eLP2034.

eLP2034 provides for a housing supply of 32,600 new homes, albeit with 28,500 planned for before 2034 – both far above the requirement of 22,800 homes. The excess supply added as ‘contingency’ against delivery would put much of our countryside under planning blight. The high annual delivery target, which includes the unmet housing need from Oxford City is so challenging that we are expected quickly to fall foul of the 5-Year Housing Land Supply, opening up the district to the risk of inappropriate speculative development.

Other concerns relate to the eLP2034 density and mix policies, which I believe do not alleviate the dearth of two and three bedroom homes and the over-supply of four and five bedroom homes in the district.

It is my group’s view that eLP2034 was rushed through to submission to meet the March 2019 deadline set by the Housing and Growth Deal without taking due consideration of the sustainability of certain strategic sites, of the unwarranted inclusion of many contentious Green Belt sites and of the special nature of South Oxfordshire and its Areas of Outstanding Natural Beauty. The importance of the Thames Valley and the Chiltern Hills as green lungs for Oxford, Reading and London cannot be over stated.

Representations from residents, Parish Councils and environmental groups, together with the overwhelming message received at the ballot box last May, are testament to the unpopularity of eLP2034. My Cabinet took early advice from Officers regarding the feasibility of making significant amendments to the plan during the Inspection process but were advised by the Inspectors themselves that this was not possible unless for soundness reasons. In fact, Officers’ advice was that the withdrawal of the plan and creation of a new, ambitious and environmentally responsible one was, in financial terms, potentially the least expensive option available.

I continue to seek a pragmatic way forward which results in the temporary direction being lifted and full planning powers regarding eLP2034 being restored to the district, avoiding a dangerous precedent and the undermining of local democracy. In order to discuss specific ways in which appropriate means could be found to modify the plan in response to our concerns regarding its soundness, I firmly believe that a face-to-face meeting with you is now essential. I note from Hansard for Tuesday evening that you have said that we should speak as soon as possible.

Please can you confirm a date for a meeting with your office at your earliest convenience? We remain committed to working with you and MHCLG to deliver a Local Plan which meets the needs of the residents of South Oxfordshire, supports jobs and prosperity in the local area and, crucially, recognizes the reality of the climate emergency.

I look forward to hearing from you.

Yours sincerely



Councillor Sue Cooper

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APPENDIX 4



Ministry of Housing,
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Yvonne Rees
Chief Executive
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3 February 2020

Dear Yvonne,

Many thanks for agreeing to a meeting with Ministry for Housing, Communities and Local Government (MHCLG) officials, during which the Secretary of State's ongoing consideration of intervention in the South Oxfordshire Local Plan using his powers under sections 21, 27 and 27A of the Planning and Compulsory Purchase Act 2004 was discussed.

As set out in the Secretary of State's 7 January letter to South Oxfordshire District Council, one of the options he is considering is making an invitation to Oxfordshire County Council to step in, prepare and potentially approve (ie. bring into force as part of the South Oxfordshire District Council Development Plan) the South Oxfordshire Local Plan.

It was agreed that further meeting(s) would take place between MHCLG and Oxfordshire County Council officers to discuss the practicalities of making and accepting an invitation to prepare the South Oxfordshire Local Plan and the associated financial implications.

Oxfordshire County Council processes for considering whether to accept a possible invitation were also discussed. Ahead of future Oxfordshire County Council discussions on whether to potentially accept a Secretary of State invitation to step in, I hope it's useful for me to set out a few points:

MHCLG officials will continue to liaise with Oxfordshire County Council officers to discuss practicalities and processes, including examination, in advance of any plan preparation invitation being made.

We will provide further information to give you certainty about funding arrangements throughout the process. Also, if a Secretary of State invitation were made and accepted, MHCLG would be willing to offer financial assistance to cover reasonable set-up costs to enable Oxfordshire County Council to hit the ground running.

Regards,

Emran Mian
Director General, Decentralisation and Growth
Ministry of Housing, Communities and Local Government

Cc: South Oxfordshire District Council

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