

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.

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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