



CABINET

20TH OCTOBER 2016

AGENDA ITEM (8)

SUBMISSION DRAFT COTSWOLD LOCAL PLAN - FOCUSSED CHANGES

Accountable Member	Councillor NJW Parsons Deputy Leader of the Council and Cabinet Member for Forward Planning
Accountable Officer	Philippa Lowe Head of Planning and Strategic Housing 01285 623000 philippa.lowe@cotswold.gov.uk

Purpose of Report	To approve 'Focussed Changes' to the Submission Draft Cotswold District Local Plan for a six week public consultation.
Recommendations	<p>(a) That a 'Focussed Changes' addendum to the Local Plan be approved for the purpose of formal public consultation, for a statutory period of six weeks in accordance with regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, and thereafter for submission to the Secretary of State for examination (subject to Recommendation (b) below);</p> <p>(b) that the Deputy Leader of the Council and Cabinet Member for Forward Planning be authorised to approve the 'Focussed Changes' addendum prior to the start of the public consultation;</p> <p>(c) that, subject to the there being no material issues raised during the six week consultation period, the Council approves the Submission Draft Cotswold District Local Plan 'Focussed Change' addendum for formal submission to the Secretary of State in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulation 2012.</p>

Reason(s) for Recommendation(s)	To secure approval to publish 'Focussed Changes' for formal consultation and subsequent submission to the Secretary of State for examination.
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Ward(s) Affected	All
Key Decision	Yes
Recommendation to Council	N/A

<p>Financial Implications</p>	<p>There are significant but unavoidable cost implications associated with the publication and submission of the Local Plan, particularly the subsequent examination process. These will be funded from the Council Priorities Fund earmarked reserve.</p> <p>Provision has been made with the Council's Medium Term Financial Strategy for the development of the Local Plan. It has previously been agreed that funding will be made available via the Council's Priorities Fund as the Local Plan work progresses to adoption.</p>
<p>Legal and Human Rights Implications</p>	<p>The Submission Draft Cotswold District Local Plan and the 'Focussed Change' addendum have been produced for publication under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 ("Local Planning Regulations") as the version to be submitted to the Secretary of State for examination.</p> <p>Local authorities are required by law to prepare a local plan for their administrative area and the process for doing that is governed by statute. The Regulations require local planning authorities to notify and invite comments from a range of specified persons and organisations on their local plan proposals.</p> <p>Under Regulation 19, before submitting a Local Plan to the Secretary of State, the Council must make a copy of all the proposed submission documents and a statement of representations procedure available via its Website, its principal office and such other places within its area as it considers appropriate, for a period of six weeks.</p>
<p>Environmental and Sustainability Implications</p>	<p>These implications are implicit in the proposals and policies set out in the Submission Draft Cotswold District Local Plan and 'Focussed Changes' addendum.</p> <p>The Council must also undertake a sustainability appraisal process which considers the environmental, social and economic impacts of the Local Plan's proposals. This is to help ensure that development meets the needs of both present and future generations. A Habitat Regulations Assessment (HRA) is also required in order to assess any potential impacts on European Sites and, where necessary, identify potential mitigation measures.</p>
<p>Human Resource Implications</p>	<p>None directly arising from this report.</p>
<p>Key Risks</p>	<p>There are risks of the Submission Draft Cotswold District Local Plan being challenged or potentially found unsound.</p> <p>The examination process is based on the premise that Councils prepare Local Plans that they consider to be essentially 'sound'. The formal Regulation 19 publication stage (including 'Focussed Changes') is the opportunity for representations to be made, which challenge the soundness or legal compliance of the Submission Draft Local Plan. The purpose of the 'Focussed Changes' is to address such challenges thereby helping to ensure the Council submits a sound Local Plan for examination. The 'Focussed Changes' will be subject to public consultation.</p> <p>Depending on the issues raised by representations on the 'Focussed Changes' addendum, Officers will, in due course, make informed judgements and recommendation to the Cabinet and the Council as to whether the Local Plan should be formally submitted</p>

	<p>to the Secretary of State or whether any additional work is needed.</p> <p>There is a risk of national planning policy changing up to and even during the Local Plan examination hearings. For example, the Housing and Planning Act (and its anticipated Statutory Instrument) could have implications for, amongst other matters, the way that the housing requirement is calculated and the definitions and delivery of affordable housing.</p>
Equalities Impact Assessment	The Submission Draft Cotswold District Local Plan is accompanied by a full range of assessments, including an Equalities Impact Assessment.

Related Decisions	<p>Council - 17th May 2016: Cotswold District Local Plan Submission Draft Reg 19</p> <p>Cabinet - 21st April 2016: Cotswold District Local Plan Submission Draft Reg 19</p> <p>Cabinet - 15th October 2015: Local Plan Reg.18 Consultation: Planning Policies</p> <p>Cabinet - 4th December 2014: Local Plan Reg.18 Consultation: Development Strategy and Site Allocations</p> <p>Cabinet - 5th December 2013: Local Plan Development Strategy</p> <p>Cabinet -9th May 2013: Local Plan Consultation Paper: Preferred Development Strategy</p> <p>Cabinet Member - 21st March 2013: Switch from preparing Core Strategy to a comprehensive Local Plan.</p>
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Background Documents	<p>The following key background documents are directly relevant to the production of this Submission Draft of the Local Plan:</p> <ul style="list-style-type: none"> (i) Sustainability Appraisal (as updated) (latest edition June 2016) (ii) Habitats Regulation Assessment (as updated) (latest edition June 2016) (iii) Residential Land Availability report (May 2016) (iv) Five year housing land supply report (May 2016) (v) Employment Land Availability report (May 2016) (vi) Updated Estimate of the Objectively Assessed Housing Needs of Cotswold District (NMSS, March 2016) (vii) Updated Strategic Housing Market Assessment (HDH Planning and Development , March 2016) (viii) Cotswold Local Plan Reg.18 consultation: Policies (CDC, November 2015) and associated representations. (ix) Cirencester Parking Survey results (GCC, August 2015) (x) Evidence Paper: Cotswold Water Park (CDC, July 2015) (xi) Scoping the Cirencester Town centre SPD (CDC, March 2015) (xii) Cotswold Local Plan Reg.18 consultation: Development Strategy and Site Allocations (CDC, January 2015) and associated representations. (xiii) Cirencester Sports and Recreation Needs (Ploszajski Lynch Consulting Ltd, January 2015) (xiv) Cirencester Concept Statement (Cirencester Town Council,
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	<p>January 2015)</p> <p>(xv) Evidence Paper : Development Strategy (CDC November 2014)</p> <p>(xvi) Evidence Paper : Housing (CDC November 2014)</p> <p>(xvii) Evidence Paper (and appendices) to inform non- strategic Housing and employment Site Allocations (CDC November 2014)</p> <p>(xviii) Evidence Paper: Local Green Spaces (CDC, November 2014)</p> <p>(xix) Evidence Paper: Supplement to Cotswold Economy Study</p> <p>(xx) 2012 and Economy Evidence paper (CDC, November 2014)</p> <p>(xxi) Evidence Paper : Advisory Panel on Gypsy Traveller Site Allocations Assessment (CDC November 2014)</p> <p>(xxii) Gypsy and Traveller - Identification of Potential Sites for Cotswold District (WS Planning and Architecture November 2014)</p> <p>(xxiii) Historic Environment Topic Paper - (CDC, July 2014)</p> <p>(xxiv) Strategic Employment Land Availability Assessment Viability Considerations (Hewdon Consulting, May 2014)</p> <p>(xxv) Strategic Housing Market Assessment review (HDH Planning & Development, March 2014)</p> <p>(xxvi) Strategic Housing Land Availability Assessment Viability Assessment (PCS Enterprises, March 2014);</p> <p>(xxvii) Gloucestershire County Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (Peter Brett Associates) October 2013)</p> <p>(xxviii) Infrastructure Delivery Plan: Interim Version (ARUP, May 2013)</p> <p>(xxix) Cotswold Economy Study (Peter Brett Associates, November 2012)</p> <p>(xxx) Open Space, Sport and Recreation Study (CDC / pmpgenesis, November 2011)</p> <p>(xxxi) LDF Core Strategy: Second Issues and Options Paper (CDC, December 2010)</p> <p>(xxxii) Cirencester Town Centre Supplementary planning Document (November 2008)</p> <p>(xxxiii) First Issues and Options Consultation (CDC, 2007)</p> <p>(xxxiv) Cotswold District Local Plan 2001-2011 (CDC, April 2006)</p>
Appendices	Appendix 'A' - Focussed Changes addendum
Performance Management Follow Up	<p>(i) Forward the Cabinet's recommendations to the Council</p> <p>(ii) Implement the subsequent Council decisions</p>

Background Information

1. Local Plan Preparation

1.1 Two Regulation 18 public consultations have taken place on the Development Strategy and Site Allocations (January 2015) and Planning Policies (November 2015) and, more recently, a Regulation 19 consultation. The Regulation 18 and 19 consultations were preceded by various consultations undertaken before switching from producing a Core Strategy to a whole Local Plan.

2. Consultation - Regulation 19

2.1 The Submission Draft Cotswold District Local Plan was published for a period of six weeks starting Monday 27th June and closing on Monday 8th August 2016. Details relating to the purpose of the consultation, procedures and the tests of soundness were provided to guide consultees, in making their representations.

2.2 The Inspector is required to focus on the following matters in considering the representations and the plan as a whole:

- Legal compliance;
- Duty to co-operate; and
- Soundness.

2.3 The Inspector will be judging whether the Plan is:

- **Positively prepared** - based on a strategy which seeks to meet objectively assessed development and infrastructure requirements.
- **Justified** - should be the most appropriate strategy when considered against the reasonable alternatives.
- **Effective** - should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.
- **Consistent with national policy** - should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

2.4 The Regulation 19 consultation attracted representations from approximately 350 individuals and organisations, amounting to approximately 1,300 individual comments. All representations made to the Council during the consultation period are available to view online via the Council's Local Plan consultation portal¹.

2.5 Many individual representations referred to a wide number of issues covered by the local plan and they were, notably, more detailed when compared to previous consultations. In many cases, representations were supported by evidence that sought to question and challenge the Plan's legality, compliance with national policy and guidance and the Council's supporting evidence.

2.6 The Council paper titled *Submission Draft Cotswold Local Plan Reg. 19* (dated 17th May 2016), highlighted risks to the soundness of the Plan potentially arising from representations in response to the Regulation 19 consultation.

2.7 Since the consultation closed, Officers have been analysing the comments to identify issues that pose a serious challenge the soundness and/or legal compliance of the Plan.

2.8 The May 2016 paper explained that Officers would report to the Cabinet whether the Local Plan should be formally submitted to the Secretary of State or if any additional work was needed.

¹ http://consult.cotswold.gov.uk/portal/fp/local_plan_2011-2031/reg_19/reg_19

3. Focussed Changes' Consultation

3.1 The Council is now at a critical point in the preparation of its local plan, with an expectation that it would be submitted for examination in Autumn 2016. Following a consideration of the risks, legal advice and full assessment of the quickest route to adoption of the Local Plan, Officers have concluded that the Council should undertake a 'Focussed Changes' consultation prior to submission as it rectifies soundness issues that have arisen from the Regulation 19 consultation and recently updated Local Plan evidence.

3.2 As noted above, the Council has taken legal advice to better understand the circumstances that would require it to undertake 'Focussed Changes', and establish the risks to the Council if it chose to submit the Local Plan without making recommended changes.

3.3 To be clear, 'Focussed Changes' are amendments that a local planning authority may wish to make following a Regulation 19 consultation, and are prepared as an addendum to the Plan². They are changes, which, in the interests of fairness, should afford the right for public consultation.

3.4 There may also be inconsequential changes (in policy terms), known as 'minor modifications' which the Council may make. However, these can be made by the Council without needing to be subjected to the consultation and examination process. This process can be managed by preparing a schedule of 'minor modifications' and submitting this with all other Local Plan submission documents for the Inspector's consideration.

3.5 As a result of reviewing representations to the Regulation 19 consultation, Officers identified a number of issues that affect the soundness of the Local Plan as approved by the Council on 17th May 2016. The issues identified to date, and their impact on the Plan, are attached at **Appendix 'A'** and included changes such as the need to amend two settlement boundaries to better reflect the urban extent of the settlement and protect important open space. Officers are continuing to analyse representations to establish if other issues require minor modifications and/or 'Focussed Changes'.

3.6 The value of the Regulation 19 consultation was that it invited representations to identify issues of soundness and legal compliance and provided a complete picture of the issues the Council will face at the examination hearings. Importantly, it identified issues that need to be refined and resolved prior to submission.

3.7 Legal advice has stressed the importance of maintaining credibility with the examining Inspector, which includes not seeking to 'fix' issues after submission (i.e. at examination). PINS guidance states that a local planning authority must not submit the Plan unless it considers the document is ready for examination. In any event, even if any changes were to be put forward as post-submission changes (a procedure that is meant to 'cater for the unexpected'), these would still have to be subject to a consultation and any necessary sustainability appraisal, which would lead to a potentially much longer delay at that stage.

3.8 One of the frustrations with the local planning regulations is its inability to deal with issues arising from a Regulation 19 consultation, preventing the local authority from amending the Plan after publication. This issue has been brought to the attention of the Government by the Local Plan Expert Group. This Group was established by the Government to independently review the Local Plan making process and it published its findings³ in March 2016. Chapter nine is of particular relevance to this report. It is currently unknown when and how the Government will respond to these recommendations.

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[www.gov.uk/government/uploads/system/uploads/attachment_data/file/531005/Procedural Practice in the Examination of Local Plans - final.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/531005/Procedural_Practice_in_the_Examination_of_Local_Plans_-_final.pdf)

³ <http://lpeg.org/wp-content/uploads/2016/02/Local-plans-report-to-government.pdf>

3.9 It should be noted the emerging Plan and its supporting evidence is already being used by the Council. Where policies have not attracted representations identifying issues of soundness and/or legal compliance, they begin to attract 'weight' in the development management process but where they have attracted representations, no weight can be attached until issues are considered through the examination process. The Council continues to have a robust five year housing land supply showing the strength of the development management process and the ability of the Council to deliver new development.

4. Next Steps

4.1 Consultation is scheduled to start in early November for a period of six weeks and close in mid-December 2016.

4.2 Officers will then consider representations received to the 'Focussed Changes' consultation and, where appropriate, prepare a final report for the Council to consider prior to submission, and a schedule of minor (immaterial) changes to the Local Plan prior to submission to the Secretary of State for examination.

4.2 Unless there are any new material issues raised during the 'Focussed Changes' consultation period, it is anticipated that the Submission Cotswold District Local Plan will be formally submitted to the Secretary of State, via the Planning Inspectorate.

4.3 In the meantime, Officers are already in regular contact with the Planning Inspectorate. A Service Level Agreement has been signed and PINS are aware of the current status of the Local Plan and our expected timescales. This means that they will be prepared for our submission and should be in a position to make the necessary arrangements for the Examination without any unnecessary delay.

5. Conclusions

5.1 The objective is to ensure a timely adoption of the Local Plan; this requires the Council to follow due process and submit a sound Local Plan. The Regulation 19 consultation flushed out soundness issues which can be rectified prior examination thus ensuring a smoother and quicker examination and progression to adoption without any further delay.

5.2 Progressing with a 'Focussed Changes' consultation now provides the quickest and most cost effective route to adoption in 2017.

(END)