

<u>KEY DECISION</u> Yes
<u>DATE FIRST PUBLISHED</u> 22 September 2015

ST HELENS LOCAL PLAN

WARDS AFFECTED

All

EXEMPT/CONFIDENTIAL ITEM

NO

1. PROPOSED DECISION

1.1 It is recommended that Cabinet:

1.1.1 Give authority to commence the production of a new Local Plan for the Borough;

1.1.2 Agree to approve with immediate effect the Local Development Scheme as shown in Appendix 1 and authorize the Head of Regeneration to make timetable updates; and

1.1.3 Agree to set up a Local Plan Member Steering Group with terms of reference as shown in Appendix 2 and nominate membership.

2. RATIONALE FOR THE DECISION

2.1 The Local Plan sets planning policies to guide the social, economic and environmental development of the Borough, allocates sites for development and forms the basis for determining planning applications. It is a legal requirement to have a Local Plan in place and to keep it under review.

2.2 In October 2012, Council adopted a Local Plan Core Strategy for St. Helens. This followed several years of preparation, consultation and independent Examination. The Core Strategy sets out the overarching planning framework for the Borough and it was envisaged that this would be supported by three further Local Plan documents; an Allocations Local Plan which would allocate land for development, a Sustainable Development Management Local Plan which would set out detailed planning policies and the Bold Forest Park Area Action Plan, which would set out extra policies to apply in the Bold Forest Park area.

2.3 Following changes to national planning policy and guidance since the adoption of the Core Strategy and following legal advice, the Council commissioned two

studies to determine housing and employment objectively assessed needs (OAN) for the Borough. These two studies have found that the growth needs for the Borough are very different to those in the adopted Core Strategy, with further implications for how much development should take place and where.

- 2.4 Given that the assessed growth needs are now so different to the housing and employment land requirements set out in the Core Strategy, in a meeting with Counsel, Officers were advised that there is a significant risk of successful legal challenge if the Council continues to move forward with an Allocations Local Plan. Counsel has also advised that such an approach would be inconsistent with national planning policy, and accordingly, there is a risk that the Allocations Local Plan may not be found 'sound' by a Government Inspector. Given this high level of risk Counsel has recommended the production of a new single Local Plan for the Borough to replace the Core Strategy and incorporate the planned content of the Allocations and Sustainable Development Management Local Plans.

3. FACTS SUPPORTING THE PROPOSED DECISION

- 3.1 St. Helens Employment Land Needs Study: In accordance with updated national planning guidance and following legal advice regarding housing need, the Council commissioned a new Employment Land Needs Study (ELNS). The ELNS found that St Helens' key location on the M6 and M62 motorways means that it is ideally positioned in the North West to provide a critical role in the large-scale logistics sector. The ELNS has identified an employment land OAN baseline of 174ha for St. Helens up to 2037. The ELNS has also sought to consider the potential of SuperPort and a Strategic Rail Freight Interchange at the former Parkside Colliery increasing demand for employment land in St Helens, particularly in the large-scale logistics sector. Accounting for the potential uplift in employment land demand due to these major projects, the ELNS concludes that St Helens has an overall employment land OAN of 214 ha up to 2037 when SuperPort and multiplier effects of Parkside are taken into account; this is vastly different to an employment land requirement of 37ha up to 2027 set out in the adopted Core Strategy. It is important to note that this OAN is a starting point to which other considerations can be applied before a target is set in a Local Plan.
- 3.2 Mid-Mersey Strategic Housing Market Assessment: In accordance with updated national planning guidance and following legal advice, the Council commissioned a new Mid-Mersey Strategic Housing Market Assessment (SHMA) alongside Halton and Warrington Councils as Halton, St.Helens and Warrington are considered to be an appropriate Housing Market Area.
- 3.3 The Draft SHMA has indicated that the housing OAN for the Borough is 451 units per year up to 2037, this is different to the housing land requirement of 570 units per year up to 2027 set out in the adopted Core Strategy. It is important to note that the identified OAN of 451 is not a housing target that will be automatically incorporated into the next Local Plan. Instead, the OAN is the core output of the SHMA, which is then tested against land supply, infrastructure constraints, Council growth aspirations, and sustainability appraisals (among other considerations) in order to arrive at a housing target within the Local Plan, which may be higher or lower than the OAN.

- 3.4 Employment land supply: Since the adoption of the Core Strategy there has been a slow take-up of employment land within St. Helens, with the Borough experiencing a net loss of 0.64ha since 2012. In light of this low take-up the Council commissioned consultants AECOM and DTZ to provide an expert view of market demand for employment land in St.Helens and to provide recommendations for change, where needed, through the Allocations Local Plan. The AECOM Allocations Local Plan Economic Evidence Base Paper concludes that large scale logistics is the most active market in the region and a particular opportunity for St Helens. However, none of the sites identified in the evidence base that supported the Core Strategy as suitable for large scale distribution and manufacturing uses, satisfy the criteria now suggested as being preferred by the market for large scale uses. Consequently, there is currently zero provision of suitable land for large scale distribution uses within the Borough's identified employment land supply. This shortage of available land to build large distribution facilities has meant that in recent years, when demand for such premises has been high, occupiers have had to locate elsewhere. It is important to note, however, that smaller employment sites still have an important role to play in accommodating smaller scale employment development.
- 3.5 Spatial strategy and Green Belt: The Core Strategy sets out a spatial strategy for the Borough up to 2027. The Core Strategy contained a brownfield land focused spatial strategy, with 80% of new housing expected to be delivered on brownfield land. The Core Strategy only allows for land to be released from the Green Belt in years 11-15 of the Plan period (post 2022) for housing use only. The Core Strategy did not envisage a need to release Green Belt land for employment uses, and it only allows for a strategic review of the GB following sub-regional Green Belt work, this position was reflective of Regional Spatial Strategy policy at the time. A sub-regional Green Belt Review has not taken place and instead individual authorities such as Halton, Knowsley and Sefton have undertaken their own local Green Belt review.
- 3.6 Since the adoption of the Core Strategy national planning policy and guidance have placed increased importance on demonstrating immediate viability of land supply and this means that the amount of deliverable brownfield housing land in the Borough is likely to be lower than originally envisaged.
- 3.7 Given the need to accommodate an increased amount of housing land in the Green Belt and sooner than the Core Strategy envisages, and given the need to provide an expanded portfolio of employment sites to meet all of market needs, the ongoing Green Belt review will need to be more comprehensive than originally envisaged in the Core Strategy. If the Council is to plan for economic growth, ultimately a different spatial strategy is required to that set out in the Core Strategy.
- 3.8 Legal advice: Given that the assessed growth needs are now so different to the housing and employment land requirements set out in the Core Strategy; Counsel has advised in conference that there is a significant risk of successful legal challenge if the Council continues to move forward with an Allocations Local Plan. Counsel has also advised that such an approach would be inconsistent

with national planning policy, and accordingly, there is a risk that the Allocations Local Plan may not be found 'sound' by a Government Inspector.

- 3.9 Given the high risk of successful legal challenge and high risk of the Allocations Local Plan being found 'unsound' Counsel have recommended the production of a whole new Local Plan to replace the Core Strategy.
- 3.10 Government's preferred approach is for one single Local Plan: The National Planning Policy Framework (NPPF) paragraph 153 (2012) and the Planning Practice Guidance (PPG) paragraph 012 (2014) make it clear that the Government's preference is for each local planning authority to prepare a single Local Plan for its area.
- 3.11 Changes to planning legislation and policy: Since the adoption of the Core Strategy there have been significant changes in national planning policy. The Government's NPPF is now supported by the PPG an online resource which was launched in March 2014. The Regional Spatial Strategy for the North West was formally revoked by the Government in 2013. There have been various amendments to planning policy, including changes in relation to sustainable urban drainage, housing standards, affordable housing and vacant buildings and technical housing standards. There have also been amendments to legislation in relation to Permitted Development Rights and Use Classes which have resulted in certain developments no longer requiring planning permission within the Borough. The preparation of a new Local Plan will enable all of these changes to be dealt with in one process rather than through separate alterations to the Core Strategy.
- 3.12 Greater public understanding: A single Local Plan would include the planning and development strategy for the next 15 years, site allocations and designations for the Borough and detailed planning policies. One Local Plan document rather than three would therefore allow for greater understanding by the public between strategic policies, land allocations and more detailed policies.

Local Development Scheme

- 3.13 The first legal step, should a new Local Plan be considered appropriate, is to adopt a Local Development Scheme (LDS) setting out what documents the Council intends to prepare and the timetable for preparing these. It is unlawful to prepare a Local Plan without first agreeing and publishing a LDS. The new LDS will supersede the Council's last LDS update (November 2014). If approved by Council, the timetable will have to be made available to the public on the Council's website. The Bold Forest Park Area Action Plan could be incorporated into a single Local Plan, with a non-statutory action plan being prepared in the short term, resulting in some preparation and examination costs being saved. However, it is at an advanced stage and there is stakeholder expectation for completion next year.

4. IMPLICATIONS / RELEVANCE TO MEETING SAVINGS TARGET / PLANNING FOR 2020

- 4.1 Continuing to move forward with the Allocations Local Plan would mean that there is a high risk that the Allocations Local Plan will be found 'unsound' at Examination. There is also a high risk of a successful legal challenge to the Allocations Local Plan.
- 4.2 Without a sound Local Plan in place the Council could lose control over the amount and location of new development in the Borough and the ability to plan positively for growth.
- 4.3 By preparing a single Local Plan the Council would be in the best position to demonstrate clear compliance with planning regulations and legislation and best practice.
- 4.4 A new single Local Plan would have positive impacts on a number of corporate priorities including planning for 2020 as it would:
- Support the continued sustainable growth of the Borough, both in the short-term and long-term.
 - Enable the Council to plan for significantly higher levels of economic growth than currently supported under the existing Core Strategy;
 - Provide increased certainty in planning and development terms, which will help drive forward private investment; and

Accelerate income to the community and the Council, due to an increase in the supply and certainty of sites available for development, which in turn will generate increased New Homes Bonus, Council Tax, Business Rates and potentially CIL. For example, it estimated that one new 50,000 sqm large-scale logistics warehouse would generate £573,728.75 in additional income per year to the Council based on existing business rate retention levels (49%). This would increase to £1,170,875 in additional income per year to the Council post 2020 when a new business rate retention scheme will entitle the Council to keep all business rates payable in the Borough. As an illustration of the type of new employment development that could come forward in the Borough, the Sainsburys distribution centre in Haydock is 59,480 sq m in size, and the Co-op distribution centre in Sutton is 59,370 sq m in size.

Resources

- 4.5 In the long term, a new Local Plan presents an opportunity to improve the wellbeing of St.Helens residents and businesses, financially benefiting the Council directly and indirectly. In the short term, the preparation of a single Local Plan will require more financial and staff resource than an Allocations Local Plan as it will cover more issues and sites. Existing work done for the Allocations will be utilized, but additional background studies and technical assessments will be required (for example, on retail capacity), most of which need expert external

consultants. Whilst the existing Local Plan budget will be used for this work, it is likely that additional funding and staff resource will be required over the plan preparation period.

Timescales

- 4.6 The preparation of a single Local Plan will mean that there is a delay to the allocation of sites for development compared to the timetable in the existing LDS, although there have already been delays to this timetable due to the need to undertake the new housing and employment OAN studies.
- 4.7 Preparing a Local Plan is governed by European and UK Acts and Directives, Regulations, Government policy and guidance. It involves the following key stages:
- Scoping the content and assessment framework;
 - Public consultation (at least two stages, but normally three stages);
 - Evidence base gathering and analysis;
 - Policy writing, option tested and site assessments;
 - Sustainability Appraisal and Habitat Regulations Assessment; Independent Examination; and
 - Modifications to take account of the Examiner's findings.
- 4.8 Moving towards the preparation of a single Local Plan would not lead to wasted resources or completed work being abandoned. Work already completed for the Core Strategy and up to this stage for the Allocations Local Plan would form the basis for a more comprehensive evidence base necessary for a single Local Plan. It would be necessary however to bring forward work streams which had been programmed for the Sustainable Development Management Local Plan. At this stage, it is estimated that converting to a single Local Plan would add an additional 15 months to the Plan preparation timetable. This needs to be considered against the risks of legal challenge delaying the preparation or even the adoption of an Allocations Local Plan, which would lead to much longer delays and costs.

5. RISKS

Risks Associated with the Proposed Decision

- 5.1 Risks with continuing to take forward an Allocations Local Plan are identified in section 4 above.
- 5.2 Risks to delivering the LDS are:
- Staffing resources and core budgets: The Development Plans service has been under increasing financial pressure over recent years, which has resulted in reductions in staffing in the planning policy team and core budget levels. Any more reductions in staffing or budget levels would put the delivery of a new Local Plan within the timetable identified in the new LDS at risk.

- Government requirement for Local Plans to be in place by 2017: In July 2015 the Government announced¹ that intervention would be required for those councils who have not produced a Local Plan by early 2017 – five years after the NPPF was published. It is not clear yet as to whether the adopted Core Strategy will be considered to constitute an entire Local Plan, or if the requirement relates to the need to have site allocations in place. Council officers will keep up to date with any Government announcements and brief the Cabinet on the implications of these if necessary at a later date. However, St.Helens is currently counted by the Government as having a Local Plan in place, and an Allocations Plan that is unsound would not meet this requirement.
- Changes to planning legislation and policy: Further changes to planning legislation and policy could be made during the preparation of the Local Plan. Where new guidance is issued this will be taken into account when preparing the Local Plan.
- Volume of responses to public consultation: It is not possible to quantify in advance the volume of work resulting from the public consultation stages. The aim will be to seek a high level of community engagement early in the Local Plan preparation process in order to resolve issues before publication of a draft Local Plan.
- Length and outcome of Examination: This risk is related to the one above and the Council will seek to minimise the volume of issues to be resolved through the Examination, through the earlier public consultation stages and the involvement of key stakeholders.
- Legal challenge: This risk involves the Planning Inspector finding a new Local Plan unsound and any legal challenge post-adoption of the Plan. The risk of finding a new Local Plan unsound is considered by Counsel and Officers to be considerably less than the risk of a successful legal challenge being made against the Allocations Local Plan. Council Officers will seek to minimise the risk of a legal challenge by working closely with partners, stakeholders and neighbours to ensure the chain of conformity is achieved and correct procedures followed. Particular attention will be paid to the Duty to Cooperate. The Council will also ensure that the Local Plan is based on robust and credible information, is realistic and able to be implemented and has taken proper account of the views of the community.

Should this Risk be added to the Corporate Risk Register?

5.3 No

¹ <http://www.parliament.uk/documents/commons-vote-office/July%202015/21%20July/8-Communities-and-Local-Government-Local-Plans.pdf>

6. OTHER IMPLICATIONS

Legal - The preparation of a Local Plan is a statutory requirement. The Town and Country Planning (Local Development) (England) Regulations 2012 sets out the current process for producing Local Plans. The LDS is a requirement of the Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011.

As outlined in section 3.8 above, there is a significant risk of successful legal challenge if the Council continues to move forward with an Allocations Local Plan.

Financial – In the short term it is estimated that an extra £32,000 will be needed to fund a new piece of Retail Capacity evidence base work. Temporary fixed term staffing may be necessary, which will incur costs that should be offset by benefits accruing to the Council in the medium to long term.

In the medium-long term a new Local Plan has the potential to significantly increase income to the Council through increased New Homes Bonus, Council Tax and Business Rates.

Human Resources – None

Land and Property (Asset) – None

Anti-Poverty – By not taking forward a new Local Plan that plans for a higher level of economic growth than the adopted Core Strategy, opportunities to attract investment and new employment to the Borough would be lost.

Effects on existing Council Policy – A new Local Plan would bring forward changes to Council planning policy on spatial planning (the Core Strategy and Saved Unitary Development Plan Policies).

Effects on other Council Activities – None as a result of this decision.

Human Rights – None

Equalities - None

Asset Management – No change. Those Council assets that have been submitted for consideration for future allocation in the Local Plan would continue to be assessed as part of the preparation of a new Local Plan.

Health - None

7. PREVIOUS APPROVAL/CONSULTATION

None

8. ALTERNATIVE OPTIONS AND IMPLICATIONS THEREOF

As outlined above in sections 3 and 4 above.

9. APPENDICES

Appendix 1: St. Helens Local Development Scheme November 2015

Mark Dickens
Head of Regeneration

The Contact Officer for this report is Gerard Woods, Team Leader, Planning Policy Team: 01744 676 117

BACKGROUND PAPERS

The following list of documents was used to complete this report and they are available for public inspection for four years from the date of the meeting, from the Contact Officer named above:

- Draft Mid-Mersey SHMA (October 2015)
- Allocations Local Plan Economic Evidence Base Paper (September 2014 and updated September 2015)
- St. Helens Employment Land Needs Study (October 2015)

Appendix 2 : Local Plan Member's Steering Group Terms of Reference

Local Plan Member Steering Group Terms of Reference

The Group's role will be to:

1. Advise on the scope, format and content of constituent documents of the St.Helens Local Plan at key stages of their preparation;
2. advise Cabinet on Local Plan matters

The Group will be:

3. chaired by the Portfolio Holder for Employment, Planning and Growth;
4. made up of 6 Councillors
5. the Group will be consulted at key stages of document preparation prior to the document being placed before Cabinet and/or Full Council

IMPACT ASSESSMENT OF RELEVANT POLICIES, DECISIONS OR FUNCTIONS
 Please contact St.Helens Council's Policy Unit on 01744 676593 if you require further help

1. **Title of Function:** Local Development Scheme
Service: Development Plans
Department: Urban Regeneration, Housing and Culture
Responsible Officer: Gerard Woods
Contact Number: 6117
Date Completed: 6th November 2015

Aims: Please identify the main aims of the policy, decision or function?

The LDS is a public statement setting out the local planning authority's programme for preparing the Local Plan. The LDS sets out the Local Plan DPDs that the Council is proposing to produce with a timetable for the preparation of each document.

2. **Impact Assessment**

Issue	How will this be taken into account	Action	Who / When
Building Equality into LDS	The Policy Development Proforma includes a "Topic Area" of Equality, with the objective to Promote Equality of Opportunity within Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs).		
Statement Of Community	The sets out how the council will engage the community and hard to reach groups <ul style="list-style-type: none"> • Local Plan • Supplementary Plans • Planning Application 		

3. **Indirect discrimination**

Are there any rules or requirements in the policy / decision that:

- a Can be met by a considerably smaller proportion of people from a particular section of the community?
- b Is to the disadvantage of that group?
- c Cannot be justified by the aims and importance of the policy?

If all three conditions apply then there may be evidence of indirect discrimination.

No

4. **Publishing the results of the assessment:**

Decisions This Impact Assessment Report must be used to inform the Decision. The Impact Assessment must be attached to the Proposal within the appropriate Decision Database, or attached as an appendix to a Cabinet or Chief Officer Group Report

Procurement This Impact Assessment Report must be used to inform the Contract Specification. The Impact Assessment must be attached to the Contracts Database.

Policy This Impact Assessment Report must be used to inform Policy development. Attach the Impact Assessment Report as an appendix in the published Policy.