



## CABINET

17 January 2018

**Subject Heading:**

Submission Procedural Requirements for the Havering Local Plan

**Cabinet Member:**

Councillor Damian White

Deputy Leader and Cabinet Member for Housing

**SLT Lead:**

Steve Moore

Director of Neighbourhoods

**Report Author and contact details:**

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**Policy context:**

National Planning Policy Framework (2012)

London Plan 2015 (consolidated with Alterations since 2011)

A City for all Londoners: London Mayor (2016)

Havering Vision – Havering - Making a Greater London (2017)

Havering Local Development Framework (2008)

**Financial summary:**

There are no direct financial implications as a result of the recommended modifications to the Local Plan.

**Is this a Key Decision?**

No

**When should this matter be reviewed?**

Not applicable

**Reviewing OSC:**

Towns and Communities

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering

[x]

Places making Havering

[X]

Opportunities making Havering

[x]

**SUMMARY**

The purpose of this report is to:

- outline progress on the Havering Local Plan since the publication in August and September 2017 (under Regulation 19); and
- secure Member approval for a number of material modifications to the Proposed Submission Havering Local Plan in preparation for submission of the Plan to the Secretary of State

**RECOMMENDATIONS**

That Cabinet endorse and make the following recommendations to Council.

That Council:

- (i) Agree that the material amendments as set out in section 3.1 of this report, be made to the proposed submission documents, and to the proposed Submission Havering Local Plan
- (ii) Delegate authority to the Director of Neighbourhoods, following consultation with the Cabinet Member for Housing, to make and approve the final wording of the material amendments to the proposed Submission Havering Local Plan, and to the proposed submission documents for submission to the Secretary of State;

**REPORT DETAIL**

**1. Purpose and content of this report**

1.1 This report is to:

- outline progress on the Havering Local Plan; and

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- secure Member approval for a number of material modifications to the Proposed Submission Havering Local Plan in preparation for submission of the Plan to the Secretary of State

### 1.2 The report:

- Sets out the reasons why approval is sought to make material modifications to the proposed Submission Havering Local Plan
- Outlines the contents of the proposed material modifications to be made to the Proposed Submission Havering Local Plan

## **2. Public Consultation**

2.1 In July 2017 Council agreed to publish the Proposed Submission Version of the Local Plan and supporting evidence base for statutory consultation. The consultation took place between 7<sup>th</sup> August and 29<sup>th</sup> September 2017.

2.2 In total there were 129 respondents raising 466 comments. Over the course of the preparation of the Local Plan 83 sites located within the Green Belt have also been submitted to the Council for potential release.

2.3 The underlying purpose of a consultation is to identify any additional information or views of which the council was previously unaware so as to enable members of the public to be fully engaged in the preparation of the Local Plan.

2.4 As a result of the consultation, certain additional information emerged. In particular, a number of gypsy and traveller families, who had previously declined to cooperate with the Council, provided detailed information to enable their needs to be assessed. As a result, and in accordance with the Council's overriding duty to plan to meet all the objectively assessed need in its area, and for the local plan to have a robust evidence base, it is felt appropriate to allocate a number of additional sites where gypsies and travellers are already in occupation (i.e. no new sites that are currently unoccupied) but where their needs are now capable of proper assessment.

2.5 Furthermore, the additional information and views expressed during the consultation have given rise to the need to modify the plan in a number of detailed technical respects. These proposed modifications do not alter the fundamental thrust and approach of the Havering Local Plan.

2.6 The council has received Counsel's advice as to whether or not each of these proposed modifications should be regarded, in planning terms, as "material" or "non-material". The Council's previous resolution of July 2017 delegated authority to the Director of Neighbourhoods in consultation with the Cabinet Member for Housing to make "non-material" modifications. However, no

provision was made for the making of “material” modifications. Accordingly, the Council has been advised that it is prudent to seek appropriate Council authority to make such modifications. The resolution set out in this report indicates the scope of the “material” modifications which it is necessary to make to the Local Plan prior to its final submission to the Secretary of State. Members should note that the resolution does not disturb the previously granted delegation to the Director of Neighbourhoods to make the necessary “non-material” modifications.

- 2.7 This matter comes before Members as a matter of some urgency since the Council is currently without an up-to-date adopted local plan. The necessary conclusion of budgetary matters in the months ahead means that the time available to the Council to give consideration to matters relating to the local plan is necessary limited. It is therefore sensible to consider and determine this resolution at the council meeting due to be held in January 2018 in order that officers can finalise the local plan, submit it to the Secretary of State and begin the process of detailed preparation for the Independent Examination. Members will be aware that in the preparation of the Local Plan it would be prudent to be conscious of the ongoing preparation of the London Plan.

### **3. Proposed material modifications**

- 3.1 Accordingly it is recommended that the following material modifications are made to the Proposed Submission Documents in preparation for submission to the Secretary of State:

*Note: The commentary below reflects advice from Counsel advising the Council on the preparation of its Local Plan. More detailed explanation in respect of the modifications can be found in appendix 1 (which is to follow).*

- i. Explicit support for the use of brownfield land for residential development apart from land that has already been protected for other uses such as industrial.
- ii. Subject to proposals being compatible and respecting the existing local character of the area, support for residential development around stations
- iii. Explicit support for the use of the River Thames for freight and transport
- iv. A lower level of affordable workspace to be sought (reduced from 20% to 10%) to reflect concerns raised through the consultation about the viability of such a requirement.
- v. Updated Gypsy and Traveller provision to reflect the additional need identified through the interviews that have been secured following the consultation period. The allocation of sites at Church Road and Willow Tree

- Lodge for continued Gypsy and Traveller use in order to meet the additional identified need. (nb – these sites are already occupied)
- vi. Flexibility for development proposals to provide the appropriate mix of housing sizes (number of bedrooms)
  - vii. Provision to ensure that development proposals enhance the biodiversity and water quality of the River Rom.
  - viii. Provision to ensure that such development does not adversely impact on biodiversity and green infrastructure
  - ix. Provision to ensure that all Major Development proposals are supported by a Health Impact Assessment that includes consideration of Active Design as set out in Sport England and Public Health England's Active Design Guidance
  - x. Support the growth potential of the borough in logistics activities
  - xi. Refinement to the employment land policy provisions to better reflect the requirements of the national planning policy framework
  - xii. Updated position on planned education provision
  - xiii. Updates to the proposals map to ensure that it accurately reflects the Local Plan following consultation
  - xiv. Additional evidence base support the protection of the Green Belt
  - xv. Additional evidence base to justify the approach to housing delivery.

#### **4. Next Steps**

- 4.1 Subject to the approval of the material modifications above, officers will now finalise the Havering Local Plan Submission Documents and prepare for formal Submission to the Secretary of State. It is envisaged that Submission will take place by the end of February 2018 at the latest.

## **REASONS AND OPTIONS**

#### **Reasons for the decision:**

A number of modifications are required to be made to the Havering Local Plan following the consultation period and in preparation for the submission of the Havering Local Plan to the Secretary of State.

The Council's previous resolution of July 2017 delegated authority to the Director of Neighbourhoods in consultation with the Cabinet Member for Housing to make "non-material" modifications. However, no provision was made for the making of "material" modifications. Accordingly, the council has been advised that it is prudent to seek appropriate Council authority to make such modifications.

**Other options considered:**

The Havering Local Plan could be submitted without the recommended modifications. This option has been rejected as it would increase the risk of the Local Plan being found unsound during the Examination in Public.

**IMPLICATIONS AND RISKS**

**Financial implications and risks:**

The recommendations stated within this report have no direct financial implications.

The Local Plan is being delivered through funding identified of a Planning Delivery Grant, external funding and Directorate budgets. In addition there is the potential use of the Business Risk Reserve to the value of £166,200.

There is a risk that appropriate costs exceed the funding provision available for this plan, and any overspend would therefore need to be funded by the Council.

**Legal implications and risks:**

It is a statutory requirement for the Council to have a Local Plan in place and ensure it is relevant. The statutory provisions under which a Local Plan is made are within the Planning and Compulsory Purchase Act 2004 (as amended) and regulations made under the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Environment Assessment of Plans and Programme Regulations 2004. To not prepare a Local Plan runs the risk that the Secretary of State will 'step in' and prepare a Local Plan for the borough.

The Proposed Submission version of the Local Plan has been the subject of an assessment of the legal implications and risks in the original report to Cabinet dated 19 July 2017 and those legal comments do not alter as a result of this request to Cabinet and then full Council.

The Cabinet and consequently the Council is being asked to approve the making of material modifications to the Havering Borough Council draft Local Plan that is to be submitted to the Secretary of State.

The Local Plan should be based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. The Council has recently completed the Regulation 19 consultation process, and as a result of consideration of the consultation responses, the amendments outlined in this report are requested.

The Local Plan is then to be submitted to the Secretary of State for examination, along with the Sustainability Appraisal, evidence base and a statement of representations and main issues in line with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Whilst the National Planning Policy Framework does not compile a prescriptive list; the evidence should be focused tightly on supporting and justifying the particular policies in the Local Plan.

It is important that the Council submit as sound a Local Plan as is possible, which includes taking into account the consultation responses. Following submission of the Local Plan to the Secretary of State an Independent Inspector will assess the plan to determine whether it has been prepared in line with section 20 of the Planning and Compulsory Purchase Act 2004 and Regulations 23 – 24 of the Local Plan Regulations 2012. If the Inspector considers that the Local Plan has not been prepared in accordance with the Regulations then the Inspector may direct the Council to repeat part of the pre-submission process or start the process again. Exceptionally, under Section 21(9)(a) of the Planning and Compulsory Purchase Act 2004 the Secretary of State has the power to direct a local planning authority to withdraw its submitted plan.

The risk of legal challenge will be avoided if Havering's Local Plan meets the objectively assessed needs of the Borough and the evidence is consistent with and has regard to the statutory framework and the requirements of the National Planning Policy Framework.

The draft Local Plan and process undertaken to date, has been reviewed by Counsel and is considered to meet the statutory requirements as set out in these tests for consultation.

**Human Resources implications and risks:**

A full Human Resources Assessment was undertaken of the Local Plan as set out in the Cabinet and Council reports for the Proposed Submission Havering Local Plan in July 2017. There are no further human resources implications arising from this Cabinet report and decision.

**Equalities implications and risks:**

A full Equalities Impact Assessment was undertaken of the Local Plan as set out in the Cabinet and Council reports for the Proposed Submission Havering Local Plan in July 2017. There are no further equalities implications arising from this Cabinet report and decision.

**BACKGROUND PAPERS**

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None