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| Cabinet Meeting | | Agenda Item: 9 |
| Meeting Date | 2 September 2015 | |
| Report Title | Bearing Fruits: Swale Borough Local Plan: Request for Delegated Authority to facilitate Examination In Public | |
| Cabinet Member | Cllr Gerry Lewin, Cabinet Member for Planning | |
| SMT Lead | Pete Raine | |
| Head of Service | James Freeman | |
| Lead Officer | Gill Harris | |
| Key Decision | Yes/No | |
| Classification | Open | |
| Forward Plan | Reference number: Urgent Item | |
| Recommendations | <p>1. Members are requested to give delegated authority for Head of Planning Services in consultation with the Cabinet Member for Planning to agree the following for publication and debate at the Local Plan EIP:</p> <ul style="list-style-type: none"> a) draft responses to representations made on the publication version of the plan; b) draft modifications to the plan which may arise from consideration of the above; c) draft modifications which may arise from discussions during the course of the EIP; d) Statements of Common Ground which may be issues jointly by SBC and other official bodies (such as Kent CC and Highways England); and e) delegated authority to respond to matters arising from adjoining local authorities' plan making processes and any other issues considered urgent and necessary. | |

1 Purpose of Report and Executive Summary

- 1.1 In response to recommendations from the Local Plan Inspector to provide as much information as possible and to keep a rolling schedule of possible draft responses and modifications to the objections to the Local Plan, delegated authority is sought to enable this and facilitate constructive discussion at the Examination in Public (EIP) which commences in November. It will not commit the Council to modifying the Plan - any modifications recommended by the Inspector to make the Plan sound will be subject to Council approval and public consultation in the New Year.

- 1.2 Given the timescales involved it has not been possible to include the item on the Council's Forward Plan, as the scope of delegated authority needed was still being established through additional research. Consequently, in accordance with the Access to Information Procedure Rules (Rule 19), the Chairman of the Scrutiny Committee has been informed and indicated his agreement to this report being brought straight to Cabinet as an appropriate course of action.

2 Background

- 2.1 Bearing Fruits 2031: The Swale Borough Local Plan was submitted to the Planning Inspectorate in April 2015 for EIP. The submitted Plan has a preferred housing target which is lower than objectively assessed need due to Members' concerns over poor market delivery in the recent past, and viability and deliverability of a higher target. It attracted significant objections by the development industry as unsound and not compliant with national planning policy.
- 2.2 The Inspector appointed to deal with the EIP has indicated that she found the arguments advanced in the Plan and supporting documents for this position weak, and has indicated that further research would need to be undertaken in respect of need and viability to inform debate and potential for modifying the Plan at EIP. She has also indicated that a rolling 'live' schedule of the Council's draft responses to objections should be published, along with any modifications arising.
- 2.3 Additionally, the Council has sought to prepare Statements of Common Ground where appropriate, with statutory consultees on the Plan (in particular Highways England and Kent County Council in respect of infrastructure matters). The Inspector has advised that these should be signed-off by the participating bodies (and indeed this was also the case at the recent Canterbury Local Plan EIP).
- 2.4 Currently there is no delegated authority to enable the Head of Planning Services to progress these matters in consultation with the Cabinet Member for Planning. It is clearly impracticable to refer constantly to LDF Panel and Cabinet for approval of multiple matters on a rolling basis in the run up to the EIP, and during the hearings themselves.
- 2.5 Therefore, in order to respond in an effective and timely manner where the Council is a consultee on another authority's plan; and where it needs to give the Inspector confidence that all the necessary research has been undertaken, and what scope there may be to modify its own local plan to achieve soundness, delegated authority is requested.
- 2.6 Additionally, the Borough Council may be called upon to comment on matters arising from other local authorities' plan making processes (such as Kent Minerals and Waste Plan and neighbouring districts' local plans). Consultation periods are typically now only six weeks (and at certain parts of the process are statutorily prescribed as such), in order to facilitate progress of plans through the system to adoption. This may not enable reporting to a convenient LDF Panel and Cabinet cycle for agreement of a suitable response.

- 2.7 In order to make a full contribution to those matters where they could impact on the Borough's own plan-making or other interests; and mindful of the need to comply with Duty to Cooperate with other authorities in the plan-making process, the ability to make at least a holding response in the time available is needed, for which delegated authority is sought.

3 Proposal

- 3.1 Members are requested to give delegated authority for Head of Planning Services and the Cabinet Member for Planning to agree the following for publication and debate at the Local Plan EIP:

- draft responses to representations made on the publication version of the plan;
- draft modifications to the plan which may arise from consideration of the above;
- draft modifications which may arise from discussions during the course of the EIP;
- Statements of Common Ground which may be issues jointly by SBC and other official bodies (such as Kent CC and Highways England); and
- delegated authority to respond to matters arising from adjoining local authorities' plan making processes.

- 3.2 Members should be aware that any response or agreement to modify the Swale Local Plan will be in draft format and will be considered by Members via the Local Development Framework Panel and Cabinet early in 2016. At this point in time we anticipate that there will be at least an interim Inspector's report or letter indicating what main modifications will be needed to render the Plan sound and therefore adoptable. Members will then be able to examine all proposed modifications before approving them for public consultation, and subsequent re-submission to the Inspector.

- 3.3 In the interim, however, the Council does need to demonstrate that it is at least open to consideration of these matters, and thereby give the Inspector some confidence that there is a practical way to modify the Plan to achieve soundness, and these proposals provide the option to do so.

- 3.4 In order to provide appropriate response to other authorities' plans and to engage in Duty to Co-operate matters, it is important officers can respond flexibly in short timescales. Although any formal responses would be sent in consultation with the Cabinet member for Planning, these responses will be forwarded to the LDF Panel and Cabinet for ratification as timetables allow.

4 Alternative Options

- 4.1 There is not considered to be any practical alternative to the means suggested of progressing the Swale Borough Local Plan. Members could refuse to enable

officers to respond in a constructive way to enable consideration of modifications to the Plan, but this is highly likely to result in an early verdict of unsoundness on the Local Plan and the need to restart the process from scratch. This would place the Council in a very vulnerable position for refusing inappropriate development proposals for a further two to three years until such time as a plan can be redrafted and resubmitted. Current evidence suggests that development pressures will continue to escalate during that time, especially as plan reviews for London and neighbouring authorities also progress during that time. This course of action is therefore not recommended.

5 Consultation Undertaken or Proposed

- 5.1 As explained in para 3.2 above, any potential draft modification discussed during the local plan EIP will be subject to Council ratification and public consultation in due course.

6 Implications

| Issue | Implications |
|---------------------------------------|--|
| Corporate Plan | Adoption of the Local Plan assists with all objectives of the Corporate Plan, but particularly the priority of 'A Borough to be Proud of'. |
| Financial, Resource and Property | Failure to provide the context to consider modification of the Local Plan could result in it being found unsound, with consequent costs of redrafting, and potential further costs arising from any Appeals against refusal of planning permission. |
| Legal and Statutory | There is a Duty to Cooperate with other local authorities on strategic planning matters under Section 33A of the Planning and Compulsory Purchase Act 2004 (inserted via the Localism Act 2011). Compliance with this is required through the National Planning Policy Framework, and the National Planning Practice Guidance. |
| Crime and Disorder | None anticipated at this time |
| Sustainability | Any draft modifications to the Local Plan will be subject to Sustainability Appraisal and Habitat Regulation Assessment. |
| Health and Wellbeing | None anticipated at this time |
| Risk Management and Health and Safety | Failure to provide the context to consider modification of the Local Plan could result in it being found unsound, with consequent costs and implications for development management decisions. |
| Equality and Diversity | None anticipated at this time. |

7 Appendices

7.1 None

8 Background Papers

8.1 None