



DRAFT PORTFOLIO HOLDER DECISION NOTICE

PROPOSED INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR BUILT ENVIRONMENT

TOPIC – Eastleigh Borough Local Plan 2016-36

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Head of Legal Services (Interim), the Chief Executive and the Strategic Director: Resources are consulted together with Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. In addition, all Members are notified.

If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

If you wish to make representation on this proposed Decision please contact the relevant Portfolio Holder and the following Democratic Services Officer by 5.00pm on Wednesday 1 August 2018.

Contact Officers:

Case Officer: Jenny Nell

Democratic Services Officer: Matthew Watson, mwatson@winchester.gov.uk

SUMMARY

The Eastleigh Borough Local Plan 2016-36 is currently subject to formal consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, for a six week period ending on the 6th August. Winchester City Council is a statutory consultee on the Plan and has been invited to comment.

The Eastleigh Borough Local Plan is comprehensive and covers the whole of its administrative area. Generally the policies are matters for Eastleigh Borough Council and its residents, and raise no concerns for this Council. The exceptions are policies S5 and S6 which respectively cover a proposed Strategic Growth Option (SGO) of 5,200 new dwellings close to the boundary with the Winchester District, and a new link road to serve the SGO which is partly in the Winchester District.

The Council should generally welcome the publication of a draft Local Plan by a neighbouring authority because it creates certainty and context for its own decision making. However, as it is presented the Eastleigh document and evidence base may not meet the statutory test of soundness, especially in respect of the funding and timely provision of infrastructure to support the SGO. Since this Council has no interest in a neighbour failing to achieve a sound Plan after examination, it is suggested that Eastleigh be informed that the Council does not consider the Plan to be sound given the evidence currently provided to support the SGO policy.

Eastleigh should therefore be requested to continue to engage with this Council and other stakeholders to ensure that reliable evidence is provided to demonstrate not only that their policy approach is sound but also that the proposed infrastructure and highways works will be delivered so as to safeguard the interests of all existing residents, including those living in Winchester District.

PROPOSED DECISION

That Eastleigh Borough Council be informed that this Council:

Welcomes the publication of the Eastleigh Local Plan, but makes a formal objection to the Plan on the basis that it fails the Test of Soundness for the following reasons:

- 1. The current evidence base does not demonstrate that it is an Effective strategy because the proposed Strategic Growth Option may not be viable or deliverable as proposed.**
- 2. The proposed link road on which the Strategic Growth Area is predicated has not yet been shown to be technically feasible or fit for purpose.**
- 3. The Duty to Cooperate in relation to the preparation and sharing of the evidence base has not yet been fulfilled.**

That a formal response be submitted to Eastleigh Borough Council the body text of which is attached as Appendix 1.

REASON FOR THE PROPOSED DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Background:

Eastleigh Borough Council (EBC) is currently without an up to date adopted Local Plan after it withdrew its previous proposed Plan during 2014, from formal consideration when the appointed Inspector indicated in advance of formal Examination that it could not be found sound. This has caused concerns at Governmental level with a direct intervention by the Secretary of State who has

threatened to intervene to ensure the speedy progress on the adoption of a Local Plan for the Borough.

A new Plan for the period 2016 – 2036 has been formulated and is now subject to its statutory consultation, under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The City Council is a statutory consultee.

All Local Plan makers are required to cooperate in drawing up their plan with their neighbours to ensure that policies are coherent where necessary and to ensure that appropriate levels of housing delivery (which is the Government's principle concern in Local Plan making) are secured. This is the statutory 'Duty to Cooperate'. It is important to stress that this is not a duty to agree, or even to consult with neighbouring communities, but to engage at a policy making level.

Whilst the City Council can make any comments it wishes, the Inspector who considers the Eastleigh plan at its examination in due course will only consider evidence on whether it is 'sound' according to four statutory tests:- is it positively prepared; justified; effective and consistent with national policy. It is therefore good practice for comments to be restricted to those matters. The policies which are proposed by Eastleigh for the promotion of its chosen objectives are not a matter for comment unless they have an impact on our District.

Most of the proposals and policies contained in the Plan are 'local' to Eastleigh and reflect its priorities and aspirations. There is nothing in these which has any negative impact on Winchester District or which is inconsistent with regional economic or infrastructure aspirations. There is therefore no reason for Winchester to comment upon these and they will not be rehearsed in this report.

There has been considerable interest and concern raised regarding Eastleigh's proposals for housing delivery, and these clearly do have an impact both on strategic level planning for the region and on some communities adjacent to development proposals. This report will therefore concentrate on this issue and the response which Winchester may wish to make.

The EBC proposal is to provide 14,580 dwellings across its district during the Plan period. This is a higher figure than the objectively assessed need (OAN) for Eastleigh because the Council has made a deliberate choice (a 'policy on' approach) to provide additional homes to meet housing requirements. It is perfectly entitled to do this indeed it is encouraged to do so by the Government and no objection can be made to the principle of this decision.

It should be noted however that EBC maintains that the requirement for meeting the five year land supply test which the Government requires local plans to achieve is the OAN figure, not the higher policy on figure. Whilst this view is supported by recent appeal decisions, were the policy on figure to become the relevant target, it could lead to pressure for faster delivery than Eastleigh have

assumed and this could bear on the infrastructure concerns which are set out below.

The element of the plan for the delivery of dwellings which is of concern to Winchester is the proposed Strategic Growth Option - SGO (what Winchester would call a 'major development area') north of Fair Oak and Bishopstoke. The SGO will eventually consist of approximately 5,200 dwellings but the Plan expects 3,350 of these to be delivered in the Plan period i.e. before 2036.

Policy S5 in the EBC Plan covers the SGO. The policy anticipates that the SGO will come forward in a series of applications, bound together by a mechanism proposed in the plan each of which will need to be sufficiently large to contribute to effective place making. Two 'neighborhoods' will eventually be formed, the smaller north of Fair Oak, the larger north of Bishopstoke. A link road, running from the M3 Junction 12 through Allbrook and Crowdhill to Fair Oak is proposed to serve the development which is essential to manage traffic growth. The first application for development must be accompanied by a detailed masterplan, design codes, and Infrastructure Delivery Plan, and a phasing plan, covering the whole SGO.

Policy S6 covers the link road. The Transport Assessment, and accompanying modelling, has not yet been completed and nor has the study into the potential impacts on Junction 12 of the M3. So the full extent of mitigation measures required has not been finalised or agreed by the County Council or Highways England. There is sufficient evidence to suggest that the link road when completed would take some of the current pressure off of the Winchester district from vehicles currently travelling through Colden Common and Twyford towards the M3.

The new road will be approximately 4.13 kilometers in length and is estimated to cost around £47 million, including a 44% up-lift for contingencies. This is based on a study undertaken by the County Council in 2016 and recently up-dated. It is expected that the road will be constructed in 4 phases:

Phase 1 - the Allbrook link to J12, this is estimated to cost around £5.8 million excluding the costs of third party land acquisition or improvements to the motorway junction. A study is currently being undertaken by Atkins, to assess the impact and potential mitigation requirements at this junction but the report is not available at the present time, so the full costs of this phase have not been calculated.

Phase 2 - this is largely in the Winchester district along Highbridge Road. The cost of this phase is calculated to be around £5.5 million, but it is not clear whether this fully takes into account the costs of a new crossing over the Itchen and any mitigation measures identified in the Habitats

Regulation Assessment. It is also expected that in this phase the road will be realigned to make it easier for HGVs to pass under the railway bridge.

Phase 3 - is the longest stretch of the new road from the B3335 to the B3354, and is estimated to cost around £22 million.

Phase 4 - from the B3354 to the B3037 is estimated to cost around £13 million.

It is a requirement of Policy S6 that no development will be permitted until the link road "or at least" (to quote from the Plan) phases 1-3 have full planning permission but this requirement is not currently linked to any phasing plan for the housing delivery. It is also unclear as the mechanisms that will be followed to secure a planning permission on the site. Our view is that as a minimum an outline planning application should be submitted covering the whole of the site, as this would allow for subsequent conditions/phasing to be determined. It is not clear how many houses might be completed before the link road would be fully operational. There are significant cost implications for this, as parts of phase 3 will be required to serve the development area, and it would be a significant cost to the developers to have to fund phases 1, 2 and part of 3 before a substantial number of houses have been sold.

The policy requires that the planning application for each phase of the new link road includes an appropriate design of the highway, junctions and crossings for vehicles, cyclists, pedestrians and where appropriate horse riders.

There is currently a bottleneck along the B3335 where the Highbridge Road passes under the railway line. The existing bridge in this location has been the scene of several accidents and of HGVs becoming stuck under the bridge. The current proposal is to straighten the approach road which will help HGVs pass safely under the bridge but the height will still not allow for the larger HGVs and double decker buses to pass underneath. Eastleigh is adamant that all the technical approvals can be obtained for this aspect of the link road and that the limitation on vehicle traffic will not be harmful to the operation of the highway network. There is no evidence of support from the County Council as highway authority for this contention or analysis of how the SGO itself would be impacted. If the link road is sub-optimal then this could have an effect on both the delivery of the SGO and on the mitigation required elsewhere on the network.

Issue relating to Soundness

It is important to preface observations on the soundness of the Eastleigh Plan by stating clearly that it is in the interests of the City Council and all of its residents for Eastleigh to have an adopted Local Plan. This brings certainty and confidence over 'what happens and when' including the delivery of infrastructure to alleviate justifiable concerns from neighbouring communities. Whilst some

residents might prefer that growth proposals did not exist at all, that is not a realistic expectation. The Government is firm and insistent that ambitious housing delivery proposals must be a priority for all Local Plans. But it is reasonable for neighbouring communities to be protected from serious harm by appropriate mitigation and infrastructure delivery and a Plan should not be considered 'effective' unless it achieves this. It is also the case that Winchester can only comment on the Plan Eastleigh has put forward. It cannot and should not become engaged in discussions about proposals that Eastleigh considered and rejected.

The City Council's comments on the Plan should therefore be directed at ensuring that the Plan is sound and pointing out concerns where they exist so that they can be addressed and rectified if necessary. Ultimately it is for the Inspector to decide on their implications for the soundness of the Plan.

There are three principle concerns which Winchester should have in relation to the proposed SGO.

The first is whether the 3,350 dwellings anticipated are indeed achievable within the Plan period.

EBC presents as evidence a report reviewing the rate of delivery of large sites. Based on this report the Plan assumes that it will be 8 years (i.e. 2024) before the first dwellings are started and that in the 12 years remaining of the Plan period up to 2036 a total of 3,350 dwellings will be completed.

This delivery rate of 3,350 dwellings over 12 years equates to an average of 279 dwellings per annum. It considerably exceeds the figures achieved on almost all other major development across the country as referenced in Eastleigh's own report, and most of the risk relating to delivery will be on the downside – that is to say this delivery rate requires every factor to be favourable. If even one external factor is not favourable the delivery rate may not be met.

Based on its own evidence (and experience of other regional major developments) there must be a significant risk that the SGO will not deliver this number of dwellings in the Plan period. This could be further exacerbated if there are any delays in commencing the development due to issues around infrastructure delivery, the planning and land assembly process and the completion of more than one Section 106 agreement. Before consent can be granted for the SGO, a full consent is required for the link road which has some considerable technical issues and experience suggests that meeting the County Council's stringent standards and safety audits will be time consuming.

If the Inspector were to consider that the delivery rate cannot be achieved then s/he may consider that the Plan is not sound. This would not benefit anyone except speculative developers. It is therefore essential that Eastleigh does

provide a convincing case for a rate of delivery backed by the means to make it happen.

The second concern, which is inter-related to the first, is viability.

A high level viability study by Dixon Searle is provided in the evidence base which was up-dated in 2018. The cost calculations include the construction of the schools, the new link road, and a sum of circa £36 million to cover all additional S106 requirements.

The HRA has identified a number of mitigation measures which would have to be provided to avoid potential risks to the European designated sites, but so far have these do not appear to have been costed and there are other costs which do not appear to have any figures against them at present. The costs of environmental mitigation should not be underestimated and should include provision for on-going management and maintenance. A comprehensive HRA has been undertaken which concluded that with all the necessary mitigation measures the development of the SGO will not compromise the integrity of the European designated sites, including the Itchen SAC. But as mentioned above these measures which are quite extensive, and include significant measures to mitigate the impacts of the new bridge across the Itchen in the Winchester District. In addition, substantial landscape mitigation, including sensitive and detailed design, implementation and management, is considered essential to minimise harm to the local area in the District. Therefore, it is not clear at the present time whether or not a broad order of likely costs are included in the viability calculations, and if so the extent to which the mitigation measures are consistent with earlier estimates.

The concern over the way in which viability has been assessed is that it focuses on total figures and final outcomes. Whilst this is important it only tells part of the story in managing the viability of a major development which is highly sensitive to cash flow and the ability to capture value and commit expenditure in line with commercial realities. As the site is not in a single ownership or single control and will not be subject to a single outline application or S106, ensuring that infrastructure delivery can be achieved and financed not just on an outturn basis but over the actual development period will be a major challenge and this detail is missing from the Eastleigh evidence base or strategy. Eastleigh's solution is partly based on the willingness and ability of the Council itself to become involved in forward funding and realizing development value. This is an approach the Government supports but it is dependent on local government finance and decision making and is therefore difficult to rely upon.

Dixon Searle emphasise that they have been given 'no firm or detailed information on which to base their appraisal', and also how sensitive their cost estimates are. They note that they will be prone to variations as the scheme is developed in more detail. They therefore heavily caveat their assessment and make it clear that for a more comprehensive assessment it would need to be linked to a set of firm proposals, which include a masterplan and phasing plan. It

is of real concern that the pace at which Eastleigh has prepared its Plan may mean that the infrastructure cost assessment and development appraisal are not a reliable enough basis on which to consider the SGO deliverable.

EBC has concluded that there is a reasonable prospect that the SGO will be fully funded, but if there are gaps in the funding they have identified a number of potential sources of public funding, for example to bring forward, housing, transport and school place funding. EBC is also considering taking a more proactive role itself in helping to fund and bring forward the SGO. Whilst that is a matter for Eastleigh, if the SGO is only deliverable with significant public sector assistance then an Inspector may consider that this requires careful examination to ensure that it will be forthcoming in all foreseeable circumstances.

Policy S5 allows for the SGO to be developed through an unspecified number of full or outline applications, which will need to be sufficiently large to contribute to effective place making. This implies around 4 or 5 separate applications covering the whole SGO, plus a separate application for the link road. It should also be noted that it is unlikely that a full application would be submitted with all the detail required on house types, elevations, floor plans, landscaping etc. for development parcels of over 1,000 dwellings. So there would be a built in time delay for getting firstly outline consent then reserved matters for each development parcel that comes forward.

The policy requires that the first application must be accompanied by a detailed masterplan, design codes, and IDP, and a phasing plan, covering the whole SGO. EBC will only approve the first planning application once the masterplan has been approved, which implies that it might be a separate application. But it is not clear how an application for what could easily be only 20% of the development area could effectively tie down future phases outside of the current application. To do this the first S106 agreement would inevitably have to commit all parties to delivering infrastructure for which planning permission has not yet been applied for and granted.

Given that the SGO will be developed over at least 20 years, and each separate application will need to undertake a full assessment of its potential impacts, there would be a great deal of uncertainty over the eventual costs of any potential mitigation measures that might be required. Eastleigh should therefore consider again their proposed mechanism to ensure that the relationship between commercial considerations, planning consents, provision of infrastructure funding and the role of the public sector is more firmly linked together to ensure that development only proceeds where it can definitely fund the required infrastructure.

Thirdly, the provision of the link road is a crucial component of the SGO and essential to ensuring that traffic impacts on communities in Winchester are properly managed. At present the evidence that the technical requirements and

the funding for the road can be delivered are both limited and may fall below the requirements to demonstrate the effectiveness of the policy.

Hampshire County Council will have to be satisfied that engineering solutions exist to the problems anticipated, particularly where it passes under the railway bridge, which are both practical and affordable. Any limitations on access should be fully assessed for unintended consequences elsewhere on the network. The role of the City Council in the planning process for the road where it runs through Winchester District should be clarified.

The revised cost of the new Link Road is expected to be around £47 million, which seems on the low side when compared with the other new road in the district, the Botley Bypass, which is a shorter road at 1.8 kilometers at a cost of £26 million, whereas the longer Link Road at 4.13 kilometers, which is more than twice the length, is around £47 million. This does not necessarily mean that the figures are wrong, but Council would wish to see robust evidence as to why this should be the case.

At present there is insufficient evidence presented for the City Council to be reassured that the proposed link road will be able to serve the SGO as intended.

Issues related to the Duty to Cooperate

EBC has held numerous meetings at a technical level with WCC and other stakeholders into various aspects of the plan. But as recognised in policy S6 the plan relies on a new link road being built, partly in the Winchester District, if the SGO is to be delivered. Therefore it could reasonably be expected that there would have been a great deal of cooperation between the two councils on the timing, funding, and detail of the new link road. At the present time the Council has been given only the barest details on the costing of the road in its area, especially the costs of any mitigation measures, and little evidence of how it will be funded, especially if as might be the case there is a funding gap for infrastructure delivery.

The new link road, adjoining landscaping, and SUDS would be expected to be adopted by the County Council. It is not clear what dialogue has passed between EBC and the County Council over the adoption of the new road including the section in the Winchester District, but experience suggests that this can be a lengthy and costly process. Again no evidence has been submitted to give confidence that this has been properly costed and included in the assessment of viability.

Given the sensitivity of the local hydrology there will need to be an effective highways SUDS system. The Council has not been shown any evidence to suggest that this is fully reflected in the costs, and that all the required land in its district is available to deliver the road, and all the associated infrastructure. The

Council would also need to be reassured that any residential properties directly affected by the road, would have any potential impacts effectively mitigated.

The Habitats Regulations Assessment (HRA) has considered the impact of the new Link Road on protected areas and species, and proposes certain mitigation measures. However there has been limited dialogue with the consultants undertaking the HRA or Eastleigh on how the HRA affects the Winchester District, so there can be no certainty yet that the required mitigation measures will be effective and deliverable.

To date there has been no discussion with EBC on how the phasing of the link road construction will be matched to the rate of housing delivery. The Council cannot therefore be certain that the road will be built in a timely fashion to minimise the impacts on the district.

Conclusion and Recommendation

Most elements of the Eastleigh Local Plan raise no issues of substance for the City Council and can be supported.

The element of concern is whether the evidence basis and delivery proposals (based on the existing viability information) for the SGO meet the local plan soundness test of being 'effective' "*the plan should be deliverable over its period and based on effective joint working on cross – boundary strategic priorities*" (NPPF para 182), with particular regard to housing delivery with mitigation and infrastructure. If they do then they can be supported by the City Council recognizing that Eastleigh has a desire and an obligation to meet housing need.

At present Winchester's position should be precautionary. There is considered to be insufficient evidence to provide a convincing case for the soundness of the proposal for the SGO and it is important that this is addressed before the Plan is examined. The City Council cannot yet be reassured on behalf of neighbouring communities that the proposals in the SGO policies will be delivered as set out or anticipated. That means that there is a risk that there will be unacceptable negative impacts.

It is therefore recommended that the Council makes a formal objection to the Eastleigh Borough Council Local Plan in the form set out in Appendix 1 on the grounds that:

1. The viability and delivery of the SGO has not been demonstrated to provide sufficient confidence that it is an effective basis for delivering such a large proportion of the Plans housing requirement. There are a number of aspects of delivery of the SGO in particular the financial viability and the mechanism for ensuring that all development contributes fully to the necessary mitigation which give significant and reasonable grounds for concern.

2. The provision of the link road is an essential requirement for the SGO. At present there are technical, financial and planning related risks to the delivery link road which are unresolved and without confidence in delivery of the link road the SGO cannot be considered an effective strategy.
3. The duty to cooperate cannot be considered fulfilled without full engagement to provide the City Council with confidence that the delivery of the SGO will not have unacceptable significant impacts on neighbouring communities.

RESOURCE IMPLICATIONS:

There will be some officer time spent engaging and cooperating with Eastleigh Borough Council in relation to its Plan and with Winchester residents and representatives. These can be accommodated into existing resources.

DATA PROTECTION IMPACT ASSESSMENT

None

CONSULTATION UNDERTAKEN ON THE PROPOSED DECISION

Eastleigh Borough Council is required to engage fully with residents, neighbours and stakeholders in relation to its Plan. This response from the City Council takes account of feedback received from communities within Winchester District.

FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION NOTICE

n/a

DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR OFFICER CONSULTED

None

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

N/A

Approved by: (signature)

Date of Decision

Councillor Caroline Brook – Portfolio Holder for Built Environment

APPENDICES:

Appendix 1 – Draft Body Text of response to Eastleigh Borough Council (salutations to be added as appropriate before despatch)

Appendix 1

Body Text of Response to Eastleigh Borough Council

Thank you for consulting Winchester City Council on the policies contained in the Regulation 19 submission of the Draft Eastleigh Borough Council Local Plan 2016 - 2036.

The City Council is grateful for the information received thus far and the time spent by your officers in discussions to inform and explain the proposals. For the reasons which are set out in more detail in the attached Portfolio Holder Decision Notice and formally approved by the Portfolio Holder, the City Council:

Welcomes the publication of the Eastleigh Local Plan, but makes a formal objection to the Plan on the basis that it fails the Test of Soundness for the following reasons:

- 1. The current evidence base does not demonstrate that it is an Effective strategy because the proposed Strategic Growth Option may not be viable or deliverable as proposed.**
- 2. The proposed link road on which the Strategic Growth Area is predicated has not yet been shown to be technically feasible or fit for purpose.**
- 3. The Duty to Cooperate in relation to the preparation and sharing of the evidence base has not yet been fulfilled.**

We recognize our obligation to engage constructively with Eastleigh Borough Council to address these matters and remain ready and willing to play a full and active part in doing so as the Plan process continues.