



GUILDFORD
B O R O U G H

COUNCIL

9 APRIL 2019

SUPPLEMENTARY INFORMATION

NOTE TO ALL COUNCILLORS IN RELATION TO ITEM 11: NOTICE OF MOTION (Pages 1 - 6)

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NOTE to assist councillors in their consideration of Item 11 on the agenda for the Council Meeting on 9 April 2019 – Notice of Motion Dated 28 March 2019

1. The motion

- 1.1 Councillors will be aware that the following motion is due to be considered at next week's Council meeting on 9 April 2019:

"This Council notes that an Extraordinary Meeting of the Council has been called on Thursday 25 April 2019 for the purpose of considering whether the Local Plan should be formally adopted following receipt of the Inspector's final report.

The Council

RESOLVES:

- (1) *That consideration of whether the Council should adopt the Local Plan be deferred to a suitable and reasonable date after the Borough Council elections on 2 May 2019.*
- (2) *That, should the Council decide not to defer consideration of the adoption of the Local Plan, the proposed Extraordinary Council meeting currently arranged for 25 April 2019 be held at a venue with a much larger capacity than the Council Chamber in order to accommodate the large number of Guildford residents interested in the Local Plan who may wish to attend the meeting.*
- (3) *That, irrespective of the date and venue, public participation at the Extraordinary Meeting be extended by thirty minutes to one hour to allow the public to address the Meeting before the Council makes a decision on the possible adoption of the Local Plan."*

Paragraph 1 of the motion

- 1.2 The following information is prepared as context to and advice in respect of consideration of paragraph (1) of this motion.

Decision on deferral: premature and lacking full information

- 1.3 First, inviting the Council at this meeting to defer the decision on adoption of the Local Plan until after the Borough Council elections is considered to be premature, and any decision would not be capable of being made on a fully informed basis. It is only at the extraordinary meeting of the Council on 25 April that such material information as is needed as to whether a decision should be made forthwith can be properly presented to councillors. If the decision on whether or not to adopt the Local Plan is to be deferred, 25 April is the appropriate date upon which to do so, after a fully informed debate, by which time councillors will have had a proper opportunity to consider all of the relevant information, such as any legal advice, the officer's report, the Inspector's report and the final draft Local Plan documents.
- 1.4 Further, the Council will be aware that a training session for all councillors has already been arranged for 18 April 2019. This session will provide guidance to councillors on matters for consideration at the extraordinary meeting, the decision to be made, and the implications and possible consequences of a decision to not adopt the Plan, as well as providing guidance on the law relating to predetermination and the implications of any deferral of the decision.

Decision on deferral: no proper reason for not taking the decision at the Extraordinary Meeting

- 1.5 Secondly, it is not clear why a deferral is sought. Paragraph (1) of the motion implies that there may be impediments or reasons why the decision cannot be taken. This is not the case. There is no legal rule requiring that a decision is not made in the pre-election period. It is accepted that in general terms careful consideration should be given to taking important decisions during the purdah period but, in this case, there are good reasons for doing so. The Council should take decisions, which are due to be taken, unless there are good reasons to do otherwise.

Decision on deferral: delay in considering the matter of adoption

- 1.6 Thirdly, in the context of the Local Plan, a deferral would mean a delay in bringing the matter back to a further extraordinary Council meeting in the summer, whilst allowing sufficient time for newly elected members to be trained and fully briefed on the Local Plan process and the framework surrounding it, as well as the content of the Local Plan itself.
- 1.7 Training, and discovery sessions, to properly equip a newly returned Council of members will be multi-staged, and iterative to enable full engagement with the plan making process and its history, as well as the nature of the choice to be made at this stage in that process. While administrative arrangements may be made expeditiously, a sound, informed and robust decision as to the benefits and disbenefits of adoption, will require an appropriate series of support and training.
- 1.8 The likely timetable for any deferred decision, which may be between 6 and 16 weeks, places at risk the advice that, once a plan is declared “sound” and issued as such, there is an imperative that *quick consideration* must be given to it. Accordingly, a delay in the order of that referred to above is considered to be significant.
- 1.9 While the Council may decide on 25 April to not adopt the examined, and sound plan, a decision will, on that day, be fully informed and taken on its merits. Given that part of the case presented to councillors on 25 April will relate directly to the justification for adoption forthwith, it would be premature for the Council to take a decision which pre-emptively precludes the presentation, and consideration of the whole case.

Decision on deferral: decisions in the Purdah period

- 1.10 The decision as to whether to adopt or not to adopt the Local Plan is, as described below at paragraph 3.7, a binary one: the qualitative analysis as to site allocation, priority, and soundness have been decisions for the Secretary of State, and debate, consultation, and engagement has taken place.
- 1.11 The pre-election period does not act to prevent decisions being made, and even decisions which are the focus of controversy are not automatically to be avoided.
- 1.12 The rules on Purdah in the local authority context relate to the prohibition in section 2 of the Local Government Act 1986 which states that:-

2(i) A local authority shall not publish material which, in whole or in part, appears to be designed to affect public support for a political party”

- 1.13 The Council has been and will continue to be observant of strict neutrality in its publication of material relating to the local plan.

2. Prematurity of the motion

- 2.1 A comprehensive officer's report (which is necessarily in the early stage of preparation given the very recent publication of the final report) will be included on the agenda for the extraordinary meeting on 25 April, and which will consider a range of key information that will assist careful consideration of the decision. This will include amongst other items:
- The final report submitted to the Council by the Planning Inspector including main modifications that he has indicated are necessary in order to make the submitted Local Plan sound. This was published by the Council on 28 March 2019
 - Reflection on a range of relevant factors to inform the consideration of whether the Local Plan should be adopted
 - Accompanying documentation, including the Sustainability appraisal adoption statement and the Habitations Regulation Assessment
 - Reflection on legal compliance of the proposed Local Plan
- 2.2 It is submitted that any decision around adoption, non-adoption or indeed deferral of a decision regarding the Local Plan sensibly should be made on the basis of receipt of full information regarding the item.
- 2.3 Section 3 below provides some planning context relevant to the consideration of whether (or not) to defer adoption of the Local Plan to a date after the local elections on 2 May 2019. It does not develop arguments relating to potential risks and implications of not adopting the plan, which will be addressed in the Officer's report for the extraordinary meeting on 25 April.
- 2.4 It should be noted that a deferral cannot be used to attempt to make further modifications to the Local Plan, such as the removal of allocated sites. The Inspector's report is final, and it will not be open to the Council to seek changes to it at this stage. The decision for the Council will be whether to adopt the Local Plan in its entirety, or not at all.
- 2.5 The potential risks associated with not adopting the Local Plan will be dealt with as part of the scheduled training session for all councillors on 18 April, in the forthcoming Council report, and in the presentation to the Council.

3. Context for the intended adoption of the Local Plan

- 3.1 Starting in 2012, the process of preparing the Local Plan, which will replace elements of the Council's current Local Plan dating from 2003, has been lengthy, costly and resource intensive.
- 3.2 Following this process, which included substantial engagement including four formal public consultations, the Local Plan Inspector has issued his final report, which was published on the Council's website on 28 March 2019. The Examination process is now formally complete.
- 3.3 The Inspector concludes that, with recommended main modifications, the Plan is sound and capable of adoption.

- 3.4 In such circumstances current Government advice is that **“it is to be expected that the authority will proceed quickly with adopting a plan that has been found sound”** (Plan-making Guidance, paragraph 58 which carries forward paragraph 26 of the previous guidance)
- 3.5 This is particularly the case given the age of the existing plan and the consequences of delay in the process so far.
- 3.6 It is noteworthy that the Plan, with the Inspector’s main modifications, would be largely consistent with the Plan submitted to the Secretary of State with the overwhelming (32 to 7, with 3 abstentions) agreement of Full Council in terms of its spatial strategy and site allocations. Such changes as there have been are “favourable” to the Council. Importantly, the Plan has a materially lower housing requirement (562 dwellings per annum (dpa) vs the submitted 654 dpa) and it does not include any specific allowance to address unmet need from Woking. Moreover, it no longer includes the four new main modification Green Belt housing sites proposed in the Sept/Oct 2018 consultation.
- 3.7 Since publication of the Inspector’s Report, the Local Plan now carries substantial weight in decision-making. All that remains is for the Council to consider whether or not to adopt the Plan so that it becomes part of the development plan for Guildford . The Council cannot debate the findings of the Report with the Inspector. It cannot determine to accept some parts of the Plan and reject others. It is a binary decision – the Council can choose to either adopt or not adopt the Local Plan. There is no scope for accepting some of his findings (and proposed modifications) and not others. For example, individual site allocations and the housing requirement should not be open for detailed discussions. The Inspector’s report determines that the Local Plan, with his suggested main modifications, can be considered sound. Any deviations from his recommendations do not have his endorsement and, as detailed above, his involvement is now at an end.
- 3.8 On the basis that this Plan has undergone significant scrutiny and has been found to be sound, whilst other considerations may be relevant, a decision to defer consideration of its adoption does not appear to be grounded in any clear planning rationale for doing so.
- 3.9 In fact, there are several benefits of adopting the Local Plan in a timely manner. These will be considered in further detail as part of the report to the extraordinary Council meeting on 25 April following the Executive meeting in due course. However, several are highlighted briefly in Appendix 1 to this note.

4. Conclusion

- 4.1 In conclusion, it is considered that any deferral of the decision on adoption of the Local Plan should be considered in the context of the full report to Council on 25 April 2019 and following the training session for Councillors that is scheduled for 18 April 2019. To opt to defer on 9 April would be premature.
- 4.2 Furthermore, from a planning perspective, there should be no reason to delay consideration regarding whether or not to adopt the Local Plan. Rather, there are good planning reasons to support its adoption as quickly as possible and this approach is also supported by Government guidance.

Appendix 1: Selected benefits associated with adopting the Local Plan in a timely manner

In addition to Government advice relating to quickly adopting a local plan that has been found sound, there are planning benefits to considering plan adoption in a timely manner. Further detail will be provided in the scheduled Councillor training and report to Council on 25 April. However, some benefits include:

- Creating an environment of planning certainty: such that progress with the preparation of (major) planning applications, as well as the Council's preparation of Supplementary Planning Documents to further guide the form of new development are not subject to delay.
- A robust basis for decision-making in relation to planning applications: timely adoption of a new Local Plan will ensure the Council has a 5-year housing land supply as soon as possible, and will put it in a strong position to refuse and successfully defend appeals for inappropriate schemes.
- Securing planning benefits for the Borough's community: albeit that the plan carries significant weight, its timely adoption will establish it as part of the development plan for the area, as well as confirming its full weight. This will support the delivery of more beneficial planning contributions, such as to meet the urgent need for affordable homes.
- Changing circumstances: The Plan is prepared for a medium to long-term horizon (to 2034) and in a manner that is flexible and can respond to change. However, any significant delay in adoption of the Local Plan, may lead in future to questions being raised associated with changing circumstances.

James Whiteman
Managing Director

5 April 2019

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