

Addendum to Cabinet Report Item 11:

1. This addendum reports on the comments and resolution of the Regulatory Committee which considered the proposed suite of development plan documents at their meeting on 15th January 2015.
2. This paper considers the implications of the resolution of the Regulatory Committee and provides recommendations having regard to the resolution of the Committee and compliance with the Local Plan regulations.
3. The addendum also reports on a proposed amendment to the Site Allocations Development Plan Document proposed following the receipt of representations that have identified an error.

At its meeting on 15th January, the Regulatory Committee resolved:

1. That the annexed documents be noted and the comments of the Committee, including the two recommendations relating to affordable housing targets, be reported to Cabinet at the meeting on 20 January 2015.
2. To recommend that Cabinet (subject to point 1 above) approve the annexed documents for consultation during a six week period currently scheduled for February to March 2015:
 - The Proposed Alterations to Haringey's Local Plan: Strategic Policies (LPSP) which was adopted in 2013 (Appendix A);
 - The "preferred option" draft of the Development Management Development Plan Document (DM DPD) (Appendix B);
 - The "preferred option" draft of the Site Allocations Development Plan Document (Sites DPD) (Appendix C);
 - The "preferred option" draft of the Tottenham Area Action Plan Development Plan Document (Tottenham AAP) (Appendix D); and
 - The Draft Sustainability Appraisal (Appendix E).
3. To note that the versions of the LPSP, the DM DPD, the Sites DPD, the Tottenham AAP and the Draft Interim Sustainability Appraisal which are annexed to this report, are working drafts. These documents will be edited before being taken to Cabinet in January.
4. To recommend to Cabinet (subject to point 1 above) that it adopt the revised Local Development Scheme (LDS) (Appendix F) for 2015-2018.
5. To recommend to Cabinet (subject to point 1 above) that it note the draft Consultation Programme (Appendix G).

The first recommendation in 1 above is reported in the draft minutes (annexed for ease of reference) as:

- Cllr Carroll put forward a motion, which was seconded, to **reject** the proposed amendment to Haringey Strategic Policies, Housing Policy SP2, section 3.2 (alteration 49) to amend Policy SP2 (5) to reduce the borough wide affordable housing target from

50% to 40% for larger development sites and that this recommendation be reported onto Cabinet. Following a vote (5-4), the motion was carried.

Comment in respect of Alteration 49

4. In forming their recommendation not to alter this policy, Regulatory Committee were concerned that to do so would reduce the quantum of affordable homes built in the Borough. The growth in housing targets in the proposed alterations to the plan would however serve to increase the quantum of affordable housing from the existing plan levels, but only if the sites identified in the plan can come forward for development during the plan period.
5. The National Planning Policy Framework 2012 sets out the four tests of soundness against which all local plans are assessed. The third test is that the local plan document is 'effective'. To meet this test, the Council must be able to demonstrate that the proposals it is advancing through its site allocations are actually capable of being delivered, having regard to a policy compliant application.
6. As deliverability is a key test of soundness, a viability study must be published as part of the supporting evidence base. The Council therefore commissioned consultants GVA to undertake development appraisals of a sample of 15 schemes being proposed by Council through its preferred site allocations document. The findings of the study (Development Appraisal and Viability Testing, GVA Dec 2014), clearly demonstrates that the application of the existing 50% affordable housing provision renders all development proposals unviable. Subsequent modelling showed that a 30% affordable housing provision would ensure the majority of schemes were viable, while 40% would still be challenging on most.
7. It was on the basis of the evidence that officers had recommended that the Borough-wide affordable housing (AH) target be reduced from 50% to 40% (Alteration no. 49). The retention of the 50% target would therefore be at odds with the most up to date evidence held by the Council on development viability. As 'deliverability' goes to the heart of the plan making process, the retention of the 50% target renders the Plan unsound.
8. Further, unlike the other planning documents, the amendments to the Strategic Policies DPD are a partial review of the document only. This means that, the Council is only consulting upon those changes it is proposing to make. Unaltered policies and text are not open to public consultation and comment. Any comments received to unaltered policies or text cannot therefore be considered by the Council.
9. The reduction in the affordable housing target is a material change to the Policy. For this to be duly made, in order to make the document sound, requires it to have been the subject of consultation. The consequence of not advancing Alteration 49 in the schedule for consultation at Regulation 18 stage is that it will not be within the gift of the Council at Regulation 19, nor the Inspector at the examination, to subsequently amend the target.
10. Instead the only option available to the Inspector would be to suspend the examination and allow the Council to consult on a reduced target. This would significantly delay adoption of the plan and all subsequent documents that hang-off it. Alternatively, the Inspector may conclude that deliverability goes to the heart of the document's robustness, and might decide simply to find the document 'unsound'. Should that occur, the Strategic Policies will default back to its 2013 adopted form and therefore, would be

inconsistent with the quantum of development and policies being proposed through the other local plan documents, which would need to be withdrawn.

11. In noting the resolution of Regulatory Committee, in respect of the 50% affordable housing target, Officers recommend Cabinet members not to adopt the Regulatory Committee's recommendation in respect of the 50% affordable housing target:

Recommendation

Having had regard to the Regulatory Committee recommendation 1, the most up to date viability evidence, and to the risk posed to the soundness of the suite of local plan documents before it, the Cabinet approves the retention of Alteration 49 in the Schedule attached at Appendix A to the Cabinet report for consultation with the amended 40% Borough-wide affordable housing target retained.

The second recommendation in respect of item 1 in the draft minutes is reported as:

- Cllr Bevan put forward a motion, which was seconded, to **reject** the proposed amendment to Haringey Strategic Policies, Housing Policy SP2, section 3.2 (alteration 51) to delete Policy SP2 (7) (and any associated reference links to it) requiring schemes below the 10 unit threshold to provide 20% affordable housing on site or financial contributions towards affordable housing provision and that this recommendation be reported on to Cabinet. Following a vote, the motion was unanimously carried.

Comment in respect of Alteration 51:

12. Officers had recommended to delete Policy SP2(7) (Alteration 51) on the basis of updated national guidance and the fact that the plan allocates sufficient strategic sites to meet its housing requirements without reliance on small sites for housing or affordable housing provision.
13. The Regulatory Committee had previously considered the implications of the updated guidance on the application of Policy SP2(7) in respect of determining planning applications. In that instance, and supported by external legal advice from Counsel, the Committee members chose to continue to apply Policy SP2(7). That decision may have influenced the Committee's recommendation to reject the Policy's deletion at the Regulation 18 stage. There was however, discussion to revisit this at the Regulation 19 stage having regard to comments received and the outcome of planning appeals due to be considered imminently.
14. However, members may not having appreciated that by rejecting the deletion of SP2(7), it would no longer form part of the schedule of proposed amendments that the Council is inviting comments on. As an unaltered policy, it would not be open to public consultation and comments, and any comments received on the matter would not be able to be considered by the Council at the Regulation 19 stage.
15. With regard to harm, the retention of Policy SP2(7) is a "conformity" issue, as it is at odds with the recent planning policy statement made by the Secretary of State that seeks to prevent the imposition of policies for small site affordable housing contributions where they pose barriers to development by small builders and to development viability. Typically where conformity matters arise these are flagged through consultation on the draft Plan, and it then it is left to the appointed Inspector to consider whether there is local evidence sufficient to justify a departure. This type of policy departure would not, in officer's opinion, be harmful to the higher order policy from which the local plan seeks to

depart. It would therefore be open to the Inspector to decide whether the Policy should remain or not – albeit only where the non-conforming policy has been subject to public consultation and consideration.

16. Having not including the proposed deletion of Policy SP2 (7) within the schedule for consultation, at the examination stage, this would leave the Inspector with a conformity issue for which he/she has no capacity to recommend be altered if necessary. The only options available would be to either find the Local Plan ‘unsound’ on non-conformity grounds, or to ask the Council to undertake consultation on the matter, allowing them then to take a view.
17. However, it should also be noted that the NPPF has not been formally amended to reflect the change to national guidance, and SP2(7) is not a new policy that the Council is seeking to introduce but rather an extant NPPF compliant policy. On this basis, the Council could seek to justify keeping the policy in and not invite comment on it. However, such an approach is not without risk to the aspiration to promote a sound plan in its entirety.
18. In recognition of the recommendation of Regulatory Committee, but mindful of the risk of the plan not being found sound, officers suggest an approach that acknowledges the Regulatory Committee’s recommendation to retain SP2(7) but invites comment on this policy in addition to all other alterations within the strategic policies DPD at Regulation 18 stage. This would enable the Council to consider any representations and, if necessary, take further advice on the matter at the Regulation 19 stage. The effect of this approach would be to enable comment and allow the matter to be examined on appeal ahead of Regulation 19 stage, whilst not explicitly proposing the deletion of the policy at the current time. Having ensured SP2(7) was subject to consultation, this also allows the Inspector at examination to make a recommendation on the matter.

Recommendation:

That Cabinet acknowledges recommendation 2 of the Regulatory Committee above to reject Alteration 51 and to retain Policy SP2(7), but resolves that Policy SP2(7) be included in the Schedule unaltered.

That Cabinet further approves consequential textual amendments to Section 1.5 of the draft document to make clear that the Council is inviting comment on Policy SP2(7), enabling comment to be invited on its proposed retention.

Site Allocations DPD

19. Following the Regulatory Committee meeting on 15th January, representations have been received from a local resident in respect of the proposed site allocation SA49: Tile Kiln Lane Reservoir. The representations highlight a contradiction within the site allocation proposed, and the site owners proposed promotion of the site. Based upon officer’s review of this allocation, and following consideration of the site’s deliverability, Officers recommend that Cabinet do not progress to consultation on this site, within the site allocations DPD. The policy reference No’s of the remaining sites in the document will need to be revised accordingly, prior to publication.

Recommendation

That the recommendation to approve consultation on the “preferred option” draft of the Site Allocations Development Plan Document (Sites DPD) (Appendix C) be subject

to the deletion of SA49 and all associated references to this policy from the document and all other documents, together with the renumbering of the other sites in the document as appropriate.

Conclusions:

Cabinet is therefore asked to consider the Recommendations set out in the main report subject to the above Recommendations, in aggregate, as follows:

1. Having had regard to the Regulatory Committee recommendation 1, the most up to date viability evidence, and to the risk posed to the soundness of the suite of local plan documents before it, the Cabinet approves the retention of Alteration 49 in the Schedule attached at Appendix A to the Cabinet report for consultation with the amended 40% Borough-wide affordable housing target retained.
2. That Cabinet acknowledges recommendation 2 of the Regulatory Committee above to reject Alteration 51 and to retain Policy SP2(7), but resolves that Policy SP2(7) be included in the Schedule unaltered.
3. That Cabinet further approves consequential textual amendments to Section 1.5 of the draft document to make clear that the Council is inviting comment on Policy SP2(7), enabling comment to be invited on its proposed retention.
4. That the recommendation to approve consultation on the “preferred option” draft of the Site Allocations Development Plan Document (Sites DPD) (Appendix C) be subject to the deletion of SA49 and all associated references to this policy from the document and all other documents, together with the renumbering of the other sites in the document as appropriate.
5. That Cabinet approves the following annexed documents for consultation, subject in the case of the Tottenham AAP to any modifications and in respect of all four documents subject to any corrections or presentational improvements made by the Director of Planning, Regeneration and Development in consultation with the Cabinet Member for Planning , during a six week period currently scheduled for February to March 2015:
 - The Proposed Alterations to Haringey’s Local Plan: Strategic Policies (LPSP) which was adopted in 2013 (Appendix A);
 - The “preferred option” draft of the Development Management Development Plan Document (DM DPD) (Appendix B);
 - The “preferred option” draft of the Site Allocations Development Plan Document (Sites DPD) (Appendix C);
 - The “preferred option” draft of the Tottenham Area Action Plan Development Plan Document (Tottenham AAP) (Appendix D).
6. That Cabinet adopt the revised Local Development Scheme (LDS) (Appendix F) for 2015-2018.
7. That Cabinet notes the draft Consultation Programme (Appendix G).
8. That Cabinet notes the Draft Interim Sustainability Appraisals.