DRAFT INTERIM PLANNING POLICY STATEMENT FOR STEVENAGE

KEY DECISION

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1 PURPOSE

1.1 To provide Members with a further update on proposed changes to the planning system and the implications for the Council's Local Development Framework.

1.2 To seek Members’ approval to withdraw the Draft Core Strategy and Development Management Policies DPD (hereafter ‘Draft Core Strategy’) pursuant to the Inspector’s recommendation and to also agree to withdraw the Draft Town Centre Area Action Plan.

1.3 To present the draft Interim Planning Policy Statement for the Borough.

1.4 To summarise the content of the draft Interim Planning Policy Statement and to seek Members' approval to publish the document for public consultation.

2 RECOMMENDATIONS

2.1 That the latest developments in relation to the Council's Draft Core Strategy and the planning system in general be noted;

2.2 That the Draft Core Strategy and the Draft Town Centre Area Action Plan be withdrawn effective 1 February 2012;

2.3 That the draft Interim Planning Policy Statement and associated sustainability appraisal be approved;

2.4 That the Executive authorise a public consultation on the draft Interim Planning Policy Statement and associated sustainability appraisal for a period of 6 weeks commencing 1 February 2012.

2.5 That the draft Interim Planning Policy Statement be used as a material consideration for the purposes of Development Management decisions made on or after the start date of any public consultation; and
2.6 That the Executive resolve to continue the use of the Site Specific Policies DPD, the Old Town Area Action Plan and the Gunnels Wood Area Action Plan for the purpose of development management subject to the exceptions identified in this report and the draft Interim Planning Policy Statement.

2.7 That delegated powers be granted to the Head of Planning, Regeneration and Transport, in consultation with the Portfolio Holder for Environment and Regeneration, to make such minor amendments as are necessary in the preparation of the draft Interim Planning Policy Statement.

3 BACKGROUND

3.1 On 13 September 2011, the Executive considered a report on the Council’s Draft Core Strategy. The report explained the Inspector’s May 2011 conclusion that the Draft Core Strategy was unsound and should be withdrawn. It explained that the Council had initiated Judicial Review proceedings in an attempt to have the Inspector’s findings overturned.

3.2 It also set out proposed changes to the wider planning system that could impact on the future planning and development of Stevenage. This included the proposed abolition of regional strategies and other provisions contained in what was then the emerging Localism Bill.

3.3 Executive resolved a number of important issues. In summary, those relevant to this report were:

- That the Inspector’s recommendations not be implemented due to the on-going legal action;
- That the ongoing changes in the planning system would continue to be monitored;
- That the draft Core Strategy, Site Specific Policies DPD, Old Town Area Action Plan and Gunnels Wood Area Action Plan would continue to be used for Development Management purposes; and
- That the preparation of interim policies pending the production of a new plan be authorised.

3.4 Since this point there have been further important developments.

3.5 On 29 September 2011, the High Court heard the Council’s application for Judicial Review. Sir Michael Harrison ordered that, until the date of the hearing, the Council was not obliged to withdraw the Draft Core Strategy pursuant to the Inspector’s recommendation.

3.6 On 20 October 2011, the Department for Communities and Local Government published an environmental assessment of the impacts of revoking the East of England Plan. This document is being consulted upon until 20 January 2012.
3.7 The Government has previously committed itself to revoking this plan, along with all other Regional Strategies. Successful revocation of the plan would delete the policies which set an ambitious programme for the future growth and development of Stevenage.

3.8 The findings of the environmental assessments will be considered by the Secretary of State and Parliament in determining whether the East of England Plan should be revoked.

3.9 On 2 November 2011, the Borough Council’s claim for Judicial Review was heard at the High Court by Mr Justice Ouseley. Judgement was reserved.

3.10 On 16 November 2011, the Localism Act received Royal Assent. As previously reported, this Act will introduce significant changes to the planning system. Among other matters, issues that are currently determined in strategic plans such as the East of England Plan (including housing and employment targets) are to become matters for local determination.

3.11 However, amendments to the Act made on its passage through Parliament mean that provisions relating to the revocation of regional strategies will now be enacted by Order at a later date (rather than revocation occurring immediately upon enactment as originally proposed).

3.12 This means that, for the present, the East of England Plan remains part of the statutory Development Plan for the Borough. It continues to be used to determine applications for planning permission.

3.13 On 1 December 2011, Mr Justice Ouseley handed down his judgement on the Council’s Judicial Review of the Draft Core Strategy. He concluded that the Inspector’s May 2011 report had not erred in law. Mr Justice Ouseley considered that:

“The law does not require [North Hertfordshire District Council] …to refrain from letting housing developers know that it is hostile to large scale development in its area to meet the ambitions of Stevenage BC, and will be looking to take advantage of the prospective revocation of the [East of England Plan] whenever it can…”

…”What [the Inspector] says in his report is undeniably correct as a judgement on the current impractability or unsoundness of Stevenage BC’s Core Strategy”.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

| Recommendation 2.1: That the latest developments in relation to the Council’s Draft Core Strategy and the planning system in general be noted. |

Executive 17 January 2012
4.1 The planning system remains in a state of flux. There have been several significant developments since the Executive last considered this matter in September 2011. It is firstly recommended that these developments be noted.

**Recommendation 2.2:** That the Draft Core Strategy and the Draft Town Centre Area Action Plan be withdrawn effective 1 February 2012.

4.2 In his May 2011 report into the examination of the Council’s Draft Core Strategy, the Inspector provided the following overall conclusion and recommendation:

> My formal determination under section 20(5)(b) is that the Development Plan Document is **UNSOUND**. In consequence, I **recommend** that the Development Plan Document be **not adopted** under the provisions of Section 23 of the Planning and Compulsory Purchase Act 2004 and that it be **WITHDRAWN** in accordance with Section 22 of that Act. (Original emphasis)

4.3 The Inspector’s decision is binding and disables the Council from adopting the Draft Core Strategy. The relevant legislation is clear that we cannot adopt the plan against his recommendation.


4.5 Having considered the implications of the judgement, it is necessary that the Inspector’s recommendation be implemented, meaning that the Draft Core Strategy should be withdrawn.

4.6 It is recommended that withdrawal of the Draft Core Strategy occurs on 1 February 2012 to coincide with publication of the draft Interim Planning Policy Statement.

4.7 Members will recall that, in September 2010, the Executive approved the Draft Town Centre Area Action Plan for pre-submission consultation.

4.8 This consultation and the Executive’s associated resolutions were not carried out. This was due to the chain of events associated with the Draft Core Strategy examination that were outlined in the September 2011 report to Executive.

4.9 It is requested that the Executive simultaneously withdraw the Draft Town Centre Area Action Plan.

**Recommendation 2.3:** That the draft Interim Planning Policy Statement and associated sustainability appraisal be approved.

4.10 Once the Draft Core Strategy has been withdrawn, a new planning framework for the Borough will be prepared.
4.11 There are a number of steps that we have to take before this plan can be approved. This will include gathering further evidence, carrying out consultations and holding an examination.

4.12 If / when the East of England Plan is revoked, the statutory Development Plan will consist solely of the saved policies from the Stevenage District Plan Second Review (District Plan).

4.13 The proposed introduction of the National Planning Policy Framework will replace all existing Planning Policy Guidance notes and Planning Policy Statements. This is likely to significantly reduce the amount of national-level planning guidance available to decision makers.

4.14 When the District Plan was adopted in December 2004, it was a ‘saved’ plan. This meant that we could only use its policies for a period of three years before applying to the Secretary of State to further ‘save’ those policies. In December 2007 the Secretary of State made a formal decision to delete approximately one-third of the District Plan’s policies and save the remainder until they were replaced by a Local Development Framework.

4.15 In line with government policy at the time, the deleted District Plan policies were superseded by national advice, the East of England Plan or policies in our emerging Local Development Framework.

4.16 The anticipated deletion, revocation and/or withdrawal of the documents discussed above will therefore leave gaps in policy coverage.

4.17 In the circumstances, it becomes necessary to give effect to the Executive’s September 2011 resolution that officers should prepare interim planning policy guidance.

4.18 The draft Interim Planning Policy Statement for Stevenage is attached as an appendix to this report. It contains planning policy on a range of topics where a potential deficiency has been identified. This is required to ensure that Development Management decisions can continue to be made on an up-to-date and well informed basis. Topics include:

- A vision for the planning and development of the town;
- Sustainable development;
- Developer contributions;
- Guiding principles for development within the town centre;
- Housing mix, including affordable housing; and
- The conversion of existing homes into smaller units;

4.19 The draft Interim Planning Policy Statement also identifies which draft Local Development Framework policies will continue to be used for Development Management purposes.
4.20 It is important to be clear that the draft Interim Planning Policy Statement is not a statutory planning document. Neither is it a Supplementary Planning Document. It is a ‘stand-alone’ expression of Council planning policy for the Borough pending the adoption of a new local plan.

4.21 It should be noted that Mr Justice Ouseley’s 1 December 2011 judgement acknowledged that the Borough Council finds itself in ‘very unusual circumstances’ in which it ‘cannot now produce a plan that conforms generally to the Regional Strategy and is sound’.

4.22 In order to provide itself with an accurate statement of facts and intentions that can be used as an up-to-date basis for development management decisions, it is necessary for the Borough Council to respond to these very unusual circumstances.

4.23 The Interim Planning Policy Statement (in both draft and post-consultation approved forms) will subsist in the short- to medium-term until such time as a replacement for the Draft Core Strategy can be progressed through the relevant statutory procedures outlined in paragraph 4.11. The Interim Planning Policy Statement will be used, along with Supplementary Planning Documents and other material considerations, to augment the saved policies of the District Plan. The diagram in Appendix 1 details these documents and their status.

4.24 All policy guidance in the draft Interim Planning Policy Statement (or versions thereof) has previously been subject to approval, public consultation and / or examination. This will have been achieved through one or more of the following:

(i) the preparation of the East of England Plan;
(ii) approval of and / or consultation upon iterations of our Local Development Framework documents; or
(iii) consultation upon evidence studies.

4.25 Notwithstanding the Inspector’s lawful finding of unsoundness against the Draft Core Strategy, it is important to remember that this decision was reached solely on consideration of two issues: conformity with the East of England Plan and the relationship with the plans of neighbouring authorities. The Inspector did not hear evidence or pass judgement upon the more detailed matters that have been transferred to the draft Interim Planning Policy Statement.

4.26 The draft Interim Planning Policy Statement is accompanied by a sustainability appraisal. This assesses the likely social, economic and environmental effects of implementing its policies. The appraisal has been prepared voluntarily. It is also attached as an appendix to this report.

4.27 It is recommended that Executive approve these documents.
Part I
Release to Press

Recommendation 2.4: That the Executive authorise a public consultation on the draft Interim Planning Policy Statement and associated sustainability appraisal for a period of 6 weeks commencing 1 February 2012.

Recommendation 2.5: That the draft Interim Planning Policy Statement be used as a material consideration for the purposes of Development Management decisions made on or after the start date of any public consultation; and

4.28 It is further recommended that the Executive authorise a public consultation for a period of 6 weeks.

4.29 Although the draft Interim Planning Policy Statement is a non-statutory document, it is deliberately being prepared in a manner similar to the way in which a Supplementary Planning Document would be written and adopted.

4.30 Supplementary Planning Documents are subject to public consultation before they are adopted. This is to ensure that stakeholders and members of the public have the opportunity to comment on proposals before they are finalised. It is recommended that a similar principle is applied to the draft Interim Planning Policy Statement.

4.31 It is proposed that the draft Interim Planning Policy Statement be used as a material consideration for planning decisions from the point at which any consultation is commenced. This is consistent with the approach which is normally taken to emerging planning documents.

4.32 It is proposed to withdraw the Draft Core Strategy and commence consultation on the draft Interim Planning Policy Statement on the same day. This should ensure continuity of guidance and support the Council’s ability to make robust Development Management decisions.

4.33 A diagram detailing the documents that will be used to determine planning applications, subject to agreement of the recommendations in this report, is attached as an appendix.

4.34 Upon completion of the consultation exercise, officers will consider the responses, identify any changes considered necessary to the draft Interim Planning Policy Statement and prepare a further report seeking its formal adoption.

Recommendation 2.6: That Executive resolve to continue the use of the Site Specific Policies DPD, the Old Town Area Action Plan and the Gunnels Wood Area Action Plan for the purpose of development management subject to the exceptions identified in this report and the draft Interim Planning Policy Statement.

4.35 In January 2010, the Executive resolved that those draft LDF plans which had reached the pre-submission stage be used as a material consideration in the determination of planning applications.
4.36 This resolution was re-affirmed in September 2011.

4.37 The withdrawal of the Draft Core Strategy means that this document can no longer be used for the purpose of Development Management. However, the other plans which have completed pre-submission consultation are not to be withdrawn.

4.38 The Executive are requested to re-affirm use of these plans. This is to ensure clarity as to which documents are to be used when deciding applications.

4.39 The draft Interim Planning Policy Statement identifies a small number of policies in these documents that, as an exception to this resolution, should no longer be used. This is because they rely, directly or indirectly, on the growth proposals in the East of England Plan and / or the co-operation of neighbouring authorities for their justification.

5 IMPLICATIONS

5.1 Financial Implications

5.1.1 The costs of preparing and consulting upon the draft Interim Planning Policy Statement will be met from the approved Local Development Framework budget for 2011/12.

5.2 Legal Implications

5.2.1 Section 22(1) of the Planning and Compulsory Purchase Act permits a local planning authority to withdraw a local development document. This power is not affected by the enacted clauses of the 2011 Localism Act. The Council’s constitution allows the Executive to withdraw Development Plan Documents where this is pursuant to the recommendations of an Inspector: they do not need to be referred to Council.

5.2.2 The draft Interim Planning Policy Statement is not being prepared as a Development Plan Document or Supplementary Planning Document under the provisions of the 2004 Planning and Compulsory Purchase Act.

5.2.3 Notwithstanding this point, any public consultation will be undertaken in accordance with procedures and regulations that are prescribed by the 2004 Act for the preparation of Supplementary Planning Documents and the Council’s adopted Statement of Community Involvement.

5.2.4 A voluntary sustainability appraisal of the Statement’s social, economic and environmental impacts has been completed to ensure the Council can demonstrate compliance with relevant national and European legislation if required.
5.3 Equalities and Diversity Implications

5.3.1 An Equality Impact Assessment of the wider Planning Policy service has been completed. It did not identify any areas of concern.

5.3.2 An Equality Impact Assessment of the submission Draft Core Strategy was completed and formed part of the documentation submitted for examination. It similarly did not identify any adverse impacts. Many of the policies in the Interim Planning Policy Statement replicate or reflect policies contained in the Draft Core Strategy.

5.4 Risk Implications

5.4.1 As stated above, the draft Interim Planning Policy Statement is not being prepared as a Development Plan Document or Supplementary Planning Document.

5.4.2 The content of and / or the manner in which the Interim Planning Policy Statement is being prepared preclude either of these options.

5.4.3 To not prepare any form of interim guidance could leave the Council with an incomplete policy basis on which to make Development Management decisions.

5.4.4 For these reasons, a standalone Interim Planning Policy Statement is considered to be the most pragmatic solution in the ‘very unusual circumstances’ identified by the High Court. The alternate options would have similar or greater levels of risk attached.

5.4.5 In preparing a voluntary sustainability appraisal and conducting any public consultation in line with the requirements imposed upon a Supplementary Planning Document, it is anticipated that the Council will be able to demonstrate that a logical and reasonable approach has been taken.

5.5 Policy Implications

5.5.1 The policies contained in the East of England Plan and the Draft Core Strategy contain strong links to the Community Strategy. The Draft Core Strategy is also intended to contribute to the successful delivery of other Council strategies including the Corporate Plan, Affordable Housing Strategy and Green Space Strategy.

5.5.2 The draft Interim Planning Policy Statement attempts to ensure that priorities identified in those documents can continue to be addressed while a replacement plan is progressed through the relevant statutory stages.
5.6 Planning Implications

5.6.1 Upon the commencement of public consultation, the draft Interim Planning Policy Statement will become a material consideration in the determination of planning applications.

5.6.2 The draft Interim Planning Policy Statement also identifies which of the draft Local Development Framework policies will, and will not, continue to be used for the purposes of Development Management.

5.6.3 The planning risks associated with the proposed course of action are identified above.

5.6.4 A diagram detailing the documents that, subject to agreement of the recommendations in this report, will be used to determine planning applications from 1 February 2012 is attached as an appendix.

5.7 Environmental Implications

5.7.1 A voluntary sustainability appraisal has been produced to ensure that any undesirable environmental impacts are avoided or mitigated against.

BACKGROUND PAPERS

- Planning and Compulsory Purchase Act 2004
- Statement of Community Involvement
- Inspector’s Report – May 2011
- Report to Executive – September 2011
- The Localism Act 2011
- High Court Judgment - Stevenage Borough Council, R (on the application of) v Secretary of State for Communities and Local Government & Anor [2011] EWHC 3136 (Admin) (01 December 2011)

APPENDICES ATTACHED

- Appendix 1 - Diagram of documents used to determine planning applications

APPENDICES AVAILABLE IN MEMBERS’ LIBRARY AND ON WEBSITE

http://www.stevenage.gov.uk/have-your-say/council-meetings/23303/

- Appendix 2 - Draft Interim Planning Policy Statement for Stevenage
- Appendix 3 - Sustainability appraisal

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