



**COUNCILLOR  
GEORGE DAVIES**

**CABINET**

**Monday, 17 December 2018**

**WIRRAL LOCAL PLAN - UPDATE  
REPORT**

**Councillor George Davies, Cabinet Member - Housing & Planning (and Deputy Leader of the Council), said:**

“Making sure Wirral residents have a choice of good quality, attractive housing is vital. We’ve got to have a robust Local Plan so we are able to meet those needs.

“We’ve also got a responsibility to our residents. They have told us, unequivocally, that they do not wish to see Green Belt land developed for housing. We agree, and we have told Government Ministers the same thing.

“We must have a Local Plan. We understand this, and we are committed to developing one within the timeframe we have set out. We will do everything we can to protect our local environment and the Green Belt which is so important to our residents.

“We have consistently lobbied Government to allow us to use the recent, more accurate household projection figures published by the Office of National Statistics in September this year. Using these figures would mean we need release almost no Green Belt land for development.

“At the moment, the Government are refusing to allow us to lower our projections, so we must continue to plan for the bigger housing target – 12,000 over the next 15 years.

“Over the next six months, Council officers will do the detailed technical assessments required on all land which was included in the consultation. We will do this, so we can ensure our Local Plan does what it needs to do.

“I want to thank every Wirral resident who took part in this consultation. I want to reassure them that we are on their side, and pledge to do everything in our power to protect our borough and our unique environment.”

## **REPORT SUMMARY**

Cabinet on 23 July 2018 resolved that the results of a review of development options should be published for public and stakeholder consultation and that the results of the consultation should be reported to Cabinet in December 2018.

However, by the end of the consultation period, a very high volume of responses had been received, which are still being collated and analysed. A summary of these responses will be published in February 2019. The Council’s responses and analysis will be published alongside the draft Local Plan.

This report therefore sets out the current position with the preparation of the Local Plan and the advice that has been received from Leading Counsel who has recently been appointed to advise on the remaining stages of plan preparation, to adoption.

In line with the advice of Counsel, it is recommended that the timetable for the preparation of the Local Plan is reviewed to ensure that any future decisions are robust, legally compliant and take account of all the necessary evidence base. Amendments to the timetable for the Local Plan, as set down in the Local Development Scheme, is a key decision which will require the approval of Full Council.

In order to facilitate progress in the preparation of the Local Plan it is recommended that approval be given for the Scheme of Delegation be amended to delegate decisions relating to the approval and publication of the evidence base and associated technical reports to the Director of Economic and Housing Growth in consultation with the portfolio holder for Housing and Planning. Decisions relating to the implementation of policy changes will still need to be made by full Council via Cabinet

Once agreed, the final approved Local Plan will support the delivery of the Wirral Plan.

## **RECOMMENDATIONS**

- (1) That a revised Local Development Scheme is submitted for approval once the amended future timetable has been determined.
- (2) That approval be given to amend the Scheme of Delegation of Executive Functions to Officers to delegate to the Director of Economic and Housing Growth, in consultation with the portfolio holder for Housing and Planning decisions relating to the approval and publication of the evidence base, and associated technical reports, relevant to the preparation of the Local Plan.
- (3) That the summary report on the consultation responses received be published in February 2019.
- (4) That the Council continues to lobby Government, to enable it to use the ONS household projections, published in September, 2018 for the purposes of preparing its Local Plan, which would give an annual target of 488 new residential dwellings per annum.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 To comply with the legal and procedural requirements necessary to complete the preparation and adoption of an up-to-date Core Strategy Local Plan for Wirral, in line with the National Planning Policy Framework (NPPF).

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Progress of the Local Plan continues to be monitored by the Secretary of State and the threat of intervention remains. Not preparing an up-to-date Local Plan may also incur financial penalties.
- 2.2 Not preparing an up-to-date Local Plan would mean that the Council would have to continue to rely on the Unitary Development Plan adopted in February 2000.
- 2.3 The national presumption in favour of sustainable development will be held to apply where there are no relevant development plan policies or the policies which are most important for determining the application are out of date (NPPF paragraph 11).
- 2.4 Relevant policies may not be considered up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites or where the delivery of housing was substantially below the housing requirement over the previous three years (NPPF, paragraph 11, footnote 7). In these circumstances, decisions on planning applications will have to be made in the context of the National Planning Policy Framework, with policies in the Unitary Development Plan and Neighbourhood Development Plans prepared by the local community only carrying weight according to their consistency with the Framework.

### **3.0 BACKGROUND INFORMATION**

- 3.1 Cabinet on 23 July 2018 (Minute 17 refers) resolved that the public should be consulted on the results of a review of development options that included proposed sites for housing, employment, mixed uses and sites for further investigation for potential release from the Green Belt.
- 3.2 Formal consultation on the Development Options Review was undertaken between 3 September and 26 October 2018. By the end of the consultation period, 3,146 separate responses had been received, which are still being collated and analysed.
- 3.3 Leading Counsel has now been appointed to advise on the remaining stages of plan preparation up to adoption.
- 3.4 This report provides an update of the current position with regard to the future preparation of the Local Plan and seeks approval for the arrangements being made to move towards the completion of the Local Plan.

## **4.0 PROCEDURAL MATTERS**

### Timetable

- 4.1 The Council continues to progress the Local Plan as quickly as possible within the statutory framework.
- 4.2 Counsel has reiterated the importance of ensuring that any future decision making is supported by the completion of the necessary statutory environmental appraisals. This will require a review of the timetable for the preparation of the Local Plan, set out in the Local Development Scheme approved by Council in March 2018 (Minute 133), which is currently being monitored by the Secretary of State. The Secretary of State has been advised of the necessity of this review.
- 4.3 A final revised timetable will be available following the appointment of the consultants for the sustainability appraisal.

### Delegation of Decisions

- 4.4 In order to progress the Local Plan more effectively, Counsel advises that there be increased delegation of decision making to senior officers.
- 4.5 Approval is therefore sought to amend the Scheme of Delegation of Executive Functions to Officers to delegate to the Director of Economic and Housing Growth, in consultation with the portfolio holder for Planning and Housing, all decisions relating to the approval and publication of the evidence base, and associated technical reports, relevant to the preparation of the Local Plan.
- 4.6 Any policy decisions based on that evidence will continue to require the approval of Full Council.

### Evidence Base

- 4.7 Counsel will continue to advise on the work required to provide a robust and sound evidence base in preparation of the Local Plan. A full draft Local Plan together with the technical reports will be published for public comment in 2019.

### Housing Numbers

- 4.8. Counsel has advised that the Council should rely on the standard method for assessing local housing need set out in national policy and guidance, pending the outcome of the Government's recent national consultation on proposed revisions to the national standard method for local housing needs.
- 4.9 The Council has submitted its formal response that any final decisions on the figures to be used in assessing local housing need, including any variance from the outputs from the standard method, should be retained at local level, and to state that the Council wishes to be able to adopt the most up-to-date 2016-based household projections (which result in a reduced minimum requirement of 488 dwellings per year) as a basis for assessing the future housing needs of the Borough.

## **5.0 FINANCIAL IMPLICATIONS**

- 5.1 Consultation on the review of development options has been completed using existing resources for Economic and Housing Growth. Officers continue to monitor the cost implications of the production of the Local Plan in consultation with the Director of Finance and Investment

## **6.0 LEGAL IMPLICATIONS**

- 6.1 The Local Plan for Wirral must be prepared in line with the process set out in national legislation and can only be adopted by the Council if it is found to be legally compliant and sound by a Planning Inspector appointed by the Secretary of State after public examination.
- 6.2 To be sound, a local plan must be: positively prepared, to as a minimum meet the area's objectively assessed needs; justified, in terms of being an appropriate strategy, taking into account the reasonable alternatives; effective, in terms of being deliverable over the plan period and based on effective joint working on cross-boundary strategic matters; and consistent with national policy, enabling the delivery of sustainable development in accordance with the National Planning Policy Framework (NPPF, paragraph 35 refers).
- 6.3 To be legally compliant, the local plan must be prepared to fully comply with national legislation and regulations, including the Duty to Co-operate.
- 6.4 The Council has a legal Duty to Co-operate with named public bodies including adjoining local authorities and national agencies. A failure to comply with the Duty to Co-operate can be fatal to the legal compliance of the Local Plan and could require the Local Plan to be withdrawn.
- 6.5 The Council must also comply with its own statutory Statement of Community Involvement, last adopted in March 2014.
- 6.6 The approval of the final Draft Local Plan will require a resolution of Council before it can be published and submitted to the Secretary of State for public examination.
- 6.7 The Housing and Planning Act 2016 significantly increased the powers of the Secretary of State to intervene in plan-making, at any stage in the plan making process. The Secretary of State can now intervene if he thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a local plan and may prepare or revise the document or give directions to the authority in relation to the preparation or revision of the document but must give reasons for any action that he takes (section 146 refers).
- 6.8 The Neighbourhood Planning Act 2017 also enables the Secretary of State to make regulations to require a local planning authority to review local development documents at prescribed times; and extended powers over their content, with which the Council must comply (sections 11 and 12 refer).

Regulations under section 12 now require local planning authorities to review their local plans and statements of community involvement at least every five years, from April 2018.

- 6.9 The Secretary of State can also direct two or more local planning authorities to prepare a joint local plan, if this would facilitate the more effective planning of the development and use of land in one or more of their areas, including setting a timetable and specifying the areas and matters to be covered. The Secretary of State or combined authority will then be able to apportion liability for expenditure on joint plan preparation as the Secretary of State considers appropriate (section 9 refers).
- 6.10 Section 15 of the Planning and Compulsory Purchase Act requires the Council to revise their Local Development Scheme, to set out the documents that will comprise their local plan and the timetable for their preparation and revision, when directed to do so by the Secretary of State. The Localism Act 2011 also requires the Council to publish up to date information on their compliance with the Scheme (section 111 refers).
- 6.11 Under the Housing and Planning Act 2016, the Secretary of State can prepare a Local Development Scheme for a local planning authority, if one has not been prepared and direct that the local planning authority bring it into effect and can direct a local planning authority to make such amendments as he thinks appropriate to ensure the full and effective coverage of the area, with regard to both geography and content (section 143 refers).
- 6.12 Following Counsel's advice, the timetable set out in the Local Development Scheme approved by Council in March 2018 (Minute 133), which is currently being monitored by the Secretary of State, needs to be formally amended, which will require the approval of Full Council.
- 6.13 Planning applications must be determined in accordance with the adopted Development Plan unless material considerations (which include national policy and guidance) indicate otherwise.
- 6.14 The statutory Development Plan for Wirral currently comprises the Council's Unitary Development Plan, adopted in February 2000; the Joint Waste Local Plan for Merseyside and Halton, adopted in July 2013; the Neighbourhood Development Plan for Devonshire Park, made in December 2015; and the Neighbourhood Development Plan for Hoylake, made in December 2016.
- 6.15 Where policies are out-of-date, permission should be granted unless the policies in the National Planning Policy Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (NPPF, paragraph 11 refers).

## **7.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 7.1 The collation and analysis of the consultation responses has been supported by two temporary administrative staff and will be further supported by two temporary Planning Officers, to prepare a full report of consultation for publication early in the New Year.
- 7.2 Five new posts, including one Principal Planning Officer, three Senior Planning Officers and one Planning Officer were advertised in November to support the future preparation of the Local Plan. Two, two-year administrative posts will be advertised in the next few weeks.
- 7.3 An independent external Programme Officer has been identified to advise on the preparations for the submission of the final Local Plan to the Secretary of State and to run and co-ordinate the future public examination on behalf of the Planning Inspector who will be appointed by the Secretary of State.
- 7.4 External consultants will be appointed to undertake the sustainability appraisal and strategic environmental assessment and Habitats Regulations Assessment and any other specialist technical studies.

## **8.0 RELEVANT RISKS**

- 8.1 A failure to meet the Council's timetable for the preparation of the Local Plan could lead to intervention by the Secretary of State, including potential financial penalties; which could include the withdrawal of some or all, of the Council's annual award of New Homes Bonus, or work undertaken by consultants appointed by the Secretary of State in default.
- 8.2 Not modifying the Core Strategy Local Plan to address the issues identified in national policy or in the latest local research could lead to the Local Plan being withdrawn, with abortive costs and/or unnecessary time and expense being incurred at a future public examination.
- 8.3 Payments under the New Homes Bonus could be amended, in terms of the conditions, amount and duration of payments for each new home completed.
- 8.4 The national presumption in favour of sustainable development will be held to apply where there are no relevant development plan policies or the policies which are most important for determining the application are out of date (NPPF paragraph 11).
- 8.5 Relevant policies may not be considered up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites or where the delivery of housing was substantially below the housing requirement over the previous three years (NPPF, paragraph 11, footnote 7).
- 8.6 In these circumstances, decisions on planning applications will have to be made in the context of the National Planning Policy Framework, with policies in the Unitary Development Plan and Neighbourhood Development Plans prepared by

the local community carrying weight according to their consistency with the Framework.

## **9.0 ENGAGEMENT / CONSULTATION**

9.1 Public involvement in the preparation of the Local Plan has been governed by the Council's statutory Statement of Community Involvement, adopted by Full Council in March 2014.

9.2 The Statement of Community Involvement requires a minimum six-week period of consultation, including the need to notify the neighbours of any site specific proposals (SCI, Table 1, page 13; and paragraphs 3.52 and 3.56, page 16 refer).

9.3 People and organisations may also register their contact details so that they are notified as each new document is made available and when each new stage is reached. Personal data is held and used in accordance with a Forward Planning Privacy Notice, for which a link is provided below.

9.4 Formal consultation on the Development Options Review was undertaken between 3 September and 25 October 2018. The consultation included a series of public briefing sessions, which were widely publicised and well-attended, to provide background information and the opportunity to speak to Council officers. By the end of the consultation period, 3,146 separate responses had been received, which are still being collated and analysed.

9.5 Key themes emerging, at present, include:

- general and site-specific opposition from local residents to using land in the Green Belt for any new development;
- concern about the methodology used to determine the sites identified;
- scepticism about the data underlying the calculation of local housing need;
- concern about the likely affordability of any new properties;
- a strong preference for the use of brownfield sites;
- the need to maximise the contribution from Wirral Waters and the re-use of empty properties;
- environmental impacts and the capacity of existing infrastructure;
- site-specific concerns about particular sites within the urban area;
- the provision of further details from developers, seeking to demonstrate the suitability of their development proposals; and
- the need for further information on the likely impact of the developments being proposed.

9.6 A full summary of all the responses received from the public consultation, will be published in February 2019.

9.7 The next major stage of public consultation will take place once a complete version of a new draft Local Plan has been prepared.

## **10.0 EQUALITY IMPLICATIONS**

10.1 The Local Plan has been subject to ongoing Equality Impact Assessment.

- 10.2 Results of previous Equality Impact Assessments prepared at each stage in the preparation of the Core Strategy can be viewed at <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/local-plans/core-strategy-local-plan-0>
- 10.3 A revised Equality Impact Assessment will be presented alongside the final proposals to be included in the final Local Plan.

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## **APPENDICES**

None

## **REFERENCE MATERIAL**

Local Development Scheme for Wirral (March 2018) can be viewed at <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/local-plans/local-development-scheme>

The Council's adopted Statement of Community Involvement (March 2014) can be viewed at <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/community-involvement-local-planning/statement>

The Forward Planning Privacy Notice can be viewed at <https://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/forward-planning-privacy-notice>

Previous stages in the preparation of the Council's Core Strategy Local Plan can be viewed at <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/local-plans/core-strategy-local-plan>

Documents related to the development options review can be viewed at <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/local-plans/core-strategy-local-plan-6>

The National Planning Policy Framework (NPPF, Revised 24 July 2018) can be viewed at <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

The latest National Planning Practice Guidance (NPPG) can be viewed at <http://planningguidance.communities.gov.uk/> Guidance for Local Plans can be viewed at <https://www.gov.uk/guidance/local-plans--2>. Guidance on how Council's should assess their housing needs can be viewed at <https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>

Government technical consultation on updates to national planning policy and guidance, including the standard method for assessing housing need, can be viewed at

**SUBJECT HISTORY (last 3 years)**

| Council Meeting  | Date                                |
|--|-------------------------------------|
| Delegated Report - Approval of Green Belt Review Documents for Public Consultation   | 3 September 2018                    |
| Cabinet – Core Strategy Local Plan – Review of Development Options (Minute 17)   | 23 July 2018                        |
| Cabinet – Employment Land Study Update (Minute 102)  | 26 March 2018                       |
| Council – Approval of revised Local Development Scheme (Minute 133)  | 19 March 2018                       |
| Environment Overview and Scrutiny – Wirral Local Plan – Report of Progress Since 2004 (Minute 46)                          | 31 January 2018                     |
| Delegated Report – Local Development Framework Monitoring Report 2016/17 and approval of revised Local Development Scheme  | 21 December 2017                    |
| Environment Overview and Scrutiny - Wirral Local Plan – Letter from Secretary of State (Minute 40)                         | 7 December 2017                     |
| Delegated Decision – Revised Pitch Strategy for Wirral Council – Approval of Revised Pitch Strategy for Wirral (Minute 97) | 27 October 2017<br>11 December 2017 |
| Cabinet – Core Strategy Local Plan – Report of Further Consultation on Housing Needs and Land Supply (Minute 96)           | 27 February 2017                    |
| Cabinet - Core Strategy Local Plan - Strategic Housing Market Assessment Update (Minute 31)                                | 18 July 2016                        |