

Planning Committee

Letter from the Secretary of State for Communities and Local Government (27 May 2010) on the Abolition of Regional Strategies: Implications of the for 5 Year Housing Supply and Current Planning Applications

15 July 2010

Joint Report of Head of Development Control and Major Developments and Head of Planning Policy and Economic Development

PURPOSE OF REPORT

To inform members of the implications of the Secretary of State's letter (27/5/10) for 5 year housing supply and its impact on current planning applications.

This report is public

Recommendation

The Planning Committee is recommended:

- (1) To note the report including potential implications of the Secretary of State's letter of 27 May 2010 with regard to determining planning applications and potential appeals.

Introduction

On 27 May 2010, the Secretary of State for Communities and Local Government wrote to every Local Planning Authority (LPA) and the Planning Inspectorate highlighting the Government's plans to rapidly abolish regional spatial strategies and stressing that consequently decisions on housing supply (including the provision of travellers' sites) *"will rest with Local Planning Authorities without the framework of regional numbers and plans"*. The letter states that that a formal announcement will be made soon but that Local Planning Authorities and the Planning Inspectorate will be expected to "have regard to this letter as a material planning consideration in any decisions they are currently taking".

It is possible that a formal announcement will have been made by the Secretary of State by the time the Planning Committee meets. In the event

of this, updating information will be tabled at the meeting.

Background Information

Planning Policy Statement 3 (PPS3) requires the maintenance of a 5 year rolling supply of deliverable (available, suitable and achievable) housing land in addition to meeting overall housing targets.

The adopted Regional Spatial Strategy (South East Plan) specifies housing requirements for each local authority area for the period 2006-2026 which are used for both forward planning and the calculation of the 5 year supply. The adopted figure for Cherwell is 13,400.

The 5 year supply calculation examines what is required to be delivered over the next 5 years (having regard to completions so far) and comparing this to what can reasonably be expected to be delivered over that same period. A review undertaken in Autumn 2009 concluded that the district had a 4.0 year supply in 09/10 and 4.5 year supply in 2010/11 for the following 5 year periods. 2010/11 is now the relevant monitoring year.

Paragraph 64 of PPS3 states, *“Policies and proposed management actions should reflect the degree to which actual performance varies from expected performance, as indicated in the housing and previously developed land trajectories. Where actual performance, compared with the trajectories, is within the acceptable ranges (for example within 10-20 per cent), and future performance is still expected to achieve the rates set out in the trajectories, there may be no need for specific management actions at that time. In such circumstances, Local Planning Authorities will wish to continue to monitor and review performance closely and consider the need to update the five year supply, of deliverable sites where appropriate.”*

Paragraph 71 states, *“Where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites...they should consider favourably planning applications for housing...”* having regard to other policies.

The Planning Committee's resolutions to grant permission, subject to legal agreements for redevelopment at Orchard Way, Banbury and 61 homes at south of Milton Road, Bloxham increases supply to 4.6 in 10/11. The committee subsequently refused permission for a scheme for 65 homes on land south of Milton Road, Adderbury for the following reasons:

“The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone, a development of this scale is inappropriate at this time given the existing lack of provision of village facilities. As such the proposed development is contrary to the

saved policies H13, H18 and C7 of the adopted Cherwell Local Plan and Planning Policy Statement 3 Housing.”

At the time of writing there are six other housing supply related applications with the Council with the potential to generate some 391 homes (more than the 215 required to return to a five year supply – assessed against current Regional Spatial Strategy requirements). The applications are in Adderbury, Arncott x2, Bicester, Bodicote, and Chesterton.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations to be made in accordance with the development plan unless material considerations indicate otherwise. Until abolished, the South East Plan remains part of the statutory development plan and the Secretary of State’s letter would be a material consideration in the determination of housing supply applications.

The Secretary of State’s letter confirms the intention to abolish regional strategies and states “*Consequently decisions on housing supply...will rest with Local Planning Authorities without the framework of regional numbers and plans*”. The letter states that a formal announcement will be made soon but that Local Planning Authorities and the Planning Inspectorate are expected to have regard to the letter as a material planning consideration in “...any decisions they are currently taking”.

Planning Policy Statement 3 (PPS3) is also a material consideration including the requirement to maintain a five year supply of deliverable housing land (para’ 71). PPS3 also requires an appropriate level of housing provision to be determined taking a evidence-based approach (para’s 32 & 33).

This leaves the Council in a difficult position with six live applications in the system and the need to determine each application on its merits in a responsible and consistent manner.

Key Issues for Consideration/Reasons for Decision and Options

At the time of writing, there are two options available to the Council with regard to the current applications. These are presented below. Should a formal announcement about regional strategies be made by the Secretary of State by the time the Committee meets, it may be necessary to table revised options at the meeting and to provide Members with further guidance.

Scenario 1

That consideration of the applications be deferred until a formal announcement is made by the Secretary of State having regard to the uncertainty about expected future performance measured against unknown future housing requirements.

Implications associated with scenario 1

Scenario 1 leaves the Council open to challenge at appeal for non determination alongside a potential detailed legal examination of the weight of the Secretary of State letter. It is considered that there will be other Councils who will be willing to challenge this; given our existing exposure to appeals I do not consider our position would be financially sustainable.

Scenario 2

That consideration is given now to applications on the basis of current 5 year supply calculations and a housing requirement of 13,400 but presenting the Secretary of State's letter for parallel consideration.

Implications associated with scenario 2

Given that any changes to the planning system will take time to implement and need to move through legal process, the letter from Secretary of State, whilst not without limited weight is a statement of intent. This is the most straightforward and defendable position and would be consistent with our decisions at Bloxham and Adderbury. This approach is still likely to result in appeals should the Council refuse the relevant planning applications, however with a reduction in exposure to costs applications.

Implications

Financial: There are likely to be a number of planning appeals during the transition period that may result in additional cost to the Council, given the existing commitments it is likely that the Development Control and Major Developments reserve will have to be utilised.

Comments checked by Eric Meadows, Service Accountant 01295 221556

Risk Management: The current transitional period with regard to national planning policy exposes the Council to potential risk of additional planning appeals and the costs associated with them.

Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221560

Wards Affected

All

Document Information

Background Papers – Letter from Secretary of State to Chief Planning Officers - 27 May 2010

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| Report Author | Jameson Bridgwater – Head of Development Control and Major Developments Philip Clarke – Head of Planning Policy and Economic Development |
| Contact Information | 01295 221810 jameson.bridgwater@cherwell-dc.gov.uk 01295 221840 philip.clarke@cherwell-dc.gov.uk |