

AGENDA ITEM:**13**

Urgent Business to be taken under Section 100B(4)(b) of the Local Government Act 1972

COUNCIL:**DATE:** 15th NOVEMBER 2016**SUBJECT:** LUTON LOCAL PLAN (2011-31) SUBMISSION**REPORT BY:** CORPORATE DIRECTOR, PLACE AND INFRASTRUCTURE**CONTACT OFFICER:** PAUL BARTON**IMPLICATIONS:****LEGAL** ✓ **COMMUNITY SAFETY****EQUALITIES** **ENVIRONMENT****FINANCIAL** ✓ **CONSULTATIONS****STAFFING** **OTHER****WARDS AFFECTED:** ALL

PURPOSE

1. The report will update on the action taken by the Corporate Director, Place and Infrastructure in consultation with Portfolio Holder for Planning and Transport in order to progress the Local Plan. The Local Plan sets out the Council's approach to the growth and development of the Borough over the next 15 years.

RECOMMENDATION(S)

2. That Council
 - 2.1 Agrees that the submission version of the Luton Local Plan (2011-2031) should be amended by the removal of policy LP5A(i), (ii) and (iii) for the reasons set out below and justification presented to the Examination Hearings.
 - 2.2 Authorise the Corporate Director, Place and Infrastructure, following consultation with the Portfolio Holder with responsibility for Infrastructure and Transport, to agree any necessary amendments to the

Luton Local Plan (2011 – 2031) submission documentation as referred to and attached to the report of the Interim Director of Environment and Regeneration (Ref 9.1) dated 22 March 2016 which may arise in the future.

BACKGROUND

3. Council considered and approved the submission version of the Borough of Luton Local Plan (2011-2031) at its meeting on the 22nd March 2016 (Minute 45/2016 refers). Since March progress has continued to be made on the Local Plan and it has passed through two stages of consideration at the Public Examination. Stage 1 was held in July and considered the Duty to Co-operate. Stage 2 was held in September considered a broad range of issues such as soundness, sustainability and in relation to key issues such as housing and employment. Stage 3 of the Local Plan examination will begin in December 2016 and January 2017 to consider the remainder of issues and site specific allocations including Butterfield, London Luton Airport, Power Court and Junction 10.
4. In the original report it was noted that LTFC had made representations on the Local Plan for the stadium to be located at Power Court combined with retail at Junction 10A but that there had not been the necessary justification for these proposals. At Stage 1 the Council was asked to confirm that the plan was the final position. This was confirmed as the applications had not been submitted and were therefore not material. This was also confirmed at Stage 2.
5. Whilst the Written Statements in relation to most Stage 3 issues have been produced, the Council has been given a deadline of 25th November 2016 to produce additional statements to the Inspector in relation to Butterfield, retail policy and the allocations at Power Court and Stockwood Park. Given this deadline this report has been brought to Council as a matter of urgency to clarify the Council's position.

REPORT

6. Since the Local Plan was submitted a number of issues have been identified through the hearings before the Inspector and which are likely to be progressed as modifications to the plan. These will be the subject of further consultation as part of the Council's response to the Inspectors recommendations. A key issue to note is that studies have shown that the overall housing capacity of the town has increased to 8,500 in the plan period.
7. In August the two applications for Power Court and Junction 10 were submitted. Consideration of the applications is a separate process to the Local Plan, however, the implications for the emerging Local Plan continue to be kept under review.
8. In the light of continuing representations from 2020 Developments it is clear to the Council that both the landowner and the potential operator of the LTFC stadium

have no intention of delivering a new stadium for LTFC stadium on land at junction 10. Whilst 2020 Developments had previously suggested that this was the case, the receipt of the two planning applications in August changed this position. The Council now has very clear and unequivocal statements from LTFC to the effect that the stadium will not be developed at Junction 10. In this context, the position has materially changed since the plan was submitted and the Examination commenced. This change means that this element of LP5 will not and cannot be delivered. The Council is, therefore, proposing to withdraw LP5A (i), (ii) and (iii) from the plan thus leaving Policy LP5 requiring review which, it is suggested could be added to the emerging policy concerning an early review of the plan. The Council will maintain the policy regarding B1 office development and park and ride with Policy LP5A as these remain appropriate uses on a strategic and gateway site.

For reference Policy LP5A

Land identified in the Policies Map south of Stockwood Park adjacent to Junction 10a of the M1 is allocated for a 14 ha prestige mixed-use gateway development according to the following scales:

- (i) a new 15,000 seat stadium on the 2.5 ha of land for use by LTFC including appropriate shared venue events;
- (ii) 0.7has for ancillary sports facilities for which there is an identified need e.g. Conference and corporate entertainment suites, indoor and outdoor training pitches and sport activities for skills, health and fitness; and
- (iii) 0.3 ha of enabling provision is for small scale A1, A3 and A4 uses associated with the sport health and fitness focus of the football stadium and shared venue events;
- (iv) Park and ride facility comprising 2 ha including scope to secure enhanced public transport to the town centre;
- (v) B1 business use on 9.5 ha of land to meet an identified shortfall of office employment space over the plan period.

9. Clearly, this possible change to the plan cannot be considered in isolation given the limited alternatives in which to locate a stadium in the town. The Council has already indicated in its responses to representations received at publication stage that a town centre location may have merit although it is recognised that the emerging stadium proposal at Power Court has yet to be proven to be both deliverable and viable and acceptable in planning terms. It is important for Council to note that this report relates to the emerging Local Plan and is not concerned with 2020 or any other planning application which is, of course, a matter for Development Control Committee.
10. All parties will have an opportunity to make representations to the Inspector at the Stage 3 hearings in relation to the Local Plan. Consideration of the policy remains with the Planning Inspector as part of the Examination and who will make a final decision on this taking into account any other representations made.

11. The Local Authority remains committed to the draft Local Plan, however, the Council is now at a point to recognise that there is a material conflict between the local plan and the land owner's intentions which renders it undeliverable.
12. In addition, following a review of the previously approved delegation (authorising "Council Officers", following consultation with the Portfolio Holder with responsibility for Infrastructure and Transport, to agree any necessary amendments to the Luton Local Plan 2100 – 2031), it is considered appropriate to amend the delegation to refer to the Corporate Director as set out above.

IMPLICATIONS

Financial

13. This proposal seeks to protect the Council's position. Failure of the Local Plan, or any further delays, will place a significant financial burden on the Council as there is a requirement that all local authorities have a plan under examination or adopted by the end of 2017.

Legal

14. There are the following legal implications to this report as agreed with Steven Sparshott in Legal Services on 15th November 2016:

The Council has taken external legal advice on the matter of removal of LP5 (i), (ii) and (iii) as an approach. Whilst there are risks of legal challenge from interested parties with an interest to keep LP5 as is, or objectors to the Luton Town FC planning applications for instance, the change in approach has been justified given the view of the landowner in relation to deliverability. This change can be achieved without wider impact on the plan. Any further changes will need to be debated as part of the Local Plan Public Examination. However, the Inspector will hear representations from various parties at the forthcoming hearings and will consider the Council's formal request to remove and make the final decision.

LIST OF BACKGROUND PAPERS **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

Report of the Acting Corporate Director, Place and Infrastructure March 22nd 2016

Evidence and Supporting Statements provided for the Local Plan Hearings
<http://www.luton.gov.uk/environment/planning/regional%20and%20local%20planning/local-plan-exam/Pages/default.aspx>