

LOCAL DEVELOPMENT SCHEME (LDS)

REPORT TO THE EXECUTIVE



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| PORTFOLIO | Economy and Growth |
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PURPOSE

1. The purpose of this report is to seek Executive's approval of a revised Local Development Scheme and in particular to confirm a revised timetable for the proposed Gypsy and Traveller Site Allocations DPD.

RECOMMENDATION

2.
 - (i) That the revised Local Development Scheme attached at Appendix 1 be adopted.
 - (ii) That the three Supplementary Planning Guidance documents (SPGs) and four Supplementary Planning Documents (SPDs) listed in paragraph 35 be cancelled.

REASONS FOR RECOMMENDATION

3. Councils are required by legislation to prepare and maintain a Local Development Scheme (LDS) setting out the Development Plan Document (DPDs) they intend to prepare, their scope and the timetable for their production.
4. The Council's current LDS was adopted in January 2018 and now needs revising to reflect slippage in the preparation of the proposed Gypsy and Traveller Site Allocation(s) DPD and to reflect changes to national planning policy and legislation.
5. A number of older-style SPGs and SPGs prepared to support the earlier 2006 Local Plan are considered to be no longer appropriate for retention.
6. The Council does not have sufficient staff resources to allow the preparation of a Design Guide SPD concurrently with other work current and proposed commitments.

SUMMARY OF KEY POINTS

7. Councils are required to prepare and maintain an LDS setting out the DPDs they intend to prepare. The DPDs together make up the Council's 'Local Plan'.

8. DPDs must be prepared as specified in the LDS and this is one of the 'legal compliance tests' undertaken by the Inspector in examining a plan. He or she will normally assess this before going on to test 'soundness'.
9. 'Burnley's Local Plan' which was adopted on 31 July 2018, sets out the vision, objectives, policies and land use allocations to provide the statutory planning framework for the Borough to 2032.

Gypsy and Traveller DPD

10. National policy requires the specific needs of Gypsies and Travellers to be assessed and addressed. Planning Policy for Traveller Sites: August 2015 (PPTS) instructs local planning authorities "to use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions" and in producing their Local Plan, to identify at least a 5 year supply of specific deliverable sites against their locally set targets.
11. During the Examination of Burnley's Local Plan, the Inspector wrote to the Council raising concerns about the suitability and deliverability of the proposed allocation of a Gypsy and Traveller site at Oswald Street (Policy HS7: Site GT1). In his letter, the Inspector concluded that the proposed site allocation was not justified, effective or consistent with national policy and indicated that he would be recommending the removal of the site from the Plan.
12. In his letter the Inspector went on to offer the Council two alternative courses of action. The first was to identify an alternative site, acknowledging that this would result in a significant delay to the examination process and adoption of the Local Plan. The alternative was for the Council to commit to producing a separate DPD to address this issue, through a revision to its LDS. The latter course of action was agreed at the Executive on 17 January 2018 and a revised LDS was adopted which committed to the production of a separate "Gypsy and Traveller Site Allocations DPD".
13. Although initial preparatory/pre-production work has commenced, work on the preparation of this DPD has now slipped (approval of a preferred options document was planned for June 2019) due to a number of factors, including a further reduction in resources, an office move and changes to national policy and practice guidance requiring additional work on other tasks to be undertaken.
14. The evidence of need on which Burnley's Local Plan was based was prepared initially in 2012 and reinterpreted in 2016 in the light of a change to the definition of Gypsies and Travellers for planning purposes in national policy. It addressed needs to 2026. Given the passage of time and also the granting of planning permission on appeal in July 2018 for a small site for Gypsies and Travellers at Spa Wood Farm (APP/2016/0427), an updated assessment is now required to reassess the current and future need and to explore the implications of this planning permission on current and future need for Gypsy and Traveller pitches.
15. It is important to note that the production of a separate DPD will only remain necessary if an outstanding need for a site exists, as the policies for assessing Gypsy and Traveller planning applications are contained within the now adopted

Burnley's Local Plan; it is only the single issue of site allocations to meet the identified need which is outstanding. If in the meantime a site is granted planning permission to meet the need, the DPD would no longer be necessary.

16. Currently, the Council has an acknowledged lack of allocated sites to meet the identified needs and this is a material consideration in the consideration of any 'windfall' planning applications for Gypsy and Traveller accommodation. National Policy advises that: "The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings." (NPPF Para 15)
17. A prolonged failure to address the needs of Gypsy and Travellers whilst having addressed the needs of the settled population could be regarded as unfair. The Council had clearly sought to address this need with the proposed allocation at Oswald Street which was required to be removed from the Local Plan by the Inspector. The overall numeric needs of all people are met by the adopted Plan through a mix of windfall policies and specific allocations, and the specific needs of other groups e.g. the elderly, disabled are addressed through general policies e.g. HS43 and HS4 rather than being specifically addressed through individual site allocations. However, whilst a number of housing allocations can be designed to help meet the 'bricks and mortar' needs e.g. of the elderly or disabled, this is more difficult with caravan pitches for Gypsy and Traveller use in terms of satisfying policies HS7, SP5, and the individual site allocation policies; and the deliverability of Gypsy and Traveller pitches is generally more challenging.
18. A revised timetable for the site allocations Gypsy and Traveller Site Allocations DPD is therefore set out in the LDS, assuming a modest level of need is identified. Following the updating of the needs evidence, the matter will be reviewed to confirm or amend the best course of action and proposed timescales, depending on the need identified.

Statement of Community Involvement (SCI)

19. Legislation requires Local Planning Authorities to prepare an SCI setting out how the Council will engage with communities and others in preparing planning documents such as the Local Plan and in dealing with planning applications. The Council's initial SCI was adopted in 2007 and was updated in July 2015 to reflect the Council's reduced planning staffing and financial resources and changes to legislation, plan-making procedures and community structures. Regulations introduced in 2017 require SCIs to be reviewed every five years in order to determine whether they require updating. Periodically reviewing the SCI was already sensible good practice and is done informally as a matter of course through the Council's monitoring report (AMR).
20. The most recent AMR (February 2019) identified that the current SCI still adequately reflect the current plan-making system. This is considered to remain the case although resources have been reduced further since that time. Feedback on the post-2015 local plan consultation undertaken did include some criticism, and, where resources permit, the Council always needs to look to improve plan-making consultation. The AMR also identified that the Development Control Team had

recently moved offices and were recruiting/restructuring and implementing a new planning applications software package and that following the planned changes, an assessment would be made to ascertain whether a formal review of the SCI was necessary.

21. It is now considered that the SCI does now need updating and this work will be undertaken in 2020.

Supplementary Planning Documents (SPDs)

22. Supplementary Planning Documents (SPDs) do not have formal 'development plan' status but are material considerations in the determination of relevant planning applications. They are prepared to provide more detailed guidance on the interpretation and application of policies in a Local Plan. They cannot introduce new policy requirements or allocate land. Whilst they do not have to be included in the LDS and can be prepared at any time, it is helpful for those intended to be prepared to be listed in the LDS. SPDs are not subject to independent Examination, but do have to be prepared in accordance with a formal statutory process.

New SPDs: Previously Committed

23. The 2018 LDS proposed four new SPDs; one of these, a Shopfront and Advertisement Design SPD was adopted on 18 June 2019. Of the other three SPDs, one on Developer Contributions was approved by Executive in December 2019 as a draft for 8 weeks formal consultation and this commenced on 17 January 2020.
24. The 'Air Quality Management – Protecting Health and Addressing Climate Change' SPD is subject to a separate report on this Agenda. This SPD addresses air quality and has a commonality with the issues relating to climate change in terms of limiting emissions.
25. The final one of the three, on Residential Extensions is planned to be drafted during 2020 with preparation work having already been commenced.
26. A further SPD on Planning for Health has also now been agreed through the Council's participation in the Pennine Lancashire Childhood Obesity Trailblazer project (aka Healthy Place Healthy Future) and is proposed for adoption in 2021.
27. These SPDs are proposed to be prepared within existing resources and with a modest (up to £3,000) contribution from the Trailblazer programme funding.

New SPDs: Not Previously Committed

28. A further SPD on the Council's Local List is also now also proposed.
29. The government announced in 2019 that a new national model housing design code would be published in the new year, with every local authority in the country then being required/expected to create their own version of the code which would "have a very significant legal right to hold developers to account". It is not clear whether additional funding was to be given to Councils to progress these or what their legal status will be. The Council could wait until matters become clear before deciding unilaterally on any further design SPDs. Alternatively, the Council could prepare an

SPD on design tailored to its own circumstances, including to address housing estate design on the Local Plan Housing Allocations, supplementing Policy SP5 in particular and providing guidance on on-site renewable energy provision and energy efficiency measures to meet the policy requirements.

30. The preparation of a 'Design Guide: Addressing Quality and Climate Change' SPD concurrently with existing commitments, including the SPDs discussed above, would require additional resources to be put in place to allow the drafting work to be put out to tender. Production would be done in-house.

Summary:

31. Six SPD are therefore proposed. Further details on the scope of these is set out in the draft LDS. (Appendix to this report)

| SPD Title | Anticipated Date of Statutory Consultation (C) and Adoption (A) |
|--|--|
| Developer Contributions | (C) Jan-March 2020 (A) Early Summer 2020 |
| Air Quality Management – Protecting Health and Addressing Climate Change | (C) 2020 Feb/March/April 2020 (A) Late Summer 2020 |
| Residential Extensions | (C) Late 2020 (A) 2021 |
| Planning for Health | (C) tbc (A) 2021 |
| Design Guide – Addressing Quality and Climate Change | (C) Autumn 2020 (A) Jan/Feb 2021 |
| Local List | (C) Late 2020 (A) 2021 |

Existing SPDs:

32. When a new Local Plan is adopted, previous SPDs are normally be cancelled as they relate to policies no longer in force. However, where new or replacement Local Plan policies have not changed significantly and where SPDs remain consistent with national policy, they may still provide useful guidance, albeit with their weight as a material consideration significantly reduced.
33. Three currently 'saved' older-style SPGs which were prepared to support the now superseded 2006 Local Plan are no longer considered up to date or helpful and should therefore be cancelled. One of these has already been replaced.
34. A number of newer-style SPDs were prepared in 2006 to support the 2006 Local Plan and the now discontinued Area Action Plans. Four of these are proposed to be cancelled. The remaining two, the Public Realm Strategy for Burnley Town Centre SPD and the Public Realm Strategy for the Weavers' Triangle SPD both adopted in 2011 to support 2006 Local Plan are proposed to be retained for the time being.
35. The currently saved SPDs and SPGS that are to be cancelled are listed in the table below.

| Document Title | Date of Adoption | To be replaced? |
|---|------------------|--|
| Children's Day Nurseries | January 1998 | No |
| Dormer Extensions | September 1991 | Yes – to be incorporated within the Residential Extensions SPD |
| Shop Front Security Shutters | January 1998 | Yes - Replaced by Shopfront and Advertisement Design SPD |
| Design Guidelines for Burnley Wood SPD | July 2006 | In part by new Local Design Code* and/or Design Guide SPD |
| Design Guidelines for Daneshouse, Stoneyholme, Duke Bar SPD | July 2006 | In part by new Local Design Code* and/or Design Guide SPD |
| Design Guidelines for South West Burnley SPD | July 2006 | In part by new Local Design Code* and/or Design Guide SPD |
| South West Burnley Development Brief | January 2010 | In part by new Local Design Code* and/or Design Guide SPD |

* If this requirement is confirmed (see para 26)

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

36. In preparing the new Gypsy and Traveller Site Allocations DPD, the Council will need to reassess the current need for Gypsy, Traveller and Travelling Showpeople's accommodation which will require external consultants to be appointed. There will also be the costs of a separate examination and further consultation, Sustainability Appraisal and Habitats Regulations Assessment. Assuming a modest need for pitches is identified, the estimated cost for the DPD, including the Inspector's fee, is anticipated to be around £50,000 over four financial 2019/20 to 2022/23. This would be met within existing budgets.
37. The preparation of a Design Guide SPD concurrently with other work set out in the draft LDS would require additional resources of up to £40,000, dependent on the level of public participation proposed, to be spent within the financial years 2020/21 to 2021/22. Approval for the relevant budget growth is sought via the Revenue Budget report elsewhere on this agenda.

POLICY IMPLICATIONS

38. Pending the adoption of the Gypsy and Traveller Site Allocations DPD, the Council currently has an acknowledged lack of allocated sites to meet the currently identified needs of Gypsies and Travellers and this will be a material consideration in the consideration of any 'windfall' planning applications for Gypsy and Traveller accommodation.

DETAILS OF CONSULTATION

39. None.

BACKGROUND PAPERS

40. None

FURTHER INFORMATION

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