

Item No: 6
Date: 5 February 2014

WEST NORTHAMPTONSHIRE
JOINT STRATEGIC PLANNING COMMITTEE
(Special Meeting)

Proposed Main Modifications to the West Northamptonshire Joint Core Strategy as submitted – Ratification of Decision of 16th December 2013

REPORT OF THE HEAD OF THE JOINT PLANNING UNIT

1. Background

1.1 At the meeting of the Committee on 16th December 2013 it was resolved as follows:-

- 1) *That the Proposed Main Modifications, attached as Appendix 1 to the report, to the Pre-Submission version of the West Northamptonshire Joint Core Strategy, as amended by the Proposed Changes, be approved for a six week consultation period to run from 14 January to 25 February 2014;*
- 2) *That the Head of the Joint Planning Unit be authorised in consultation with the Chair of the Joint Strategic Planning Committee to agree any editorial changes required to the Proposed Main Modifications; and*
- 3) *That the Communication and Consultation Strategy, as attached at Appendix 2 to the report, to support the Proposed Main Modifications to the Pre-Submission version of the West Northamptonshire Joint Core Strategy, as amended by the Proposed Changes, be approved*

For context and reference the complete set of papers that were before the Committee for its consideration is attached at Annex A to this report.

1.2 Since the meeting of the Committee a procedural flaw has been identified. This relates to the attendance of a member of the Committee as a substitute for a member who was unable to attend the meeting. The Statutory Instrument establishing the West Northamptonshire Joint Strategic Planning Committee, *The West Northamptonshire Joint Committee Order 2008 (SI 2008 No. 1572)*, states at Article 5(5) of the Schedule to the Order that:

“A voting member who is unable to attend any meeting of the joint committee shall inform the chair of the joint committee in writing as soon as practicable and in any event not later than 24 hours before the meeting is due to take place.”.....

However it became apparent to officers after the meeting that the absent member sent written notification to the chair of the Committee some 8 hours before the start of the meeting, albeit the chair was aware of the possible absence, and consequent right for a substitute to attend, many days prior to the meeting.

Legal advice obtained from the Committee’s Monitoring Officer and Queens Counsel has established that the requirement imposed by Article 5(5) above is likely to be viewed by a Court as mandatory as opposed to merely directory. This in turn means that the decisions taken at the meeting on 16 December 2013 are susceptible to a risk of legal challenge. The appropriate course of action to address that risk is for the Committee to ratify its previous decisions, hence the recommendation in 2.1 below.

A copy of the legal advice received from Queen’s Counsel is attached to this report as Annex B.

- 1.3 The six week Public Consultation relating to the Proposed Modifications to the Joint Core Strategy has commenced and closes on 25th February. Confirmation of this as an appropriate course of action is confirmed in the legal advice received.
- 1.4 In the light of the above it is necessary to ask the committee to consider two options: the preferred option is for the Committee to ratify the decisions it made on 16th December 2013 in order to address the risk described above and to reflect the fact that, had due notice of the relevant member’s absence been given to the chair, the decisions of the committee would have been the same. The alternative option is for the Committee to resolve to reconsider the decision it reached at that meeting. If the latter option is chosen it will be necessary for that reconsideration to take place at a further special meeting to be convened as soon as practicable. This is because, on the advice of Queen’s Counsel, any requests by members of the public to address this meeting of the committee on the specific agenda item have been limited in scope to the merits of the decision whether or not to ratify and have not been permitted to extend to the detailed merits of the Proposed Changes. Such public participation would only be appropriate in the context of an agenda item that was effectively a repeat of what was before the Committee on 16 December 2013, which is clearly not the subject of this report. These two options before the committee are set out in full in Section 4 of this report.

2. Recommendation

- 2.1 That Committee ratifies the decision it made at its meeting of 16 December 2013 as set out in paragraph 1.1 above.

3. Issues

- 3.1 It is essential that all the partner local planning authorities working with the County Council have a sound Joint Core Strategy Local Plan in place as soon as possible. This is to ensure that development occurring across the area can be robustly managed and coordinated through the framework that can only be provided through such an up to date plan. It is therefore important that the Committee maintains momentum on the preparation of the Strategy and, therefore, that it does ratify the decision it made on 16th December as soon as possible.

4. Options

- 4.1 The Committee should consider all reasonable options:

Option 1 (the preferred and recommended option)

The Committee ratifies the decision it made at its meeting of 16 December 2014.

Option 2 (the non-preferred option that is not recommended)

The Committee re-considers the decision it made at its meeting of 16 December at a further special meeting to be convened as soon as is practicable.

5. Context

- 5.1 The Joint Core Strategy will be the long term strategic plan for the development of Daventry District, Northampton Borough and South Northamptonshire administrative areas – it deals with the big picture of what will happen in the future. It is a spatial policy document, which means it deals with places and the activities that happen within and between them. The Joint Core Strategy is the priority planning document and all subsequent documents must reflect what it says.
- 5.2 The Joint Core Strategy has been under preparation for some time and it is subject to an on-going public examination. The Committee is currently concerned with whether to ratify the decision made on 16 December to approve Proposed Main Modifications to the Strategy for a period of six weeks public consultation. That consultation will enable all who wish to, the opportunity to make representations on the Proposed Main Modifications. A summary of those is set out in Section 5 of the covering report the Committee considered at that date, which is attached at Annex A. As requested by the Examination Inspector, these Proposed Main Modifications are prepared in the light of further work the Inspector requested. This further work comprises:

- The Objectively Assessed Housing and Jobs needs;
- The Sustainability Appraisal Addendum Report; and
- The Habitat Regulations Assessment Addendum Report.

5.3 The Examination Inspector has agreed with the JPU that other interested parties attending the Examination Hearings that there should be, approximately, a further three days of Hearings to consider the outcomes of the further work requested and the responses to the public consultation. All those who attended the relevant Examination Hearings sessions held to date will be invited to attend again. The Inspector will decide the programme, subject matter and issues for each further session in due course. The further hearings will take place in March 2014 at the Northampton Saints Conference Centre in Northampton.

6. Conclusion

6.1 It is essential that decisive progress is maintained on the Joint Core Strategy. There is a pressing need to put the Plan in place as soon as possible to enable development across the whole West Northamptonshire area to be positively managed. It is therefore important that the Committee ratify their decision of 16 December to publish the Proposed Main Modifications to the Joint Core Strategy for Public Consultation.

David Atkinson,

Head of the West Northamptonshire Joint Planning Unit

Telephone 01604 838412

Kevin Lane,

**West Northamptonshire Joint Strategic Planning Committee Lead
Monitoring Officer and Head of Law and Governance, Cherwell District
Council and South Northamptonshire Council**

Telephone: 0300 003 107

Background Papers – Queen’s Counsel’s Advice at Annex B