

Agenda Item 15 – Urgent Item

Executive Member	Councillor Clare Curran
Strategic Management Team Lead Officer	Andrew Bircher
Author	Andrew Bircher
Telephone	01306 879237
Email	Andrew.bircher@molevalley.gov.uk
Date	8 th June 2010

Ward (s) affected	Leatherhead North; Dorking South; Holmwoods; Westcott.	Key Decision	Yes
--------------------------	--	---------------------	-----

Subject	Mole Valley Local Plan – Reserve Housing Sites.
----------------	---

RECOMMENDATIONS

That:

- 1) the decision of the Executive of the 20th October 2009 to release land at Randalls Road, Leatherhead; Clare Crescent, Leatherhead; Marley Mead, Dorking and Springfield Road, Westcott ('the reserve housing sites') for development be rescinded following the Secretary of State's announcement of the intention to abolish the Regional Spatial Strategies including associated housing targets.
- 2) the future development potential of these reserve housing sites be considered through the Local Development Framework (LDF) Land Allocation consultation process so that the views and housing needs of local residents and views of land owners can be considered in depth and in the context of revised national guidance concerning how future housing requirements are to be met.

EXECUTIVE SUMMARY

On 25th May the coalition government announced in the Queen's Speech that it intends to abolish the Regional Spatial Strategies which among other things establish the housing requirements for districts and boroughs to implement. This was followed by a letter from the Secretary of State confirming this and advising local planning authorities to have regard to his letter as a material consideration in their decisions on housing supply issues with immediate effect.

The Executive acknowledges that the decision of 20th October to release the reserve housing sites was taken in order to maintain the availability of housing supply compared to the Regional Spatial Strategy established target and that without that target having been in place, the Executive would not have taken the decision that it did.

In the light of the change of circumstances, the Executive proposes to rescind the decision of the 20th October, the consequence of which is that the sites are returned to their formal "reserve" status, and to formally include these sites alongside those being considered within the current Local Development Framework Land Allocation consultation process.

The Executive has the authority to determine the Recommendations

1.0 BACKGROUND

Release of the Reserve Housing Sites 20th October 2009

- 1.1 At its meeting on the 20th October 2009 the Executive considered a report on the supply of land for new housing development in the District. It was explained that the Council is required to demonstrate that there is a five year supply of deliverable housing land, i.e. for the period 1st April 2009 to 31st March 2014.
- 1.2 The Executive was advised that the latest assessment of available housing land (dated 31st March 2009) revealed there was insufficient housing land available in the District to meet the requirements of the then South East Plan. It was further explained that the Council's Local Development Framework Core Strategy indicates that if there should be a shortfall of housing land in the period before 2011, the Council would bring forward the development of the reserve housing sites in accordance with the provisions of Policy HSG6 of the Mole Valley Local Plan.

The Local Plan identifies five reserve housing sites at

- Randalls Road, Leatherhead;
- Clare Crescent, Leatherhead;
- Marley Mead, Dorking;
- Springfield Road, Westcott.
- Strood Green Brockham

- 1.3 The Executive recognised the need at that time to ensure there was an adequate supply of housing land and that not doing so could give rise to development proposals on Green Belt land. The Executive agreed that four of the reserve housing sites that were included in Policy HSG6 of the Mole Valley Local Plan should be released for development. The reserve site at Strood Green was not included because it had been concluded through the preparation of the Core Strategy that it was no longer an appropriate location for the development of such a large site.

Proposed Changes to the Planning Policy Framework from the Coalition Government

- 1.4 The new coalition government indicated in the Queen's Speech on 25th May that it intends to bring forward the Decentralisation and Localism Bill. The Bill's intention is to devolve greater powers to councils and neighbourhoods and give local communities control over housing and planning decisions.

The Bill will include the abolition of Regional Spatial Strategies, and return decision making powers on housing and planning to local councils.

- 1.5 On 27th May, Eric Pickles the Secretary of State for Communities and Local Government wrote to all Chief Planning Officers confirming the abolition of Regional Strategies. His letter is as follows:

I am writing to you today to highlight our commitment in the coalition agreements where we very clearly set out our intention to rapidly abolish Regional Strategies and return decision making powers on housing and planning to local councils. 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.

I will make a formal announcement on this matter soon. However, I expect Local Planning Authorities and the Planning Inspectorate to have regard to this letter as a material planning consideration in any decisions they are currently taking.

The impact of this announcement for Mole Valley

- 1.6 The coalition government's proposals and the Eric Pickles letter have significant and far reaching consequences for the preparation of planning policy and deciding the level of new housing provision at the local level. In particular the intended abolition of the South East Plan (the Regional Spatial Strategy that established the housing requirements for Mole Valley) leaves a question mark over how much new housing local planning authorities should be planning for the future and the status of the housing requirements in the LDF Core Strategy. The figures that are contained within the South East Plan, and hence the figures that are at the heart of our local delivery plans for the District, are now subject to significant uncertainty. As such the need to meet a specific housing supply figure will be subject to further review.
- 1.7 The announcement about the Decentralisation and Localism Bill, the Secretary of State's letter and the general uncertainty surrounding targets for house building has led the Executive to reconsider the justification for the release of the four reserve housing sites given that the need to maintain supply equivalent to the target was the stated reason for the release in October 2009.

2.0 OPTIONS

- 2.1 The Executive could respond to this changing environment in one of two ways.

Option 1: Rescind the decision to release the reserve housing sites which was taken by the Executive on the 20th October 2009

The Executive could rescind the decision of the 20th October 2009 on the grounds that the proposed abolition of the South East Plan and its housing requirements has cast doubt on the need to release the reserve housing sites. It will then be for the Council to respond to whatever plan making proposals and mechanisms for identifying future housing requirements that the coalition government introduces.

This would involve a review of the existing Local Plan allowing for the reserve sites to be assessed alongside other sites. This process would include extensive public consultation and public examination – assuming the current processes of preparing LDF documents remains in place.

Option 2: Do not rescind the decision to release the reserve housing sites which was taken by the Executive on 20th October 2009.

This option sees the current process continuing. Planning applications may be submitted by the owners of the reserve housing sites and applications will be considered on their merits having regard to all relevant material planning considerations. These would include the Secretary of State's written intention to abolish the Regional Spatial Strategy through the proposed Decentralisation and Localism Bill, the contents of the letter from the Secretary of State, the District's housing requirements and the provisions of the LDF Core Strategy.

This approach would be in accordance with current Development Plan for Mole Valley and would ensure the Council can demonstrate 5 years worth of housing land supply against the current targets in the South East Plan. It is assumed that, after the proposed abolition of the South East Plan, the local authority would develop its own housing needs figures (which may have implications on the current reserve sites) and would replace the current framework.

Further considerations

- 2.2 The coalition government's intention to abolish Regional Spatial Strategies and the Secretary of State's letter have introduced a significant degree of uncertainty as to the current status of the District's housing land requirements for the next five years and the need to release the reserve housing sites.
- 2.3 Until there is guidance from the coalition government about establishing local house building requirements the only approved housing requirement figures are those in the South East Plan. These figures establish the five year housing requirements that the Council has to demonstrate it can meet. The consequence of not being able to meet these requirements could be pressure to develop sites which are safeguarded for other uses or are in areas of development restraint, including the Green Belt. This can lead to planning by appeal rather than a plan led approach by the Council, with the Planning Inspectorate, as instructed by the Secretary of State's letter, having to take the same material regard to the abolition of the Regional Spatial Strategy in reaching a determination.
- 2.4 On the basis of the housing requirements in the South East Plan , the Council is not able to demonstrate a five year supply of housing land without including the reserve housing sites.
- 2.5 The justification for not releasing the reserve housing sites for development is dependent on the weight to be given to the proposed abolition of the Regional Spatial Strategies and the Secretary of State's letter and the understanding of what might replace it. This is uncharted territory and there is a risk that land owners will, notwithstanding the Council's decision to rescind its decision to release the reserve housing sites and undertake up to date consultation about the future of the reserve sites, submit planning applications for their development. Moreover, applications to develop other safeguarded land, including Green Belt land could also be triggered by the decision not to release the reserve housing sites and the lack of a five year housing land supply.

Such applications would have to be determined through the planning process in the usual way. Appeals may be upheld although there is huge uncertainty at the moment as the Planning Inspectorate will be finding it difficult to make decisions in the absence of a firm policy steer from the coalition government. If decisions are taken to appeal there may be a clearer view by the time the appeal is heard, but the Planning Inspector's perspective of the level of materiality of the Secretary of State's letter may lead them to the view that the current policies should prevail until such time as they are replaced.

- 2.6 If the Executive decides to rescind its decision to release the reserve housing sites and include them within the Local Development Framework Land Allocation

consultation the Council could be liable to an application for costs to cover the abortive work undertaken by land owners and their agents in the work they have done so far to prepare development proposals for the reserve housing sites. Further costs could arise as a result of any subsequent appeal.

- 2.7 If the Executive decides not to have material consideration to the Secretary of State's letter and not to rescind its decision to release the reserve housing sites the Council could be liable to an application for costs to cover the work undertaken by objectors to development proposals from this date to the point of eventual determination. Further costs could arise as a result of any subsequent appeal.

3.0 CORPORATE IMPLICATIONS

Legal Implications

This report is considered under the urgency powers due to the uncertainty surrounding the planning policy framework that will replace the current system and the level of future house building that should be planned for, given the Secretary of State's explicit instruction that Local Planning Authorities and the Planning Inspectorate have regard to the announcement of the proposed abolition of Regional Spatial Strategies as a material planning consideration in any decisions they are currently taking.

It is desirable to avoid developers undertaking unnecessary work to develop proposals for the reserve housing sites the need for whose development the Council believes is uncertain.

As the item has not been included in the published Forward Plan, in accordance with the Constitution, the Leader of the Executive has obtained the agreement of the Chairman of the Scrutiny and Audit Committee that the taking of the decision cannot be reasonably deferred without failing to respond to the Secretary of State's instruction to take the announcement of the proposed abolition of Regional Spatial Strategies as a material consideration to current decisions.

The Executive is able to rescind the decision of the 20th October as six months has passed from the date of the original decision.

If the Executive decides to rescind its decision to release the reserve housing sites it would be doing so without any consultation with the owners of the reserve housing sites (although they have been informed of the contents of this report) or with other parties interested in the site, including residents with housing need. This could trigger a legal challenge from parties aggrieved by the Council's decision to change its approach to the release of the reserve housing sites by including them within the current Local Allocations consultation. If such a challenge was successful the Executive's decision to rescind would be quashed.

If the Executive decides **not** to rescind its decision to release the reserve housing sites it would be doing so without any consultation with other interested parties. This could trigger a legal challenge from parties aggrieved by the Council's decision not to respond to the Secretary of State's instruction to give material consideration to the announcement of the proposed abolition of the Regional Spatial Strategies. If such a challenge was successful the Executive's decision not to rescind would be quashed.

Financial Implications - There is risk that the Council could be liable to costs if it refused planning permission for the development of any of the four reserve housing sites and was

found to have acted unreasonably in doing so. If developers are successful in challenging the Executive's decision, the Council would incur costs.

The Council is in uncharted territory and if planning applications are submitted it may be one of the first to test the impacts of the coalition government's announcement to abolish the Regional Spatial Strategies through the appeals process. There can be no clear guidance on these implications.

Risk Implications – a number of the risks associated with this report are outlined in “further considerations” above.

Equalities Implications – If the Executive decides to rescind its decision to release the reserve housing sites for development the opportunity to provide affordable housing at those locations will be suspended pending the outcome of the current Land Allocations consultation.

Sustainability Issues – The development of the reserve housing sites could help contribute to the delivery of sustainable communities through the provision of a mix of dwelling types and tenures. The non-development of the reserve housing sites could help to protect aspects of local environment.

BACKGROUND PAPERS - None