

Luton and South Bedfordshire Joint Committee Date: 24 June 2011 Agenda Item No. 7	
AUTHOR	Lachlan Robertson
SUBJECT	Report of the Progress of the Luton and southern Central Bedfordshire Core Strategy.
PURPOSES	To advise the Joint Committee of the current position following submission of the Luton and southern Central Bedfordshire Core Strategy.
RECOMMENDATIONS	This report is for information only.
REASON FOR RECOMMENDATIONS	This report includes background information that will assist the Joint Committee in its decisions on later items on the agenda.

1 BACKGROUND

- 1.1 The Joint Committee agreed to publish the Luton and southern Central Bedfordshire Core Strategy on the 22 October 2011. This was undertaken and the pre-submission consultation followed over the period November 2010 to January 2011. The Core Strategy and a schedule of Proposed Changes that the JTU considered to be minor as a result of the consultation responses received were submitted formally on the 8 March 2011. The Planning Inspectorate appointed Mr David Vickery as the Inspector who would be undertaking the Examination.
- 1.2 All the relevant correspondence with the Planning Inspector is on the www.shapeyourfuture.org.uk website. Of particular note is the Planning Inspector's letter of 15 April 2011 which stated:

“The Inspector has undertaken a preliminary assessment of the Core Strategy and other submitted material and he has identified a number of significant concerns relating to the soundness of the document. Therefore, in order to inform the way forward for the Examination, the Inspector has called an Exploratory Meeting (EM).”

1.3 The Exploratory Meeting was set for the 18 May 2011. The Joint Technical Unit submitted a reply on the 6 May 2011 which included a letter of response, a number of appendices and a number of Background Papers related to the concerns raised. The letter also indicated that in order to respond to many of the concerns raised, it would be necessary to seek a series of decisions from the Joint Committee. This meeting would, at its earliest, be the 24 April 2011.

1.4 The Exploratory Meeting was duly held. A copy of the Papers submitted to the Exploratory Meeting, including the Background Papers, is attached as a separate **Appendix 1** to this report. This material will be referred to throughout the rest of this Agenda and is listed here to assist Members and the Public to find relevant material as they read the items on this Agenda.

- 1A) Letter Advising of Exploratory Meeting
- 1B) Exploratory Meeting Agenda
- 1C) Summary of the Inspector's Concerns
- 1D) JTU Letter 6 May 2011
- 1E) JTU Letter Appendix A – Programme for Potential Changes
- 1F) JTU Letter Appendix B – Planning for Growth letter 31/3/11
- 1G) JTU Letter Appendix C – Letter from Adrian Cannard
- 1H) JTU Letter Appendix D – Inspector Advisory Visit (13 –19 January 2009)
- 1I) JTU Letter Appendix E – Updating the Local Development Scheme
- 1J) JTU Letter Appendix F – Suggested Changes to the Monitoring Section
- 1K) JTU Letter Appendix G – Gypsy and Travellers
- 1L) Background Paper 1: Housing Numbers
- 1M) Background Paper 1a: Housing Numbers – SHLAA
- 1N) Background paper 2: Employment
- 1O) Background Paper 3: Proposals Map and Key Diagram
- 1P) Background Paper 4: Statement of Community Involvement
- 1Q) Background Paper 5: Addendum to the PAS Soundness Toolkit
- 1Qa) Background Paper 5: Appendix A (Luton)
- 1Qb) Background Paper 5: Appendix A (Central Beds)
- 1Qc) Background Paper 5: Appendix B
- 1R) Background Paper 6: Contingency Planning
- 1S) Background Paper 7: Green Belt
- 1T) Background Paper 8: SFRA Level 2
- 1U) Background Paper 9: Strategic Transport Infrastructure Requirements
- 1V) Background Paper 10: Delivering and Funding the Core Strategy
- 1Va) Background Paper 10: Appendix A
- 1Vb) Background Paper 10: Appendix B
- 1W) Background Paper 11: Delivery of an Improved East of London Luton Airport

2 RESULT OF THE EXPLORATORY MEETING (EM)

2.1 The Inspector, following appropriate procedure, set out at the EM what decisions were available to him:

“He will explain the possible outcomes of the EM, namely: - the Examination is temporarily suspended to enable further work on the CS; - the concerns are resolved now and the Examination continues; - the concerns are not resolved but the Examination continues; - it is decided to withdraw the CS.”

2.2 The Inspector has produced a Note of the Exploratory Meeting and this is attached as **Appendix 2**. From this note and the material in Appendix 1, the JTU consider that there are a number of decisions on particular issues that have been raised that the Joint Committee need to take and submit to the Inspector in order that he may proceed to decide which outcome is appropriate. The issues that require decisions are:

- To amend the Joint Committee’s Delegated Authority arrangements. (see later agenda item).
- To consider the impact of the re-instatement of the Regional Strategy following the legal challenges to their initial revocation by the Government and also the impact on the longer term of the future enactment of the Government’s Localism Bill. (see later agenda item).
- To consider the legal opinions expressed on the legality of the Proposals Map as submitted and any changes that are to be made as a result of that consideration.
- To consider the legal opinions expressed on the legality of the consultation procedures.
- To consider the allocation of and withdrawal of land from the Green Belt at Sundon Quarry for the purposes of a Rail Freight Interchange and associated employment uses and access.
- To consider the options for changes to the allocation of the North Luton Strategic Site Specific Allocation and associated access.
- To clarify the Joint Strategy’s intentions for the proposed replacement of the Luton Town Football Club stadium.
- To agree an additional set of proposed Changes to the text and policies of the Core Strategy to aid clarity.

- To consider the Inspector's comments in respect of the East of London Luton Airport Employment recommendation contained within the CS. In particular, to consider the implications of the decision on the Stevenage Borough Council's Core Strategy.
- To consider changes to the Contingency Plan within the CS to aid clarity.
- In the light of the above decisions, whether to recommend that the Examination into the Core Strategy be continued, deferred or that the Core Strategy is withdrawn, together with a consequential timetable for the next steps that need to be taken.
- To consider the Inspector's stated doubts about how realistic will be the delivery of the policies in this Core Strategy without a clear commitment to its implementation by one of the two responsible constituent authorities.

2.3 In addition, the following matters, whilst not requiring a decision of the Joint Committee, will nevertheless be important to its deliberations.

- To note that further work is required on the updating of evidence in the light of the above.
- To note the Budget and Audit position of the Joint Committee. (see later agenda item).
- To note that further work is required on revising the Luton Borough Council and Central Bedfordshire Council Local Development Schemes to provide for future development plan documents to deliver the Core Strategy.

2.4 It is recommended that Members also take into account the specific comments made by the Inspector as expressed in the Note to the EM (Appendix 2):

"3. The Inspector's report will be binding on the JC but it is not bound to adopt the CS if it chooses not to do so. As his report is binding it limits the changes that can be made. In a CS, changes involving clarifications are possible, or possibly bringing the CS into line with government policy, or deleting part of the CS, provided the remainder is satisfactory in its own right. Any other essential significant changes to achieve a sound plan that have not been subject to public consultation and Sustainability Appraisal are likely to be beyond the Inspector's remit and would result in the CS being found unsound, necessitating the JC returning to an earlier stage and re-running the process. All parties thus need to be aware of the implications of seeking changes."

2.5 The implications of this are that whenever the Joint Committee decide to make essential significant changes, it will be necessary to undertake further public consultation.

- 2.6 More recently, the Inspector has issued a further note referring to the decision on the 27 May 2011 by the Court of Appeal on the case between the Secretary of State and Cala Homes (South). A copy is attached as **Appendix 3**. The implications of this are that it casts doubt upon the lawfulness of the Core Strategy. This is a matter that must be decided upon by the Joint Committee before the decisions set out in paragraph 2.2 above are made. This is the subject of the next report on this agenda.
- 2.7 Should it be resolved in that next agenda item that the Joint Committee wish to proceed, a full report dealing with all the necessary proposed focussed changes to the Core Strategy set out above will be placed before the Joint Committee on the 29 July 2011 Meeting.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications directly from this Report as it is for information only. However, the consequential decisions made elsewhere within this Agenda will have financial implications.
- 3.2 Should the Joint Committee wish to defer the Core Strategy there will be additional work involved. However the costs can be contained within the existing budget for the JTU. Additional costs will be incurred in:
- additional consultancy and legal fees;
 - consultation and publication costs; and
 - opportunity costs due to existing staff being retained.
- 3.3 Should the Joint Committee wish to withdraw the Core Strategy, there will be limited direct costs involved, though there will be substantial but unknown costs arising from the lack of a Core Strategy Development Plan Document for an unspecified period.

4 LEGAL IMPLICATIONS

- 4.1 There are no legal implications arising directly from this Report as it is for information only. However, the consequential decisions made elsewhere within this Agenda will have legal implications on the status of the Core Strategy, its ability to be found “sound” and the consequential position of the participating Councils when dealing with Development Planning and Development Management decisions in the future.

5 EQUALITIES IMPLICATIONS

- 5.1 There are no equalities implications as all processes will still be subject to normal equalities impacts assessments.