

SLOUGH BOROUGH COUNCIL

REPORT TO: Planning Committee **DATE:** 19th February 2020

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WARD(S): ALL

PART I **FOR DECISION**

CHILTERN AND SOUTH BUCKS LOCAL PLAN DUTY TO COOPERATE

1. Purpose of Report

- 1.1 The purpose of this urgent report is to seek Member's agreement that this Council no longer agrees that Chiltern and South Bucks Councils have complied with the Duty to Cooperate in the preparation of the Chiltern and South Bucks Local Plan 2036. Representations will then be made about this at the Local Plan Examination which opens on 17th March.

2. Recommendation(s)

The Committee is requested to resolve:

- a) That, notwithstanding this Council's previous representations to the Chiltern and Chiltern and South Bucks Local Plan 2036, it is no longer considered that the Councils have met the Duty to Cooperate in the preparation of the Local Plan.
- b) Representations be made to the Local Plan Examination explaining the Council's position with regards to the Duty to Cooperate.

The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

3a. Slough Joint Wellbeing Strategy Priorities

Ensuring that local needs are met within Local Plans will have an impact upon the following SJWS priorities:

4. Housing

3b. Five Year Plan Outcomes

Ensuring that Local Plans meet local housing needs will contribute to the following Outcomes:

- *Slough will be an attractive place where people choose to live, work and visit.*
- *Our residents will have access to good quality homes.*

4. **Other Implications**

(a) Financial

There are no financial implications.

(b) Risk Management

<i>Recommendation</i>	<i>Risk/Threat/Opportunity</i>	<i>Mitigation(s)</i>
That the Committee	Failure to respond could affect	Agree the recommendations.

(c) Human Rights Act and Other Legal Implications

There are no Human Rights Act Implications as a result of this report.

(d) Equalities Impact Assessment

There are no equality impact issues

5. **Supporting Information**

Introduction

5.1 A report on Chiltern and South Bucks Local Plan 2036 was considered by this Committee at its meeting on 3rd July 2019. The Publication Version of the Plan was published for public consultation and as a result it was resolved that:

- That the objections to the South Bucks and Chiltern Local Plan on the grounds that it fails the tests of soundness for the reasons set out in this report be agreed.
- Delegated powers be given to the Planning Policy Lead Officer to make amendments to the Council's objections prior to their formal submission.
- That the Local Plan Inspector be requested to agree that there should be an immediate partial review of the Chiltern and South Bucks Local Plan in order to bring forward the Northern Expansion of Slough
- That a Memorandum of Understanding should be sought with South Bucks and Chiltern Councils.

5.2 A copy of the Committee report is included in Appendix 1 for information.

5.3 The conclusions to the Committee report, as set out in section 6, explain that it was recommended that the Council should object to the Chiltern and South Bucks Local Plan for the following reasons:

- The Plan is not seeking to meet all of its housing needs in full; it is exporting housing that is needed locally to Aylesbury; and has not considered this Council's proposals for a Northern Expansion of Slough in order to meet our unmet needs.
- The overall result is that only around half of the houses needed are actually going to be provided in the Chiltern and South Bucks area which are already two of the most unaffordable Districts in the Country.
- It is not "positively prepared" because it has not sought to meet the area's objectively assessed housing needs or the unmet need from Slough.
- It is not "justified" because it has not considered reasonable alternatives such as meeting more of the unmet housing needs.
- It is not "effective" because it is not based on effective joint working on cross-boundary strategic matters such as the need to meet Slough's unmet needs.

5.4 These objections were subsequently submitted as the council's formal representations.

5.5 One of the issues considered in the report was whether the Councils had met the Duty to Cooperate. This places a legal duty on local planning to engage constructively, actively and on an ongoing basis to maximise the effectiveness of local plan and preparation in the context of strategic cross boundary matters.

5.5 In this context, the need for the Chiltern and South Bucks Plan to consider meeting some of Slough's unmet housing needs in the form of a Northern Extension to Slough, as formally requested by this Council, is clearly a "strategic cross boundary matter".

5.5 The Committee report noted that

- this Council has consistently requested that a Northern Expansion should be provided in the form of a new "garden suburb". This was originally suggested as the most sustainable way of meeting South Bucks' needs but has also been promoted as a way of meeting Slough's unmet needs.
- there is no evidence that the need to meet some of Slough's unmet need has been considered in the Local Plan process.
- we are not aware of any public Committee report in which the proposed Northern Expansion to meet Slough's unmet needs has been considered by Chiltern or South Bucks Councils.

- The report that went to the Joint Committee on 1st May 2019 seeking approval for the publication of the Local Plan did not mention the need to meet Slough's unmet need as an outstanding cross boundary strategic matter that needs to be addressed but paragraph 4.9 of the report stated that no formal requests have been received to meet any unmet housing needs of neighbouring areas.
- At a Special Meeting on 11th September, the Chiltern and South Bucks Joint Committee considered a report on the Proposed Publication of the Draft Report on Northern Extension of Slough by Slough Borough Council. This stated that this Council's intention to publish the draft Atkins report meant that it was acting outside of its relevant statutory powers, due process and the Duty to Cooperate.

5.6 Paragraph 5.87 of the Committee concluded :

As a result it can be seen that there has been a lack of progress with joint working on this strategic cross boundary matter until it was agreed that we should undertake a joint Growth Study along with the Royal Borough of Windsor and Maidenhead.

5.7 The "Wider Area Growth Study" is a government funded study which is intended to address issues arising from growth that is anticipated across the area.

5.8 Part 1 of the study, which defines a broad 'study area', in which new housing development could provide reasonable substitutes for homes in the core places has now been completed by Consultants PBA. Part 2, which has not yet started, will look at supply, capacity and constraints in the study area to identify specific locations within its boundary where housing development could be deliverable and sustainable.

5.9 Paragraph 5.91 of the Committee report explained that:

One of the outcomes of the Study was that it could be used as part of the evidence base to support future plan making and Duty to Cooperate work. It was hoped that it would have been completed in time to inform the preparation of the Chiltern and South Bucks Local Plan. It is now envisaged that the results can be presented to the Inspector at the examination in support of our request for an immediate partial review of the Plan.

5.10 It was on this basis that it was concluded in paragraph 6.10 of the Committee report that:

It is not considered that Chiltern and South Bucks have failed the Duty to Cooperate, because they are participating in the joint Wider Growth Study which is seeking to resolve some of the outstanding issues.

- 5.11 As a result the Council's formal representations to the Chiltern and South Bucks Local Plan explained this and stated that the Duty to Cooperate had been met.

Change in Circumstances

- 5.12 Since the Council submitted these representations an number of things have happened.
- 5.13 Firstly Chiltern and South Bucks have produced a Duty to Cooperate Statement dated September 2019.
- 5.14 Secondly the Inspectors wrote a letter on 12th November asking some Initial Questions for the Examination.
- 5.15 Thirdly Chiltern and South Bucks Councils have published their response to the Inspectors' questions.
- 5.16 Finally Chiltern and South Bucks have produced a Draft Statement of Common Ground which they have asked this Council to agree and sign.
- 5.17 There are a number of issues that arise from all of these documents, including the fact that Chiltern and South Bucks appear to continue to allege that this Council has failed the Duty to Cooperate because of the way that it has promoted the Northern Expansion of Slough.
- 5.18 The key point is that Chiltern and South Bucks have made it clear that they have not and will not be taking the results of Stage 1 of the Wider Growth Area Study into account in the consideration and examination of the current Local Plan. They state that this will only be used to feed into the future Buckinghamshire wide Unitary plan.
- 5.19 If this is the case then any meetings that have taken place to discuss the Wider Area Growth Study cannot count towards meeting the Duty to Cooperate with regards the current plan.
- 5.20 One of the initial questions asked by the Inspectors was about the Duty to Cooperate with Slough over the proposed Northern Extension. They stated that it would be useful if the Councils could provide details of any meetings or correspondence with Slough Borough Council including actions and outcomes?
- 5.21 If the meetings to discuss the Wider Area Growth Study are excluded the last meeting to take place with Members and Officers was on 12th September 2017. At this we were informed that a Special Meeting on 11th September, the Chiltern and South Bucks Joint Committee considered a report on the Proposed Publication of the Draft Report on Northern Extension of Slough by Slough Borough Council. This stated that this Council's intention to publish the draft Atkins report meant that it was

acting outside of its relevant statutory powers, due process and the Duty to Cooperate. As a result the Head of legal and Democratic Services was authorised to take legal proceedings under section 222 of the Local Government Act.

- 5.22 An agreement was reached that no legal action would be taken if Slough Borough Council included a covering note in the document from Chiltern and South Bucks District Councils.
- 5.23 In the light of this it has not been possible to carry out any joint working on the proposed Northern Expansion as we had hoped and no further meetings at Member or Officer level have taken place.
- 5.24 Under the circumstances it is clear that Chiltern and South Bucks have not met the legal duty on local planning to engage constructively, actively and on an ongoing basis to maximise the effectiveness of local plan and preparation in the context of this strategic cross boundary matter.
- 5.25 As a result it is recommended that, as a result of the clarification of the status of the Wider Area Growth Study, this Council should now make it clear that it no longer agrees that the Council's have met the Duty to Cooperate and appropriate representations should be made at the forthcoming Examination.

6 Conclusion

- 6.1 The clarification by Chiltern and South Bucks Councils that the results of Part 1 of the Wider Growth Area Study will not be fed into the consideration or examination of the Chiltern and South Buck Local Plan means that this Council now considers that they have not met the Duty to Cooperate.
- 6.2 This change will be made in representations to the Examination which begins on 17th March.

7. Supporting Documents

'1' Planning Committee Report 3rd July 2019 – Representations to the Chiltern and south Bucks Local Plan 2036 – Publication Version