

Scrutiny Committee

Report of Head of Devolution and Government

Author: Andrew Down

Telephone: 01235 422300

Textphone: 18001 01235 422300

E-mail: andrew.down@southandvale.gov.uk

Cabinet member responsible: Matthew Barber

Tel: 07816 481452

E-mail: matthew.barber@whitehorsedc.gov.uk

To: Scrutiny Committee

DATE: 30 November 2017

Oxfordshire Joint Spatial Plan

Recommendation(s)

(a) That the committee notes the contents of this report and makes any recommendations to Cabinet regarding a joint spatial plan for Oxfordshire

Background and purpose of report

1. On 22 November the Chancellor of the Exchequer announced in his budget speech a housing and growth deal for Oxfordshire. This deal is currently in the form of an outline agreement between the government, all six Oxfordshire authorities, and the Local Enterprise Partnership.
2. A detailed delivery plan is to be developed by the councils with the Homes and Communities Agency (HCA, to be known in future as Homes England) by 31 January 2018 and the deal will then be subject to approval by each council.
3. The deal is positioned by the government in the broader context of growth in the Cambridge – Milton Keynes – Oxford corridor. A government statement regarding the growth corridor is attached as Appendix 1, and the Oxfordshire housing and growth deal is attached as Appendix 2. A letter from the leader of the council to the Secretary of State, dated 21 November, is attached as Appendix 3.
4. Through the deal, Oxfordshire commits to:
 - The submission and adoption, subject to the inspection process, of a joint statutory spatial plan covering all five district councils in Oxfordshire, by 2021
 - Plan for and support the delivery of 100,000 new homes between 2011 and 2031 – backed up with a credible plan for delivery, outlining interim milestones and targets as agreed with the HCA and Government

5. Through the deal, Government commits to:
 - Provide Oxfordshire with up to £215m funding – see below for breakdown
 - Explore options to grant Oxfordshire certain time-limited planning flexibilities, subject to consultation where appropriate
6. Government agrees to provide Oxfordshire with a comprehensive funding package of up to £215m to secure this ambitious housing and growth deal, as follows:
 - Up to £60m for affordable housing, provided this delivers sufficient value for money to be agreed in the forthcoming delivery plan
 - Up to £150m funding for infrastructure to unlock key housing sites, to be administered £30m per annum for five years
 - £5m resource funding to boost capacity to get a joint plan in place and support housing delivery.
7. At a meeting of the Oxfordshire Growth Board on 30 October 2017, the Board resolved to recommend to constituent councils:
 - that they work together to take forward a Joint Spatial Plan; and
 - within the first stages of the project and in discussion with government, seek to agree the most appropriate arrangements to take forward a Joint Spatial Plan; and
 - that the Chief Executives of the Oxfordshire Local Authorities take forward the necessary programme of work to achieve a Joint Spatial Plan.
8. The purpose of this report is to discuss governance options regarding the development of the joint spatial plan.

Joint statutory spatial plan for Oxfordshire

9. Although 2021 might seem a long way into the future, the timetable for preparing a joint statutory spatial plan (JSSP) is actually quite tight, and must be dovetailed with the current local plan timetables in each district.
10. The first milestone in the agreement is the preparation of a statement of common ground by 31 March 2018.
11. A joint development plan can be prepared under Section 28 or 29 of the Planning and Compulsory Purchase Act 2004. Section 37(4)(a) of the Act sets out which bodies are defined as Local Planning Authorities, which is defined as district councils and includes county councils only where there is no district council, so in Oxfordshire the city and the four districts are the local planning authorities.
12. Under Section 28 a joint plan can be progressed using for example a joint steering group, constituted by members from each local planning authority and supported by officers. It cannot have a joint committee, as any decisions are made by each of the participating local planning authorities that the plan covers. In other words, across the plan area, all the relevant planning authorities involved would need to

approve the plan at each relevant stage in accordance with their own constitutions / schemes of delegation. If agreement is delayed or not reached at all, then there is a risk of not securing an up to date development plan with the consequent risks of not having a five year housing land supply or meeting the new housing delivery test.

13. By comparison, under Section 29, a statutory joint committee would be set up to prepare the joint plan as a joint planning authority. Setting up a joint committee requires an order (statutory instrument) to be laid before Parliament defining its scope, remit and membership. Once the plan is adopted by the joint committee it is as if it has been adopted by each of the participating planning authorities. Such a committee fulfils its responsibilities without reference to the predecessor authorities, other than via its membership.
14. It is important to note that under Section 29 the county council plays a role in plan making, which was lost following legislative changes to remove structure plans and leaving counties with only the planning function of minerals and waste. So, under Section 29 it is possible for the county to team up with the districts to produce a plan. Also under Section 29 any changes in the parameters or function of the joint committee including its abolition would require agreement by the Secretary of State and thus modification to the Order. This carries a risk that the Government may not wish or support the changes requested by the participating councils, should they wish to extend the committees remit, or indeed abolish it.
15. A statutory plan allows the councils to control the function and remit of the plan, and requires that the plan must be robust and 'sound' to pass an examination, whereas a non-statutory plan could be less robust and would have limited weight in determining planning applications at planning committees or by an inspector in a planning appeal. The main differences between a statutory and non-statutory plan is the cost of the examination process and its weight given in the determination of planning applications.

Financial Implications

16. In reaching its decision to recommend a JSSP, the Oxfordshire Growth Board considered a business case which estimated the cost at between £2.9m and £3.9m. This cost would be incurred over a period of approximately three years and would be split between the six Oxfordshire authorities.
17. It is expected that there would be some corresponding savings as work done in production of a JSSP would no longer need to be carried out by each individual authority.
18. The housing and growth deal includes a sum of £5m in capacity funding which could in part be used by all of the Oxfordshire councils to fund the production of the JSSP.
19. Further work on the financial implications, fund-holding and governance arrangements is required during the period up to 31 January 2018 in which the delivery plan is to be drawn up for the housing and growth deal.
20. The delivery plan will be subject to approval by full council and the financial implications will be factored into both the budget for 2018/19 and the medium term financial plan.

Legal Implications

21. Legal implications are covered in the body of the report.

Conclusion

22. The housing and growth deal has not specified whether the JSSP is to be prepared under Section 28 or 29 of the Planning and Compulsory Purchase Act 2004.

Overall, seeking an Oxfordshire JSSP under Section 28 of the Act is simpler, allows greater flexibilities and gives the ultimate power for deciding where development is planned to each local planning authority.

23. Officers suggest that the Section 28 route to a plan is the most appropriate to retain each council's sovereignty.

24. Alternatively, if a Section 29 route to a plan were to be required, the council still has the power to ensure that its impact is limited to areas that the council is comfortable with, due to the fact that a section 29 committee and plan would require each constituent council to agree to the proposal before the secretary of state considers making an Order.

25. This committee is invited to discuss the options for a JSSP and to make any recommendations to Cabinet.