Council Report
Report of the Executive Head of Governance
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Date: 26 February 2014

E-Petition – Strategic Housing Market Assessment (SHMA)

Recommendation to Council:
The Council is asked to debate the subject matter of an e-petition and to indicate to the e-petition organiser what action it intends to take.

Reason for Recommendation:
To comply with the requirements of the Council’s adopted Petition Scheme.

1. Purpose of report

1.1 The purpose of this report is to inform the Council of the receipt on 4 February 2014 of an e-petition which has attracted, as at 18 February 2014, 1,114 e-signatures from people who live, work or study in the Borough. The e-petition calls on the Council:

“to prepare a new SHMA and reject the consultant’s draft report as inadequate”.

1.2 The e-petition organiser has set a deadline of 19 February 2014 for collection of e-signatures.

1.3 The e-petitioner’s supporting statement reads as follows:

“The consultant’s report is unsound as the foundation for a draft SHMA. It contains errors, subjective assessment and manipulated data, and so needs to be redone. It is subject to challenge.

Guildford needs an objectively prepared SHMA which is proportionate and realistic, meets proper requirements and will not be overturned, and will be useable in the context of the Local Plan. We therefore petition the councillors to prepare a new SHMA as soon as possible in consultation with community groups and parish councils.”
1.4 Under the terms of our adopted petition scheme, the Council is invited to consider and respond to the petition.

2. **Strategic Priorities**

2.1 Formal consideration by the full Council of proposals contained in a petition is consistent with the Council’s desire to be open and accountable to its residents and to deliver improvements and enable change across the Borough.

3. **Background to subject matter of e-petition**

3.1 A Strategic Housing Market Assessment (SHMA) is a requirement of the National Planning Policy Framework, paragraph 159, that requires local authorities to have a clear understanding of the housing needs in their area. The NPPF goes on to require us to prepare a SHMA, working with neighbours where housing market areas cross administrative boundaries.

3.2 The SHMA that has been prepared by GL Hearn is compliant with the requirements in the NPPF and is also compliant with the 2007 SHMA Practice Guidance and the draft National Planning Practice Guidance.

3.3 Guidance is clear that any assessment of objectively assessed housing need should not take into account constraints whether those relate to land supply, environmental constraints or infrastructure provision. These are all relevant considerations however when bringing together all of the evidence to help support the development of the Local Plan.

3.4 The Draft SHMA that GL Hearn has produced identifies the level of objectively assessed housing need for the borough over the plan period. This is not the number that the Local Plan will adopt but it does form the basis for the consideration of what our number should be. The draft SHMA has identified a range of between 671 and 800 dwellings per annum as the need in the borough taking into account all the factors that the guidance requires us to.

3.5 The draft SHMA also identifies the Strategic Housing Market Area that Guildford has the strongest links with. The area identified includes the boroughs of Woking and Waverley in addition to Guildford itself. The draft SHMA acknowledges that Guildford also has a relationship with a number of other local councils and that this will be an important component of future Duty to Cooperate matters.

3.6 GL Hearn are well respected consultants whose appointment has been endorsed by Tim Leader who has been appointed as the Critical Friend to the Local Plan as well as Keith Holland from the Planning Inspectorate.

3.7 We are currently carrying out an engagement process on the draft SHMA and will take on board comments relating to any errors in calculation. We are also seeking to secure an independent review of the draft SHMA to ensure that it provides a sound basis for the identification of our objectively assessed housing need. Following this independent assessment, we should be able to rely on the final SHMA and other local plan evidence to help inform the level of accommodation we can provide over the plan period up to 2031.
3.8 There is very clear guidance about how the SHMA should be produced and it is considered that the draft SHMA produced by GL Hearn follows this guidance. Any changes to the SHMA will also need to be in line with current guidance.

4. **The Council’s Petition Scheme**

4.1 The Council’s adopted petition scheme provides that where a petition contains more than 400 signatures in relation to an issue that affects a single ward, or 500 signatures in relation to an issue affecting two or more wards, it will be referred to the full Council for debate. The Council will decide how to respond to the petition at the meeting.

4.2 The petition scheme states that our response will depend on what a petition asks for, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a meeting of the Council or Executive
- holding an inquiry into the matter
- holding a public meeting
- holding a meeting with petitioners or the petition organiser
- undertaking research into the matter
- writing to the petition organiser setting out the Council’s views about the request in the petition
- referring the petition to one of the Council’s scrutiny committees for consideration

**Procedure for dealing with the petition at the meeting**

4.3 Under the Council’s petition scheme, the petition organiser is given a period of up to five minutes to speak to the subject matter of the petition at the meeting. Councillors will have an opportunity to ask questions of the petition organiser before the formal debate on the petition.

4.4 In accordance with the rules of debate in Council Procedure Rule 11 (a), at the start of the debate, a motion as to how the Council should respond to the petition should be moved formally and seconded in the usual way. Any such motion may be subject to amendment. After the debate and before a final decision or vote is taken on the Council’s response to the petition, the petition organiser will be granted a right of reply for a further period of up to five minutes.

4.5 Councillors’ comments during the debate shall not exceed five minutes in length.

5. **Financial Implications**

5.1 None

6. **Legal Implications**

6.1 In preparing a new Local Plan, the Council is bound to observe the statutory procedures set out in the Planning and Compulsory Purchase Act 2004, as amended, and secondary legislation made under it – including the Town and Country Planning (Local Planning) (England) Regulations 2012 (SI 2012/767).
6.2 The Council must also follow the national planning policy guidance contained in the National Planning Policy Framework (NPPF) published in March 2012. Paragraph 115 requires the Council to use a proportionate evidence base, which must be adequate, up to date and contain relevant evidence about the economic, social and environmental characteristics and prospects of the area. The guidance requires local authorities to ‘ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals’.

6.3 Thus the SHMA Report forms a crucial part of the evidence base upon which the Local Plan policies will be founded. As yet, it has not been finalised. No evidence of its alleged inadequacy has been presented to the Council. Evidence of the alleged inadequacy of the SHMA was not presented to the Council with the e-petition itself. However, by the time this e-petition is considered by the Council, we will have concluded a four-week SHMA engagement exercise. As part of this process, we note that evidence and commentary on the SHMA has been submitted by interested parties. This information is being analysed by officers and our consultants. An unwelcome draft conclusion does not mean there is any flaw or inadequacy in the body of the Report.

(NB. The corrections to the above paragraph were made after the agenda for the meeting was published in order to clarify the position)

6.4 Any successful legal challenge to de-rail the Local Plan process would delay the time when the Borough will have firm control over development in its area, and it will increasingly lose the ability to decide matters locally. This is because without a new Local Plan, the presumption of ‘sustainable development’ in paragraph 14 of the NPPF will come into play - as the Borough’s development plan will increasingly be ‘absent, silent or out of date’, so that permission would automatically be granted - unless there was a significant demonstrable disbenefit, or specific NPPF policies restrict development.

6.5 A legal challenge is expensive for all parties, but will not be entertained by the Court unless the applicant successfully navigates the preliminary hurdles of, for example, showing it has ‘sufficient interest’. Even if granted a hearing, an applicant cannot be guaranteed that the Court will overturn a draft plan because case law (Lewis v Heffer) shows the Court will not interfere when no decision has been taken or the matter is premature; and because the High Court remedies on judicial review are granted at the discretion of the Court - not as of right.

7. **Human Resource Implications**

7.1 None

8. **Background papers**

Adopted Petition Scheme (June 2010)

9. **Appendices**

None