

MASTERPLAN UPDATE AND NEXT STAGE

Executive Summary

The Executive at its meeting on 15 July 2021 asked Officers to prepare the Town Centre Masterplan with the purpose of providing an overarching framework to help guide development and investment decisions in the Town Centre. The Executive specifically requested that public engagement should be central to the Masterplan preparation process. On 14 July 2022 the Executive agreed the draft text for the Draft Woking Town Centre Masterplan and the accompanying Site Analysis and Consultation Plan be noted and approved for formal public consultation and engagement. The public consultation ran for 12 weeks from 25 July 2022 to 17 October 2022. During the consultation period, there were nearly 5,000 visits to the Masterplan website, and over 5,900 views of the video, almost 500 people attending roadshows and seminars, and 500 visitors to the Masterplan pop-up shop.

There were over 850 formal consultation responses from almost 450 individuals and organisations, including developers with interests in the town centre. As part of the public consultation process, the Council received a potential challenge to the approach taken in bringing forward this document as a Supplementary Planning Document providing guidance as opposed to Development Plan Document. Following the close of public consultation officers have reviewed all representations made and have also taken legal advice in relation to a potential challenge through Judicial Review if the Masterplan is adopted as drafted. Furthermore, on 3 November 2022 the Planning Inspectorate issued their decision on the Crown Place Development, granting planning permission for a scheme of up to 28 storeys to the east of the town centre. This appeal decision changes the nature of the townscape and has a considerable impact on the proposed townscape and 'bell curve' set out in the Masterplan which is also being considered by officers in determining the appropriate steps moving forward. The likely consequence of the appeal decision, along with a potential legal challenge, and changes to the planning system set out in the Levelling Up and Regeneration Bill, are covered in more detail in this report.

A report setting out options for the next steps, which requires further detailed work for officers, will be brought to a future meeting of the Executive for decision.

Recommendations

The Executive is requested to:

RESOLVE That

- (i) the report be noted; and
- (ii) Officers to bring back a details options report to future meeting of the Executive.

Reasons for Decision

Reason: For officers to fully assess options to provide thorough advice for Members to agree next steps.

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The Executive has the authority to determine the recommendation(s) set out above.

- Background Papers:** [Background paper - Crown Place appeal decision](#)
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1.0 Introduction

- 1.1 The Executive at its meeting on 15 July 2021 asked Officers to prepare the Town Centre Masterplan with the purpose of providing an overarching framework to help guide development and investment decisions in the Town Centre. At that time it was considered that the Masterplan should have the status of a Supplementary Planning Document. The procedure for preparing and adopting Supplementary Planning Documents must be carried out in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. Public consultation on the Draft Masterplan (carried out in accordance with Regulation 13) ended on 17 October 2022. National Planning Practice Guidance states that ‘Supplementary Planning Documents (SPDs) should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making’.
- 1.2 The Masterplan set out to establish an overarching vision for the town centre to enable designed, sustainable development, such as building new homes, cultivating a thriving retail and business environment and strengthening Woking’s cultural and leisure offer. It contains detailed standards and principles that deliver a shared vision for the town centre, including guidance on building heights and density, and provides a long-term vision for Woking’s skyline to 2030 and beyond.
- 1.3 On 14 July 2022 the Executive agreed the contents of the Draft Woking Town Centre Masterplan and the accompanying Site Analysis and Consultation Plan be noted and approved for public consultation and engagement, which ran from 25 July 2022 to 17 October 2022. During that time eight roadshows were held in locations across the Borough, seminars and question and answer sessions held, and a pop-up shop opened in Mercia Walk in the centre for four weeks. A thorough Consultation and Communication Plan was prepared, outlining specific detail of consultation methods and events. Detailed information on the consultation and engagement methods used can be found at Appendix 1.
- 1.4 The consultation was publicised through posters, banners and publicity (including postcard size flyers) around the centre and the Borough, through an introductory promotional video shown on the big screen on Jubilee Square, through social media, e-newsletters and multiple inclusions in local newspapers. QR codes enabled the public to interact with ‘talking statues’ (and at other focal points) through their mobile phones, which signposted the Masterplan consultation. The Masterplan consultation material was available on the main engagement hub website (clearly signposted on the Council website) and the Planning Policy (woking2027) website. Hard copies were available in the Borough’s libraries and at the Civic Offices for the whole 12 week consultation period, and in the pop-up shop and at roadshows.
- 1.5 During the consultation period, there were nearly 5,000 visits to the Masterplan website, and over 5,900 views of the video, almost 500 people attending roadshows and seminars, and 500 visitors to the Masterplan pop-up shop.
- 1.6 There were over 850 formal consultation responses from almost 450 individuals and organisations. These were received through the Masterplan engagement hub website (793 surveys completed) with the remainder being email or postal responses to Planning Policy. Each of those representations have been individually reviewed and consideration given to how they may be addressed moving forward. A consultation summary report is attached as Appendix 2. For most chapters of the Masterplan it will be noted that matters raised can be quite readily addressed. However, with the key chapter on Townscape there are more challenging issues that may not be as easily addressed within the drafting and form of the current Masterplan.
- 1.7 The first such matter, separate from the Masterplan consultation process, is the Planning Inspectorate decision on the Crown Place appeal, dated 3 December 2022 and which granted

planning permission for a development of a group of buildings, notably 3 of which are 23, 25 and 28 storey towers, providing 366 residential units, commercial and community uses and associated car parking.

- 1.8 Secondly, as part of the public consultation exercise in response to the draft Masterplan, a representation was received on behalf of a number of developers with interests in the town centre regarding a possible legal challenge if adopted. This was accompanied by a Counsel opinion which in effect challenges the adoption of the Masterplan as a Supplementary Planning Document (SPD) and also considers some of the specific details of the Masterplan in relation to existing adopted planning policy. The representation also suggests that, should the Masterplan be adopted as drafted and as a SPD they would seek a legal challenge in the form of a Judicial Review. In the light of a possible legal challenge, the Council has sought its own independent Counsel's opinion (KC) on all of the matters raised by this particular representation.
- 1.9 Thirdly, the proposed changes set out within the Levelling Up and Regeneration Bill and the current consultation on changes to the NPPF could affect the way this Plan should come forward and the weight given to it in the long term as an SPD.
- 1.10 Section 2 of this report considers both of these matters in more detail.

2.0 Crown Place appeal decision and potential challenge to masterplan as drafted

- 2.1 Crown Place appeal. This site is identified as UA15 in the Site Allocation Development Plan Document 2021 (SADPD) and also in the Masterplan appendix. The site lies to the east of the town centre and the Masterplan document itself (page 95) suggests that an appropriate height for development of this site would be 4-10 storeys. This scale of development is also reflected in the bell curve diagrams on the first few pages of the appendix document.
- 2.2 The appeal decision has granted permission for demolition of all existing buildings including existing footbridge to Victoria Way Car Park and redevelopment of site to provide a new building ranging from 5x to 28x storeys plus basement level comprising up to 366x residential units (Use Class C3), commercial (Use Classes A1/A2/A3) and community uses (Use Classes D1/D2) at ground floor and first floor level and associated internal and external amenity spaces, basement level car parking, cycle parking, bin storage, ancillary facilities, plant, new public realm, landscaping and highway works. Three of the approved buildings are 23, 25 and 28 storeys in height respectively.
- 2.3 In paragraph 26 of the appeal decision, the Inspector concludes on the issue of character and appearance, that she "did not consider that the proposed development would have an adverse effect on the character and appearance of the area. There is no doubt that the towers would be highly visible and would not reflect their immediate surroundings in terms of height. However, that does not mean that the scheme would thus be unacceptable. The existing built environment within the eastern part of the town centre is generally uninspiring and has little to commend it. The proposal would introduce a development of high quality and distinction and a landmark at the easterly approach to the town centre. Overall, the development would enhance townscape character and, in this respect, comply with development plan policy, including policies CS1, CS2, CS21 and CS24 in the CS. Furthermore, it would be in accordance with the principles of the Design SPD".
- 2.4 The Inspector further considered there was no policy impediment to a tall building of any particular height on the appeal site. It is important here to distinguish between policy, contained in the adopted local plan (Core Strategy and SADPD) and guidance contained within the adopted 2015 design guide, including the section contained therein on tall buildings, and the guidance which the Masterplan would provide as an SPD, which is not part of the adopted planning policy framework for the Borough. It should also be noted that in relation to the draft Masterplan the Inspector commented that she was "*aware that there have been a number of*

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responses, including an objection by the Appellant. At this stage it is therefore not known whether the current approach in the Masterplan will be carried forward or not. For that reason, it can be given very limited weight as a material consideration in this appeal.”

- 2.5 This appeal decision has clear implication for the Masterplan in that it has changed the nature of the townscape. As a minimum, the design principles for this site, including what prospective heights may be appropriate, will need reconsidering. Realistically the eastern part of the town centre, not just this 'gateway' site will need to be reviewed and the 'bell curve' amended accordingly. This level of amendment could have quite a significant impact on the Masterplan as currently drafted and will therefore likely require further public consultation.
- 2.6 The second, perhaps less obvious, implication builds on the Inspector's reference to the weight attached to policy as opposed to guidance. The Inspector's approach here is sound. Whether or not an adopted masterplan as an SPD would have led the Inspector to reach an alternative conclusion would be mere speculation. What is perhaps clearer is that, given the weight correctly attached to adopted policy, should consideration be given to what form of document the masterplan should be. I.e., is there merit in considering bringing forward a DPD which could introduce policy and would be a more robust tool in resisting taller buildings within the town centre? This is considered further as an option in section 3 below.
- 2.7 The potential legal challenge to the Masterplan if adopted. The potential legal challenge on the draft Masterplan is raised on two matters. The first is whether the Masterplan should be produced and adopted as a DPD rather than an SPD. Section 17 of the Planning and Compulsory Purchase Act 2004 ('PCPA 2004') provides for the Secretary of State to make regulations as to the preparation of certain types of planning documents. Those regulations are the Town and Country Planning (Local Planning) Regulations 2012 in particular Regulation 5. These regulations are very complex. The second matter raised is whether or not the Masterplan is in conflict with the already adopted plan, a test set out in Regulation 8(3) of the above Regulations.
- 2.8 It may be useful here to set out what the role of an SPD is. The National Planning Policy Framework (last updated July 2021) define SPDs as "Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan". In National Planning Practice Guidance (2019) this is further specified in that "Supplementary planning documents (SPDs) should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making. They should not add unnecessarily to the financial burdens on development".
- 2.9 The Council has sought its own Counsel's (KC) opinion on these matters, in order to determine the next stage for the Masterplan and to provide clear advice to Members. It is recognised that the plan published for consultation does provide site specific guidance in order to present a clear position for developers who wanted certainty as to the Council's position on building heights as well as a vision for the townscape that residents could understand. However, while that guidance was welcomed by many the advice of the KC in this regard is that the plan as drafted, with the aims that it seeks to achieve, would be most appropriate as a DPD rather than an SPD.
- 2.10 On the matter of conflict with the adopted development plan, the Masterplan as drafted does conflict, in particular with the adopted SADPD, in terms of site yields for some individual sites which are lower than what the adopted policy states, notwithstanding the Masterplan as drafted does suggest a higher overall number of homes could be achieved in the town centre, with the inclusion of HIF and windfall sites.

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- 2.11 Given the above, Counsel's advice is that the Masterplan as it stands could not be safely adopted as an SPD given the challenge presented by the representations received.
- 2.12 The Levelling Up and Regeneration Bill, which is currently in the House of Lords, and the current consultation on the National Planning Policy Framework (NPPF) and proposed National Development Management Policies published in December 2022 sets out proposed changes to the planning policy framework, including changes to legislation on planning policy, which include reforms to the plan making system and the role of Supplementary Planning Documents. These may have an influence on how this plan should come forward.
- 2.13 The Crown Place appeal decision, the legal advice the Council has received and the proposals related to changes within the Levelling Up and Regeneration Bill suggest that the Council should not proceed to adopt the Masterplan in its current form. In the light of the above, officers are now considering options that will achieve the aims as originally set out, those being the production of a Town Centre Masterplan with the purpose of providing an overarching framework to help guide development and investment decisions in the Town Centre.
- 2.14 Notwithstanding the above, the Council has published and consulted on its vision for the town which has been welcomed by many. The ambition and need for a clear and robust plan to guide development in the town centre, to give certainty to developers wishing to invest, and provide officers with an effective tool to assess planning applications and defend decisions on appeal remains. Options for next steps are therefore now being considered by officers. A report on those options will be brought back to a future meeting of the Executive.

3.0 Corporate Strategy

- 3.1 The Masterplan supports the following objectives of the Woking for All Strategy 2022 - 2027: Engaged Communities – A healthy, inclusive and engaged community-

- Reducing social inequality – the Masterplan will guide the delivery of new housing and affordable housing developments and support both the Homelessness and Housing Strategy.
- Engaging our communities – engagement will be central to the preparation of the Masterplan.

Healthier Communities – An enterprising, vibrant and sustainable borough-

- Promoting a strong economy – setting a vision for the town centre will promote investment, support business retention and promote Woking as a destination for business to relocate to.
- Improving the health and wellbeing of all residents – the Masterplan will set out areas of open space, health and leisure provision and support the town centre as a cultural hub. The Masterplan will support the emerging Health and Wellbeing Strategy.
- Improving the Borough's biodiversity and green infrastructure – the Masterplan will set out the quality and quantity of open space.
- Sustainable development – The Masterplan will highlight the vision of a sustainable and inclusive town centre and identify opportunities for energy efficiency and generation.
- Strengthening partnerships – the Masterplan has/will be developed following engagement with a diverse range of stakeholders and the wider community.
- Effective use of resources – setting a clear vision of the town centre would support the effective use of limited resources, in particular, the reuse of previously developed land.

4.0 Implications

Finance and Risk

- 4.1 There are significant cost implications for the Council if a claim is issued for Judicial Review and progressed through the High Court. In order to avoid unnecessary additional expense to the taxpayers purse and in view of Counsel's opinion it is clear that the best approach for the Council is not to proceed to adopt the Town Centre Masterplan in its draft form.

Equalities and Human Resources

- 4.2 The report does not have any direct equalities implications.
- 4.3 There are no HR issues arising from this report.

Legal

- 4.4 The legal implications are referred to in the body of the report.
- 4.5 Further to the letter received with a threat of Judicial Review the Council has sought and received Counsel's opinion regarding the matters raised.
- 4.6 Attention is drawn to the main legal issue arising from this report; that there is a real risk of Judicial Review with a reasonable probability that the claim would succeed if the Town Centre Masterplan is adopted as drafted as a SPD.

5.0 Engagement and Consultation

- 5.1 Detailed in paragraphs 1.3 to 1.6 above.

REPORT ENDS