

**Report to:** Cabinet

**Date:** 10 February 2020

**Title:** Adoption of the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies

**Report of:** Director of Regeneration & Planning

**Cabinet member:** Councillor Emily O'Brien, Cabinet member for Planning

**Ward(s):** All wards in Lewes District that lie wholly or partially outside of the South Downs National Park

**Purpose of report:** To seek Cabinet and Council approval to adopt the Lewes District Local Plan Part 2, incorporating the modifications set out in the Examination Inspector's report, as part of the statutory development plan for the district.

**Decision type:** Budget and policy framework

**Officer recommendation(s):**

- (1) To recommend to Council that the Lewes District Local Plan Part 2, amended to incorporate the main modifications set out in the Examination Inspector's report, is adopted as part of the statutory development plan for the district in accordance with Section 23 of the Planning & Compulsory Purchase Act 2004 and Regulation 26 of the Town & Country Planning (Local Planning) (England) Regulations 2012;**
- (2) To recommend to Council that the Lewes District Local Plan Part 2 is published, together with the relevant adoption statements, Policies Map, and Sustainability Appraisal in accordance with Regulations 26 and 35 of the Town and Country Planning (Local Planning)(England) Regulations 2012;**
- (3) To recommend to Council that the Director of Regeneration & Planning be authorised to agree any minor editorial corrections identified prior to publication of the adopted Lewes District Local Plan Part 2.**

**Reasons for recommendations:** To ensure that the Council has an up-to-date and comprehensive statutory development plan to guide decisions on individual planning applications for development in that part of the district outside the South Downs National Park.

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## **1        Background**

- 1.1        The Lewes District Local Plan Part 1: Joint Core Strategy (JCS) was adopted by the Council in 2016 and provides the strategic planning policy framework to guide growth across the district to 2030.
- 1.2        The Lewes District Local Plan Part 2 (LPP2) builds upon the strategic policies of the JCS by allocating smaller-scale sites for development and providing more detailed development management policies to inform planning decisions. It also covers the period to 2030 and, when adopted, will replace the majority of the 'saved' policies of the 2003 Local Plan.
- 1.3        The LPP2 was submitted to the Secretary of State for independent examination in 2018. The examination hearings took place in April 2019, following which the Council received the Inspector's proposed main modifications to the plan. These modifications were proposed in response to issues raised at the examination hearings and were considered necessary by the Inspector to make the plan 'sound'.
- 1.4        The proposed main modifications were published for consultation over a six week period in July/August 2019. This represented the final stage of formal public consultation on the LPP2, following the Issues & Options Topic Papers (2013), Consultation Draft Plan (2017) and Pre-Submission Plan (2018). A total of 55 representations were received and passed to the Inspector for his consideration.
- 1.5        We have now received the Inspector's final report on the examination. This concludes that the LPP2 is legally compliant and meets the tests of soundness defined in the National Planning Policy Framework, subject to a number of changes (the main modifications) being made.

## **2        The Inspector's Report**

- 2.1        The Inspector's report was received on 20 December 2019 and is attached as Appendix 1. This effectively concludes the examination of the LPP2. In summary, and subject to the main modifications being incorporated, the report concludes that:
  - The Council has engaged constructively and actively in the preparation of the LPP2 and has therefore met the duty to co-operate
  - All other relevant legislative requirements have been met during the preparation of the LPP2
  - The LPP2 gives effect to, and is consistent with, the strategy of the adopted JCS

- The site allocations and development management policies are positively, prepared, justified, effective and consistent with national planning policy

2.2 The Council is therefore able to formally adopt LPP2 as part of the statutory development plan for the area, provided that all the Inspector's main modifications are accepted and incorporated into the plan. The Inspector's report is not binding on the Council but it should be noted that failure to include all the recommended main modifications will mean that the LPP2 cannot be adopted.

2.3 The Inspector's main modifications are listed at Appendix 2 of this report. They are substantially the same as the proposed main modifications approved for consultation by Cabinet on 1 July 2019 (Minute 17). They essentially involve redrafting parts of individual policies or their supporting text. None of them involve the deletion of whole policies or the insertion of new ones.

### **3 The Next Steps**

3.1 Once adopted by the Council, the LPP2 will have full weight in the determination of planning applications in that part of Lewes District outside of the South Downs National Park. Its policies will replace 67 of the 'saved' policies in the 2003 Local Plan, thereby providing a robust, up-to-date and comprehensive development plan to guide planning decisions across the area.

3.2 The LPP2 will help to achieve the Council's vision and strategic objectives, as set out in the adopted JCS. Whilst it is recognised that some sections of the local community will inevitably be disappointed by the Inspector's conclusions, the adoption of the LPP2 will have substantial benefits for the district overall. This is particularly the case for those communities that have previously been vulnerable to speculative development on greenfield sites outside of the settlement planning boundaries.

3.3 A copy of the LPP2 incorporating the Inspector's main modifications is attached as Appendix 3 to this report. Adoption will take place immediately upon the resolution of the Council. Following adoption, the LPP2 will be published as soon as practically possible, together with the accompanying Policies Maps, Sustainability Appraisal and an adoption statement. All interested parties will also be notified individually. A six week period when the LPP2 could be challenged through an application to the High Court will also come into effect (as with all Local Plans).

3.4 The adoption of the LPP2 by the Council, the 'Competent Authority', will not lead to any adverse effects on the integrity of European sites; this is confirmed by the accompanying Habitats Regulations Assessment, which is supported by Natural England and found to be legally compliant through the examination in public.

### **4 Financial appraisal**

4.1 The financial implications of publishing the adopted LPP2, together with the accompanying Policies Maps, Sustainability Appraisal and an adoption statement will be minimal, primarily the costs associated with printing and postage. These costs will be met within the existing budget for adopting the

LPP2.

## **5 Legal implications**

5.1 The legal powers that govern the adoption of the Lewes District Local Plan Part 2, as amended, are set out in the body of the report. The Council must formally adopt the plan to bring it into force by way of a resolution of a full meeting of the Council pursuant to section 23(5), Planning and Compulsory Purchase Act 2004 and regulation 4(1) and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000).

5.2 Adoption of the plan by the council will trigger a six week period from its adoption, within which any person aggrieved by the plan may make an application to the High Court under section 113 of the 2004 Act on limited grounds, namely that either: (a) the document is not within the appropriate power; or (b) a procedural requirement has not been complied with.

The adoption of the plan can only be challenged therefore on the above legal grounds and not simply because certain persons disagree with the Inspector's recommendations.

Legal Implications Provided 15.01.20 008866 -LDC-JCS

## **6 Risk management implications**

6.1 The Council may not adopt an unsound local plan. Failure to accept the Inspector's main modifications would leave the Council without an up-to-date and comprehensive statutory development plan to guide development in that part of the district outside of the South Downs National Park. It would mean that the Council is unable to meet its strategic requirements for new homes, including permanent Gypsy & Traveller pitches, thereby hindering its ability to meet its 5 year housing land supply.

6.2 The lack of an up-to-date development plan would also mean continued reliance on the 'saved' policies of the 2003 Local Plan, which are likely to come under increasing challenge from applicants due to their age and lack of compliance with national planning policy. The vacuum created by the absence of allocated housing sites and up-to-date development management policies is likely to be filled by speculative development in less sustainable locations, and the unco-ordinated delivery of the infrastructure necessary to support it.

## **7 Equality analysis**

7.1 The Equality and Fairness Analysis undertaken for the Pre-Submission LPP2 has been updated and is included as a background paper to this report.

## **8 Environmental sustainability implications**

8.1 The preparation of the Local Plan Parts 1 and 2 has been informed by Sustainability Appraisal (SA), incorporating Strategic Environmental Assessment, at every stage of the process. The SA supporting the adoption

version of the LPP2 is included as a background paper to this report.

- 8.2 A district that is responsive to the challenges of climate change is one of the key elements of the overall spatial vision set out in the Local Plan Part 1. The strategic objectives which support that vision include seeking to reduce both the causes of climate change and the district's vulnerability to the impact of climate change; these objectives will be delivered through both the spatial strategy of the Local Plan and the application of its policies.
- 8.3 The Local Plan has applied a sequential, risk-based approach to the location of development growth, taking into account the current and predicted future impacts of climate change, which is reflected in the spatial strategy for the district. This strategy seeks to focus growth in the most sustainable locations, based upon accessibility and the range of services offered, in order to facilitate the fullest possible use of walking, cycling and public transport.
- 8.4 The need to reduce greenhouse emissions and provide resilience to the impacts of climate change is also addressed by the Local Plan policies covering green infrastructure, air quality, the natural and built environment, biodiversity and geodiversity, water resources, water quality, flood risk, coastal erosion, sustainable drainage, sustainable travel, renewable and low carbon energy, the sustainable use of resources, and high quality design.

## 9 Appendices

- Appendix 1 – The Inspector's Report of the examination of the LPP2
- Appendix 2 – The Schedule of Main Modifications
- Appendix 3 – LPP2 (adoption version)

## 10 Background papers

The background papers used in compiling this report were as follows:

- Policies Map (adoption version)
- Sustainability Appraisal (January 2020)
- Equality & Fairness Analysis update (January 2020)
- LPP2 Consultation Statement Addendum (2019)
- Schedule of Main Modifications (published for consultation in 2019)
- Submission LPP2 (December 2018)
- Submission Policies Map (December 2018)
- Habitats Regulations Assessment 2018

All the background papers are available at <https://www.lewes-eastbourne.gov.uk/planning-policy/lewes-local-plan-part-2-site-allocations-and-development-management-policies/>