

**Report to:** Cabinet

**Date:** 1 July 2019

**Title:** Lewes District Local Plan Part 2 – Publication of Main Modifications

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

**Cabinet member:** Councillor Tom Jones (Planning)

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

**Purpose of report:** To seek Cabinet approval to publish the main modifications to the Local Plan Part 2: Site Allocations and Development Management Policies for a consultation period of 6 weeks.

**Decision type:** Budget and policy framework

**Officer recommendation(s):**

- (1) To publish the main modifications to Local Plan Part 2 (Appendix 1 of this report) and associated sustainability appraisal for a period of six weeks to enable public representations to be made;
- (2) To authorise the Director of Regeneration & Planning to submit the main modifications, together with any duly made representations, to the Examination Inspector following the consultation period;
- (3) To authorise the Director of Regeneration & Planning, in consultation with the Cabinet Member for Planning, to agree any minor modifications to the Local Plan Part 2 in order to aid its practical application for decision-making.

**Reasons for recommendations:** To ensure that the concerns of the Examination Inspector are addressed so that the Local Plan Part 2 can be progressed towards adoption as soon as possible, thereby supporting the implementation and delivery of the Local Plan Part 1: Joint Core Strategy.

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## 1 Introduction

- 1.1 The Lewes District Local Plan Part 1: Joint Core Strategy (JCS) was adopted by the Council in 2016 and provides the planning policy framework to guide strategic 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 the detailed development management policies to inform planning decisions. It will also cover the period to 2030 and replace the majority of the 'saved' policies of the 2003 Local Plan.
- 1.3 On 26 November 2018, Council approved the submission of the LPP2 to the Secretary of State for examination. The LPP2 was submitted in December 2018 and an Inspector was appointed to examine the plan in January 2019. The examination hearings took place in April 2019.
- 1.4 The Council has now received a schedule of proposed main modifications to the LPP2 from the Examination Inspector. This schedule is attached as Appendix 1 to this report. The proposed modifications are based upon discussions at the examination hearings. They address matters that affect the soundness of the plan and will need to be published for consultation before the LPP2 can be adopted. In the meantime, the examination remains open until the Council receives the Inspector's final report.

## 2 The Proposed Modifications

- 2.1 The Inspector has not proposed any modifications that would result in the deletion of any of the existing policies in the submission LPP2. However, he has proposed amendments to the wording of a number of policies and their associated supporting text. In the case of Policy E1 (Land at East Quay, Newhaven), he has also proposed a reduction in the size of the allocated employment site.
- 2.2 The key matters that the proposed modifications seek to address are:

**Para.1.19:** Amendments to the supporting text of the plan to take into account comments submitted by Natural England in respect of the Habitats Regulations Assessment published with the LPP2.

**Policy NH01 (Land south of Valley Road, Newhaven):** Inclusion of an additional policy criterion to address concerns over surface water drainage mitigation raised by the ESCC, as the Lead Local Flood Authority.

**Policy NH02 (Land at The Marina, Newhaven):** Inclusion of additional policy criteria in respect of the protection and enhancement of biodiversity and waste and sewage disposal to address concerns raised by the Environment Agency.

**Policy BH01 (Land at Nuggets, Valebridge Road, Wivelsfield):** Inclusion of an additional policy criteria to address concerns over surface water drainage mitigation and potential adverse impacts on trees raised by ESCC and Sussex Wildlife Trust respectively.

**Policy CH02 (Layden Hall, East Grinstead Road, Chailey):** Inclusion of additional policy requirement for safe and convenient pedestrian access to the nearest bus stop.

**Policy RG01 (Caburn Field, Ringmer):** Inclusion of an additional policy criterion to address concerns over surface water drainage mitigation raised by the ESCC.

**Policy GT01 (Land South of the Plough):** Inclusion of an additional policy criterion in respect of sewerage provision to address concerns raised by the Environment Agency and ensure consistency with other housing site allocations.

**Policy E1 (Land at East Quay, Newhaven Port):** Modifications to ensure that only employment uses associated with Newhaven Port will be permitted and to exclude the area of vegetated shingle habitat along the seafront from the allocated site (see Appendix 2 of this report). Also, the inclusion of additional policy criteria to address concerns over the potential adverse impacts of development on biodiversity and the need for appropriate assessments of landscape character and archaeological potential, together with any necessary mitigation measures. All recommended changes to address concerns raised by Natural England and other representations.

**Policy E2 (Land adjacent to American Express Community Stadium, Falmer):** Modification to permit the development of ancillary uses directly associated with the Community Stadium and/or the Universities, in addition to office and health/educational uses.

**Policy DM24 (Protection of Biodiversity and Geodiversity):** Modification to ensure that the wording of the policy is consistent with the revised National Planning Policy Framework published in February 2019.

### **3 Publication and Consultation**

3.1 It is a statutory requirement that proposed main modifications to the LPP2 are published for consultation over a period of at least six weeks. The Inspector is unable to recommend a main modification to remedy unsoundness unless anyone whose interests may be prejudiced has had an opportunity to comment on it.

3.2 All statutory bodies, together with individuals or organisations that previously commented on the LPP2, will be directly notified. The Schedule of Proposed Modifications will also be publicised on the Council's web site, through press releases, and working in partnership with town and parish councils. Paper copies of the document will be made available in local libraries and at Southover House. Comments received will be forwarded to the Inspector for consideration.

- 3.3 Evidence supporting the proposed main modifications, including sustainability appraisal, will also be made available for public comments when the Schedule of Main Modifications is published. The Inspector's final report on the LPP2 will not be issued until the consultation responses and sustainability appraisal are available and have been considered by him. The amendments to the Sustainability Appraisal are included as Appendix 3 to this report.
- 3.4 It is not considered that the main modifications have any implications for the Habitat Regulations Assessment published alongside the Submission LPP2.
- 3.5 There is no statutory requirement to publish or consult upon minor modifications that have been proposed by the Council as matters of clarification, factual correction or update. Such modifications cannot be recommended by the Inspector in his final report because only the main modifications are formally considered as part of the examination. However, an amended version of the submitted LPP2, showing all the proposed modifications as 'track changes', will be published alongside the Schedule of Main Modifications for reference purposes.

#### **4 Next steps**

- 4.1 The anticipated timetable for progressing the LPP2 to adoption is shown below.

<b>Stage of Local Plan Preparation</b>	<b>Date</b>
Consultation on the Schedule of Main Modifications	July - August 2019
Process and submit duly made representations	September 2019
Inspector's draft report received for fact checking	Autumn 2019
Council's submits its fact check (2 weeks)	Autumn 2019
Inspector's final report published	Late 2019
Adoption (by Full Council)	Late 2019

- 4.2 This anticipated timetable may be influenced by the number and content of representations received on the proposed main modifications and how long the Inspector needs to fully consider them.

#### **5 Financial appraisal**

- 5.1 The financial implications of publishing the Schedule of Main Modifications will be minimal, primarily the costs associated with printing and postage. These costs will be met within the existing budget for adopting the LPP2.

## 6 Legal implications

- 6.1 The statutory framework for the examination of the Local Plan is set out in the Planning and Compulsory Purchase Act 2004. The Act determines the stages the Council must go through in order to adopt the Local Plan. These stages are explained within the body of this report.
- 6.2 The Act requires that when the Local Plan is submitted to the Inspector, the Inspector must be satisfied that the plan is legally compliant and is sound.
- 6.3 If the Inspector decides that the Local Plan is not legally compliant and sound, the Council will be invited to resolve these concerns by making (main) modifications to the Local Plan prior to the Inspector issuing his final report.
- 6.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 requires the Council to publish and invite representation from the public in respect of the proposed main modifications to the Local Plan
- 6.5 Regulation 4(4) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provides that Cabinet can lawfully approve the publication of the proposed main modifications as this relates to the function of amending, modifying, varying or revoking a Local Plan to the extent that the making of the amendment, modification, variation or revocation is required for giving effect to requirements of the Secretary of State in relation to a plan or strategy submitted for his approval, or to any part so submitted.
- 6.6 The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 also provides that the subsequent adoption of a Local Plan is a function that can only be carried out by Full Council.

Legal Implications provided by JCS 10.06.19 – IKEN 8331

## 7 Risk management implications

- 7.1 The following risk will arise if the recommendations are not implemented; this risk can be mitigated as outlined below:

### **Risk**

If the proposed main modifications to the LPP2 are not published in accordance with statutory requirements, the Council will have no alternative but to withdraw the plan from examination.

### **Mitigation**

If the recommendations are approved and implemented, the LPP2 can be progressed to adoption in accordance with the Council's adopted Local Development Scheme, thereby providing a comprehensive and up-to-date development plan for that part of the district outside of the South Downs National Park.

## 8 Equality analysis

- 8.1 An Equality and Fairness Analysis for the LPP2 has been completed previously

and there are no significant changes proposed to the LPP2 that would impact on groups with protected characteristics.

## 9 Appendices

Appendix 1 - Schedule of Main Modifications

Appendix 2 - Policy E1: Site area as proposed to be modified.

Appendix 3 – Amendments to the Sustainability Appraisal (***to follow***)

## 10 Background papers

The background papers used in compiling this report were:

- Lewes District Local Plan Part 2: Submission Document
- Sustainability Appraisal: Submission Document
- Habitat Regulations Assessment: Submission Document

All the background papers are available at: <https://www.lewes-eastbourne.gov.uk/planning-policy/local-plan-part-2-examination/>