

This Report will be made public on 3 December 2019

Report Number **C/19/45**

To: Cabinet
Date: 11 December 2019
Status: Key Decision
Responsible Officer: Charlotte Spendley, Assistant Director – Finance, Customer & Support Services
Cabinet Member: Councillor David Wimble, Cabinet Member for the District Economy

SUBJECT: PLACES AND POLICIES LOCAL PLAN –
CONSULTATION ON MAIN MODIFICATIONS
FOLLOWING EXAMINATION

SUMMARY: This report is to update Cabinet on progress with the Places and Policies Local Plan (PPLP), following consultation on a proposed site for gypsies and travellers (see C/19/13). The report seeks Cabinet's approval to publish and consult on main modifications to the plan, the final stage before the planning Inspector issues his report and the PPLP can be taken forward for adoption.

REASONS FOR RECOMMENDATIONS:

To allow the Places and Policies Local Plan to progress to adoption. On adoption the PPLP will have full weight in planning decisions.

RECOMMENDATIONS:

1. To receive and note report C/19/45.
2. That Cabinet approves the main modifications to the Places and Policies Local Plan set out in Appendix 1 for publication and consultation;
3. That Cabinet approves the submission of the consultation comments on the main modifications to the Planning Inspector at the end of the consultation period; and
4. That Cabinet approves the publication of the changes to the Policies Map set out in Appendix 1.

1. BACKGROUND

- 1.1 The Folkestone & Hythe District Places and Policies Local Plan (PPLP) identifies small- and medium-sized sites for development across the district to meet the targets in the 2013 Core Strategy. The PPLP also sets out detailed development management policies that will be used to assess planning applications. The plan covers the period 2006-31.
- 1.2 The PPLP allocates 55 sites for development, for new homes, mixed-use development, business, retail, leisure, hotel and other uses. Development management policies in the second part of the plan deal with topics including climate change, the natural environment, the historic environment, health and wellbeing, design, the economy, community and transport.
- 1.3 The PPLP has been through a number of iterations and public consultations, including:
 - Consultation on the Issues and Options PPLP between 30 January and 1 March 2015;
 - Consultation on the Preferred Options PPLP between 7 October and 19 November 2016; and
 - Consultation on the Submission Draft PPLP between 6 February and 19 March 2018.
- 1.4 Following the consultation on the Submission Draft PPLP, the council submitted the plan to the Secretary of State, for public examination by an independent planning Inspector.
- 1.5 A series of public hearing sessions took place between the 15 and 17 May 2019 before the appointed planning Inspector, Mr Jameson Bridgwater PGDIPL MRTPI.
- 1.6 During the hearings the Inspector expressed concern that the draft PPLP did not adequately address the future housing needs of the Gypsy and Traveller community. In order for the PPLP to be found 'sound' the Inspector instructed the council to identify a site(s) for allocation in the plan to meet the outstanding permanent gypsy and traveller pitch requirement of four pitches, following the findings of the Gypsy and Traveller Accommodation Assessment (2018). The Inspector indicated that he might need to convene a further public hearing to examine the preferred site(s) and to allow people to put their points across.
- 1.7 The council undertook this work, assessing a number of sites throughout the district for their suitability and availability for gypsy and traveller development. The council identified a preferred site, Land adjacent to 'The Retreat', Lydd Road, Old Romney, for development for four permanent gypsy and traveller pitches.
- 1.8 The preferred site was taken to Cabinet on 17 July 2019 (C/19/13). Cabinet approved the recommendation that the site be subject to public consultation.

2. GYPSY AND TRAVELLER CONSULTATION

2.1 Consultation on the preferred gypsy and traveller site allocation (Policy RM15: Land adjacent to 'The Retreat', Lydd Road, Old Romney) was undertaken between 2 September and 14 October 2019.

2.2 The council received 47 responses to the consultation and the accompanying Sustainability Appraisal. Responses were received from organisations, including the Environment Agency and Historic England, as well as several parish councils and a number of local residents. The main issues raised during the consultation were:

- Concerns about flood risk on the site;
- Consistency with the 2013 Core Strategy;
- How other alternative sites were considered;
- Impact on the countryside;
- Impact on heritage;
- Access to local services;
- Road safety;
- The capacity of the site;
- How the council has engaged with neighbouring authorities;
- Why the council did not compulsory purchase and develop a site for travellers; and
- Concerns that unauthorised works had started before planning permission has been granted.

2.3 At the Inspector's direction, the council prepared a summary of the consultation comments and the council's response to the comments. This was sent to the Inspector, along with all the consultation comments and supporting documents.¹

3. CONSULTATION ON MAIN MODIFICATIONS

3.1 The Inspector has now assessed the consultation comments, alongside proposed Policy RM15 and supporting documents.

3.2 The Inspector has indicated that he does not consider that there is a need to hold a public hearing into the gypsy and traveller site. The council can now move forward to consult on main modifications to the plan and then proceed to adoption.

Main modifications

¹ Available to view on the Examination news page of the council's website: <https://www.folkestone-hythe.gov.uk/article/9154/Examination-News-and-Updates>

- 3.3 When the council submitted the PPLP for examination, it invited the Inspector to recommend any modifications necessary for him to find the plan 'sound' (under the provisions of Section 20(7C) of the Planning and Compulsory Purchase Act 2004, as inserted by Section 112(2) of the Localism Act 2011).
- 3.4 During the course of the public hearings, the Inspector recommended some changes to policies and supporting text, following national planning policy, people's representations and the debate at the examination. These are known as 'main modifications' and need to be published and consulted on, before the plan can be adopted.
- 3.5 **Main modifications have been formulated at the Inspector's direction to make the PPLP 'sound'.**
- 3.6 **Consultation will only be on the main modifications and respondents will not be able to raise new matters, or reopen matters that the Inspector has already considered.**
- 3.7 There are 21 main modifications (numbered MM01-MM21). This is a relatively small number, given the size and complexity of the PPLP; at the same stage in finalising the 2013 Core Strategy, for example, the Inspector recommended 80 main modifications. The main modifications are set out in Appendix 1 to this report, in the chapter order of the Places and Policies Local Plan. The text of the Submission PPLP is shown in black, with deleted text shown in red struck-through and additional text shown in red with underlining.
- 3.8 In summary, the main modifications are to:
- Introduce a new policy, RM15: Land adjacent to 'The Retreat', Lydd Road, Old Romney, allocating a site for gypsy and traveller development, as described above (**MM05**, and changes to supporting text **MM11**);
 - Amend Policy HW1: Promoting Healthier Food Environments, to delete references to an 'exclusion zone' for new fast food outlets, reflecting the Inspector's concern that there was insufficient local evidence to justify such a restriction (**MM21**);
 - Introduce reference to impacts on the Kent Downs Area of Outstanding Natural Beauty (AONB) in a number of policies, reflecting representations made by the Kent Downs AONB Unit (**MM01**, **MM02**, **MM06** and **MM12**);
 - Amend references within Policies RM13: Lands north and south of Rye Road, Brookland and RM14: Land adjacent to Moore Close, Brenzett to the preparation of comprehensive masterplans for the sites (**MM03** and **MM04**). This is to reflect the fact that, since the policies were drafted, planning permissions have been granted on parts of both sites;
 - Amend retail policies relating to town centres to remove inconsistencies in wording for policies covering similar-sized centres in the retail hierarchy (**MM15**, **MM16** and **MM17**);

- Clarify that Policy HB8 is intended to apply to alterations and extensions to all buildings, not just residential buildings (**MM10**);
- Clarify that Policy E2 is intended to protect all existing employment sites, not just employment sites allocated in the plan, and to make amendments to improve the operation of the policy (**MM13**); and
- Make other changes to delete unnecessary or erroneous text and improve the clarity and effectiveness of policies (**MM07, MM08, MM09, MM14, MM18, MM19** and **MM20**).

Changes to the Policies Map

- 3.9 The Policies Map accompanying the PPLP does not have the same status as the PPLP itself and changes to the Policies Map are not classed as main modifications to the plan. It is proposed that changes to the Policies Map are published alongside the main modifications for information.
- 3.10 Two changes are proposed to the Policies Map; these are shown after the main modifications in Appendix 1. Changes are:
- 1) To show the red-line boundary for Policy RM15: Land adjacent to 'The Retreat', Lydd Road, Old Romney (described above); and
 - 2) To show the primary shopping area and amend the primary shopping frontages for Folkestone town centre, following representations to the examination by Ellandi LLP representing the owners of Bouverie Place shopping centre. These changes are:
 - *Primary shopping area* - The National Planning Policy Framework (NPPF) requires local planning authorities to show primary shopping areas in local plans, and no boundaries were defined in the 2006 Local Plan Review, which predated the NPPF²; and
 - *Primary shopping frontages* - Although the 2006 Local Plan Review set out primary shopping frontages, they were defined before the completion of the Bouverie Place shopping centre. Primary shopping frontages have therefore been amended to include Bouverie Place and are shown on the same plan in Appendix 1 as the primary shopping area.

Additional modifications

- 3.11 The council can make minor changes to the plan – such as factual updates or correcting spelling errors – without the need for consultation. These are known as 'additional modifications'. These additional modifications can be made when the PPLP is taken to adoption.

4. NEXT STEPS

- 4.1 Cabinet is asked to approve the main modifications (Appendix 1, MM01-MM21) for publication and consultation. If approved by Cabinet the main

² National Planning Policy Framework, 2019, paragraph 85(b)

modifications will be subject to consultation for a six-week period, alongside the Sustainability Appraisal of the modifications and changes to the Policies Map.

- 4.2 People will only be able to comment on the text of the main modifications and not on any new issues, nor will they be able to reopen issues that have already been considered by the Inspector. Consultation comments will then be sent to the Inspector, who will then finalise his report. On receipt of a favourable report from the Inspector, the council can proceed to adopt the plan.
- 4.3 There is a six-week period following the adoption of the plan when any aggrieved party can mount a legal challenge.

5. SUSTAINABILITY APPRAISAL / HABITATS REGULATIONS ASSESSMENT

- 5.1 Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) are systematic processes that must be carried out during the preparation of a local plan at each iteration of the document. Their role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.
- 5.2 The consultants who have undertaken the SA/HRA process for the PPLP have been asked to assess the main modifications in Appendix 1. Their report will be made available for public consultation alongside the main modifications. Any comments on the SA/HRA will be passed to the Inspector, alongside the other consultation comments, for his consideration in finalising his report.

6. OPTIONS

- 6.1 The options are:
 - a) To undertake consultation on the main modifications to the PPLP as recommended by the Inspector and set out in Appendix 1 – this is the recommended option, as it is the necessary next step to finalising and adopting the plan; or
 - b) Not to undertake consultation on the main modifications – this is not recommended. Consultation on the main modifications is the necessary next step in the process of adopting the PPLP. If the PPLP is not adopted, the council will not be able to give weight to the site-specific policies in the plan setting out the form and quality of development on allocated sites and the general development management policies seeking better standards of development on sites throughout the district. The council will be vulnerable to challenges to its housing supply. If the council does not regularly review and adopt a development plan (or plans) it will be vulnerable to intervention by government.

7. RISK MANAGEMENT ISSUES

7.1 The risk management issues are set out in the table below.

Perceived risk	Seriousness	Likelihood	Preventative action
The council falls behind in its programme for producing a new Places and Policies Local Plan.	Medium	Medium	Consultation on the main modifications will allow the council to make progress with the adoption on the Places and Policies Local Plan. The policies in the plan will then have full weight in decision-making.
The Places and Policies Local Plan is subject to legal challenge that quashes the plan.	High	Low	Consultation on the main modifications will allow interested parties to put forward comments for the Inspector to consider. The Inspector's Report, when issued, will include careful consideration of legal issues in reaching a final conclusion on the plan.

8. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

8.1 Legal Officer's Comments

The legal implications arising from this report are significant. The Appointed Inspector has recommended that main modifications to the PPLP are necessary for him to find the plan 'sound'. Under section 20(8) of the Planning and Compulsory Purchase Act 2004 the Council has a statutory duty to publish these recommendations and the reasons for them. Should the council not undertake consultation on the main modifications recommended by the Appointed Inspector he cannot determine that the plan is sound. It follows in these circumstances that he must recommend that the plan is not adopted.

8.2 Finance Officer's Comments

Associated costs of conducting the required consultation will be contained within existing budgets.

8.3 Diversities and Equalities Implications

There are no equalities implications arising directly from this report. The PPLP was supported by an Equalities Impact Assessment (EqIA) and the Inspector considered these issues when assessing the soundness of the plan. The Inspector did not raise any concerns in relation to equalities.

9. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Adrian Tofts, Planning Policy Manager
Telephone: 01303 853438 / 07738 976900

Email: adrian.tofts@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

(Note: only documents that have not been published are to be listed here)

Appendices:

Appendix 1: Main Modifications to the Submission Draft Places and Policies Local Plan following examination and additional changes to the Policies Map