

This Report will be made public on 14 September 2021



Report Number **C/21/35**

To: Cabinet
Date: 22 September 2021
Status: Key Decision
Responsible Officer: Charlotte Spendley, Director – Corporate Services
Cabinet Member: Councillor David Wimble, Cabinet Member for the District Economy

SUBJECT: CORE STRATEGY REVIEW – INSPECTORS’ MAIN MODIFICATIONS FOR PUBLIC CONSULTATION

SUMMARY: This report is to update Cabinet on progress with the Core Strategy Review examination and seek approval to consult on the Main Modifications to the plan, as directed by the planning Inspectors.

REASONS FOR RECOMMENDATIONS:

To enable the council to consult on the Main Modifications to the Core Strategy Review so that the Inspectors can conclude the examination of the plan.

RECOMMENDATIONS:

1. To receive and note report C/21/35.
2. To approve the Inspectors’ Main Modifications set out in Appendix 1 for public consultation.
3. To delegate authority to the Director of Corporate Services to finalise the Sustainability Appraisal and any other supporting documents for public consultation alongside the Main Modifications.

1. INTRODUCTION

- 1.1 This report sets out the main modifications to the Core Strategy Review which the council must consult on to finalise the plan.
- 1.2 It should be noted that the main modifications have been prepared at the direction of the planning Inspectors overseeing the examination of the plan, and the council does not have any power to amend, delete or add to the modifications.
- 1.3 Following the consultation, the council will forward the comments it receives to the Inspectors and they will take the comments into account in finalising their report. On receipt of a favourable report from the Inspectors, the council can then proceed to adopt the plan and use it to guide development in the district.

2. PREPARATION OF THE CORE STRATEGY REVIEW

- 2.1 The council has been preparing a review of the Core Strategy to guide development in the district over an 18 year period, from 2019/20 to 2036/37. The Core Strategy Review takes forward existing policies in the adopted 2013 Core Strategy and also introduces new policies for the development of a garden settlement in the North Downs area.
- 2.2 The Core Strategy Review has gone through several stages of consultation, in 2018, 2019 and 2020, and has been revised several times to reflect consultation comments and changes to national planning policy, particularly the introduction of a new national methodology for calculating how many homes local authorities should plan for.

3. EXAMINATION OF THE CORE STRATEGY REVIEW

- 3.1 The council submitted the Core Strategy Review to the Secretary of State on 10 March 2020 for formal examination. On 19 March 2020, two planning Inspectors were appointed to examine the plan, Mr Kevin Ward BA (Hons) MRTPI and Mr Philip Mileham BA (Hons) MRTPI.
- 3.2 The Inspectors asked a number of initial questions about the plan which the council responded to during April and May 2020. Following this, the Inspectors issued a series of detailed Main Matters, Issues and Questions for the council and other participants to address, a process which ran from May to July 2020.
- 3.3 Preparations were made for public hearings to be held in early November 2020; these were to take place in-person at the Civic Centre and through video link, however, these arrangements had to be changed at short notice due to the Coronavirus pandemic and the national lockdown.
- 3.4 New arrangements were put in place so that the hearings could proceed as fully virtual sessions with the Inspectors, council officers and participants appearing by video link. The sessions were broadcast live and recordings were made available on the council's website.

- 3.5 The first series of public hearings opened on 15 December 2020 and ran to 18 December. These hearings covered main matters including: procedural and legal requirements; the housing requirement; the spatial strategy; residential needs; the urban area; the Romney Marsh area; and economic and retail growth.
- 3.6 The hearing sessions resumed on 5 January 2021, following the Christmas and New Year break, and ran to 12 January. This second series of hearings covered: the strategy for the North Downs area; the new garden settlement; the strategy for Sellindge; the supply and delivery of housing land; and other Core Strategy Review policies.
- 3.7 The hearing sessions were then paused to allow time for the council to undertake further work and agree a Statement of Common Ground with Highways England on transport matters.
- 3.8 The Statement of Common Ground was agreed by the parties and submitted to the Inspectors at the start of June; the hearings then resumed on 28 June 2021 covering transport matters and closed on 1 July 2021 with a discussion of administrative and procedural issues.

4. INSPECTORS' INITIAL FINDINGS

- 4.1 Following the final hearing session on 1 July, the Inspectors issued a letter to the council¹ which concluded that the Core Strategy Review had complied with the duty to cooperate and was capable of being found 'sound' subject to main modifications which the Inspectors would be recommending. (The great majority, if not all, local plans are subject to main modifications at the end of the process; the council's Places and Policies Local Plan, adopted in September 2020, had 21 main modifications.)
- 4.2 The Inspectors issued a further letter to the council on 16 July 2021 which set out their broad findings and provided a schedule of the main modifications they have instructed the council to prepare². The letter stated that, subject to their main modifications concerning detailed policy wording:

"... we consider that the District Spatial Strategy, the overall approach to the three character areas [Urban Area, North Downs Area and Romney Marsh Area] and settlements within them is sound. The housing requirement of an average of 738 dwellings per year over the plan period is justified ... We are satisfied that the Core Strategy Review will provide for an adequate supply of housing over the plan period and at least a five year supply of housing at the point of adoption. ...

Turning to the proposed New Garden Settlement specifically, we consider that in principle it is justified given the scale of housing need identified, the significant physical and environmental constraints that exist across much of the rest of the District and the limited scope for development within or

¹ See examination document EX098. Inspectors' correspondence can be viewed on the News and Updates page of the examination webpages at: <https://www.folkestone-hythe.gov.uk/core-strategy-review-2020/news-and-updates>

² See examination documents EX126 and EX127.

adjacent to existing settlements, beyond that already identified through the recently adopted Places and Policies Local Plan.”

- 4.3 Officers have been preparing the main modifications during July and August and have also been preparing responses to the points that the Inspectors raised during the last hearing sessions.
- 4.4 The Inspectors notified the council on 13 September that they are satisfied with the main modifications the council prepared to meet their directions. To progress with the plan, the council must now put the main modifications out for public consultation for a minimum of six weeks.

5. INSPECTORS' MAIN MODIFICATIONS

- 5.1 The Inspectors' main modifications are set out in Appendix 1 to this report. Main modifications are set out in the chapter order of the Core Strategy Review and are shown as modifications to the wording of the submitted plan. Text to be deleted is shown struck-through and additional text marked in bold and underlined.
- 5.2 The main modifications largely reflect:
- Changes to national planning policy, including the publication of a new version of the National Planning Policy Framework in July 2021.
 - Issues raised by participants throughout the process, including: Natural England regarding the condition of the Stodmarsh protected sites near Canterbury; Highways England regarding highway mitigation; and Ashford Borough Council regarding potential impacts on the Ashford borough.
 - The changing housing supply situation and the need for the council to demonstrate that there is an adequate supply of housing land for the first five years of the plan and sufficient land to meet the overall requirement for the full plan period of eighteen years.
 - Progress that has been made on strategic sites and broad locations in the plan, including: Folkestone Seafront; Shorncliffe Garrison, Folkestone; the former Nickolls Quarry, Hythe; and Sellindge.
 - Amendments needed to ensure consistency of approach between the policies brought forward largely unchanged from the adopted 2013 Core Strategy and the new or substantially revised policies put forward in the Core Strategy Review.
- 5.3 It should be noted that the main modifications have been prepared at the Inspectors' direction, following consideration of national planning policy, the written evidence submitted by the council and other participants, and the discussion at the examination hearings.
- 5.4 The framework for preparing local plans is set by Part 2 of the Planning and Compulsory Purchase Act 2004 as well as Part 6 of the Town and Country Planning (local planning) (England) Regulations 2012.

- 5.5 Once a plan is submitted to the Secretary of State, a local authority's scope to make amendments to the plan ends and the process is determined by the planning Inspectors; the council therefore has no power to amend the Inspectors' main modifications, add further main modifications of its own or delete any main modifications recommended by the Inspectors.
- 5.6 The main modifications must be consulted on for at least six weeks. Anyone may comment on the main modifications, whether they have participated earlier in the process or not, but comments must be limited to the main modifications themselves; the Inspectors will not consider comments which raise new matters or return to matters already examined during the process but which do not form part of the main modifications.
- 5.7 The main modifications will be accompanied by a Sustainability Appraisal and Habitats Regulations Assessment assessing the potential impacts of the modifications, taking into account other plans and programmes. This assessment has been undertaken throughout the plan process by the council's consultants LUC.
- 5.8 The draft Sustainability Appraisal, prepared alongside the main modifications, is attached as Appendix 2 to this report. The Habitats Regulations Assessment was updated in December 2020, in light of the discussions about nutrient neutrality and impacts on the Stodmarsh sites, and this is not expected to need significant revision.³ Recommendation 3 of this report seeks delegated authority for the Director of Corporate Services to approve these supporting documents, and any other supporting materials, for consultation alongside the main modifications.

6. NEXT STEPS

- 6.1 Following Cabinet's decision, officers will prepare the documentation for the public consultation, advertise the consultation and send notifications to interested parties on the local plan database, as well as statutory consultees and other organisations. The consultation is likely to run from the end of September to mid-November.
- 6.2 When the consultation has closed, the council will collate all the comments it has received and send them, through the Programme Officer, to the Inspectors. At this stage the council does not respond to the comments.
- 6.3 The Inspectors will then finalise their report and issue it to the council. The report will set out the Inspectors' conclusions regarding the matters and issues they examined and will include the final schedule of main modifications that they will be recommending to make the plan 'sound', taking into account comments received during the consultation.

³ The addendum to the Habitats Regulations Assessment was published as Examination Document EB 02.95. This is available to view at: https://www.folkestone-hythe.gov.uk/media/3137/EB-02-95-HRA-Addendum-Nutrient-Neutrality-07-12-2020/pdf/EB_02.95_FHDC_Habitats_Regulations_Assessment_Addendum_-_Nutrient_Neutrality_07.12.2020.pdf?m=63742963019070000

6.4 When the council receives the final report the Inspectors' work will end and the plan will be handed back to the council for adoption. At this stage the Inspectors' Report and Main Modifications will be taken back to Cabinet and full Council with the recommendation to adopt the plan with the main modifications recommended by the Inspectors. On adoption the plan has full weight in decision-making and the council can use it to decide planning applications throughout the district.

7. OPTIONS

7.1 The options are:

1. To approve the main modifications for consultation; or
2. Not to approve the main modifications for consultation.

7.2 Option 1 is the recommended option. Approving the main modifications for consultation will allow the examination process to continue to its conclusion, and, if the council receives a favourable report from the planning Inspectors, it can then proceed to adopt the plan.

7.3 Option 2 is not recommended. Not approving the main modifications for consultation will mean that the council cannot proceed with the plan. This means that the council will not have an up-to-date plan in place; without this the council will not be able to meet its development requirements and will be vulnerable to intervention by Government in its planning functions and will also be subject to challenge by developers on the grounds of a lack of housing land supply.

8. RISK MANAGEMENT ISSUES

8.1 The risk management issues are set out below.

Perceived risk	Seriousness	Likelihood	Preventative action
That consultation on the main modifications raises issues that challenge the validity of the process.	High	Low	The main modifications have been prepared at the directions of the Inspectors who are experienced at examining local plans. The council has been supported by legal advice from a Queen's Counsel throughout the hearings.

9. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

9.1. **Legal Officer's Comments (NM)**

The Core Strategy forms a statutory element of the local plan for the council setting out the strategic planning framework and policies to guide the Council up to 2036/37.

The review of the plan every five years is a statutory requirement. The Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development) (England) Regulations 2012 set out the framework for producing local plans.

As outlined in the report, there is a risk of challenge by developers and intervention by the Government in relation to the Council's planning functions if an up to date plan is not in place.

9.2. Finance Officer's Comments (RH)

The most significant costs will be the remaining Inspectors' fees which are not known at this point in time. However, it is anticipated that the likely Inspectors' fees can be met from existing budgets held for the new garden settlement and the strategy team.

9.3. Diversities and Equalities Implications (GE)

An equalities impact assessment was undertaken for the Core Strategy Review and this is part of the examination library (document EB 01.91). Consultation on the main modifications will allow consultees to raise any diversities and equalities issues arising from the modifications themselves and these will be considered by the Inspectors in coming to their conclusions. When the Inspectors' final report is issued an updated Equalities Impact Assessment will be undertaken on the final document for adoption.

9.4. Climate Change Implications (AT)

No direct implications arising from this report. The council is required to consult on the Inspectors' main modifications and has no powers to amend these. Final adoption of the document will follow any comments that consultees may make on the main modifications. A sustainability appraisal (SA) has been undertaken to assess the main modifications and the SA is included as appendix 2 to this report.

10. 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, Strategy, Policy & Performance Lead Specialist
Telephone: 01303 853438
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: Schedule of Inspectors' Main Modifications for Public Consultation

Appendix 2: Sustainability Appraisal of Main Modifications - Draft