

Agenda Item No: 9.3 **Report No:** 82/15
Report Title: Lewes District Local Plan – Part 1 (Joint Core Strategy):
Publication of Main Modifications for Consultation
Report To: Cabinet **Date:** 6 July 2015
Cabinet Member: Councillor Tom Jones – Lead Councillor for Planning
Ward(s) Affected: All
Report By: Nazeya Hussain, Director of Business Strategy and
Development

Contact Officer(s)-

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Purpose of Report: To seek Cabinet and Council approval to publish the proposed schedule of Main Modifications to the Joint Core Strategy for an 8 week public consultation. Pursuant to the Examination Hearings and the Planning Inspector's Initial Findings, the Modifications have been drafted in partnership with the South Downs National Park Authority in order to address the Inspector's recommendations.

Cabinet and Council approval is also sought to subsequently submit the Main Modifications, together with any duly made representations received, to the Examination for consideration by the Inspector during any further Hearings and in his final report.

Please note: It is not the purpose of this report to seek suggested further modifications that are not within the scope of the Inspector's Initial Findings, or factual updates, as all other parts of the plan are considered by the Inspector to be 'essentially sound'. No other modifications have been invited by the Inspector.

Officers Recommendation(s):

- 1** To recommend to Council that the schedule of Main Modifications (Appendix 1 of this report) to the Joint Core Strategy be published for an eight week period for public representations to be made.
- 2** To authorise the Director of Business Strategy and Development to submit the schedule of Main Modifications, together with any duly made representations, to the Examination.
- 3** To authorise the Director of Business Strategy & Development, in consultation with the Lead Member for Planning and the South Downs National Park Authority, to agree any further Additional (minor) Modifications to the Joint Core Strategy that may result from the remaining Examination process, as deemed

necessary to make the document sound or to aid in its practical application for decision-making.

Reasons for Recommendations

- 1** To ensure that the Joint Core Strategy addresses the Initial Findings of the Planning Inspector in order to result in a sound and National Planning Policy Framework (NPPF) compliant plan.
- 2** To ensure that the Joint Core Strategy has addressed the implications of recent changes to national planning policy that have occurred subsequent to its submission for Examination, in order to result in a sound and NPPF complaint plan.
- 3** To ensure that the Joint Core Strategy is progressed through the final stages to adoption in a timely manner, in order to provide the Council and National Park Authority with up-to-date development plan policies against which to determine planning applications.

Information

4 Background

- 4.1** The Joint Core Strategy (JCS) will be the central planning document for the district. It will set out the long term vision and guide development and change up to 2030. The strategy is being prepared in partnership with the South Downs National Park Authority (SDNPA) and has already been subject to a long process of preparation, public consultation and inspection. It has been extensively consulted upon and amended accordingly.
- 4.2** On 24 April 2014 Cabinet recommended and Council subsequently approved at its annual meeting of 7 May 2014 the Focussed Amendments version of the JCS for publication and subsequent submission to the Secretary of State for Examination in public (Cabinet minute 150 / Council minute 7 refer). The JCS was submitted in September 2014 and public Examination hearings took place in January 2015.
- 4.3** In February 2015 we received the Inspector's Initial Findings letter¹ which confirmed that the Inspector considered the JCS to meet the statutory requirements, including those arising from the Duty to Cooperate and relating to legal compliance, such as in relation to public consultation. The Initial Findings also found that the district's level of objectively assessed housing needs have been appropriately identified, and accepted the Council and National Park Authority's position that this level of development cannot be accommodated in the district without unacceptable environmental consequences.

¹ http://www.lewes.gov.uk/Files/plan_ID-05_Letter_to_Councils_10_Feb_2015.pdf

- 4.4** However, despite this, the Inspector was not convinced that ‘no stone has been left unturned’ in terms of seeking as many suitable, deliverable and appropriate housing sites as possible. He advised that the evidence of the Examination was that the level of housing growth proposed in the JCS (290 homes per year) would not be sufficient to maintain the present levels of employment in the district. Therefore the Initial Findings letter advises that modifications will be required to the plan in order for it to be capable of being found sound in the final report. This includes increasing the housing requirement to at least 345 homes per year as set out in Section 5 below.
- 4.5** The Initial Findings letter provides very clear guidance on the changes that the Inspector considers necessary, which have now been drafted into schedules of Modifications ready for public consultation. Aside from the suggested modifications concerning housing delivery, the Inspector confirmed that he considered all other elements of the JCS to be essentially sound.

5 The Proposed Modifications

- 5.1** Four schedules of modifications have been prepared for publication, consultation and subsequent submission to the Examination as follows:

Schedule 1 comprises both Main² and Additional³ modifications as identified between the publication of the Focussed Amendments JCS in May 2014 and Submission to the Secretary of State in September 2014. This was previously submitted to the Examination as document CD/004 in September 2014 and so has been available on the examination webpage⁴ since September. Its content has been considered by the Inspector, including at the public Hearings, but has not yet been subject to formal publication and consultation. This schedule is attached in Appendix 2 for information purposes and is not subject to Council approval.

Schedule 2 comprises both Main and Additional Modifications as proposed to the Examination in our submitted Written Matters Statements in January 2015 as document LDC/015 and so has been available on the examination webpage since January. It has been considered by the Inspector, including at the public Hearings, but has not yet been subject to formal publication and consultation. This Schedule is attached in Appendix 2 for information purposes and is not subject to Council approval.

² ‘Main’ Modifications are those changes that are necessary for the soundness of the plan. It is only the Main Modifications that the Inspector will deal with in his final report.

³ ‘Additional’ Modifications are all other changes (sometimes called ‘minor’ modifications) including corrections and additional supporting text and clarification, which the local planning authority considers of benefit to the plan and/or its implementation but do not change the intent of the strategy itself.

⁴ www.lewes.gov.uk/corestrategyexamination

Schedule 3 comprises all **Main Modifications**⁵ (Appendix 1) proposed in response to discussions at the Examination Hearings and in response to the Inspector's Initial Findings, together any Main Modifications that were previously identified in Schedules 1 and 2. It is only these Main Modifications that the Inspector may consider in his Final Report and which must be subject to public consultation.

Schedule 4 comprises the Additional Modifications proposed in response to discussions at the Examination Hearings in January 2015 and in response to the Inspector's Initial Findings. This Schedule is attached in Appendix 2 for information purposes and is not subject to Council approval.

- 5.2** The Main Modifications respond to matters that affect the soundness of the JCS. These changes will be necessary before the plan may be adopted. The Inspector advised at the final Hearing session that, overall, he considers the JCS has been well prepared and well evidenced. However, primarily in light of the shortfall of proposed housing against the level of objectively assessed need for housing (both market and affordable), he felt that the balance of sustainable development as set out in the NPPF (three elements of environmental, social and economic factors that need to be appropriately balanced) had not yet been struck. Essentially, he considers that too much emphasis has been placed on the environmental element of sustainable development, particularly in terms of new housing provision in the JCS.
- 5.3** The key matters that are addressed in the proposed modifications, as indicated in the Inspector's Initial Findings Letter, are:
- i. To **increase the overall housing provision** in the plan to a minimum of 6,900 in total (an average of at least 345 homes per year). This is considered a critical modification to the plan.
 - ii. To **allocate Land at Old Mallig Farm**, Lewes as an additional strategic site for housing (approximately 200 homes) in order to strike 'the right balance' between the environment, social and economic needs in the town, while having regard to the primary purpose of the National Park designation. This site is also proposed to deliver 50% affordable housing (compared 40% as sought by Core Policy 1).
 - iii. To make a **full allocation at Land North of Bishops Lane**, Ringmer (approximately 110 homes). This site was previously proposed to be a contingency allocation to be released in the event that the Ringmer Neighbourhood Plan was not made or did not plan for sufficient homes to meet the JCS requirements. However, the Inspector is of the view that the JCS needs to provide clarity on all strategic sites, which means formally

⁵ Schedule 3 sets out all those modifications, proposed since September 2014, that are considered 'Main Modifications'. It is the Main Modifications that the Inspector will consider in his Final Report and which must be published and consulted upon for a minimum of 6 weeks, hence they have been compiled together in one schedule for ease of reference.

allocating this site at Ringmer. The Inspector is of the view that such clarity will facilitate an early start to delivery and help meet the overall needs of the district.

- iv. To make a **full allocation at Harbour Heights**, Newhaven (approximately 400 homes and modern employment units). This site was previously identified in the JCS as a broad location for housing. The full allocation will provide clarity and allow for delivery at this site to be commenced earlier (rather than waiting for detailed allocation in Local Plan Part 2). This site is proposed to deliver at least 30% affordable housing (reduced from the 40% sought by Core Policy 1 to allow for sufficient viability in the scheme for the delivery of the replacement employment units).
- v. To **allocate Land at Lower Hoddern Farm**, Peacehaven as an additional strategic site for housing (approximately 450 homes). This site is the most sustainable and only reliably deliverable strategic scale site in Peacehaven. An essential requirement of development here will be the identification and delivery of a co-ordinated package of multi-modal transport measures to mitigate the impacts on the A259 coast road.
- vi. To make a less cautious allowance for “**windfall**” housing delivery of 50 homes per year.
- vii. To make an allowance for delivery of **small scale rural exception sites** totalling 125 homes over the plan period.

5.4 These requirements have been addressed in the drafted Schedules of Modifications proposed for publication. The Inspector has informally reviewed the draft schedules and has advised that the content of the proposed schedules of modifications ‘fits the bill’, subject to publication, consultation, appropriate supporting evidence (including sustainability appraisal) and the findings of any subsequent Examination Hearings.

5.5 The schedules of Main and Additional Modifications include various other proposed changes beyond the key ones listed above. These other changes are to make corrections; to update the JCS, particularly to reflect changes in national policy; or to reflect the discussions at the Examination Hearings. Other modifications of particular note are:

- (a) Change the **affordable housing threshold** of Core Policy 1 from developments of 3+ units on a districtwide basis to development of 11+ units outside the SDNP and 6+ units within the SDNP area, in line with national policy requirements.
- (b) Clarification of the **Lifetime Homes Standards** requirement of Core Policy 2 from ‘will be encouraged’ to ‘will be required for a minimum of 10% of homes in new build developments of 11 or more homes’.
- (c) Updating Core Policy 3 with revised pitch requirement figures taken from the **Gypsy, Traveller and Travelling Showpeople Accommodation**

Needs Assessment, December 2014, which was completed after the JCS was submitted to the Secretary of State.

- (d) Reclassifying **Newhaven town centre** (within the ring road) in the JCS Retail Hierarchy as a District Retail Centre, rather than a Local Centre, for the purposes of Core Policy 6.
- (e) To clarify that the loss of retail units in the district's **Primary Shopping Areas** and Primary Shopping Frontages will be resisted. The exception being in Newhaven Primary Shopping Area where a diverse range of retail and other uses (such as cafes, restaurants, financial and professional services, employment, arts, cultural and community services) will be encouraged and permitted for vacant retail units, in order to support the remaining retail function of the town centre (within the ring road).
- (f) Add to Core Policy 10 to clarify that both within and **in the setting of the South Downs National Park** development will be resisted if it fails to conserve and appropriately enhance its rural, urban and historic landscape qualities and its natural and scenic beauty.
- (g) Amend Core Policy 10 to clarify that development within 7km of the **Ashdown Forest** will be required to contribute to the provision of Suitable Alternative Natural Greenspace (SANGs) and the implementation of a Strategic Access Management and Monitoring Strategy (SAMMS).
- (h) Add to Core Policy 14 to include '**allowable solutions**' as an option for mitigating carbon emissions from development within Energy Strategies for each strategic site allocation. This policy will also be amended to remove reference to the Code for Sustainable Homes in light of the Housing Standards Review.

6 Publication and Consultation

- 6.1 It is a statutory requirement that Main Modifications (Appendix 1) are published and consulted upon for a minimum of 6 weeks. It is proposed to commence consultation on 24 July 2015. As this is at the start of the summer holiday period it is proposed to undertake a longer 8 week consultation⁶, closing on 18 September 2015.
- 6.2 There is no statutory requirement to publish or consult upon the schedules of Additional Modifications and these cannot be specified by the Inspector in his final report (only the Main Modifications will be formally considered). The schedules of Additional Modifications are therefore reported here for information purposes only. However, it is considered good practice to publish and consult upon Additional Modifications alongside the Main Modifications and for LDC and

⁶ The Lewes District Council and South Downs National Park Authority Revised Statement of Community Involvement (2011) states that a consultation period of a minimum of 6 weeks will be used for statutory consultations such as this, and longer where possible.

SDNPA to consider the merits of any representations received for inclusion in the adopted version of the JCS.

- 6.3** An amended version of the full JCS, showing all the proposed modifications as 'track changes', will be prepared and published with the modifications for ease of reference. This 'with modifications' version of the Submission JCS will then be submitted to the Examination, for information, with the schedules of Modifications and representations received.
- 6.4** Evidence supporting the proposed modifications, including a sustainability appraisal, will also be submitted to the Examination and made publicly available in the examination library (online and hardcopy) when the Modifications are published.

7 Next Steps for the JCS

- 7.1** The timetable for ongoing work on the JCS to adoption is currently envisaged as shown below. This timetable may be influenced by the number and content of representations received and the Inspector's timings, particularly with regard to any additional Hearing sessions he decides to hold. The Inspector has indicated that it is likely an additional Hearing will be called for Old Malling Farm and possibly Lower Hoddern Farm as these are newly included allocations in the JCS. It is possible the Inspector will choose to hold further Hearings on other matters too.

Key Milestones	Date*
Publication for 8 week consultation period	24 July 2015 – 18 September 2015
Process duly made representations to submit to Inspector with consultation summary statement	Late September
Additional Examination Hearing(s) – if required	Autumn 2015
Inspector's Draft Report for Fact Checking	tbc
LDC/SDNPA Fact Check Response	tbc
Publish Inspector's Final Report	tbc – expected by end of 2015
Adoption of the Joint Core Strategy by LDC and SDNPA	tbc – Early 2016

* All dates are indicative and are largely at the Inspector's discretion to the conclusion of the Examination.

8 Financial Appraisal

- 8.1** The financial implications of publishing the Schedules of Modifications for public consultation will be minimal, mainly consisting of the costs associated with printing and postage. Such costs can be met from the current budget allocated for the completion of the JCS. As with other reasonable costs associated with the examination of the JCS a proportion⁷ will be reimbursed by SDNPA.

9 Legal Implications

The Legal Services Department has made the following comments:

- 9.1** The statutory framework for examination of the Core Strategy 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 Core Strategy. These stages are explained within the body of this report.
- 9.2** The Act requires that when the Core Strategy is submitted to the Planning Inspector, the Inspector must satisfy himself/herself that the strategy complies with legislative requirements.
- 9.3** If the Inspector decides that the Core Strategy does not comply with legislation the Inspector's report will recommend non-adoption. If this happens the Council will not be able to proceed to adoption of the Core Strategy.
- 9.4** The Initial Findings letter explains the basis of the Inspector's concerns and invites the Council to resolve these concerns by making modifications to the Core Strategy prior to the Inspector issuing the final report.
- 9.5** The Council is required under the Town and Country Planning (Local Planning) (England) Regulations 2012 to publish and invite representation from the public in respect of the proposed main modifications to the Core strategy.
- 9.6** Paragraph 11 sets out risks that the Council faces should the recommendations of this report not be implemented.

10 Risk Management Implications

- 10.1** I have completed a risk assessment. The following risks will arise if the recommendations are not implemented, and I propose to mitigate these risks in the following ways:

⁷ SDNPA has agreed to reimburse 34% of the JCS Examination costs, where relevant to the national park.

Risk	Mitigation
<p>That the Joint Core Strategy Examination is delayed and/or is consequently concluded to be 'unsound' by the Planning Inspector (or it is recommended that the document be withdrawn from the Examination in Public) due to the lack of modification to address the Inspector's Initial Findings. This would increase the period of time without an up-to-date development plan in place, which in turn increases the time that planning applications are determined in accordance with national planning policy rather than the Council's own locally derived policies. As an example, without a sound Core Strategy the Council would not be able to seek 40% affordable housing on new developments and would instead have to revert back to a 25% target. The Council's housing land supply position would also be compromised, which would increase the vulnerability to unplanned and speculative development proposals.</p>	<p>That the recommendations of this report are approved, enabling the proposed modifications to be published for consultation and subsequently submitted to the Examination for the Inspector to consider in his final report (Main Modifications only).</p>

No new risks will arise if the recommendation is implemented.

11 Equality Screening

11.1 An Equality Analysis Report (Appendix 3) has been undertaken. No specific negative or positive outcomes have been identified.

12 Background Documents

Lewes District Joint Core Strategy Submission Document September 2014
http://www.lewes.gov.uk/Files/plan_Draft_Charging_Schedule_Submission_Version.pdf

Submission Sustainability Appraisal
http://www.lewes.gov.uk/Files/plan_SA_Submission.pdf

Inspector's Initial Findings Letter http://www.lewes.gov.uk/Files/plan_ID-05_Letter_to_Councils_10_Feb_2015.pdf

The full Joint Core Strategy Examination Library is available online at
www.lewes.gov.uk/corestrategyexamination

Minutes of Cabinet 24 April 2014
<http://lewes.cmis.uk.com/CMIS5/Document.ashx?czJKcaeAi5tUFL1DTL2UE4zNRBc0Shgo=5dK2d7bQefpqnnav2%2b1Oq62VRJ%2fUOsy1SH8%2blBserbMrIXCRmZug>

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Minutes of Council 7 May 2014

<http://www.lewes.cmis.uk.com/CMIS5/Document.ashx?czJKcaeAi5tUFL1DTL2UE4zNRBcoShgo=isbK%2bD73CkD3CTNHgrohFyw6wEtz74OFBYctCEWfwo%2bZ19L0UeP32Q%3d%3d&rUzwRPf%2bZ3zd4E7lkn8Lyw%3d%3d=pwRE6AGJFLDNlh225F5QMaQWCtPHwdhUfCZ%2fLUQzgA2uL5jNRG4jdQ%3d%3d&mCTIbCubSFfXsDGW9IXnlg%3d%3d=hFfIUdN3100%3d&kCx1AnS9%2fpWZQ40DXFvdEw%3d%3d=hFfIUdN3100%3d&uJovDxwdjMPoYv%2bAJvYtyA%3d%3d=ctNJFf55vVA%3d&FgPIIEJYlotS%2bYGoBi5oIA%3d%3d=NHdURQburHA%3d&d9Qjj0ag1Pd993jsyOJqFvmyB7X0CSQK=ctNJFf55vVA%3d&WGewmoAfeNR9xqBux0r1Q8Za60lavYmz=ctNJFf55vVA%3d&WGewmoAfeNQ16B2MHuCpMRKZMwaG1PaO=ctNJFf55vVA%3d>

Appendices

- Appendix 1 – All Main Modifications
- Appendix 2 - Modifications arising from Focussed Amendments consultation
 - Modifications arising from Written Statements
 - Additional Modifications arising during/after Hearings
- Appendix 3 - Equality Analysis Report