



**Reigate & Banstead**  
BOROUGH COUNCIL  
Banstead | Horley | Redhill | Reigate

<b>SIGNED OFF BY</b>	Head of Planning
<b>AUTHOR</b>	Billy Clements, Principal Planning Officer
<b>TELEPHONE</b>	01737276175
<b>EMAIL</b>	billy.clements@reigate-banstead.gov.uk
<b>TO</b>	Council
<b>DATE</b>	Tuesday, 2 July 2019
<b>EXECUTIVE MEMBER</b>	Portfolio Holder for Planning Policy

<b>KEY DECISION REQUIRED</b>	Y
<b>WARDS AFFECTED</b>	(All Wards);

<b>SUBJECT</b>	Review of the Reigate & Banstead Local Plan: Core Strategy
----------------	--

<b>RECOMMENDATIONS</b>
<p>(i) That the review of the Reigate and Banstead Local Plan: Core Strategy included at Annex 1 be approved and adopted;</p> <p>(ii) That the Reigate and Banstead Local Plan: Core Strategy continue to be deemed up to date for the purposes of planning decision-making across the Borough</p>
<b>REASONS FOR RECOMMENDATIONS</b>
<p>(i) and (ii) The Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended) requires a review of local plans, such as the Core Strategy, to be completed every five years, starting with the date of their adoption. The Council's Core Strategy was adopted on 3 July 2014 and therefore must be reviewed by 3 July 2019. This review has been undertaken and concludes that none of the policies within the Core Strategy requires updating or modification at this time. Adopting the review will ensure compliance with statutory requirements and will provide certainty to stakeholders that the Core Strategy is up to date.</p>
<b>EXECUTIVE SUMMARY</b>
<p>The Reigate and Banstead Local Plan: Core Strategy was adopted on 3 July 2014. In accordance with changes to planning legislation that came into force in April 2018, the Council must complete a review of it by 3 July 2019.</p>

Reviewing a plan means undertaking an assessment to determine whether the policies need updating. There is no prescribed format for a review, however, the process for undertaking a review is set out in legislation and national policy and there is some guidance within the Planning Practice Guidance.

In line with the statutory obligations, a thorough review of each individual policy within the Reigate and Banstead Local Plan: Core Strategy has been undertaken, following the legislation, national policy and PPG. This review concludes that each of the policies is in broad conformity with the provisions of the 2019 NPPF and all other relevant national policies. It also identifies that the latest evidence and monitoring data demonstrates that the policies of the Core Strategy are operating effectively and delivering positively against the requirements, objective and indicators in the plan. Consequently, it concludes that none of the policies in the Core Strategy requires updating or modification at this present time.

**The above recommendations are subject to approval by Full Council.**

## **STATUTORY POWERS**

1. The Planning and Compulsory Purchase Act 2004, The Planning Act 2008, The Localism Act 2011, the Housing and Planning Act 2016 and associated regulations (including the Town and Country (Local Planning) (England) Regulations 2012 ('the 2012 Regulations')), set the statutory framework for the preparation and review of local plan documents by the Local Planning Authority. National policy in relation to the review of local plan documents is provided through the National Planning Policy Framework 2019, supported by National Planning Practice Guidance.
2. By virtue of Regulation 10A of the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended), the Council is under a statutory obligation to complete a review of local plan documents every five years, starting from the date of adoption of the document<sup>1</sup>.

## **BACKGROUND**

3. The statutory requirement to review local plan documents within specific time periods was introduced through a relatively recent amendment to the Town and Country Planning (Local Planning)(England) Regulations 2012 which came into force on 6 April 2018.
4. The Local Plan: Core Strategy was adopted on 3 July 2014 and, as such, it reaches the fifth anniversary of its adoption on 3 July 2019.
5. The Core Strategy forms part of the Council's statutory development plan for the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004. The policies within the Core Strategy include the overarching spatial strategy for the pattern, scale, amount and quality of development in the borough. This includes setting the housing delivery requirement.
6. The Core Strategy covers the period from 2012 to 2027 (commonly referred to as the "plan period"). The Core Strategy includes within it (paragraph 8.17) a commitment to

---

<sup>1</sup> In accordance with Section 23 (Adoption of local development documents) of the Planning and Compulsory Purchase Act 2004.

commence a review of the Core Strategy within 5 years of this adoption; however, the recent changes in the planning regulations now require a review to be completed every five years starting with the date of adoption.

7. The Core Strategy was prepared in accordance with relevant legislation (as confirmed in the Core Strategy Inspector's report) and was therefore found to be legally compliant. The Core Strategy was also deemed "sound" subject to a number of main modifications, when assessed against national policy that was in force at the time of the examination (the 2012 National Planning Policy Framework).
8. The requirement to review local plans at least every five years is also taken forward in the 2019 National Planning Policy Framework (NPPF), notably paragraphs 31 to 33 and there is associated guidance in the national Planning Practice Guidance (PPG), including a number of factors that local planning authorities can consider when undertaking a review, including:
  - Conformity with national policy
  - Changes to local circumstances; such as a change in local housing need
  - Their Housing Delivery Test performance
  - Whether the authority can demonstrate a 5 year supply of deliverable sites for housing
  - Their appeal performance
  - Success of policies against indicators in the Development Plan, as set out in their Authority Monitoring Report
  - Plan-making activity by other authorities, such as whether they have identified that they are unable to meet all their housing need
  - Significant economic changes that may impact on viability
9. The PPG advises that that a local planning authority may need to gather new evidence to inform their review and sets out that "proportionate, relevant and up-to-date evidence should be used to justify a decision not to revise policies".

## KEY INFORMATION

### Review of the Reigate & Banstead Local Plan: Core Strategy

10. As per the requirements of the relevant regulations<sup>2</sup>, a review of the Core Strategy must be completed by 3 July 2019.
11. It is important to note that there is a clear distinction between a review of a plan, and an update or modification to it. The Regulations require a review but whether, having conducted the review, an update is required, is a matter of judgment for the Council. The NPPF makes this distinction clear by confirming that "*policies in local plans should be reviewed to assess whether they need updating*", demonstrating that a review may be a precursor to preparation or a new or updated plan, but also it may not if evidence and circumstances dictate otherwise.
12. There is no prescribed format for a review; however, they are addressed in the NPPF and there is further guidance within the national Planning Practice Guidance (PPG) as to how they should be undertaken, as described in the Background section above. The PPG specifically advises, "*the review process is a method to ensure that a plan*

---

<sup>2</sup> Specifically Regulation 10A of the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended)

*and the policies within remains effective”.*

13. It should be acknowledged that there have been changes in national policy, and the planning system more generally, since the Core Strategy was adopted. This includes the publishing of a revised National Planning Policy Framework by the Government in February 2019<sup>3</sup>. The key changes in national policy and in the planning system since the adoption of the Core Strategy are set out in the Review document at Annex 1. Careful consideration has been given to the conformity of the policies in the Core Strategy with this latest national policy.
14. A thorough review of each individual policy within the Reigate and Banstead Local Plan: Core Strategy has been undertaken, following the legislation, national policy and PPG. The detailed review document, which considers and assesses the specific factors and evidence advised in the PPG for each policy is provided at Annex 1.
15. The review concludes that each of the policies is in broad conformity with the provisions of the 2019 NPPF and all other relevant national policies. It also identifies that the latest evidence and monitoring data demonstrates that the policies of the Core Strategy are operating effectively and delivering positively against the requirements, objective and indicators in the plan. Adoption of the Development Management Plan (DMP) shortly will further support the Council in maintaining the current strong progress in delivering against the Core Strategy.
16. Whilst the review identifies that there have been inevitably been some changes in circumstances since the Core Strategy was adopted, it concludes that these are not considered to necessitate updates to the policies in the Core Strategy.
17. As a result, the overarching conclusion of the review is that there is no need to modify or update any policies of the Core Strategy at this time.
18. The review does identify a number of specific matters that, although not presently considered to justify modification to a policy, could trigger a further review and possibly necessitate an update of the plan in part or in full in the future. Careful on-going monitoring of these matters will enable the Council to respond promptly and appropriately should circumstances change.
19. Counsel has reviewed the contents of the review document and advised that, in his view, *“the document reads well and is clearly based on a careful and thoughtful review. I consider that it complies with the statutory requirement and, such as there is, the guidance on conducting reviews in the PPG.”*
20. As a consequence of the review, the Core Strategy continues to provide an up to date strategic policy framework for managing development across the Borough and for decision taking on planning applications.

## **OPTIONS**

21. The options available to Council are as follows:
22. Option 1: Approved and adopt the review of the Reigate & Banstead Local Plan: Core Strategy: The Council is required to complete a review of the Core Strategy by 3rd July in order to comply with legislative requirements. A comprehensive review has been conducted, taking account of relevant legislation, policy and guidance. It has considered the factors guided by the Planning Practice Guidance, including

<sup>3</sup> Which followed an earlier revision in July 2018.

conformity with current national policy, local circumstances (including any changes in circumstances), and relevant evidence and monitoring data as to the current local situation and performance of the plan. The review has concluded that none of the policies presently require updating or modification. Adopting the review will provide certainty and clarity to all stakeholders in respect of the status of the Core Strategy. **This option is recommended.**

23. Option 2: Do not adopt the review of the Reigate & Banstead Local Plan: Core Strategy: The Council is required to complete a review of the Core Strategy by 3rd July in order to comply with legislative requirements. Failing to adopt the review would mean that the Council does not comply with its statutory obligations. It may also have adverse consequences for how the Core Strategy is treated and weighed in the determination of planning applications, particularly given changes in national policy relating to the calculation of housing land supply. This could give rise to considerable uncertainty for all stakeholders. This option is not recommended.
24. Option 3: Adopt a review with different conclusions to those set out in Annex 1: Council could chose to adopt a review that concludes that one or more of the policies in the Core Strategy does require updating or modification. However, as above, a comprehensive review has been conducted; taking account of relevant legislation, policy and guidance and this has concluded that none of the policies presently requires updating or modification. Clear evidence or explanation would be needed to support alternative conclusions. A conclusion that policies do need updating would have implications for the weight which might be afforded to those policies in the determination of planning applications until such time as the Council had completed the full (or partial) updating of those policies through the normal plan-making process. This option is not recommended.
25. Recommendation (ii) would reinforce the Council's decision to adopt the conclusions of the review (should the full Council support recommendation (i)).

## **LEGAL IMPLICATIONS**

26. The review has been carried out in accordance with the relevant legislative requirements. Counsel advice has been sought on the statutory obligations regarding reviews and on the interpretation of relevant policy and guidance.
27. The risk of legal challenge in relation to the review is considered at paragraphs 34 to 36.

## **FINANCIAL IMPLICATIONS**

28. The review has been undertaken using existing resources within the Planning Policy team. Adoption of the review is not considered to give rise to any other financial implications.

## **EQUALITIES IMPLICATIONS**

29. The review of the Core Strategy is not considered to give rise to any equality implications.
30. For context, the Core Strategy itself was subject to Equalities Impact Assessment (EqIA) screening prior to its adoption which concluded that the Core Strategy would

have a positive impact on a number of target groups and a neutral impact on others.

## **COMMUNICATION IMPLICATIONS**

31. Should the Council endorse and adopt the review, it would be made public on the Council's website in accordance with the Planning Practice Guidance. The Council must publish the reasons for this decision within 5 years of the adoption date of the plan; the resolution of Council together with the review at Appendix 1 would satisfy this requirement.
32. The conclusions of the review may be of interest to local communities and stakeholders. Should any enquiries arise, these will be dealt with by the Planning Policy team with support from the Communications team as appropriate.

## **HUMAN RESOURCES IMPLICATIONS (if applicable)**

33. The review and recommendations in this report are not considered to give rise to any human resources implications.

## **RISK MANAGEMENT CONSIDERATIONS**

34. The primary risk should the Council endorse and adopt the review of the Core Strategy is the potential risk of a judicial review by a third party aggrieved at its conclusions or procedure. This risk applies to much of the Council's plan-making activities.
35. Should Council take the decision to adopt the review, there is potentially a period of up to three months within which a judicial review could be mounted<sup>4</sup>. Whilst the review (and therefore the conclusions of it) would remain "adopted" until the outcome of any challenge, a legal challenge of this nature could bring considerable uncertainty for planning within the borough. Defending a legal challenge (in the first instance in the High Court and potentially beyond) could also have significant financial and resource implications.
36. Counsel advice has been sought on the interpretation of legislation and policy associated with conducting a review of local plan documents. Furthermore, officers have sought to minimise the risk of legal challenge by ensuring that the relevant legislation, policy (in the NPPF) and guidance (in the national Planning Practice Guidance) has been followed and complied with in conducting the review. Counsel has also advised that they do not consider that the requirements of the Duty to Cooperate apply to plan reviews conducted under Regulation 10A and that they do not consider there to be any implied requirement to undertake public consultation on the review.

## **OTHER IMPLICATIONS**

37. No other implications have been identified.

## **CONSULTATION**

---

<sup>4</sup> The timeframe for a legal challenge would depend upon whether the adoption of the review by full Council was considered to be decision under the Planning Acts (in which case the ordinary time limit would be 6 weeks) or not (in which case the timeframe would ordinarily be 3 months).

38. As above, Counsel has advised that they do not consider there to be any implied requirement to undertake public consultation on the review. No consultation has therefore been undertaken, nor is any planned.

## **POLICY FRAMEWORK**

39. The Core Strategy forms part of the Council's Policy Framework as it is a Development Plan Document prepared in accordance with the Planning and Compulsory Purchase Act 2004.

## **BACKGROUND PAPERS**

Numerous background papers and evidence documents are referenced within the Review at Annex 1. Links are provided to these documents where appropriate within Annex 1.

The following are also relevant:

- National Planning Policy Framework February 2019:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)
- National Planning Practice Guidance:  
<https://www.gov.uk/government/collections/planning-practice-guidance>, including in particular the section on plan-making which is available at:  
<https://www.gov.uk/guidance/plan-making>