



DIRECTOR	Director of Place
AUTHOR	Billy Clements, Planning Policy Manager
TELEPHONE	01737 276087
EMAIL	billy.clements@reigate-banstead.gov.uk
TO	Executive
DATE	Thursday, 21 February 2019
EXECUTIVE MEMBER	Portfolio Holder for Planning Policy

KEY DECISION REQUIRED	Y
WARDS AFFECTED	(All Wards);

SUBJECT	Development Management Plan: Main Modifications and Local Development Scheme
----------------	--

RECOMMENDATIONS
<p>(i) That the Development Management Plan: Schedule of Main Modifications (Annex 1) be endorsed for public consultation, and that the Head of Planning, in consultation with the Executive Member for Planning Policy, be authorised to make any necessary amendments to the document as may be suggested by the Inspector prior to public consultation and to collate and submit representations arising from the consultation to the Planning Inspector as part of the examination process;</p> <p>(ii) That the revised Local Development Scheme (LDS) (Annex 2) be adopted and take immediate effect</p>

REASONS FOR RECOMMENDATIONS
<p>(i) Following the examination hearing sessions into the Development Management Plan in October/November 2018, the Council has received from the Planning Inspector a Post Hearing Advice Note which sets out a number of 'Main Modifications' which the Inspector considers are necessary to secure the soundness of the Plan. Approval is now being sought to carry out public consultation of these modifications. A minimum six week period of consultation is a requirement of the examination process and is necessary to enable the examination to proceed to a conclusion and for the Inspector to issue her final report.</p> <p>(ii) The Planning and Compulsory Purchase Act 2004 requires that the Council prepares</p>

and maintains a Local Development Scheme (LDS) setting out the timetable for preparation of Local Plan documents. The LDS requires updating to reflect the most up-to-date position in respect of the likely timeframes for examination/adoption of the DMP, as well as a programme for the preparation of a new Local Plan document to replace the current Core Strategy.

EXECUTIVE SUMMARY

This report relates to the Development Management Plan (DMP) which was submitted for examination on 18th May 2018 following endorsement by Council on 14th December 2017.

At the Executive on 21st June 2018, authorisation was given to the Head of Places and Planning, in consultation with the Leader of the Council and Executive member for Planning Policy, to provide formal responses to questions from the appointed Planning Inspector throughout the examination and agree actions necessary to ensure the soundness and legal compliance of the Development Management Plan. It was however indicated in the report that any Main Modifications would be brought back to Executive prior to public consultation.

Following the hearing sessions which took place in October/November 2018, the Council has received Post Hearing Advice from the Inspector which recommends a number of 'Main Modifications' to secure the soundness of the document, in addition to some others which were suggested by the Council in response to the Inspector's actions arising from the examination hearing sessions. Consultation on these modifications now needs to be undertaken to enable parties an opportunity to comment on the suggested changes and ultimately to inform the Inspector's consideration of, and final report on, the soundness and legal compliance of the Development Management Plan. In order to enable the examination process to proceed smoothly and avoid unnecessary delays, the Schedule of Main Modifications has already been sent to the Inspector for comment; however, the endorsement of the Executive is sought prior to commencing the formal public consultation. The Inspector has indicated that she may suggest incorporating some of the suggested minor (additional) modifications within the schedule of main modifications and so the recommendation is drafted to allow for this final detail to be delegated to Officers in consultation with the Executive member for Planning Policy.

Responses arising from the consultation will be forwarded to the Inspector. Once received, the Inspector's report will be reported to Executive, following which the Full Council will have responsibility for formally adopting the Development Management Plan.

Planning law requires that the Council prepares a Local Development Scheme (LDS) setting out the timetable for preparation of Local Plan documents and subsequently keeps it up to date. As a result of the examination process progressing slower than anticipated, and due to the need for a period of Main Modifications consultation, the timetable for the DMP needs to be updated, with adoption now anticipated in June 2019. In addition, a revised timetable for the preparation of a new Local Plan document to review and replace the Core Strategy, which will be 5 years old in July 2019, is also set out.

Executive has authority to approve the above recommendations

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 production of local plan documents by the Local Planning Authority and the requirements for a Local Development Scheme. National policy in relation to the production of local plan documents is provided through the National Planning Policy Framework, supported by National Planning Practice Guidance.
2. In accordance with the legislative framework, and national guidance, the Development Management Plan has been prepared with the objective of contributing to the achievement of sustainable development. It has been developed taking into account a wide range of evidence, engagement with adjoining authorities and delivery agencies, and the results of public consultation, and has been subject to an on-going process of Sustainability Appraisal and Habitats Regulations Assessment.
3. Under Article 4 of the Council's Constitution, Local Plan documents – including the Development Management Plan – are part of the Council's policy framework. The Executive has responsibility for the approval of proposals for consultation. However, Full Council has responsibility for the ultimate adoption of the Development Management Plan.
4. The consultation upon the Development Management Plan: Schedule of Main Modifications is made in compliance with the Council's obligations under the Human Rights Act 1998.

BACKGROUND

5. The Council submitted the Development Management Plan to the Secretary of State for Housing, Communities and Local Government for independent examination on 18 May 2018. The Planning Inspector appointed Secretary of State for Housing, Communities and Local Government Inspector then undertook a series of hearings into the soundness of the Development Management Plan between 30 October 2018 and 9 November 2018.
6. Following the public hearings, the Council was required to respond to a number of "action points" arising from the hearing sessions. This included providing additional evidence/explanation of the Council's position on some issues and, in some cases, suggesting potential modifications to address issues arising. The Council's post hearing responses were submitted to the Inspector following consultation with the Leader and Portfolio Holder in accordance with the delegation agreed by Executive on 21st June 2018.
7. Subsequent to this, the Inspector has issued to the Council a Post Hearing Advice Note, setting out her views on a number of key matters. The Advice Note also recommends a number of further 'Main Modifications' in addition to those arising from the above hearing actions, to secure the soundness of the document. Consultation on these modifications, as well as those suggested through the Council's post hearing work, is now needed as part of the examination process before the Inspector can prepare her final report into the Development Management Plan. The Inspector has also indicated that she may recommend some of the suggested minor (additional) be incorporated into the schedule of main modifications to allow for their consultation

and the recommendation is worded to allow this.

8. Following the proposed six week consultation period, consultation responses will be collated and passed to the Inspector, and will inform her consideration of, and report on, the soundness and legal compliance of the Development Management Plan. Following this it is anticipated that we will receive the Inspector's Report which will be brought back to Executive before adoption of the Plan at Full Council.
9. It is a national requirement that plans be in accordance with the LDS. The last LDS was adopted in June 2018; however, at that point it envisaged examination hearings in August with adoption in December. Due to the timing of the hearings and response to them the examination process has taken longer than this.
10. In addition, recent legislative changes require Council's to review their Local Plan documents every five years to determine whether they need updating in response to changing circumstances or national policy. The Council's currently adopted Core Strategy was adopted in July 2014 and thus will reach its five year anniversary in July 2019.

KEY INFORMATION

Inspector's Post Hearing Advice and Main Modifications to the Development Management Plan (DMP)

11. As discussed above, the Inspector has issued a note setting out her Post Hearing Advice following the hearing sessions into the Development Management Plan.
12. Whilst the note sets out preliminary findings (without prejudice to the outcomes of further consultation and the Inspector's final report), this is the point at which the Inspector would raise any fundamental concerns. As such, the overall content of the note – and particularly the limited number of further modifications which the Inspector is recommended - is a positive reflection that the Development Management Plan can be found sound.
13. Many aspects of the Development Management Plan are not discussed or reflected in the note. Whilst this is not definitive, this is considered to be a reasonable indication that the Inspector is comfortable with these elements of the plan (subject to any modifications which the Council previously proposed).
14. The key changes previously suggested by the Council through its post hearing actions include:
 - Revisions to the capacity of a number of sustainable urban extensions sites to optimise housing yield from these allocated sites in accordance with national policy
 - Revisions to the policy approach to, and allocations for traveller accommodation, including increasing capacity on previously proposed allocations and a new site allocation at Highlands, Kingswood in order to address a shortfall against identified needs
 - Additional clarity as to the policy requirements in respect of the Horley Business Park, including the mix of uses, access arrangements and transport mitigation to address concerns raised by Highways England and Gatwick Airport Ltd.
15. The key further modifications recommended by the Inspector in her Advice Note

include:

- Removal of the requirement for affordable housing contributions on small sites (reflecting national policy)
 - Retaining the five year supply trigger for the release of sustainable urban extensions but removing the proposed prescriptive phasing/ordering of sites; the effect of this being that – when the Council is unable to demonstrate a five year supply – all sites would be released rather than on a “one by one” basis
 - Deleting the requirement for safeguarded land at Redhill Aerodrome
 - Applying a maximum capacity for each of the sustainable urban extensions rather than applying a range
 - A full Schedule of the proposed ‘Main Modifications’, which would form the basis of the public consultation, has been prepared and is attached at Annex 1.
16. These modifications would be subject to a six week public consultation period, which it is anticipated will start at the beginning of March following the expiry of the call-in period. The consultation focusses specifically on the ‘Main Modifications’ and is not an opportunity for stakeholders/interested parties to make comments on unchanged parts of the document or reopen objections they have previously made.
17. Responses received during the consultation would then be supplied to the Inspector for her consideration and to enable her to draft her Final Report. Reassuringly, the Inspector’s Advice Note makes clear that, at this stage, she expects the matters to be dealt with through written representations and does not anticipate the need for any further hearing sessions. Whilst it is difficult to guarantee timeframes given the process is largely in the control of the Planning Inspector, the Council could expect to receive a Final Report in April/May, enabling adoption shortly thereafter presuming the plan is found ‘sound’.

The Local Development Scheme (LDS)

18. The Local Development Scheme (LDS) (Annex 2) is effectively the programme for the production of plans. The LDS sets out the timetable for the key stages in local plan preparation. This is a legal requirement. An endorsed, revised LDS will give the Ministry for Housing, Communities and Local Government and the Planning Inspectorate the certainty they need that the Council is committed to timely plan preparation in line with Government policy.
19. The LDS was last amended in June 2018 with anticipated examination hearings for the DMP taking place in August before adoption in December. The actual examination hearing dates required agreement with the Planning Inspector and were ultimately held in October/November. This delay, combined with the need for a period of consultation on ‘Main Modifications’ has a consequential knock-on effect in terms of the timing of adoption of the DMP which is now anticipated to occur in May/June 2019. To ensure clarity, the LDS must be revised to take account of this.
20. The June 2018 LDS also included an initial timetable for the preparation of a new Local Plan document to update and replace the current Core Strategy which was adopted in July 2014. Since the LDS was published, there have been changes in national policy through the revised 2018 National Planning Policy Framework which will have particular implications on the borough once the Core Strategy becomes five years old. This includes the introduction of a standard methodology for calculating

local housing need and the requirement that this need figure must be used for the purposes of calculating five year supply if the adopted plan is more than 5 years old.

21. Progress in preparing a document to replace the Core Strategy has been slowed over recent months to enable a focus on the examination of the DMP. However, as this is nearing an end, resources can now begin to be dedicated to this project. Whilst there is a need to bring forward a new plan with some pace given the national policy implications, any review of the Core Strategy is likely to raise challenging issues in terms of how development needs can be accommodated and thus adequate public consultation is important. The timetable in the revised LDS for which Executive support is sought therefore seeks to strike a realistic balance between these two pressures and the resources available within the Planning Policy Team.

OPTIONS

22. The options available to the Executive are set out below:

Recommendation (i): Development Management Plan Main Modifications

23. Option 1: Endorse the Development Management Plan: Schedule of Main Modifications for public consultation. This option is essential to ensure that the Inspector is able to conclude her consideration and examination of the Development Management Plan, informed by the outcomes of consultation. It is important that the document moves to adoption as quickly as possible in order to provide certainty for local people, developers and service providers about the sites which are expected to come forward for development and the policies which will be used to achieve high quality, sustainable development in the borough. **This option is recommended.**
24. Option 2: Try to suggest alternative Main Modifications to the Development Management Plan for public consultation. The Inspector has provided clear guidance, through her Post Hearing Advice Note, as to the specific Main Modifications which she considers are necessary to secure the soundness of the document. There is therefore no certainty that the Inspector would consider alternatives to be acceptable and thus no certainty that this option would enable the examination to proceed. This option would inevitably result in considerable further delay in the examination/adoption of the plan, and such delays could be considerable if the Inspector requires additional evidence or further testing/hearing sessions to test alternative modifications. This option is not recommended.
25. Option 3: Do not endorse the Main Modifications to the Development Management Plan for consultation. This option would mean that the examination process is unable to proceed as the Inspector must ensure that parties have adequate opportunity to comment on proposed Modifications before she is able to recommend them in her final consideration/Report of the Development Management Plan. As set out in the Procedural Practice in the Examination of Local Plans (issued by the Planning Inspectorate), in these circumstances, there is significant risk that the Inspector would likely direct withdrawal of the plan from examination. This option is not recommended.

Recommendation (ii): Local Development Scheme

26. Option 1: Approve the LDS. Approving the LDS will ensure that the Council is complying with the requirements of Planning and Compulsory Purchase Act 2004. In addition, having an up-to-date LDS provides clarity for local communities and other stakeholders about what Local Plan documents are being prepared, the timetable for

their production and when they may have formal opportunities to get involved. **This option is recommended.**

27. Option 2: Do not approve the LDS: Without an up to date LDS, the Council would fail to comply with the requirements of the Planning and Compulsory Purchase Act 2004. This option is not recommended.

LEGAL IMPLICATIONS

28. Through submission of the plan for examination, the Council has requested that, where necessary for soundness, the Planning Inspector recommends Main Modifications to the Development Management Plan in accordance with Regulation 20(7C) of the Planning and Compulsory Purchase Act 2004.
29. The 'Main Modifications' arising from the Development Management Plan hearings require public consultation under the Town and Country Planning (Local Planning) (England) Regulations 2012. The Executive has the powers to agree these for the purposes of consultation. The Full Council will have responsibility for formally adopting the Development Management Plan when the consultation process is completed.
30. Until the Development Management Plan is formally adopted by the Council, in addition to the policies in the adopted Core Strategy, policies in the existing saved Borough Local Plan (2005) will still form the statutory development plan for Reigate & Banstead. National Planning Policy Framework is clear that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework and also clarifies that decision makers should give weight to policies in emerging plans (such as the submitted Development Management Plan).
31. Reigate & Banstead Borough Council is required to prepare and maintain a Local Development Scheme (LDS) in accordance with the requirements of section 15 of the Planning and Compulsory Purchase Act 2004, as amended by the Planning Act 2008 and the Localism Act 2011. The LDS must be revised when the Council considers it appropriate to do so (section 15(8)).
32. The LDS must specify— (a) the local development documents which are to be development plan documents; (b) the subject matter and geographical area to which each development plan document is to relate; (c) which development plan documents (if any) are to be prepared jointly with one or more other local planning authorities; (d) any matter or area in respect of which the authority have agreed (or propose to agree) to the constitution of a joint committee; and (e) the timetable for the preparation and revision of the development plan documents.
33. There are no statutory consultation requirements necessary for the preparation of a LDS. A resolution of Executive is required in order to bring a LDS into effect (section 15(7)) and that resolution must specify the date from which the scheme is to have effect.

FINANCIAL IMPLICATIONS

34. Public consultation on the Main Modifications to the Development Management Plan will be carried out by the Planning Policy Team and delivered within previously approved budget allocations and existing resources. The wider examination process has financial implications (Planning Inspector and programme officer fees). It is not

possible to allocate an exact cost at this stage, although it is estimated that costs may be up to £100,000. These costs are already budgeted for and are funded from the Corporate Plan Delivery Fund.

35. Preparation of a new Local Plan document to update and replace the Core Strategy will require additional funding. Costs will be carefully managed and controlled and the use of existing staff resources will be maximised (e.g. in the preparation of evidence base documents) to assist with this. However, there are a number of specialist areas, such as housing needs analysis and transport modelling, where external support is necessary to ensure the Plan is supported by sufficiently robust, comprehensive evidence base. It is anticipated that the total cost of external consultancy support required to support preparation of a document to replace the Core Strategy will be in the region of £300-350,000. In addition, the replacement for the Core Strategy would – as with the DMP - also have to undergo independent examination: this is likely to be an even more involved process than the DMP and, on its own, is anticipated to cost £150,000. Total costs associated with preparation of a new document to replace the Core Strategy are therefore anticipated to be in the region of £450-500,000 over a period of 3 years to 2022.

EQUALITIES IMPLICATIONS

36. An Equalities Impact Assessment screening was undertaken in respect of the submission Development Management Plan. This identified no negative equalities impacts, and identifies positive equalities impacts in relation to: older people, younger people and children, disability, pregnancy and maternity, racial and ethnic groups (Romany Gypsies and Irish Travellers).
37. The proposed 'Main Modifications' are considered to result in a more positive impact in respect of ethnic groups, specifically Romany Gypsies and Irish Travellers, as the modifications provide additional land to provide pitches to meet their identified accommodation needs.

COMMUNICATION IMPLICATIONS

38. A press release has already been issued in respect of the Inspector's Post Hearing Advice Note.
39. A Communications plan has been produced in order to publicise the public consultation on the Main Modifications to the Development Management Plan. The consultation will be publicised in accordance with the Council's Statement of Community Involvement and relevant legislation as set out below.

RISK MANAGEMENT CONSIDERATIONS

40. Risk associated with any delays to the adoption of the Development Management Plan are outlined in the 'Options' section above.

OTHER IMPLICATIONS

41. No other implications have been identified.

CONSULTATION

42. Consultation on this report has been carried out with the Council's Legal Services and Finance Teams.
43. In preparing the Development Management Plan to date, a range of consultation has been undertaken. This has included:
- Informal consultation with local community groups inviting suggestions about potential development sites and designations. Comments provided have been incorporated within the evidence base development work.
 - Considerable informal consultation with all members on the main aspects within the Development Management Plan Document. This has included the Development Management Advisory Group, member workshops, briefing sessions and one-to-one meetings. Comments have been used to inform the preparation of the consultation document.
 - Input from neighbouring authorities and other 'duty to cooperate' bodies
 - Development Management Plan Hearing Sessions
 - Formal public consultation in accordance with Regulations 18 and 19 of the Town and Country Planning (Local Planning)(England) Regulations 2012.
 - The LDF Scrutiny Panel met on 2 and 12 October 2017 to consider the Development Management Plan principles and processes followed in preparing the Plan. The Overview and Scrutiny Committee on 12 October 2017 received the Panel's report from its meeting on 2 October and a verbal report from the Chairman of the Panel from its meeting earlier that evening (12 October 2017).
44. Subject to agreement by the Executive, further formal public consultation will be carried out on the 'main' modifications to the Development Management Plan as scheduled in Annex 2. This consultation will be carried out in line with the Council's adopted Statement of Community Involvement and relevant regulations. Consultation documents will be published on the Council's website, with paper copies made available for inspection at the Town Hall and libraries. Specific statutory consultees will be directly notified, as well as those who have previously commented on the Regulation 19 Development Management Plan and those who have requested to be kept informed about plan progress. Comments received through the consultation will be collated and analysed by the Policy Team and forwarded to the Planning Inspector via the Programme Officer.

POLICY FRAMEWORK

45. The Development Management Plan is part of the Council's Policy Framework. Responsibility for adopting the final Development Management Plan will lie with Full Council.

BACKGROUND PAPERS

Inspector's Post Hearing Advice Note (ID-6) - http://www.reigate-banstead.gov.uk/download/downloads/id/5220/id-6_inspector_s_post_hearing_advice_note.pdf