

**SOUTH EAST LINCOLNSHIRE JOINT STRATEGIC PLANNING COMMITTEE
(THE JOINT COMMITTEE)**

**To: South East Lincolnshire Joint Strategic Planning Committee – 29 June
2018**

Author: Gary Alexander, Joint Policy Unit Manager

**Subject: Proposed Main Modifications to the Publication Version of the South
East Lincolnshire Local Plan**

**Purpose: To consider the contents of the Proposed Main Modifications and
seek approval of them for the purpose of public consultation**

Recommendation(s):

- 1) That the contents of this report and the attached Schedule of Proposed Main Modifications to the Publication Version of the South East Lincolnshire Local Plan and its supporting Sustainability Appraisal, Habitats Regulations Assessment and Equality and Diversity Impact Assessment be considered; and**
- 2) That the Schedule of Proposed Main Modifications to the Publication Version of the South East Lincolnshire Local Plan and its supporting Sustainability Appraisal, Habitats Regulations Assessment and Equality and Diversity Impact Assessment be approved for the purpose of public consultation.**

1. INTRODUCTION

- 1.1 Following the last meeting (and Annual General Meeting) of the South East Lincolnshire Joint Strategic Planning Committee (the Joint Committee) held on 2 June 2017, Members will be aware that officers submitted the 'Publication Version' of the South East Lincolnshire Local Plan (the Local Plan) to the Planning Inspectorate for examination on **Friday, 23 June 2017**, thereby formally initiating the examination process.
- 1.2 The submission of the Local Plan on 23 June was accompanied by:
 - the results of the 'Regulation 19' 6-week public consultation exercise - held from 10 April to the 22 May 2017 - which sought comments on the Local Plan only in respect of soundness and legal compliance issues; and
 - a large body of supporting evidence.
- 1.3 It should be noted that the examination process remains unfinished and will continue to be so for some period of time (see para 5.3 below).
- 1.4 The examination of the Local Plan by independent inspectors is a crucial stage in the formal process leading to its eventual adoption. The purpose of the examination is to determine whether or not the Local Plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. Following submission of the Local Plan on 23 June, two

Inspectors were appointed to undertake its examination and hold the 'hearing sessions' for it planned for commencement in **October 2017** and, at the time, envisaged for completion by last Christmas.

- 1.5 The consideration of the evidence referenced in para 1.2 led the Inspectors to issue, on **7 August**, 342 questions relating to the preparation of the Local Plan (NB: since many of these 342 were in fact multiple questions, the total number amounted to well over 1,000). Responses to these questions were sought by **8 September**. These were later followed by a series of additional questions in advance of individual hearing sessions (eventually totalling some 250, but, again, many of these were multiple questions).
- 1.6 The examination hearing sessions (hearings) formally commenced on **10 October**. In addition to the Inspectors and officers from the Joint Policy Unit (JPU), the participants included:
 - experts commissioned by the JPU;
 - a variety of interested parties and their advisers who had submitted objections to the Local Plan during the Regulation 19 public consultation exercise (see para 1.2), and who had asked to be heard at the relevant sessions; and
 - members of the public.
- 1.7 The primary purpose of the discussions at the hearings was for the Inspectors, the JPU (on behalf of the South East Lincolnshire Joint Strategic Planning Committee [the Joint Committee]) and the other participants to gain the fullest possible understanding of any changes that might be required to make the Local Plan sound and legally compliant. This included the Inspectors seeking clarification on certain JPU responses to their questions and requests for officers and objectors to provide further information in respect of specific matters. Much of this ongoing activity resulted in the JPU accepting recommendations by the Inspectors for what are termed as 'proposed main modifications' (PMMs) to the Local Plan (see section 2 below).
- 1.8 A number of delays to the process of examination hearing sessions, enforced by a variety of circumstances, served to stretch the proceedings to a twenty-fourth day held on **Thursday, 26 April, 2018**. On this date, the Lead Inspector provisionally closed the hearings (but see para 4.1; fourth bullet point), in order to progress work on writing the report on the examination and for the Joint Committee to initiate the next stages of the examination process.

2. PROPOSED MAIN MODIFICATIONS

- 2.1 As part of the examination process, the Inspector can recommend main modifications (changes that materially affect the policies) to make the Local Plan sound and legally compliant; but only if asked to do so by the Joint Committee under section 20(7C) of the 2004 Planning and Compulsory Purchase Act as amended. Accordingly, this request had been made to the Lead Inspector on 5 July last year, well in advance of the formal commencement of the examination hearing sessions on 10 October.
- 2.2 As indicated in para 1.6 above, following discussions at the examination hearing sessions, agreement was reached on a significant number of PMMs, and these are detailed in the 'Schedule of Proposed Main Modifications' which forms **Appendix A** of this report. The nature of the thirty-eight PMMs varies

significantly, but, in general terms, they can be categorised under the following descriptions:

- the deletion of policy for reason of duplication of national policy;
- amendments to policy and/or policy justification to improve the effectiveness and/or clarity of its content (including cross-referencing to additional text, tables and diagrams/maps set out in appendices);
- amendments to policy and/or policy justification to achieve compliance with national policy or statute; and
- the formulation of additional policies to address gaps in guidance.

2.3 It should be noted that the Policies Map (including its Insets) is not a 'development plan document' and therefore it is not appropriate for Inspectors to recommend PMMs to it. Rather, the role of the Policies Map is to illustrate geographically the application of policies in the Local Plan and, accordingly, the references to amendments to the Policies Map which feature in Appendix A are for information only.

2.4 Given the Inspectors' decision that the Local Plan would require PMMs to make it sound/legally compliant, they had to be satisfied that such changes would be subject to the processes of public consultation and sustainability appraisal (SA). Accordingly, shortly after the last hearing on 26 April, the JPU reached agreement with the Lead Inspector that it would seek to undertake a minimum six-week period of public consultation (in accordance with the Planning Inspectorate's 'Procedural Practice in the Examination of Local Plans'; June 2016), running from **Monday, 16 July to Tuesday, 28 August, 2018 inclusive**. To this end, the JPU also commissioned consultants to undertake an SA of the PMMs. The finalised document is now available in full on the Local Plan Examination website, in readiness to support the consideration of the PMMs during the proposed public consultation exercise. A summary report of the SA forms **Appendix B**.

2.5 Two further documents have been prepared to support the consideration of the PMMs during the public consultation exercise:

- given the presence of 'European Sites' in South East Lincolnshire, a Habitats Regulations Assessment of the PMMs (see **Appendix C**); and
- an Equality and Diversity Impact Assessment (see **Appendix D**).

3. ADDITIONAL MODIFICATIONS

3.1 In addition to PMMs, the Examination process also allows for the Joint Committee to put forward 'additional modifications' of its own to deal with more minor matters. Owing to their nature, these are not expected to be included in the aforementioned public consultation exercise. The Joint Committee will be accountable on adoption for the scope of these minor changes.

4. PUBLIC CONSULTATION ON THE PMMs

4.1 The following principles will apply to the public consultation exercise on the PMMs:

- it will be made clear that the consultation **only concerns the PMMs**, and not other aspects of the Local Plan;

- all representations made upon the PMMs will be sent directly to the Local Plan Examination Programme Officer (PO) - and not to the Joint Committee/JPU; the PO will then forward them to the Inspectors;
- all representations made upon the PMMs will be taken into account by the Inspectors;
- the general expectation is that issues raised on the consultation on PMMs will be considered through the written representations process and further hearings will only be scheduled exceptionally (for example, if a representation raises a fundamental soundness issue); and
- in very limited circumstances, the Inspectors may be satisfied that no party would be prejudiced by a possible new PMM (or the amendment of one that has already been publicised) that they are contemplating towards the end of the examination.

5. NEXT STEPS

- 5.1 Following the closure of the public consultation exercise on 28 August, the JPU has agreed with the Lead Inspector that any comments it wishes to make on the responses to the consultation will be delivered to the PO by **Monday, 10 September 2018**.
- 5.2 The findings from the consultation will be used to inform the completion of the Inspectors' report.
- 5.3 The examination remains open while the Inspectors are writing their report, and, as previously indicated in para 4.1, if absolutely necessary, the Inspectors may hold further hearings during the reporting period.
- 5.4 Once completed, the draft report will be subject to the Planning Inspectorate's internal quality assurance (peer review) process which takes up to 3 weeks, after which what is described as the 'fact check report' will be sent in electronic format to the JPU. The report will be copied to the Department for Communities and Local Government (DCLG). Section 21 of the Planning and Compulsory Purchase Act, as amended by Section 145 of the Housing and Planning Act 2016, provides the Secretary of State with powers of intervention before a plan is adopted by a local planning authority.
- 5.5 The JPU will have two weeks to carry out the fact check and respond with its findings. The JPU can not question the Inspectors' conclusions although it can seek clarification on any conclusions that are considered to be unclear.
- 5.6 While the fact check stage provides the tentative final report, the JPU should not publish that report. Once the fact check has been completed and the Inspector has responded to any points raised, the Planning Inspectorate will submit the final report to the JPU in electronic format.
- 5.7 On receipt of the final report, the Joint Committee can proceed to adopt the Local Plan, as amended in accordance with the Inspectors' report. Having regard to these next steps, it is hoped that the formal adoption of the South East Lincolnshire Local Plan will happen before Christmas of this year.

6. OPTIONS

- 6.1 There are essentially two options available to Members as follows:

Option 1: approve the Schedule of Proposed Main Modifications for public consultation; and

Option 2: not to approve the Schedule of Proposed Main Modifications for public consultation.

7. REASONS FOR RECOMMENDATIONS

- 7.1 It is recommended that Members endorse the recommendation in Option 1 in order to assist progress of the emerging South East Lincolnshire Local Plan to the adoption stage.

8. IMPLICATIONS

Risk

- 8.1 The emerging South East Lincolnshire Local Plan has been prepared with significant regard to risks of challenge, and this has been sought to be mitigated at each stage wherever possible.
- 8.2 Delays to the plan-preparation process increase the likelihood of planning applications challenging the strategy the emerging South East Lincolnshire Local Plan seeks to deliver.

Financial

- 8.3 There are no direct financial implications as a result of the contents of this report.
- 8.4 The emerging South East Lincolnshire Local Plan has an accompanying budget which is currently sufficient to cover its preparation. Examination costs are payable by the authorities to the Planning Inspectorate on completion of the Inspectors' Report.

Legal

- 8.5 Whilst this report does not itself have direct legal implications, the preparation of Local Plans is subject to a number of legislative requirements which are set out in, *inter alia*, the Planning and Compulsory Purchase Act (2004), as amended, the Town and County Planning Act (1990) as amended, the Conservation of Habitats and Species Regulations (2010). The plan has been prepared in accordance with the relevant Acts of Parliament and Regulations.

Equality and Diversity

- 8.6 The emerging South East Lincolnshire Local Plan deals with matters including the provision of housing, including affordable housing, as well as access to services and infrastructure. Accordingly, the Proposed Main Modifications to the Publication Version have been subject to an Equality and Diversity Impact Assessment (EqIA) which forms an appendix to this report. The Draft for Public Consultation (January 2016) and Publication Version (March 2017) were also each subject to an EqIA.

9. Wards/Communities Affected

9.1 All wards and communities in the South Holland District Council and Boston Borough Council administrative areas are affected.

Background papers: None

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Appendix A - Schedule of Proposed Main Modifications

Appendix B - Sustainability Appraisal of the Proposed Main Modifications

Appendix C - Habitats Regulations Assessment of the Proposed Main Modifications

Appendix D - Equality and Diversity Impact Assessment of the Proposed Main
Modifications