

## **Rother District Council**

Report to	-	Cabinet
Date	-	29 July 2019
Report of the	-	Executive Director
Subject	-	Development and Site Allocations Local Plan – Proposed Main Modifications

---

### **Recommendation:** It be **RESOLVED:** That:

- 1) the proposed modifications to the Development and Site Allocations Local Plan to be considered alongside the respective Sustainability Appraisal and Habitats Regulation Assessment to enable representations to be made, be approved for public consultation purposes; and
  - 2) the representations received to the 'Main Modifications' and 'Changes to the Policies Map' be subsequently sent to the Inspector following the close of the consultation.
- 

**Head of Service: Tim Hickling**  
**Lead Cabinet Member: Councillor Vine-Hall**

---

**The Chairman of Council has already agreed that, subject to the approval of Cabinet, this decision can be taken as an urgent decision to allow the Main Modifications, Changes to the Policies Map and Additional Modifications to the Development and Site Allocations (DaSA) Local Plan to be published for consultation purposes on 30 July 2019. This decision needs to be taken as an urgent decision as any delay likely to be caused by the call-in process would seriously prejudice the Council's interests in this matter.**

---

### **Purpose of the Report**

1. This report seeks authority from Cabinet to authorise the 'Main Modifications', 'Changes to the Policies Map' and 'Additional Modifications' to the Development and Site Allocations (DaSA) Local Plan (and no other aspect of the plan) for a six week public consultation. As Members will be aware from the recent full Council on 8 July 2019, Cabinet has been granted delegated authority to approve the Modifications to the DaSA Local Plan prior to the public consultation (Minute C19/29 refers).

### **Introduction**

2. Rother District Council submitted the Proposed Submission version of the DaSA Local Plan for independent examination in January 2019 (Minute C18/45 refers). The DaSA implements the development strategy and core policies set out in the adopted Core Strategy. It seeks to allocate sites for particular uses as well as setting out more detailed policies for the effective management of development in relation to key issues.

## Development and Site Allocations (DaSA) Local Plan Examination

3. In January 2019, the Planning Inspector, Mr Mike Worden BA (Hons) DipTP MRTPI, was appointed by the Secretary of State to conduct the independent examination into the Plan's soundness and legal compliance and subsequently issue a report with his conclusions.
4. Officers prepared a number of reports at the request of the Inspector to inform the Examination hearings which were held between 8 May – 16 May 2019. Officers and their expert witnesses gave evidence on a number of Matters, Issues and Questions set by the Inspector. Whilst the period for written and oral evidence through the hearing sessions has now closed, the examination process is still open until the Inspector issues his final report.
5. During the examination process, a number of modifications were put forward to the Inspector in response to representations made through the submission and examination process, as well as issues raised by the Inspector in response to some of the representations. These modifications fall into three categories:
  - 'Main Modifications' – those which are necessary to ensure that the Plan is sound and legally compliant.
  - 'Changes to the Policies Map' – the policies map is not defined in legislation as a development plan document which means that the Inspector has no powers to recommend main modifications directly to it. However, the role of the policies map is to illustrate geographically the application of policies in the plan. If the geographical illustration of a policy is flawed, the policy will be unsound. To ensure fairness, any such proposed changes will need to be subject to consultation alongside the 'Main Modifications'.
  - 'Additional Modifications' – these are minor modifications to the plan which do not materially affect the plan's policies. These are not subject to the formal examination process and will not be considered by the Inspector but will be considered by the Council. These 'Additional Modifications' will be published alongside the 'Main Modifications' and 'Changes to the Policies Map'.
6. The Inspector has now indicated that the draft schedule (Appendix 1) includes all of the main modifications that he considers are necessary to make the plan sound and legally compliant. These are made without prejudice to his final conclusions.
7. The 'Main Modifications' contained in the Appendix 1 must also be subject to Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA), these are currently being prepared by officers, alongside their advisers.
8. Once the consultation process is completed, the Inspector will need to take into account the responses to the 'Main Modifications' consultation before finally concluding whether a change along the lines proposed is required to make the plan sound. He will make final recommendations and the reasons for them, in the Inspector's report submitted to the Council at the end of the examination process.

## Nature of the Modifications

9. The 'Main Modifications' comprise of proposed changes to a number of paragraphs and policies set out in the DaSA Local Plan. The complete schedule of the 'Main Modifications' can be found at Appendix 1. Some key examples of the 'Main Modifications' include:
  - where specific allocations require additional sewerage network reinforcement to service the site in response to comments by Southern Water (MM13 and MM21 refer);
  - clarity relating when at planning application stage an Appropriate Assessment is required under Habitats Regulations (MM14, MM15 and MM24 refer);
  - where wording amendments are required to policy and supporting text to ensure that there is no adverse effect on the integrity of Natura 2000 sites in Camber and Rye Harbour in response to representations made by both Natural England and Sussex Wildlife Trust;
  - the deletion of Policy WES4 (Land between Moor Lane and the A28, Westfield) for allotments as the landowner has indicated that they do not wish to put the land forward for this use; and
  - a comprehensive list of policies which will be superseded when the DaSA Local Plan is adopted (MM31 and MM32 refer).
10. The 'Changes to the Policies Map' (Appendix 2) include modifications to the maps which accompany the allocations where a change is necessary for clarity or as a correction of an error. Some examples include showing the route of the North Bexhill Access Road (NBAR) at North Bexhill, amending the boundary to the Strategic Gap at Fairlight where it had been incorrectly drawn, or to amend the access point to a proposed allocation. To ensure fairness, any such proposed changes will need to be subject to consultation alongside the 'Main Modifications'.
11. The 'Additional Modifications' can be found in Appendix 3 of this report and are of a more minor nature and do not materially affect the policies set out in the DaSA Local Plan. These predominantly comprise of points of clarification to amend text for clearer explanation, including updated facts or make typographical or grammatical revisions which improve the readability of the Plan. These are not subject to the formal examination process and will not be considered by the Inspector but will be considered by the Council. The consultation on these 'Additional Modifications' will run alongside that of the 'Main Modifications' and the 'Changes to the Policies Map'.

## Public Consultation

12. The public consultation will form two separate schedules:
  - the 'Main Modifications' and 'Changes to the Policies Map' which are necessary for the Plan's soundness and legal compliance; and
  - the 'Additional Modifications' which will be clearly distinguished from the 'Main Modifications' making it clear that they are not before the Inspector for consideration.
13. The public consultation will be open for anyone to make representations but will relate only to the modifications and no other aspect of the plan. The

consultation will last for six weeks in line with the relevant Regulations<sup>1</sup>, starting on 30 July 2019. As stated previously, once the consultation closes, the representations received on the 'Main Modifications' and 'Changes to the Policies Map' will be passed to the Inspector for his consideration. Those representations received on the 'Additional Modifications' will be for the Councils' consideration.

## **Conclusion**

14. Given that the Core Strategy is nearing five years old and the importance of the DaSA Local Plan in supporting the development targets in the adopted Core Strategy (outwith of Neighbourhood Plan Areas) and providing effective management of development, it is imperative this consultation commences with speed. Hence the need that this item is treated as an urgent decision, outside the call-in arrangements. This will allow officers to undertake the consultation, and to compile and submit consultation responses to the Planning Inspector as promptly as possible after the period for representations has closed. This is so that there is the best possible chance to receive the Inspector's Report and adopt the DaSA at September full Council prior to the Core Strategy becoming more than five years old.

Dr Anthony Leonard  
Executive Director

## **Risk Assessment Statement**

The lack of an adopted DaSA Local Plan would frustrate the proper planning of the district and lead to a likely increase in speculative planning applications as there would be no plan-led approach to development in the district. The absence of a DaSA Local Plan would make demonstrating a five year supply of housing land more difficult to achieve in the future and likely result in planning applications being approved on appeal.

---

<sup>1</sup> Regulation 19 of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)