

7. MID SUSSEX DISTRICT PLAN 2014-2031 – ADOPTION

REPORT OF: Assistant Chief Executive
Contact Officer: Sally Blomfield, Divisional Leader for Planning and Economy
Email: sally.blomfield@midsussex.gov.uk Tel: 01444 477435
Wards Affected: All
Key Decision: Yes
Report to: Council
28th March 2018

Purpose of Report

1. The purpose of this report is to ask Council to consider the adoption of the Mid Sussex District Plan 2014-2031 in accordance with Regulations 17 and 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Summary

2. This report:
 - (a) Gives a brief summary of the District Plan Examination;
 - (b) Sets out the key issues raised in the Inspector's Report;
 - (c) Sets out the next steps in the formal process of adopting the District Plan.
3. The Report on the Examination of the Mid Sussex District Plan 2014-2031 was received on 12 March 2018. The Inspector's Report concluded that the Plan is sound, with the Main Modifications, and is capable of adoption.

Recommendations

4. **That Council:**
 - (i) **Adopts the Mid Sussex District Plan 2014-2031 as modified by the Main Modifications recommended by the Inspector in his final Report of 12 March 2018 as the statutory development plan for the Mid Sussex area under the Planning Acts;**
 - (ii) **Publishes the District Plan, revised Policies Maps, Sustainability Appraisal Report and the Adoption Statement;**
 - (iii) **Gives delegated authority to the Divisional Leader for Planning and Economy, to make typographical and minor factual corrections to the documentation as necessary before publication.**
-

Background

5. At its meeting on 18 March 2015, the Council approved the Mid Sussex District Plan for pre-submission consultation and on 11 November 2015, for submission to the Secretary of State for Public Examination purposes. When the Plan was submitted, the Council formally requested that the Inspector recommend any such modifications considered necessary to make the District Plan sound.

6. The hearings into the Plan commenced on 29 November 2016, with additional hearings taking place on 30 November 2016; 1 and 9 December 2016; 12 and 13 January 2017; 8 and 28 February 2017; 25 and 26 July 2017 and 5 February 2018. In total there were 11 hearing sessions.
7. The Council consulted on a range of Main Modifications (MM) to the Plan policies between 2 October and 13 November 2017. The Main Modifications resulted from the outcomes of the Hearings. All comments received during the Main Modifications consultation were sent to the Inspector for his consideration. The Inspector held an additional hearing session on 5 February 2018 to consider the proposed site allocation on land north of Clayton Mills, Hassocks.

The Inspector's Report

8. The Council received the Inspector's final Report on 12 March 2018. The Report sets out his conclusions following Examination of the District Plan, including the Main Modifications necessary to make the Plan sound. The Inspector's Report is appended at Appendix 1 and the main findings are outlined below.
9. The Adopted Version of the District Plan is appended at Appendix 2. This adoption version incorporates all of the Main Modifications recommended by the Inspector in order to make the Plan sound. It also makes the necessary amendments to policy numbering to reflect the addition and deletion of policies by the Inspector.
10. A table showing the changes to the policy numbers in the Adopted Version of the District Plan can be found at Appendix 3.
11. The Policies Maps showing geographical applications of policies in the District Plan, Small Scale Housing Allocations DPD, Neighbourhood Plans and saved policies from the Local Plan 2004 can be found at <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/policies-maps/>
12. Under Section 23 of the Planning and Compulsory Purchase Act 2004, the choice available for the Council is that it either adopts the Plan incorporating all the Main Modifications agreed in the Inspector's final Report, or it does not adopt the Plan.

Duty to Cooperate

13. The Inspector concluded that the Council has been proactive in respect of Duty to Cooperate. He was satisfied that, where necessary, the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan, and that the Duty to Cooperate has been met.

Provision of New Housing and Employment

14. Main Modification MM04 set the overall housing requirement to a minimum of 16,390 dwellings between 2014 and 2031 (policy DP5: Housing, to be renumbered DP4 upon adoption). This figure comprises the Objectively Assessed Need (OAN) at 14,892 dwellings, and 1,498 dwellings to meet unmet need in the Northern West Sussex Housing Market Area (HMA) (principally Crawley).

15. In his final report, the Inspector comments on the unmet housing need from the Coastal West Sussex HMA. He notes that the Council is collaborating with other local authorities to progress Local Strategic Statement 3, which he notes will assist in the future planning of the sub-region. He notes that this work is not progressed sufficiently to enable conclusions to be reached about the apportionment on housing provision within the sub-region to meet the Coastal West Sussex HMA unmet need, or to support any particular strategy to meet that need.
16. The Inspector agrees that the overall housing target should be delivered in a stepped approach with a requirement of 876 dwellings per annum (dpa) up to 2023/24 with an average of 1,090 dpa in the last 7 years of the Plan. The Report notes that, as this figure is a minimum, there is scope for delivery to exceed the minimum requirement. However, the delivery of the full 1,090 dpa is subject to there being no harm to the integrity of European Habitat sites in the Ashdown Forest. There will be a full Habitats Regulations Assessment (HRA) carried out in good time to inform the planned delivery of the higher numbers.
17. The Inspector's Report supports the more detailed information set out in policy DP6: Settlement Hierarchy (MM 06) which sets out the minimum housing requirements for settlements to provide and a suitable context for the preparation of Neighbourhood Plans. The Inspector concludes that this is a sound and very helpful approach.
18. Policy DP6: Settlement Hierarchy also allows for small sites of fewer than 10 dwellings to come forward outside built up area boundaries. The Inspector concludes that this is a sound policy.
19. The Inspector states that, based on information as at 21 July 2017, there was a 5.2 years supply of housing. In order to strengthen the supply, an additional strategic site at Hassocks (policy DP9B, to be renumbered DP11 upon adoption) was included by the Inspector in the Main Modifications (MM 11). The allocation of an additional strategic site together with the prompt commencement of work on the Site Allocations Development Plan Document (DPD) has helped the Inspector to conclude that the Council's approach to ensuring a rolling 5 year housing land supply is sound.
20. The Inspector is satisfied that the Plan makes adequate provision for employment growth, through the strategic allocation of a business park at Burgess Hill (policy DP2: Sustainable Economic Development, to be renumbered DP1 upon adoption).
21. The Inspector concludes that the housing requirement set out in the Plan would not cause significant harm to landscape, heritage, or any other relevant matter.

Ashdown Forest

22. The Inspector is satisfied that the methodology and conclusions of both the Habitats Regulation Assessment (HRA) and the Mid Sussex Transport Study are appropriate, and he notes that Natural England is satisfied with the conclusions of the HRA. He also notes that Policy DP5: Housing (to be renumbered DP4 upon adoption) of the Plan meets the identified housing need in the first 10 years of the Plan and provides a mechanism to deliver 1,090 dwellings per annum subject to there being no further harm to the integrity of European Habitat sites in the Ashdown Forest.
23. In relation to the Ashdown Forest Special Area of Conservation (SAC), the main issue has concerned the effect of pollution from road transport on the qualifying heathland habitats. The approach taken towards considering impacts on the SAC changed substantially during the Examination as a consequence of *Wealden v SSCLG* [2017] ("The Wealden judgment").

24. The latest version of the HRA, dated September 2017, takes into account both the Wealden judgment and the Main Modifications. It assumes that the critical load for nutrient nitrogen and acid nitrogen deposition is exceeded across the Forest close to the road network, indicating that significant additional sources of these pollutants generated as a result of proposals in the District Plan should be avoided or mitigated to prevent additional adverse effects on ecological integrity. The Council's position, set out in MSDC 18 (see District Plan – Examination Documents (<http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/district-plan-examination/>)), is that the only sound position for going forward currently is to avoid in-combination effects by avoiding any effect at all.
25. Mid Sussex's method for assessing in-combination transport impacts on the Forest has been through the use of the Mid Sussex Transport Study, including updates in 2017 in light of the Wealden judgement. This update is based on the West Sussex County Highways Model. Modelling the agreed OAN of 876 dpa against a reference case which takes into account existing planning permissions, and which incorporates growth assumptions for surrounding local authority areas, shows a small increase of traffic on the A275 but a reduction of traffic on other roads through the Forest, and an overall net reduction. This is because the largest housing allocations are located at Burgess Hill and at Hassocks, away from the Forest, and because the Plan contains a balance of housing and employment space. The HRA concludes that the Plan will not result in adverse effects on the ecological integrity of either the SAC or the Special Protection Area (SPA).
26. The in-combination modelling of impacts from Plans for surrounding authorities is accounted for in the Mid Sussex Transport Study. The Mid Sussex District Plan itself has the effect of reducing overall flows of traffic through the Forest.

Infrastructure

27. The Inspector notes that there are some infrastructure constraints in certain localities, such as sewerage and highway capacity, but that there are no unresolvable problems that have been identified. The Plan, as modified, will provide an effective basis for ensuring that appropriate infrastructure is made available at the right time for new development.

Strategic Allocations

28. The Plan includes four strategic site allocations, at Kings Way (policy DP8: Strategic Allocation to the east of Burgess Hill at Kings Way); the Northern Arc (policy DP9: Strategic Allocation to the north and north-west of Burgess Hill); Pease Pottage (policy DP9A, to be renumbered DP10 upon adoption: Strategic Allocation to the east of Pease Pottage); and Clayton Mills (policy DP9B, to be renumbered DP11 upon adoption: Strategic Allocation to the north of Clayton Mills, Hassocks). These four strategic allocations are critical to the achievement of the Plan's objectives and will supply a substantial proportion of the residual housing requirement. The Inspector concludes that the Council's approach of allocating strategic sites and allowing developments of less than 10 units contiguous with settlement boundaries is sound. His report goes on to state that larger sites are capable of accommodating more on-site physical and social infrastructure, and their impacts on the wider area are more easily evaluated and planned for than developments from a larger number of smaller sites.

29. The Inspector supports the inclusion of the additional strategic allocation at Clayton Mills, Hassocks (policy DP9B, to be renumbered DP11 upon adoption) and concludes that the site plays a valuable part in ensuring a robust plan with a rolling 5 year housing land supply.

Next Steps

30. Following a positive resolution from Council, there are a number of formal steps that need to be taken to adopt the Plan. This includes the publication of an Adoption Statement, a Sustainability Appraisal Post Adoption Statement and making the adopted Plan available for inspection at a number of locations.
31. The adopted Plan is then subject to a challenge period of 6 weeks, when the Plan could be challenged through an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004. The grounds for such a challenge will be set out in the Adoption Statement and are that (a) the document is not within the appropriate power and/or (b) a procedural requirement has not been complied with.

Implications

32. The implications of the adoption of the Plan are that the Council will have an up to date Development Plan to inform planning decisions. The Council can also demonstrate a 5 year supply of housing. Paragraph 35 of the Inspector's Report (Appendix 1) states that the initial 5 year supply requirement is 5,352 dwellings. As at July 2017 there was a 5.2 years supply of housing. The addition of Clayton Mills, Hassocks (policy DP9B, to be renumbered DP11 upon adoption) adds 150 additional dwellings in the first 5 years, giving a 5.34 years supply.
33. At paragraph 36 of the Inspector's Report (Appendix 1) he concludes that the Council's overall assessment of likely housing supply from all sources is sound. He goes on to state in paragraph 48 that the Plan makes adequate provision for housing and employment and is sound in these respects.

Other Matters for Consideration

34. On 1 March 2018 the Secretary of State issued consent on four schemes following appeal, which gives consent for up to approximately 500 dwellings. These comprise:
- Land South of Scamps Hill/Scaynes Hill Road, Lindfield, West Sussex (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684987/18-03-01_DL_IR_Scamps_Hill_3152641.pdf);
 - Land West of Turners Hill Road, Crawley Down, West Sussex (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684620/18-03-01_DL_IR_Turners_Hill_Road.pdf);
 - Land of Hazel Close, Crawley Down, West Sussex (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684625/18-03-01_DL_IR_Hazel_Close.pdf); and
 - Land at Hill Place Farm, Turners Hill Road, East Grinstead (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684565/18-03-01_DL_IR_Hill_Place_Farm_Sussex_3142487.pdf).
35. At the same time, a Section 31 Direction by the Secretary of State was also lifted for a proposal for 9 dwellings on land west of Turners Hill Road, East Grinstead. This meant that the Council could proceed to issue consent for this proposal.
36. Although the exact delivery trajectory of these schemes is unknown, they are potentially capable of delivery in the short term, with a high proportion being delivered in the next 5 years. This means that, if implemented, these consents would serve to further strengthen the 5 year land supply position of the Council. However, these consents do not remove the need for the measures already taken to strengthen the 5 year land supply for the following reasons:
- The general intent of national policy is to identify both a 5 year land supply plus a buffer against non-delivery and specific deliverable sites or areas for years 6-10;
 - It has been the Council's case, since shortly after submission of the Plan in August 2016, that a number of appeal decisions offered the potential to strengthen the 5 year land supply position. In particular Annex B to the Council's letter to the Inspector of 29 September 2016 (MSDC1) lists outstanding appeals and the letter notes that, if the appeals are allowed, they may act to boost supply;
 - The appeal decisions are all within the 6 week period in which a High Court challenge is possible. This means they cannot be fully relied on at this stage;
 - The delivery trajectories are unknown and there are alternative delivery options within the range of consents;
 - The Inspector has concluded that the Clayton Mills allocation (policy DP9B, to be renumbered DP11 upon adoption) would play a valuable part in ensuring a robust plan with a rolling 5 year housing land supply and that the allocation is sound.

Financial Implications

37. There are no direct financial implications arising from the recommendations within this report.
38. Were the recommendations not approved, and the Plan not adopted, this may give rise to further costs before the Plan is adopted in the future. This expenditure would be funded from the appropriate reserve and would therefore have no direct effect on the revenue budget.

Legal Implications

39. Under Section 23 of the Planning and Compulsory Purchase Act 2004 it is not possible to adopt a development plan document that an Inspector has only found to be sound with Main Modifications, without all the Main Modifications as recommended in the Inspector's final Report. Save for any additional amendments, which (taken together) do not materially affect the policies set out in the development plan document with the Main Modifications, the wording must be as with the Main Modifications set out with the Inspector's final Report.
40. At any time before the District Plan is adopted, the Secretary of State may exercise powers under Section 21 of the Planning and Compulsory Purchase Act 2004 to direct that the Plan is modified in accordance with the direction or that the Plan is (in whole or part) submitted to him for his approval.
41. Under Section 113 of the Planning and Compulsory Purchase Act 2004 any application for leave to challenge an adopted Plan (in whole or part) must be made before the end of the period of six weeks beginning with the day after adoption. The District Plan will form and remain part of the Development Plan on adoption unless and to the extent any challenge under Section 113 of the Planning and Compulsory Purchase Act 2004 has been successful.

Risk Management Implications

42. If the District Plan is not adopted, the Council will not have a plan-led system, and will not be able to demonstrate a five year housing land supply, which will mean it is vulnerable to continued speculative applications for development.

Equality and Customer Service Implications

43. The revised Equalities Impact Assessment confirms that there are no specific implications to consider on these grounds.

Other Material Implications

44. There are no other material implications.

Appendices

- Appendix 1 – Report on the Examination of the Mid Sussex District Plan 2014-2031
- Appendix 2 – Mid Sussex District Plan 2014-2031 – Adoption Version (*incorporating all Main Modifications as set out by the Inspector*)
- Appendix 3 – Policy number revisions

Background Papers:

Mid Sussex District Plan - Schedule of Main Modifications (appendix to the Inspector's Report (Appendix 1) (<http://www.midsussex.gov.uk/districtplan>))

- Mid Sussex District - Policies Maps <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/policies-maps/>
- Mid Sussex District Plan – Sustainability Appraisal (<http://www.midsussex.gov.uk/districtplan>)
- District Plan – Examination Library (<http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/examination-library/>)
- District Plan – Examination Documents (<http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/district-plan-examination/>)
- District Plan – Adoption Statement (<http://www.midsussex.gov.uk/districtplan>)
- District Plan – Sustainability Statement (<http://www.midsussex.gov.uk/districtplan>)
- Appeal Decisions
 - Land South of Scamps Hill/Scaynes Hill Road, Lindfield West Sussex (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684987/18-03-01_DL_IR_Scamps_Hill_3152641.pdf);
 - Land West of Turner’s Hill Road, Crawley Down, West Sussex (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684620/18-03-01_DL_IR_Turners_Hill_Road.pdf);
 - Land of Hazel Close Crawley Down, West Sussex (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684625/18-03-01_DL_IR_Hazel_Close.pdf); and
 - Land at Hill Place Farm, Turners Hill Road, East Grinstead (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684565/18-03-01_DL_IR_Hill_Place_Farm_Sussex_3142487.pdf).