

## **THANET LOCAL PLAN - INSPECTORS' REPORT (REG 25) AND ADOPTION OF LOCAL PLAN (REG 26)**

Cabinet	<b>18 June 2020</b>
Report Author	<b>Deputy Chief Executive</b>
Portfolio Holder	<b>Leader of the Council and Portfolio holder for the Local Plan</b>
Status	<b>For Recommendation to Council</b>
Classification:	<b>Unrestricted</b>
Key Decision	<b>No - Policy Framework</b>
Previously considered by:	<b>Cabinet - 23 April 2020 OSP - 26 May 2020</b>
Ward:	<b>All Wards</b>

### **Executive Summary:**

The draft Thanet Local Plan was submitted for independent Examination in October 2018. Examination hearings commenced on 2 April 2019 and finished on 18 July 2019. A consultation on the Inspectors' proposed Main Modifications to the draft Plan has been undertaken.

The Inspectors have now sent to the Council their Report regarding the "soundness" of the Local Plan. The overall conclusion of the Report is that the draft Plan is "sound", subject to the Main Modifications recommended within the Report.

This report sets out the main conclusions from the Inspectors' Report and their recommended Main Modifications to the draft Plan, and the next steps for the Council in progressing the Local Plan to adoption.

The report also recommends that the Landscape Character Assessment be adopted as a Supplementary Planning Document.

This report was previously considered by Cabinet on 23 April 2020, and it was resolved to recommend the report to Council.

This report was considered by the Overview & Scrutiny Panel on 26 May 2020, and the points raised by the Panel will be reported to Cabinet.

**Recommendation(s):**

That Council is recommended to:

- 1) Adopt the Thanet Local Plan, subject to the modifications set out in the Inspectors' Report; and
- 2) Adopt the Landscape Character Assessment as a Supplementary Planning Document.

<b>CORPORATE IMPLICATIONS</b>	
<b>Financial and Value for Money</b>	No additional costs directly associated with the adoption process.
<b>Legal</b>	<p>The legal framework is set by the Planning and Compulsory Purchase Act 2004; the Town and Country Planning (Local Planning) (England) Regulations 2012; and the Environmental Assessment of Plans and Programmes Regulations 2004.</p> <p>Section 20(8) of the PCPA 2004 requires local authorities to publish the recommendations and the reasons given by the person appointed to carry out the examination.</p> <p>Section 23 of the PCPA 2004 states that the local planning authority may adopt the Local Plan (as a development plan document) if the person appointed to carry out the independent examination recommends that it is adopted as submitted, or with modifications.</p> <p>The 2012 Regulations contain requirements for publicising the Inspectors' Report (Reg 25) (which have been undertaken) and the adoption of the Local Plan (Reg 26).</p> <p>In addition, the 2004 Regulations require the local authority, following adoption, to publish a statement setting out how environmental considerations have been integrated into the plan or programme, and a number of other matters.</p>
<b>Corporate</b>	<ul style="list-style-type: none"> <li>• Primary corporate risk is not having a well-evidenced Local Plan. Lack of a "sound" Plan places the Council "at risk" in terms of planning Appeal decisions and also delays the provision of infrastructure, effectively losing control of the development process. There continues to be a risk of further intervention by MHCLG, if timely progress is not made on adoption of the draft Plan. A decision not to adopt the Local Plan could be subject to intervention.</li> <li>• There is a strong "fit" between the draft Local Plan and corporate strategy priorities.</li> <li>• Environmental implications – Environmental issues related to the provisions of the Local Plan are considered through the Sustainability Appraisal/Strategic Environmental Assessment/Habitat Regulations Assessment. The proposed Main Modifications were also subject to SA/HRA.</li> </ul>

**Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

Please indicate which aim is relevant to the report.	
Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	
Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓
Foster good relations between people who share a protected characteristic and people who do not share it.	

The PSED is engaged by the Local Plan topic. The draft Local Plan is the subject of a continuing Equalities Impact Assessment, which indicates that the duty is met by the draft policies in the Plan.

A number of policies within the draft Plan address issues that could otherwise have an impact on groups with protected characteristics. For example, policies relating to air quality; transport; provision of key social and physical infrastructure; accessible housing; protection of open space; internal space standards and water efficiency measures in new housing, all assist with meeting the aims of the PSED.

The Proposed Main Modifications have also reviewed to assess whether they engage the Public Sector Equality Duty (PSED). Most of the Modifications address mainly to the requirements of the NPPF and other Government guidance, detailed policy wording matters and points of clarity and effectiveness.

There are more significant policy changes, which address issues of housing and infrastructure delivery and future review processes. However, the vast majority of Main Modifications are minor in terms of the overall policy objectives, as they relate to the PSED.

Officers have identified five Main Modifications where there is a direct relationship. These are:

- SP02 (Economic growth): modification supports the provision of employment generating development within the urban area, and the confines of villages, on non-allocated sites;
- SP20 (Affordable housing): modification removes fixed tenure mix for affordable housing to allow flexibility in meeting needs and delivery;

	<ul style="list-style-type: none"> <li>● H019 (Key worker housing in rural areas): modification extends policy to support housing for agricultural workers to all rural key workers;</li> <li>● HO22 (Gypsy &amp; Traveller pitch provision): modification identifies a need for future site provision, and sets out a proactive strategy to meet that need; and</li> <li>● QD05 (accessible housing): modification requires 5% of the affordable housing units on housing developments will be expected to be built in compliance with building regulations part M4(3) wheelchair user dwellings.</li> </ul> <p>These each have a positive impact on the PSED objectives, by supporting the objective to Advance Equality of Opportunity.</p> <p>The Inspectors' Report states that, in reaching their conclusions, the Inspectors "have had due regard to the equality impacts of the Plan in accordance with the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010."</p> <p>It is therefore the view of officers that the duty is met by the policies set out in the draft Plan, and that the Modifications recommended by the Inspectors to make the Plan "sound" have no material impact on meeting the duty.</p>
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<b>Core Business Objectives (tick those relevant) ✓</b>	
Growth	
Environment	✓
Communities	

## 1.0 Introduction and Background

1.1 The draft Thanet Local Plan was submitted for independent Examination in October 2018. Examination hearings commenced on 2 April 2019 and finished on 18 July 2019 (a total of 16 hearing days). The hearings covered a wide range of topics and issues, including housing requirement; housing sites; employment sites and policies; tourism; infrastructure provision; environmental standards; landscape policy; relationship to the DCO for Manston Airport; and so on.

1.2 The purpose of the Examination process is for the Planning Inspectors to assess whether the draft Plan is "sound"; that is:

- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and

- **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

1.3 In July 2018, when Council resolved to publish the draft Plan and submit it for Examination, it was also resolved to *“request the Examination Inspector... to recommend any modifications to the draft Local Plan, which they consider are required in order to resolve problems that would otherwise make the Plan unsound or not legally compliant”*.

1.4 During the hearings, the Inspectors identified a number of matters where they believed that modifications were required to make the Plan “sound”. A consultation on the Inspectors’ proposed Main Modifications to the draft Plan took place from 11 December 2019 to 27 January 2020, and the comments received were sent to the Inspectors for consideration. The Proposed Main Modifications were subject to Sustainability Appraisal (SA) and Habitat Regulations Assessment (HRA).

## **2.0 Inspectors’ Report & Recommendations**

2.1 The Inspectors have now sent their Report to the Council regarding the “soundness” of the Local Plan. The Report has been published in accordance with Reg 25 of the Town and Country Planning (Local Planning)(England) Regulations 2012, and notifications have been sent to those on the Local Plan consultation database to advise them of its publication.

2.2 The conclusion of the Report is that the draft Plan is “sound”, subject to the Main Modifications (MMs) recommended within the Report (para 369). The Report and the schedule of Main Modifications recommended by the Inspectors can be viewed on the Council’s web-site at: <https://www.thanet.gov.uk/info-pages/latest-news/>

2.3 The Report states that the Inspectors “have identified 14 main issues upon which the soundness of the Plan depends” and they address each of these issues in turn. These include the assessment of housing need and the housing requirement and trajectory; the housing strategy and distribution; housing site selection; 5-year housing land supply; affordable housing; type and mix of housing; approach to Gypsy and traveller site provision; job growth and employment strategy and employment sites; impact of development on designated wildlife sites; infrastructure and community facilities; town centre strategy; open space and recreation; natural, built and historic environments and climate change.

2.4 In summary, the conclusions of the Report in relation to housing provision are that:

- the housing requirement in Policy SP11, as amended, is a positive response to meeting housing needs in Thanet and represents a scale of housebuilding which is significantly greater than the extant Local Plan (para 37);
- the Plan is informed by a robust, objective assessment of housing need and is positively prepared in identifying a housing requirement and trajectory to meet that need in full (para 38);
- directing growth to the Urban Area, strategic sites on the edge of the Urban Area and Villages with the highest number of services is justified, and consistent with national planning policy which seeks to direct significant new development to locations which are, or can be made sustainable. The submitted Plan is the most appropriate strategy for Thanet (para 53);

- the housing strategy and distribution of growth are justified and consistent with national planning policy. Subject to the recommended MMs the Plan's policies will also be effective in achieving the proposed strategy (para 64);
- the process of identifying the allocations was robust (para 159); and
- there is a good prospect that there will be an up-to-date supply of specific deliverable sites sufficient to provide five years' worth of housing land against the requirements of Policy SP11 (as modified) on adoption (para 174).

2.5 Based on the information available to the Inspectors and contained in their Report, the Council can demonstrate a 5.77 year supply of housing land.

2.6 In relation to other housing matters in the Plan, the report concludes as follows:

- the Plan makes appropriate provision to help meet the identified need for affordable housing, and, subject to the recommended MMs Policies SP20 and HO18 are justified, effective and consistent with national planning policy (para 194);
- that the Plan's policies relating to the type and mix of housing are justified, effective and consistent with national planning policy (para 213); and
- subject to the recommended MMs the Plan will include an appropriate mechanism to ensure that the needs of gypsies and travellers and travelling showpeople are met (para 221).

2.7 In relation to other matters in the Plan, and subject to recommended modifications, the report concludes as follows:

- the Plan strategy for job growth and employment, and the allocations and policies concerning employment sites and economic development are positively prepared, justified, effective and consistent with national planning policy (para 261);
- the strategic mitigation required under Policy SP26 (known as the Strategic Access Management & Monitoring Plan, or SAMM), combined with the requirements of Policies SP25 and SP27, provide sufficient safeguards to ensure that the Plan will not adversely affect the integrity of the Thanet Coast and Sandwich Bay SPA and Ramsar site or the Sandwich Bay SAC, either alone or in combination (para 273);
- supportive of the delivery of the Inner Circuit (paras 278-283);
- The emphasis on achieving high standards of energy efficiency in Policy QD01 is justified in seeking to minimise the effects of climate change. The Plan is recommended to be modified to include a standard of energy efficiency equivalent to what was Code for Sustainable Homes Level 4 (para 354);
- It should also be noted that the Report contains no adverse comments in relation to draft Policy QD04, which sets out the national technical standards for internal space standards and water efficiency measures in new development;
- the Plan makes adequate provision for new infrastructure and community facilities (para 297);
- the strategy for retailing and commercial uses in Thanet's town centres is justified, effective and consistent with national policy (para 321);
- continued support for identified Green Wedges (para 322);
- the approach to open space and recreation is justified and consistent with national policy (para 332);
- the Plan provides adequate policies to protect, preserve and enhance the natural, built and historic environments (para 351);

- It should also be noted that the Report contains no adverse comments in relation to the requirement in draft Policy SP23 that “development proposals should demonstrate how they respect and respond to the character, key sensitivities, qualities and guidelines of the relevant landscape character areas, as detailed in the Landscape Character Assessment (LCA), which it is recommended should be adopted as a Supplementary Planning Document (see para 2.20 of this report); and
- the Plan includes appropriate policies to mitigate against the impacts of climate change and support the transition to a low carbon future (para 358).

2.8 The Report states (p3) that the Inspectors have recommended the inclusion of a number of Main Modifications after considering all the representations made. In summary they:

- Introduce new Policy SP01a which supports the principle of development in the Urban Area and designated Villages;
- Introduce new Policy SP01b which requires the Council to complete a review of the Plan within six months of adoption.
- Modify the stepped housing requirement in Policy SP11.
- Clarify which sites are allocated for residential development in the Urban Area (Policy HO1) and the Rural Settlements (Policy HO11).
- Modify the development principles for strategic housing sites and include land at Shottendane Road as a strategic housing allocation (Policy SP18A).
- Amend Policies SP19 and SP20 to provide clarity regarding the type and size of dwellings and the thresholds for the provision of affordable housing.
- Include a requirement in Policy HO22 to identify and allocate sites for gypsy and travelling communities as part of an update to the Plan.
- Introduce a new policy (Policy SP05) concerning development at Manston Airport.
- Modify Policies SP02, SP03 and E01 to support new economic development within settlement boundaries, clarify how much land is allocated for employment uses and provide criteria to assess proposals for the reuse of employment land and buildings.
- Modify Policy SP21 to support economic growth in rural areas.
- Delete unjustified and undeliverable transport routes from Policy SP47.
- Modify Policies SP22, SP25 and SP26 to provide effective criteria for development in Green Wedges, and for proposals likely to lead to increased recreational pressure on the Thanet Coast and Sandwich Bay SPA and Ramsar Site.
- Modify the town centre policies (SP06-SP10 and E04-E06) for clarity and effectiveness.
- Support the extension of the Queen Elizabeth The Queen Mother Hospital through Policy SP37.
- Clarify how new medical facilities will be provided at Westwood and where new primary and secondary schools will be located through changes to Policies SP38 and SP40.
- Provide effective criteria to consider proposals for foster homes and childcare facilities, and the retention of family homes in Policies HO24 and HO26.
- Delete Policy CM04 relating to the expansion of Minster Cemetery.
- Update Appendix B to reflect the latest position concerning site delivery.

2.8 Other Main Modifications are also recommended to ensure that the Plan is justified,

effective and consistent with national planning policy. These are all referred to at the relevant point in the Inspector's Report. A draft version of the final Plan is available to view at Annex 3.

- 2.10 The Inspectors' report (para 7) points out that the Policies Map is not defined in statute as a development plan document, and therefore the Inspectors do not have the power to recommend main modifications to it. However, a number of the proposed MMs require corresponding changes to be carried out to the Policies Map. This includes the identification of Manston Airport in Policy SP05, the deletion and/or modification of Strategic Routes in Policy SP47 and the identification of town, district and local centres in Policies SP06-SP10.
- 2.11 The Report concludes that the "Duty to Cooperate" has been met (para 13), and that the Plan meets the relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations (para 367):
- the Local Development Scheme (para 359);
  - the Statement of Community Involvement (para 360);
  - Sustainability Appraisal and Habitat Regulations (paras 361, 362);
  - the Public Sector Equality Duty (paras 363, 364); and
  - Climate Change (paras 365, 366).
- 2.12 Section 23 of the Planning & Compulsory Purchase Act 2004 states that the local planning authority may adopt the Plan (as a development plan document) if the person appointed to carry out the independent examination recommends that it is adopted as submitted, or with modifications.
- 2.13 The Inspectors' report concludes that, with the proposed Modifications, the Plan meets the criteria for "soundness" (para 369).
- 2.14 On the basis of the Inspectors' report, the decision for the Council is whether to adopt the draft Local Plan, with the Modifications proposed/recommended by the Planning Inspectors, or not to adopt the Local Plan.
- 2.15 **It is the recommendation of officers that the Local Plan (as amended by the Inspectors' recommended Main Modifications) is adopted.** This would provide the Council with a "sound" Local Plan, on which it can base planning decisions; provides certainty for local people, agents and developers, in terms of where development should happen and where it should not; and helps to guide investment and provides the basis for infrastructure bids to Government. It will also provide a 5-year supply of housing land, and a robust framework for Planning Appeals.
- 2.16 As Members will be aware, the recent Housing Delivery Test results (for 2019) placed the Council into a "presumption in favour of sustainable development" in relation to housing developments, which reduces the Council's ability to resist housing development proposals on unsuitable sites not allocated in the Local Plan. However, once the Plan is adopted, we can request this to be recalculated on the basis of the newly-adopted housing requirements under National Planning Policy Guidance Housing Supply and Delivery (paragraph 042 Reference ID: 68-042-20190722).
- 2.17 The adoption of the Plan would also enable the Council to fully apply the strategic sites policies - including the infrastructure and other requirements in those policies -

to development proposals for the sites; and to fully apply other policies in the Plan in relation to other key matters.

2.18 Once the Local Plan is adopted by the Council, there is a 6-week period for possible Judicial Review.

### 2.19 **Landscape Character Assessment SPD**

2.20 The [Landscape Character Assessment](#) is linked to draft Local Plan Policy SP23. The consultation on the Landscape Character Assessment was run in parallel with the various Local Plan consultations, the latest being at Local Plan pre-submission stage (23 August to 4 October 2018). The comments and the Council's responses are set out in the [Statement of Consultation](#). Earlier comments and consultation events were set out in the previous Statement of Consultation published August 2018 and includes the details of the workshop held in June 2017. This statement was published as part of the evidence base on the Council's website and was a core document to the local plan examination (ref CD5.3).

2.21 The majority of comments supported the adoption of the Landscape Character Assessment as a Supplementary Planning Document to be used in the assessment of planning applications. As mentioned above, the Inspectors' Report contains no adverse comments in relation to the requirement in draft Policy SP23 that "development proposals should demonstrate how they respect and respond to the character, key sensitivities, qualities and guidelines of the relevant landscape character areas, as detailed in the Landscape Character Assessment (LCA).

2.22 If the recommendation in this report to adopt the assessment as SPD is agreed, there is a period of 3 months for possible Judicial Review.

## 3.0 **Options**

3.1 There are two options before the Council in respect of the Local Plan - (1) to adopt the draft Local Plan; or (2) to not adopt the Draft Local Plan.

3.2 Option 1 (Recommended) - adopt the Local Plan with the recommended modifications. This would provide the Council with a "sound" Local Plan, on which it can base planning decisions; provides certainty for local people, agents and developers, in terms of where development should happen and where it should not; and helps to guide investment and provides the basis for infrastructure bids to Government. It will also provide a 5-year supply of housing land, and a robust framework for Planning Appeals in relation to the Housing Delivery Test. It also enables the Council to fully apply the strategic sites policies - including infrastructure and other requirements - to development proposals for the sites. The Landscape Character Assessment should be adopted as SPD at the same time.

3.3 Option 2 (Not Recommended) - not adopt the Local Plan. To not adopt the Local Plan would leave the Council without a "sound" local Plan, with the risks and disbenefits that entails. Members will also recall that the Council has previously been subject to Secretary of State intervention on the draft Local Plan, and any delay in adopting the Local Plan could result in further intervention and direction from the SoS. Lack of a "sound" Plan places the Council "at risk" in terms of Appeal decisions and also delays the provision of infrastructure, effectively losing control of the development process.

3.4 As the Inspectors' Report states (para 217) - "To put this potential delay into context, this is a district which has not had an adopted Local Plan since 2006, with the current plan only covering the period up to 2011. As identified above, the lack of an up-to-date plan has stifled house-building in Thanet, with an absence of suitable sites being one of the reasons for the constrained supply. Further delaying adoption of the Plan would likely frustrate the delivery of key strategic sites, only serving to compound problems such as increasing house prices and worsening affordability."

3.5 In this case, the Landscape Character Assessment could not be adopted as SPD.

#### 4.0 Next Steps

4.1 As mentioned above, if Council resolves to adopt the Local Plan, there is a six-week period for possible Judicial Review.

4.2 If there is no JR challenge to the Plan, the Plan can be published, including the revised Policies Map. In the meantime, the Plan can be given full weight in the planning application process.

4.3 The 2012 Regulations require the Council to prepare and make available an Adoption Statement, and to notify the Secretary of State and other interested parties where the statement is available.

4.4 In addition, the 2004 Regulations require the Council to prepare and make available a post-adoption statement regarding how environmental considerations have been integrated into the plan and a number of related matters.

4.5 In both cases, the statements have to be published "as soon as reasonably practicable".

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#### Annex List

Annex 1	Inspectors' Report into draft Local Plan
Annex 2	Appendix 1 of Inspectors' Report - Main Modifications
Annex 3	Draft Final Version of Local Plan (with Modifications added)

#### Background Papers

Title	Details of where to access copy
Draft Local Plan	<a href="https://www.thanet.gov.uk/wp-content/uploads/2018/11/CD1.1-Draft-Thanet-Local-Plan-Reg-19.pdf">https://www.thanet.gov.uk/wp-content/uploads/2018/11/CD1.1-Draft-Thanet-Local-Plan-Reg-19.pdf</a>
Local Plan Examination Core documents	<a href="https://www.thanet.gov.uk/info-pages/local-plan-2031-examination/">https://www.thanet.gov.uk/info-pages/local-plan-2031-examination/</a>
Proposed Modifications to the Thanet Local Plan	<a href="https://consult.thanet.gov.uk/consult.ti/TLPMODS/consultationHome">https://consult.thanet.gov.uk/consult.ti/TLPMODS/consultationHome</a>
Thanet Landscape Character Assessment	<a href="https://consult.thanet.gov.uk/consult.ti/LCAREG13/consultationHome">https://consult.thanet.gov.uk/consult.ti/LCAREG13/consultationHome</a>

Thanet LCA Statement of Consultation	<a href="https://www.thanet.gov.uk/wp-content/uploads/2020/03/Statement-of-Consultation-March-2020.pdf">https://www.thanet.gov.uk/wp-content/uploads/2020/03/Statement-of-Consultation-March-2020.pdf</a>
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### **Corporate Consultation**

<b>Finance</b>	Matthew Sanham, Financial Services Manager
<b>Legal</b>	Tim Howes, Director of Corporate Governance