

Report to: Full Council

Date of Meeting: 23 September 2015

Report Title: Hastings Development Management Plan (DMP) Inspector's report and timescale for adoption

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Purpose of Report

To advise upon the outcome of the examination in public of the DMP and the process and timescale for adoption of the Plan

Recommendation(s)

1. That Council considers the Inspector's recommendations and proposed Main Modifications (MMs) to the Plan as attached at Appendix A.
2. That Council agrees to the incorporation of the Inspector's 8 Main Modifications into the DMP as recommended by Cabinet.
3. That Council adopts the Hastings Development Management Plan including the incorporation of the Main Modifications together with all minor modifications and the Policies Map attached as Appendices B, Ci & Cii to this report, as recommended by Cabinet.
4. That Council expresses its appreciation to all of those staff responsible for the preparation of the Plan and in particular to officers from the Planning Policy team.
5. That Council thank the Inspector, Richard Hollox, for his efforts and wish him a happy retirement as recommended by Cabinet.

Reasons for Recommendations

In accordance with Section 23(c) of the Planning & Compulsory Purchase Act 2004 (as amended by Section 122 (3) of the Localism Act 2011) to enable the Council to adopt its next key Planning document (the Hastings Development Management Plan) as part of the Development Plan for the Borough, as encouraged to do so by Government to ensure that a statutory planning framework is put in place at the earliest opportunity to guide investment and growth within Hastings over the Plan period to 2028.

Introduction and background

1. Members will recall that the Hastings Planning Strategy provides the overall strategic framework for land use and development in the Borough up to 2028. It was submitted to the Secretary of State for Independent Examination in October 2012. The Strategy was ultimately found sound by the Inspector, subject to some modifications, and adopted by the Council in February 2014. As well as identifying key overarching objectives for the sustainable growth of Hastings, delivery of the Strategy will provide at least 3,400 homes and some 70,00sq metres of employment space within the Borough over the period to 2028.

2. The Hastings Development Management Plan (DMP), which is the subject of this report, is the second key Planning document for the Borough providing the greater level of detail necessary to enable development proposals and applications to be assessed and implemented. In particular, the DMP sets out a number of general policies on matters such as design, amenity, access, ground conditions, pollution and hazards, and the protection of the historic and natural environment which provide the basis for development management decisions.

3. Additionally, the DMP allocates specific sites for residential and employment uses together with more site specific policies to address the particular circumstances of each allocation and requirements for the development of these sites.

4. It is now proposed to formally adopt the DMP, incorporating each of the Inspector's recommendations or "Main Modifications" at Full Council on the 23rd September. These proposed modifications to the DMP are attached in full as Appendix A to this report. In essence, whilst these are recommendations from the Inspector to the Council, the Inspector's main modifications are required to be incorporated in order to make the Plan (the DMP) sound and enable it to proceed to adoption.

5. The Inspector's full report to the Council following examination of the DMP, which explains the reasoning for his recommendations, is available to view or to download from the Council's website at:

<http://www.hastings.gov.uk/dmplan-inspectorsfinalreport>

Background to submission of the DMP for public examination.

6. There has been widespread and comprehensive consultation upon the Hastings Development Management Plan (DMP), building upon earlier exercises and findings beginning with the Council's "Big Map" exercise of 2010. This was then followed by public consultation in 2012 for a period of 12 weeks (February-April) on the consultation draft version of the DMP

7. A further focused consultation (July-August 2012) was undertaken and, following amendments to the emerging document to take on board comments received, a proposed Submission DMP was published for consultation for a 12 week period between January and April 2013. A total of 378 representations were received to this version of the DMP. Subsequently, and on the basis of advice received from the Planning Inspectorate a further round of consultation was undertaken for the revised Proposed DMP from March–April 2014 in order to ensure that the DMP could align with the objectives of the Council's Planning Strategy (and which still awaited the outcome

of its own examination in public). A total of some 3,887 representations were received on the revised proposed DMP from 1,255 respondents.

8. Once the Hastings Planning Strategy had successfully been through its examination and had been adopted by the Council (February 2014), the Hastings DMP was submitted to the Secretary of State for public examination in July 2014. This second key Plan for the Borough is the one which will deliver the detailed site allocations for housing and employment to meet the overall objectives of the Planning Strategy, together with both general and site specific policies for development control purposes.

9. The examination of the DMP took place during October – December 2014 through a number of formal Hearing sessions when all those who had made representations upon the Plan could appear before the independently appointed Inspector to give evidence. A further and final Hearing session was held on the 16th January after which the Inspector closed the examination to carry out and complete his site visits prior to drafting his final report.

10. Council officers from the Planning Policy team attended all Hearing sessions to give evidence in support of the Council's submitted DMP and to respond to questions from the Inspector and others attending the Hearing sessions. The Council was supported at these hearings by officers from other services of the Council on particular issues as appropriate, together with support from partner organisations such as Rother District Council, East Sussex County Council and Sea Change Sussex.

11. In February the Inspector published his Preliminary Findings upon the Plan (DMP) which were then required to be the subject of a further six weeks of consultation. The Inspector's preliminary findings were published on the Council's website and representations upon them were invited in order that these could all be forwarded to the Inspector for consideration prior to his issuing the final report. In total 1,529 representations were received from 755 respondents on the Inspector's preliminary findings.

The Inspector's Report

12. The Inspector's final report was received by the Council on the 29th May 2015 and was posted on the Council's website on the 2nd June. In his role as examiner the independent Planning Inspector is required to conduct his assessment of the Development Management Plan in accordance with Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended).

13. In essence the Inspector must examine whether:

- The Plan's preparation has complied with the Duty to Co-operate (recognising that there is not scope to remedy any failure in this regard).
- The Plan is sound - whether it is positively prepared, justified, effective and consistent with national policy.
- The Plan is compliant with legal requirements.

14. **Duty to Cooperate** – the Inspector's report confirms that the Council had more than adequately set out the result of effective cooperation between the Council and a

wide range of other bodies on the content of the submitted DMP. In particular he notes that the County Council confirmed that Hastings had worked constructively with it on infrastructure issues and transport matters and that Rother District Council confirmed engagement was on a constructive and ongoing basis. In conclusion he confirmed that the Council has met the Duty to Cooperate in accordance with the Localism Act 2011, Section 110, the Town and Country Planning (Local Planning) (England) Regulations 2012 and with the National Planning Policy Framework(NPPF).

15 Soundness – on the matter of soundness the Inspector has noted that where there are urgent needs for both employment needs and housing within a Borough as rich as Hastings in terms of many valuable historic and natural assets, the achievement of an appropriate planning balance is challenging. His report concludes that the Council has generally done a good job in achieving a correct balance although in a few respects considers that too much emphasis has been placed on development and not enough on the protection of assets, especially natural ones. These matters are further explained in the section of the report on the Inspector’s Main Modifications (see paragraph 21 of this report).

16. Assessment of legal compliance. In his conclusions regarding the Plan’s legal and procedural compliance with the Regulations the Inspector has confirmed that the Council has abided by them all. His assessment of compliance is set down at paragraph 161 of his report and where he confirms that the DMP meets all of the necessary legal and procedural requirements. Of particular and encouraging note is his comment that

“Indeed in some respects it (the Council) has gone well beyond them in its determination to involve people of the Borough in the plan making process”

The Inspector’s Main Modifications

17. At the commencement of the examination the Council requested that the Inspector make any recommendations as to main modifications which he considered were necessary in order for the Plan to be found sound. In this regard the Inspector found that, overall, the DMP as submitted to the Secretary of State came close to achieving the right balance between the often competing economic, social and environmental roles of planning to which the Framework (NPPF) refers.

18. He has accordingly recommended just eight “Main Modifications” to the Plan in order to make the Plan sound and/or legally compliant and thus capable of adoption by the Council. These eight Modifications are attached in full as Appendix A to this report.

19. It should be noted that to have received just eight recommendations for Main Modifications is in itself quite an achievement with many Local Plans being subject to a significantly greater number of recommendations following examination. It is also perhaps worth emphasising that a number of these proposed modifications were promoted by the Council at the examination itself following further testing of evidence and in response to representations received both before and during the Hearing sessions.

20. This latter comment refers for example to MM1- deletion of the proposed allocation for a wind farm on land south of Upper Wilting Farm, the strengthening of policy

wording regarding Policies HN6 and DM3 (MM2 and MM3) and the proposed modification at MM5 to incorporate additional land for development adjacent to Sandrock Park.

21. The Inspector's modifications MM4, MM7 and MM8 recommend deletion of residential allocations on land at Robsack A, Church Wood Drive, on land at Victoria Avenue and at the Rear of Old London Road. These allocations were carefully considered during the examination when the Inspector concluded that their environmental and community benefit outweighed the value of their being developed for housing purposes.

22. His final modification MM6 requires the incorporation of a children's play area within the proposed allocation for residential purposes of the existing Council-owned Cornwallis Street Car Park.

23. In addition to the Inspector's Main Modifications the Council is able to make minor or additional modifications to the Plan, essentially for the purposes of clarity, especially within the text of the DMP, for updating, and to correct factual or typographical errors.

24. A number of these minor modifications were discussed and agreed with the Inspector as being "minor" during the Hearing sessions, and others have been inserted for reasons of fact, to correct typographical errors, for updating or clarity. All modifications to the Plan as submitted, including each of the Inspector's eight Main Modifications, together with the minor modifications, are now shown as incorporated in Appendix B and which is the full Written Statement to the DMP that Council is recommended to adopt.

25. Whilst there is no legal requirement upon the Council to consult upon minor modifications they were all also published on the Council's website for a six week period alongside the preliminary findings of the Inspector.

26. During the often lengthy process of preparation of any Plan the Local Planning Authority is still obliged to deal expeditiously with any planning applications submitted to it for determination. As part of the examination Hearing sessions officers acknowledged that some of the allocated sites in the DMP had already received planning permission or were indeed already under construction. They confirmed however to the Inspector that these allocations and their respective Policies should remain in the DMP to cover any eventuality of developments stalling or in the event of revised proposals being submitted for consideration by the Council.

Adoption of the Development Management Plan

27. As set out at paragraph 4 of this report the DMP can now only proceed to adoption by the Council with the incorporation of all eight of the Inspector's Main Modifications. These are considered by him as necessary to make the Plan sound and to set the appropriate balance between the often competing aims of any Plan in respect of economic, social and environmental factors.

28. The complete text of the DMP, incorporating all of the Inspector's eight modifications together with the minor/additional modifications referred to at paragraphs 23 and 24 are attached as Appendix B to this report. Once adopted this would become

the Written Statement of the Development Management Plan (DMP) together with the adopted Policies Map, attached as Appendix Ci and Cii. This Policies Map identifies the boundaries of each of the allocated sites and the various Policy designations that apply across the Borough.

29. It is proposed to take the submitted DMP, incorporating the eight main modifications as recommended by the Inspector, together with the minor modifications, to Council for adoption on the 23rd September (Appendices B & Ci&ii). This will include adoption of both the Written Statement and the Policies Map. There will be a 6 week period where any formal legal challenges to the Plan can be made.

30. Following adoption by Council, the Development Management Plan will supersede various policies in the Hastings Local Plan 2004 and this (DMP) together with the already adopted Planning Strategy will be given full weight in the determination of applications.

Policy Implications

31. The wider policy implications in terms of, for example, equalities & community cohesiveness and environmental issues, have been examined as part of the development process of the DMP.

Wards Affected

All

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	✓
Crime and Fear of Crime (Section 17)	
Risk Management	
Environmental Issues	✓
Economic/Financial Implications	✓
Human Rights Act	
Organisational Consequences	
Local People's Views	✓
Anti-Poverty	

Additional Information

Appendix A – Inspectors “Main Modifications” from his final report
Appendix B – Development Management Plan (DMP) Written Statement incorporating Inspector’s eight main modifications in addition to all minor modifications.
Appendix Ci – Development Management Plan (DMP) Policies Map – Main Map
Appendix Cii – Development Management Plan (DMP) Polices Map – Inset Maps

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HASTINGS DEVELOPMENT MANAGEMENT PLAN

APPENDIX 1

MAIN MODIFICATIONS

MM1 Deletion of Policy FB12 – Land south of Upper Wilting Farm for the development of wind turbines

MM2 Modification of Policy HN6 – Former Convent of Holy Child Jesus, Magdalen Road

Planning permission will not be granted for development within the curtilage of the Former Convent of the Holy Child Jesus unless it is enabling development which would secure the long term suitable use and future of the existing Listed Buildings.

Planning permission for enabling development will not be granted unless such development would:

- a) Secure the management in perpetuity of the whole site as a single entity and as a place of special significance;
- b) Secure the ongoing management of the whole site, including the respectful protection and enhancement of the Nuns' Cemetery;
- c) Subject to any need to provide affordable housing, be the minimum amount of development required to secure the long term future of the existing buildings and the site as a whole;
- d) Follow genuine investigation of the potential for securing the long term future of the buildings without the need for enabling development and follow the exploration of unrestricted disposal of the site on the open market;
- e) Convincingly demonstrate that it would be the only realistic source of sufficient subsidy to secure the suitable long term future of the Listed Buildings;
- f) Minimise the harm to other public interests;
- g) Provide an appropriate amount of affordable housing (for which see Policy H3 of the Hastings Planning Strategy), even if this increased the overall number of units to be provided; and where
- h) The public benefit of securing the future of the heritage assets through enabling development decisively outweighed the harm or otherwise caused by the scheme.

The Local Planning Authority will liaise closely with Historic England on any scheme submitted including the sharing with them of any viability assessments or financial assessments submitted to support any development proposals.



In addition, planning permission will not be granted for enabling development unless:

- 1) The impact of the development is precisely defined at the outset, through the granting of full, rather than outline, planning permission;
- 2) The achievement of the heritage objective is secured through the use of a Section 106 agreement or by other enforceable means;
- 3) The heritage assets concerned are repaired to an agreed standard, or the funds to do so made available, as early as possible in the course of the enabling development, and in any event, before completion or occupation of any new build;

New supporting text paragraph after Policy HN6:

These Listed Buildings and their curtilage are a vitally important heritage asset in St Leonards and in the Borough as a whole. Their inclusion in a Conservation Area emphasises even more their historic and architectural importance. The Council is therefore keen to secure their suitable long term future which the provisions of the Policy are designed to achieve. Enabling development is, however, undertaken as an exception to the usual planning policies which apply and this justifies the rigour of the Policy. The Council will therefore work closely with the developer and monitor the implementation of an approved scheme, acting promptly if necessary to ensure that all conditions and obligations are met.

The Council is also mindful of the need to protect the setting of nearby Listed Buildings and of the Conservation Area as a whole when considering any new development proposals for the site.

The general principles set out above will, where appropriate, be applied in the case of any other proposals for enabling development elsewhere in the Borough.

The Council will also take into account Historic England's adopted and emerging guidance on heritage assets and in particular advice on development in relation to heritage assets, protecting views and settings. (insert weblink)

Through its pre-application service, the Council will provide informal guidance as to what constitutes enabling development in terms of the above Policy. Where development proposals are not considered to be enabling development after consultation with the Council, such proposals will be assessed against other relevant policies in the Plan.

MM3 New Policy concerning Design etc

The number of dwellings set out in the Proposed Allocations Policies is purely indicative, showing what might be achieved on each site. Of principal and greater consequence for every scheme, however, will be matters which include design, height, mass, appearance of the proposed building(s), layout (including the provision of a safe and convenient access), trees, biodiversity, green infrastructure and relationship with the surroundings including nearby buildings and views of the Borough's natural and historic assets (including Hastings Castle). These considerations, rather than indicative numbers, will provide the guidelines to ensure a development worthy of the site and its surroundings. For development within Conservation Areas, the Council will insist on schemes of distinctive design, quality and character consistent with the statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. A similar approach will be taken with regard to any scheme which would affect the setting of a Conservation Area. The Council will advise and work with prospective developers from the inception of each scheme to ensure a development of distinction.



MM4 Deletion of Policy GH1 – Allocation of Robsack A, Church Wood Drive, for residential development

MM5 Modification of Policy SH1 – Allocation of land adjacent to Sandrock Park, The Ridge for residential development, to include additional land to the south as shown on the plan accompanying the Statement of Common Ground (HBC/7) with any suitable amendment to its western boundary.

Addition of 2 criteria to the Policy, as follows:

- a) Lodge Cottage shall be retained in any overall development proposal and restored and/or extended to provide for its viable future use; and
- b) Vehicular access to the enlarged site shall be agreed with the Highways Authority (East Sussex County Council); this may involve use of the principal access to the proposed allocation SH1 or by separate means; should no separate access to the enlarged site be practicable to the satisfaction of the Highways Authority, access through the main, larger part of the site would not be unreasonably withheld.

MM6 Modification of Policy HTC2 Cornwallis Street Car Park

Planning permission will be granted for residential development (possible net capacity of 10 dwellings) on the Cornwallis Street Car Park provided that the development includes:

- v) a children's play area, "pocket park" or similar open recreational space.

MM7 Deletion of Policy CVO1 – Allocation of Land at Victoria Avenue for residential development.

MM8 Deletion of Policy CVO3 – Allocation of Land at the Rear of Old London Road for residential development

