

**Report of Director of City Development**

**Report to Executive Board**

**Date: 5<sup>th</sup> March 2014**

**Subject: Leeds Core Strategy – Inspector`s Main Modifications**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): District-wide	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. The Council's Draft Core Strategy was agreed by Executive Board on 10<sup>th</sup> February 2012, submitted for public examination in April 2013, with Hearing sessions taking place in July/October 2013. The Core Strategy has been specifically identified within the Best Council Plan as a key action; delivering on the best council objective to promote sustainable and inclusive economic growth. The Core Strategy therefore provides an overall framework for the scale and location of housing and economic growth until 2028.
2. Following the October Hearings, the Inspector has issued a schedule of 'Main Modifications' to the plan, which he considers necessary in order to make the plan sound. In reporting the overall content of the Modifications, key issues and next steps, an interim report was prepared for the 14<sup>th</sup> February Executive Board.
3. The purpose of this report is to set out the key implications for the Council, arising from the Main Modifications; and to seek formal approval to publish the modifications for consultation alongside the Council's proposed changes to Affordable Housing and Gypsy's and Travellers, prior to the further Hearing session on 13<sup>th</sup> May (the inspector has also requested that his Hearing questions are made available for information, as part of this package of material).

## Recommendations

4. The Executive Board is recommended to:
  - i) Approve the 'Main Modifications' to the Core Strategy, in order for these to be advertised, for a 6 week period of consultation;
  - ii) Agree that the revisions to the Core Strategy policies for Affordable Housing (H5) and Gypsy's and Travellers (H7), be published for consultation, prior to the May Hearing sessions;
  - iii) Agree to publication for consultation of a simplified monitoring framework subject to agreement with the Executive Member for Neighbourhoods, Planning and Support Services.
  - iv) Note that the Head of Forward Planning and Implementation will be responsible for implementation in line with timescales set out in the report.

## **1. Purpose of this report**

- 1.1 The purpose of this report is to set out the key implications for the Council; and to seek formal approval to publish the modifications for consultation.

## **2 Background information**

- 2.1 The Core Strategy is one of the key policy documents of the Council in giving spatial expression to many of the “Best Council” ambitions. It seeks to establish the scale of new housing that we should plan for and to guide its location. In doing so, the plan is concerned to protect the separate character and identity of the many and varied communities across the district and to ensure that we deliver the right mix and quality of development supported by appropriate facilities. The Core Strategy is designed to ensure that new development reflects a range of Council objectives including the need for more jobs, and the “Child Friendly” and health agendas.
- 2.2 The scale of growth envisaged in the Core Strategy is ambitious and unprecedented. In this respect it supports the role of Leeds at the heart of the Leeds City Region, including reflecting the importance of Leeds City Centre. The approach is entirely consistent with the City Region ambitions set out in the emerging Strategic Economic Plan.
- 2.3 As outlined in the Executive Board report of 14<sup>th</sup> February, the Council published its draft (Publication) plan in February 2012. Following consideration of representations received on the draft, pre-submission changes were published in December 2012 and the plan was then submitted to the Secretary of State in April 2013, for independent examination. An inspector, Mr Anthony Thickett was appointed to undertake the examination of the plan. This commenced with a hearing in July to consider whether the Council had fulfilled the duty-to-co-operate. The Inspector confirmed that he was satisfied that the Council had met the legal requirements and the plan could therefore proceed to examination to test its soundness. The examination Hearings subsequently took place in October 2013. Following these Hearings, the Inspector has issued a schedule of ‘Main Modifications’ to the Core Strategy, which he considers necessary in order to make the plan sound.
- 2.4 In addition to preparing the schedule of Main Modifications, in correspondence, the inspector has also confirmed that he intends to hold a further Hearing session on 13<sup>th</sup> May, to consider the City Council’s proposed changes to Affordable Housing (Policy H5) and Gypsy’s and Travellers (Policy H7). In advance of the Hearing, the inspector has also set out the questions he wishes to examine and has requested that these should be made available with the package of material for consultation. Members will recall receiving an Executive Board report on 18<sup>th</sup> December 2013, where changes to Policy H5 were agreed (i.e. to include Affordable Housing thresholds and targets within the Core Strategy – Policy H5, rather than in a Supplementary Planning Document), in response to matters previously raised by the inspector through examination. With regard to Gypsy’s and Travellers, a separate report is included on this Executive Board agenda setting out the proposed changes, for consultation prior to the further Hearing. Subject to Executive Board

approval it is proposed to consult simultaneously on the Modifications and proposed changes to policy.

### **3 Main Issues**

- 3.1 As highlighted in the 14<sup>th</sup> February Executive Board report, the Core Strategy inspector has written to the Council to clarify outstanding issues and provided a schedule of Main Modifications (Appendix 1) that address changes arising from the debate to date which he considers necessary to make the plan sound. The Council is expected to advertise the Main Modifications (for a 6 week period) to allow representations to be made. These Main Modifications have been made by the inspector, following his consideration of the evidence and arguments before him and he considers them necessary in order to make the plan “sound”. It should be noted that the issue of the ‘soundness’ of the plan is a matter solely for the inspector (subject to challenge only on grounds such as irrationality). It should be noted also, that as the inspector has issued these Main Modifications in advance of his formal report, there is little by way of explanation (other than a short summary) of the rationale for the modifications.
- 3.2 As emphasised in the 14<sup>th</sup> February Executive Board report, there are many aspects of the inspector’s correspondence that are welcome and very positive in that he leaves many of the key components of the plan unchanged. These include: the overall Spatial Vision and Objectives, the scale and distribution of the housing requirement, the concentration of new development around the settlement hierarchy, the ‘centres’ based approach to retail development, the ‘windfall’ allowance, the previously developed land/greenfield housing split and the concept of phasing allocations. Within this overall context, the inspector has recommended a series of ‘Main Modifications’. Overall, these modifications do not change the overall intent of the City Council’s approach but are considered necessary by the inspector to make the plan “sound”, as a basis to ensure ‘clarity and effectiveness’.
- 3.3 Acceptance of these broad aspects and strategic principles of the plan means that the Council can continue to press ahead with a range of key projects and priorities, including the preparation of the Site Allocations plan, for publication later in the year.
- 3.5 However, there is one change that the inspector requires that is of potential significance to the Council. This is that he does not accept a ‘stepping-up’ of the housing requirement (set out within Spatial Policy 6 – The Housing Requirement and the Allocation of Housing Land). The Core Strategy proposed a requirement of 3,660 dwellings p.a. for 2012/13-2016/17 and 4,700 p.a. from 2017/18. The inspector’s change means that the Council now has a single average rate throughout the plan period of 4,375 p.a. Further to the preparation of the 14<sup>th</sup> February interim report, further consideration has been given and legal advice sought, in relation to the implications of the Modification. These implications are set out below.

#### Overall Strategy

- 3.6 The City Council has taken a responsible approach in preparing the Core Strategy (and early consultation on the Site Allocations plan), in seeking to meet objectively assessed housing needs. This overall approach is advocated by national planning policy (National Planning Policy Framework, para. 150), which emphasises that as

part of a 'plan-led' approach, *'local plans are the key to delivering sustainable development that reflects the visions and aspirations of local communities'*. As outlined in para. 3.2 above, the Core Strategy inspector is supportive of the broad strategy and policy approach of the plan.

#### Five Year Housing Land Supply

- 3.7 The main impact of the inspector's removal of the step-up is on the 5yr housing target. Prior to the inspector's letter the Council argued at the Kirklees Knowl planning appeal that the target was 20,307. Members will be aware of the difficulties the Council faces in demonstrating a 5yr supply to meet this target. With the modification proposed by the inspector this figure rises to 27,596 dwellings. This is made up of a basic figure of 21,875 (5x4,375), plus the 5% NPPF buffer of 1,094 and an estimated 4,627 to account for under-delivery over the first two years of the Core Strategy period against the new annual average. This is a significant increase to an already challenging target.
- 3.8 It is considered that a robust case for the step-up in the housing target was presented to the Core Strategy hearing, supported by consultants Edge Analytics. The inspector's modifications do not set out the reasons why he does not agree with the Council's position but simply record that he considers that it is not justified by the evidence. His report however, which will be produced following the May hearings will set out in more detail his conclusions and reasons for these changes.
- 3.9 The decision on the Kirklees Knowl appeal, expected in early April, may further change this position. The appellants have argued that due to persistent under-delivery against the housing target the Council should be required to find an NPPF buffer of 20% rather than the 5% currently allowed for. If this is the view of the Secretary of State in his determination of the appeal this would extend the 5yr target to 30,877.
- 3.10 The 5yr supply position is also uncertain. The Council is currently in the process of reviewing and up-dating its evidence on supply through a series of SHLAA partnership meetings. This will in turn inform the calculation of an up-to-date 5yr supply. Both the target and the supply are therefore subject to some uncertainty but what is clear is that the inspector's modification makes a significant difference.
- 3.11 Members will be aware that whether or not the Council has a 5yr supply is a significant factor in the determination of applications and at appeal. Paragraph 49 of the NPPF says that development plan policies for the supply of housing should not be considered to be up-to-date if the Local Planning Authority does not have a five year supply of housing land. This creates the clear anomaly that the Leeds Core Strategy could hardly be more up-to-date given the inspector's correspondence and yet it could be deemed not up-to-date based on five year land supply arguments. This would completely undermine the whole concept of a plan-led system, including the work of many communities across the district in bringing forward neighbourhood plans.

#### Interim Protected Areas of Search (PAS) Policy

- 3.12 The Council introduced the interim PAS policy as a means of boosting the land supply, allowing sites that meet set criteria to be considered favourably in advance of

the site allocations process, potentially making a contribution to the 5yr supply. The validity of such a policy was subject to challenge in the High Court. Judgement was issued in January in favour of the Council, however, Miller Homes were granted permission to appeal this decision. The impact of the interim PAS policy on the 5yr supply position therefore remains subject to challenge. The extent to which the policy assists towards meeting the 5yr target can only be properly established once there is clarity on the target and an updated supply.

### Green Belt Review

- 3.13 There has been some comment regarding the inspector's modifications removing the term "selective" from references to green belt review. The inspector's reasons for this change are not clear. Member's will recall that the Core Strategy policy allows exceptionally for the consideration of sites outside the settlement hierarchy and it is believed that his proposed change reflects this policy wording and therefore creates consistency across the policy as a whole.
- 3.14 It is considered that in practice this change will make little or no difference. The inspector has very clearly maintained the view that green belt review should focus on the settlement hierarchy and in addition has confirmed the distribution associated with components of the hierarchy in Policy SP7. Furthermore his proposed text in MM 11 (IMM 11 in the inspector's original schedule) retains the existing text which advises that "Otherwise review of the green belt will not be considered to ensure that its general extent is maintained." This clearly suggests that he does not envisage a general review of the green belt but agrees that the Council should be able to consider by exception sites that do not meet the normal policy tests. The Council is already doing this in reviewing sites submitted in response to the site allocations consultation.

### Monitoring

- 3.15 The Inspector has indicated that he is not satisfied with the Council's proposed approach to monitoring. The Council had submitted that the Core Strategy monitoring framework document, which details how the plan will be monitored by reference to a suite of 45 indicators, could be appended to the plan. The Inspector considers that this is unwieldy and has asked that the Council summarise the Monitoring Framework in the Core Strategy in order for the Plan to be sound. This involves summarising the information in the Monitoring Framework into a table for inclusion in the plan and it is suggested that the detail be agreed with the Executive Member prior to publication.

## **4. Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The Core Strategy is at an advanced stage and has therefore been subject to several phases of consultation and engagement since 2006. This includes early engagement work in 2006, 'Issues & Alternative Options' consultation 2007, 'Preferred Approach' Consultation 2009, Publication Draft Consultation in 2012, 'Pre Submission' Consultation in 2013 and public examination (following submission in

April 2013). These stages of consultation have been undertaken consistent with the Local Development Framework Regulations and the statutory requirements under the Duty to Cooperate. Advertising the 'Main Modifications', for a 6 week period of consultation, will provide a further opportunity for representation and engagement.

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 As outlined in previous reports to Executive Board on the Core Strategy, due regard has been given to Equality, Diversity, Cohesion and Integration issues in the formulation of the Core Strategy. This has included meeting the requirements of the Strategic Environmental Assessment Directive, which has meant that the Core Strategy has been subject to the preparation of a Sustainability Appraisal (and an Addendum to the Sustainability Appraisal based upon a review of the pre-submission changes). The purpose of this Appraisal is to assess (and where appropriate strengthen) the document's policies, in relation to a series of social, environmental and economic objectives. As part of this process, issues of Equality, Diversity, Cohesion and Integration, are embedded as part of the Appraisal's objectives. In complementing the preparation of the Sustainability Appraisal, a Health Impact Assessment exercise, has also been undertaken in the preparation of the emerging document, the conclusions of which have also been embedded within the document.

4.2.2 Given this approach, considerations of equality of opportunity and good relations have been integrated into the formulation of the Core Strategy and an assessment of the impact of the policies on the advancement of equality and good relations has been carried out. This is evidenced in the completion of a comprehensive Equality Impact Assessment Screening document (previously reported to Executive Board November 2012), prior to submission in April 2013.

## **4.3 Council policies and City Priorities**

4.3.1 As highlighted in this report, the Core Strategy, plays a key strategic role in taking forward the spatial and land use elements of the Vision for Leeds and the aspiration to the 'the best city in the UK'. Related to this overarching approach and in addressing a range of social, environmental and economic objectives, where relevant the Core Strategy also seeks to support and advance the implementation of a range of other key City Council and wider partnership documents. These include the Best Council Plan (2013-17) and Leeds Joint Health and Wellbeing Strategy (2013-2015).

4.3.2 In reflecting the requirements of national legislation, prior to submission (and as part of the City Council's Hearing Statements), a number of changes to the Core Strategy text were proposed to reflect the 'duty to cooperate' (Localism Act 2011) and the duty of local authorities to improve public health (Health & Social Care Act 2012). The inclusion of reference to these duties, not only clarifies and strengthens the wording of the Core Strategy text, as part of the overall strategic approach but also helps to support City Council commitments as part of the Leeds City Region / Local Enterprise Partnership (LEP) and priorities associated with the Leeds Health and Well Being Strategy.

#### **4.4 Resources and value for money**

- 4.4.1 The preparation of statutory Development Plan Documents is an essential but a very resource intensive process. This is due to the time and cost of document preparation (relating to public consultation and engagement), the preparation and monitoring of an extensive evidence base, legal advice and Independent Examination. These challenges are compounded currently by the financial constraints upon the public sector and resourcing levels, concurrent with new technical and planning policy pressures arising from new legislation (including the Community Infrastructure Levy and Localism Act). There are considerable demands therefore in taking forward the Core Strategy and related work, including the preparation of the Site Allocations plan, which is due to quickly follow on.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The inspector has identified a need for Main Modifications to the draft Core Strategy in order to resolve problems that would otherwise make the plan unsound. The Council must agree the Main Modifications and carry out a further public consultation on these if the process is to move forward. This report is exempt from Call In given the need to consult on the modifications/changes for 6 weeks and in time for any representations to be considered and evidence prepared prior to the resumed Core Strategy hearing in May.

#### **4.6 Risk Management**

- 4.6.1 As emphasised in this report, there is considerable urgency to take the Core Strategy forward, despite the issues being raised by the inspector's Main Modifications. This is needed to provide clarity for investment decisions, to take forward the Council's strategic priorities and to provide an up to date planning framework for the emerging Site Allocations document and Neighbourhood Plans.
- 4.6.2 The preparation of the Core Strategy document has been a complex process. Given the range of issues covered, the City Council will need to continue to take appropriate advice, in order to respond to issues which may arise and in order to keep the momentum behind the process.

### **5 Conclusion**

- 5.1 The inspector's correspondence and main modifications are generally to be welcomed, given the extent to which he supports the approach set out in the Core Strategy and the modest scale and nature of the changes he puts forward. This is a positive step forward in the Core Strategy process and importantly also enables the Council to make progress with its site allocations work.
- 5.2 The most significant modification is the proposed removal in the step-up in the housing target which has immediate implications for the 5yr housing requirement and whether or not the Council can demonstrate a 5yr supply. The Council needs to



complete the SHLAA review and await the Kirklees Knowl appeal decision before the implications of this change can be fully understood.

- 5.3 The removal of “selective” in relation to green belt review is not considered to be significant for the reasons set out in paras 3.13-14.
- 5.4 The inspector has not accepted the Council’s evidence on the validity of a step-up in the housing requirement. Ultimately this is a matter solely for him which can only be challenged through the courts. That being the case the Council can either publish all the main modifications that the inspector considers necessary to make the plan sound, which by implication means acceptance of his view on the step-up, challenge the inspector’s decision or withdraw the plan. Challenging the inspector’s position or withdrawing the plan create delay and an uncertain outcome. Given that the inspector has largely endorsed the Council’s approach this report recommends publishing the main modifications together with changes to affordable housing and gypsy and traveller policy.

## **6 Recommendations**

6.1 The Executive Board is recommended to:

- i) Approve the ‘Main Modifications’ to the Core Strategy, in order for these to be advertised, for a 6 week period of consultation,
- ii) Agree that the revisions to the Core Strategy policies for Affordable Housing (H5) and Gypsy’s and Travellers (H7), be published for consultation, prior to the May Hearing sessions.
- iii) Agree to publication for consultation of a simplified monitoring framework subject to agreement with the Executive Member for Neighbourhoods, Planning and Support Services.
- iv) Note that the Head of Forward Planning and Implementation will be responsible for implementation in line with timescales set out in the report.

## **7 Background documents<sup>1</sup>**

7.1 None

## **8 Appendices**

8.1 Proposed Main Modifications Schedule 1

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<sup>1</sup> The background documents listed in this section are available to download from the Council’s website, unless they contain confidential or exempt information. The list of background documents does not include published works.