

SOUTH EAST LINCOLNSHIRE JOINT STRATEGIC PLANNING COMMITTEE
(JOINT COMMITTEE)

To: South East Lincolnshire Joint Strategic Planning Committee –
Friday, 8th March 2019

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Subject: Adoption of the South East Lincolnshire Local Plan 2011-2036

Purpose: To invite the Joint Committee to adopt the South East
Lincolnshire Local Plan 2011-2036

Recommendations:

That the Joint Committee:

- 1) Notes the conclusions and recommendations of the Inspectors' Report into the South East Lincolnshire Local Plan 2011-2036 (see Appendix A);**
- 2) Adopts the South East Lincolnshire Local Plan 2011-2036 (see Appendix C), as modified; and**
- 3) Approves the up-dated Policies Map and Inset Maps which illustrate geographically the application of the Local Plan's policies (see Appendix D)**

1. BACKGROUND

- 1.1 The South East Lincolnshire Local Plan 2011 – 2036 has been in production for a number of years. Members will recall that the plan for the area was originally intended to be in two parts, namely:
- a Strategy and Policies Development Plan Document (DPD) that would set out the vision, priorities and policies, and identify broad locations for change, growth and protection; and
 - a Site Allocations DPD that would identify the sites that would be developed for specific uses, and the areas where particular policies would apply.
- 1.2 Two stages of public consultation were undertaken as part of the work towards delivering a Strategy and Policies DPD.

CONSULTATION STAGE	DATE	NUMBER OF COMMENTS RECEIVED
Initial stakeholder engagement/visioning exercise	March – April 2012	60 comments were received
Consultation on Combined Preferred Options & Sustainability Appraisal Report	May – June 2013	1,409 comments were received

- 1.3 In 2012, the Government published the first National Planning Policy Framework (NPPF) which required local authorities to prepare Local Plans for their area (as opposed to Local Development Frameworks) and that these should preferably be single documents. In response to this significant change in the national policy landscape, the Joint Committee resolved in 2014 to produce the new Local Plan as a single document that would include both the strategic policy element and detailed site allocations. As such, three stages of public consultation followed, and these are summarised below.

CONSULTATION STAGE	DATE	NUMBER OF COMMENTS RECEIVED
Consultation on Draft Local Plan	January – February 2016	1,666 comments were received
Preferred Sites Consultation	July – August 2016	612 comments were received
Consultation on the Publication Version	April – May 2017	330 comments were received

- 1.4 The Local Plan was submitted to the Secretary of State on Friday 23rd June 2017. Inspectors Anne Napier BA (Hons) MRTPI MIEMA CEnv and Elizabeth Ord LLB (Hons) LLM MA DipTUS were appointed on Tuesday 27th June 2017 to conduct an examination to determine whether the Local Plan: had been prepared in accordance with the Duty to Cooperate, and legal and procedural requirements; and was sound (i.e. positively prepared, justified, effective, and consistent with national policy). The examination hearing sessions commenced on Tuesday 10th October 2017 and concluded on Thursday 26th April 2018. Two further stages of public consultation followed.

CONSULTATION STAGE	DATE	NUMBER OF COMMENTS RECEIVED
Consultation on proposed Main Modifications	July – August 2018	103 comments were received
Consultation on proposed Further Main Modifications	November 2018 – January 2019	10 comments were received

1.5 On Tuesday 29th January 2019, the Inspectors issued their ‘Inspectors’ Report’, which sets out their assessment of the Local Plan, i.e. whether its preparation has complied with the duty to co-operate and other legal requirements, and whether the Plan is sound.

2. THE IMPORTANCE OF THE LOCAL PLAN

2.1 As set out in Section 1 of this report, the Plan has been subject to a significant amount of public participation to inform its preparation before being subject to an independent Examination in Public. Before discussing the Inspectors’ findings and recommendations, Members are reminded of the purpose, content and status of the South East Lincolnshire Local Plan 2011-2036.

2.2 Once adopted, the Local Plan will:

- become part of the statutory development plan for South East Lincolnshire (alongside the adopted Lincolnshire Minerals and Waste Local Plan);
- replace the Boston Borough Local Plan (1999); and
- replace the South Holland Local Plan (2006).

2.3 The Local Plan includes 36 policies, the majority of which are written in a criteria-based format to guide decision makers on future planning applications for the area. These policies seek to ensure that new development will: meet the needs of the community; preserve the area’s unique natural and historic environment; and be safe, well-designed, and supported by the necessary infrastructure. The Local Plan also:

- allocates nearly 127 hectares of land for development for employment uses;
- allocates nearly 450 hectares of land for development to provide new homes; and
- seeks the delivery of parts of a distributor road for Boston and a relief road for Spalding.

3. THE CONTENTS OF THE INSPECTORS’ REPORT

3.1 The Inspectors’ Report (see Appendix A) concludes that:

- the consultation arrangements for the Plan’s production were adequate and were in accordance with the Statement of Community Involvement (paragraphs 9 and 232);
- the Joint Committee has engaged constructively, actively and on an on-going basis throughout the preparation of the Plan to ensure that cross-boundary issues have been properly considered and addressed. Consequently, it concludes that the Duty to Co-operate has been met (paragraphs 10 to 13);
- the Public Sector Equality Duty has been met (paragraphs 227 to 229);
- the Local Plan has been prepared in accordance with the Local Development Scheme (paragraph 231);
- an adequate Sustainability Appraisal has been carried out throughout the preparation of the Plan (paragraph 233);
- an adequate Habitats Regulations Assessment has been carried out throughout the preparation of the Plan (paragraph 234); and
- the Plan achieves the statutory objectives of relevant legislation and complies with all relevant legal requirements (paragraphs 235 and 236).

3.2 However, the Inspectors’ Report concludes that the Plan has a number of deficiencies, which mean that it could not be adopted as submitted. In order to make the Plan sound, legally compliant and capable of adoption, the Inspectors recommend that 38 Main Modifications be made to the version of the Plan that was submitted to the Secretary of State on 23rd June 2017. These Modifications are set out in the Appendix to the Inspectors’ Report, and the reasons for them are set out in paragraphs 16 to 226 of the Inspectors’ Report.

3.3 The Modifications recommended by the Inspectors were raised as part of the Examination’s hearing sessions or through Statements of Common Ground with participants. These Main Modifications were discussed and subsequently approved by the Joint Committee on Friday 29th June 2018. A consolidated Sustainability Appraisal and two further (and very minor) modifications were the subject of public consultation between Friday 30th November 2018 and Monday 14th January 2019. These further modifications are:

- to MM005 – to change the dates over winter during which caravans, chalets, log cabins, and caravan and camping sites cannot be occupied (Policy 4: Approach to Flood Risk); and
- to MM030 – to exclude wind energy from the types of developments covered by Part B of Policy 31: Climate Change and Renewable and Low Carbon Energy.

3.4 The Joint Committee must therefore accept all the Main Modifications in full, if it wishes to adopt the Local Plan (see section 7 of this report).

4. ADDITIONAL MODIFICATIONS

- 4.1 Legislation allows a local planning authority to prepare a schedule of 'Additional Modifications', for inclusion in the adopted Local Plan. Additional Modifications are not considered or approved by the Inspectors, and do not have to be the subject of public consultation.
- 4.2 Attached at Appendix B are a recommended set of Additional Modifications, which cover such matters as:
- updating the introductory text to explain that this is the adopted version of the Plan;
 - correcting typographical errors; and
 - making presentational improvements.
- 4.3 The Joint Committee is at liberty to reject all or some of the Additional Modifications and still proceed to adopt the Local Plan. Equally, the Joint Committee can include further Additional Modifications if it wishes, as long as they do not materially affect the Local Plan's policies or proposals.

5. THE PLAN FOR ADOPTION

- 5.1 Attached at Appendix C is the text of the South East Lincolnshire Local Plan 2011-2036, incorporating all the Main Modifications recommended by the Inspectors and the Additional Modifications suggested by the Joint Policy Unit. This is the document that the Joint Committee is being asked to adopt.
- 5.2 Attached at Appendix D is the Policies Map, which includes seventy-two Inset Maps which illustrate geographically the application of the Local Plan's policies. These Maps have been up-dated to reflect the contents of the Main Modifications and the Additional Modifications. The Joint Committee is being asked to approve these up-dated Maps.

6. THE NEXT STEPS

- 6.1 As soon as is reasonably practicable after the adoption of the Local Plan, the Joint Committee must make the following documents available on its website and at its principal offices (and such other places as are considered appropriate):
- the Local Plan itself;
 - an Adoption Statement;
 - the Sustainability Appraisal Report; and
 - details of where the Local Plan is available for inspection and the places and times at which it can be inspected.
- 6.2 At the same time, a copy of the Adoption Statement must be sent to:
- any person who has asked to be notified of adoption; and

- the Secretary of State.

That notification must explain that any party aggrieved by the decision to adopt can make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 on the grounds that:

- a) “the document is not within the appropriate power; or
- b) a procedural requirement has not been complied with.”

Any such application must be made within six weeks of the date when the Local Plan is adopted

7. OPTIONS

7.1 Section 23(4) of the Planning and Compulsory Purchase Act 2004 indicates that the Committee cannot choose to accept some of the Inspectors’ modifications but reject others. Thus, there are essentially two options available to the Joint Committee, as follows:

Option 1: adopt the Local Plan as modified by the Main Modifications and update the Policies Map; or

Option 2: not adopt the Local Plan.

7.2 It is not an option for the Committee to adopt the Local Plan in part. Nor is it an option for the Committee to make any modifications to the Local Plan that would impact on its meaning.

8. REASONS FOR RECOMMENDATIONS

8.1 The Local Plan has been in production for a number of years, and has been through several rounds of public consultation and an independent Examination in Public. Endorsing the recommendation will allow the Councils to have an up-to-date Development Plan for the area, including new policies and site allocations.

8.2 If the Local Plan is not adopted:

- work on a new Local Plan would need to be started;
- it is unlikely that either Boston Borough Council or South Holland District Council would be able to demonstrate a five-year supply of ‘deliverable’ housing sites for some years;
- until a new Local Plan is produced, both Councils will be likely to continue to face speculative applications for development; and
- planning decisions would need to be made without the benefit of the Local Plan’s policy framework.

9. IMPLICATIONS

Risk

- 9.1 A delay to the adoption of the Local Plan increases the likelihood of further speculative planning applications being received, which could undermine the strategy that the Joint Committee is seeking to deliver.
- 9.2 Any party aggrieved by the decision to adopt can make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 on the grounds that:
- a) “the document is not within the appropriate power; or
 - b) a procedural requirement has not been complied with.”
- 9.3 Any such application must be made within six weeks of the date when the Local Plan is adopted.

Financial

- 9.4 Examination costs are now payable to the Planning Inspectorate, whether or not the Joint Committee resolves to adopt the Local Plan. The South East Lincolnshire Local Plan has an accompanying budget which is currently sufficient to cover the costs that will directly arise from adoption. However, if the Joint Committee decides not to adopt the Local Plan, there is no budgetary provision to cover the costs of starting work on a new Local Plan.

Legal

- 9.5 Whilst this report does not have any direct legal implications, the adoption of the Local Plan is subject to a number of legislative requirements (set out in paragraphs 6.1 to 6.2). If the Joint Committee decides not to adopt the Local Plan, it is highly likely that the Secretary of State would seek to intervene.

Equality and Diversity

- 9.6 The Local Plan has been subject to Equality Impact Assessment at all relevant stages of its production. A final Equality Impact Assessment of the adopted Local Plan is attached at Appendix G.

Wards/Communities Affected

- 9.7 All wards and communities in the South Holland District Council and Boston Borough Council administrative areas are affected.

Background papers: None

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Appendix A – Inspectors’ Report on the Examination of the South East Lincolnshire
Local Plan

Appendix B – Schedule of Additional Modifications

Appendix C – Text of the South East Lincolnshire Local Plan 2011-2036

Appendix D - Policies Map and Inset Maps of the South East Lincolnshire Local Plan
2011-2036

Appendix E – Sustainability Appraisal Post Adoption Statement (February 2019)

Appendix F – South East Lincolnshire Local Plan Habitats Regulations Assessment -
Adoption Stage (15th February 2019)

Appendix G – Equality Impact Assessment of the South East Lincolnshire Local Plan
2011-2036 Adoption Version (March 2019)