

Single Issue Review (SIR) of Core Strategy Policy CS7: Planning Inspector's Report and Adoption

Report No:	CAB/WS/19/024	
Report to and dates:	Cabinet	10 September 2019
	Council	19 September 2019
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Key Decision: <i>(Check the appropriate box and delete all those that <u>do not</u> apply.)</i>	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	

Decisions Plan: The decision made as a result of this report will usually be published within 48 hours. This decision is not subject to call-in, as the decision is being recommended onto Council. This item is not included on the Decisions Plan.

Wards impacted: All Wards



Recommendation: It is recommended that Cabinet, subject to the approval of Council:


- (1) Notes the content of the Inspector's report to the Single Issue Review of Core Strategy Policy CS7 containing Main Modifications (Appendix A); and**
- (2) Notes the schedule of Additional Modifications (Appendix B) to the Single Issue Review of Core Strategy Policy CS7 to make minor updates and corrections; and**
- (3) Adopts the following documents:**
 - The Single Issue Review (SIR) of Policy CS7 including both main and additional modifications (Appendix C)**
 - Habitats Regulations Assessment for the SIR (Appendix D)**
(Note: This Appendix will be available as part of the agenda papers for the Council meeting on 19 September 2019)
 - Sustainability Appraisal for the SIR (Appendix E)**
(Note: This Appendix will be available as part of the agenda papers for the Council meeting on 19 September 2019)
- (4) Authorises the Service Manager for Strategic Planning, in liaison with the Portfolio Holder for Growth, to make minor typographical amendments or updates in preparing the final version of the Plan.**



1. Background / Context

- 1.1 The preparation of the Forest Heath Core Strategy - Single Issue Review of Policy CS7 has now reached the end of the plan making process. The Inspector's Report has been received, and subject to incorporating the associated Main Modifications identified by the Inspector, they conclude that the Local Plan is sound.
- 1.2 National legislation and the National Planning Policy Framework (NPPF) set out a requirement for Councils to maintain an up to date set of local planning policies for their areas. The Forest Heath Core Strategy was adopted in 2010. The Single Issue Review of Core Strategy Policy CS7 (SIR) was prompted by a successful High Court challenge which resulted in the majority of Policy CS7 and elements of CS1, CS13 and para 3.12.2 being revoked from the adopted Core Strategy. The SIR will replace Core Strategy Policy CS7 in its entirety and as such no changes to Policies CS1, CS13 or paragraph 3.12.1 were required
- 1.3 The Council received the Inspector's report into the Examination on 13 August 2019. The receipt of the Inspector's report formally closes the examination and is the penultimate stage in the preparation of the Single Issue Review of Core Strategy Policy CS7 document. The Inspector's Report (**Appendix A**) finds the Local Plan sound and considers it an appropriate basis for the planning for the area of West Suffolk District Council formally known as Forest Heath.
- 1.4 The Inspector's Report is structured to first discuss the statutory requirements of Plan preparation, followed by a discussion of key issues as identified by the Inspector including where they consider Main Modifications are necessary to ensure the Local Plan is sound.
- 1.5 The report has been made available to those who commented on the Single Issue Review document and placed on the Council's website.

2.0 The Inspector's Report

- 2.1 A Planning Inspector was appointed to carry out an independent examination of the Plan to determine legal compliance and soundness and subsequently produce a report to the local planning authority with binding recommendations (if adopted).
 - 2.2 The Inspector's role was to consider whether the Single Issue Review of Core Strategy Policy CS7 complies with relevant legislation and is sound.
 - 2.3 In July 2018 a new National Planning Policy Framework was published, this document was revised in February 2019. Annex 1 to the NPPF states that where plans are submitted on or before 24 January 2019 (as in the case of the SIR), the policies in the previous 2012 NPPF will apply.
 - 2.4 The National Planning Policy Framework [NPPF] makes it clear that in order to be found sound a Plan must be:
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- (a) **positively prepared** – based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
- (b) **justified** – the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
- (c) **effective** – deliverable over its period and based on effective joint working; and
- (d) **consistent with national policy** – able to achieve sustainable development in accordance with the NPPF's policies.

2.5 The Planning Inspector's report concludes that, provided that a number of modifications are made to it, the document is sound. The main modifications are attached to the Inspector's report at **Appendix A**. The Council specifically requested that the Inspector recommend any modifications necessary to enable the document to be found sound and consequently adopted as a statutory local plan.

2.6 The examination process requires that the Inspector's report and the main modifications are binding upon the Council, if it decides to adopt the SIR document. All of the main modifications suggested relate to matters discussed at the examination hearings. The purposes of the recommended modifications are summarised in the Inspector's report.

2.7 The Officer suggested additional modifications made to the SIR document to date are attached at **Appendix B**. The Council may need to make further additional modifications to the document to reflect the changes to the policies. Section 23(3) (b) of the 2004 Planning and Compulsory Act allows such additional modifications to be made to the plan before adoption. It should also be noted that minor factual changes may need to be made to the document prior to publication. These factual changes do not materially affect the policies, and as such fall into the category of additional modifications.

3.0 **Final Single Issue Review of Core Strategy Policy CS7 document**

3.1 A final version of the Single Issue Review of Core Strategy Policy CS7 document is attached at **Appendix C** to this paper. This document includes all of the main modifications required by the Planning Inspector and the additional modifications suggested by council officers.

3.2 If the Council is minded to adopt the Single Issue Review of Core Strategy Policy CS7, it is this version that will be adopted and become part of the Local Plan to be used in the determination of planning applications. The Council cannot pick elements of the main modifications and discard others. For the document to be sound the Inspector requires that all the main modifications must be incorporated, if the Council is to adopt the Single Issue Review of Core Strategy Policy CS7.



4.0 **Habitat Regulations Assessment and Sustainability Appraisal**

- 4.1 As a result of the modifications, the Habitat Regulations Assessment (HRA) and the Sustainability Appraisal (SA) documents have been updated.
- 4.2 The HRA considered the impacts of the Single Issue Review on sites of nature conservation interest and importance. The HRA concludes that there will be no adverse effect on the integrity of any European site either alone or in combination with other relevant plans or projects. This conclusion entails (amongst other things) the provision of additional mitigation measures to offset potential recreational pressures associated with new development adversely affecting one of the European sites (Breckland SPA). In part the measures depend on the identification and provision of new areas of greenspace suitable to accommodate recreational pressure. It will be for developers to demonstrate at the planning application stage how they will secure the provision of the required greenspace, and no planning permissions will be granted unless this is adequately achieved. Officers are satisfied that these arrangements provide sufficient certainty that the necessary mitigation measures will be delivered at the appropriate time to allow the Council, as the competent authority, to conclude that the Single Issue Review will not have adverse effects on the integrity of any European site either alone or in combination with other relevant plans or projects. The HRA report is at **Appendix D** (*Note: This Appendix will be available as part of the agenda papers for the Council meeting on 19 September 2019*).
- 4.3 The conclusions of the SA state that changes to the spatial strategy in the main modifications which increase housing growth are predicted to have negative effects on land and biodiversity. However, it should be noted that the deallocation of a site in Lakenheath at the modifications stage and the discussions at the hearing sessions and signing of statements of common ground with relevant parties has allayed concerns in both of these areas. All of the other proposed amendments to policy criteria and supporting text are supported, with no draw backs highlighted. The SA report is at **Appendix E** (*Note: This Appendix will be available as part of the agenda papers for the Council meeting on 19 September 2019*).

5.0 **Consultation and engagement**

- 5.1 Formal preparation of the SIR began in 2015. Three consultations were undertaken in 2015 and 2016 leading to Council giving delegated authority on 21 December 2016 to submit the SIR document for examination (Report No: LOP/FH/16/012) refers). The SIR document, together with all of the comments received during the final round of consultation, was submitted to the Secretary of State for examination by an independent planning inspector on 24 March 2017.
- 5.2 Examination hearings into certain matters were called and conducted by the Inspector during September 2017. During this time objectors were able to put to the Inspector why they considered the Single Issue Review should be changed. Following the hearings, the Inspector asked that his recommended main modifications be the subject of public consultation. The Council conducted this consultation for a period of six weeks ending in June 2018. As



the main modifications proposed a change to the spatial distribution of housing, a further hearing took place in June 2018 to debate the alterations.

- 5.3 As a consequence of recent rulings from the Court of Justice for the European Union further assessment work was undertaken. The council conducted a consultation for six weeks ending June 2019 on an updated Habitat Regulations Assessment, Air Quality Assessment and Sustainability Appraisal Addendum. The consultation responses were passed to the Inspector for her consideration. The consultation on the updated Habitats Regulations Assessment attracted a representation from Natural England of support for its conclusions. A representation was received (supported by a Legal Opinion) suggesting that the mitigation measures relating to the provision of new greenspace could not be relied on because they were future proposals and the areas of new greenspace have not yet been identified and so lacked sufficient certainty to meet the requirements of European law. Officers do not accept this criticism.
- 5.4 The provision of alternative greenspace to absorb recreational pressure is a tried and tested mitigation measure, widely used in many parts of the country affected by European sites (including the Thames Basin Heaths and Ashdown Forest). The evidence base for the SIR includes an Accessible Natural Greenspace Study (available online at https://www.westsuffolk.gov.uk/planning/Planning_Policies/local_plans/upload/16-11-23-Accessible-Green-Space-Study-Jan-17.pdf) which confirms that, for each settlement, there are opportunities for the provision of new greenspace. There is no good reason to doubt that adequate and suitable sites and measures will be able to be identified. The details of the arrangements for the design and delivery of such provision will be considered at the planning application stage but the design, establishment, and management of attractive greenspaces is a well-understood process, supported by a considerable level of professional guidance, including from Natural England. Officers are satisfied that there is sufficient certainty that the measures can be achieved and will be effective.

6.0 **Alternative Options**

- 6.1 There are two options available to the Council now that the Inspector's report has been received:
- a) Adopt the Single Issue Review of Core Strategy Policy CS7 as amended by the main modifications suggested by the Inspector; or
 - b) Not adopt the Single Issue Review of Core Strategy Policy CS7

7.0 **Risks**

- 7.1 The implications for following each of the above options is outlined below:

Adopt the Single Issue Review of Core Strategy Policy CS7 as amended by the main modifications suggested by the Inspector

- 7.2 By choosing to adopt the Single Issue Review of Core Strategy Policy CS7, the Council would be putting an essential part of the development plan for the area in place. It would place the local planning authority in a very strong



position to provide policy and certainty on the number of homes required to 2031 and the spatial distribution of this growth throughout the former Forest Heath District area of West Suffolk.

- 7.3 The adopted Local Plan will mean West Suffolk will have a complete and up to date Local Plan across the entire District. The Plan will provide the Council with certainty over development and assist in maintaining a 5 year land supply.
- 7.4 In accordance with the consequential orders for single council, the SIR will remain in place and be used in decision making until superseded by the West Suffolk Local Plan.

Not adopt the Single Issue Review of Core Strategy Policy CS7

- 7.5 There are a number of implications if the Council chooses not to adopt the Single Issue Review of Core Strategy Policy CS7. The Council has used extensive resources to develop the document, the evidence base which supports it and to provide for an independent examination of the document. Should the Council decide not to adopt the Single Issue Review of Core Strategy Policy CS7 document, the Council will in effect be directing the authority to start the work again without the comfort of an up to date Local Plan providing certainty over the number and location of development across the former Forest Heath area.
- 7.6 The National Planning Policy Framework (NPPF) requires each local planning authority to produce a local plan for its area. The Single Issue Review of Core Strategy Policy CS7 is a document in its own right, and part of a suite of Local Plan documents for West Suffolk. Without an updated strategic policy CS7 to set out the overall quantum of housing, and direct the spatial distribution of this growth in the former Forest Heath area, the Council will have only part of the District covered by an up to date Local Plan and be reliant on the NPPF and Planning Practice Guidance for decision making in that area. The Council would likely see an increase in the number of speculative developments across the entire West Suffolk area.

8. Appendices

- 8.1 **Appendix A** – Inspector’s Report on the Examination into the Single Issue Review of Core Strategy Policy CS7 document

Appendix B – Schedule of Additional Modifications

Appendix C – Single Issue Review of Core Strategy Policy CS7 final document

Appendix D – Habitats Regulations Assessment for the Single Issue Review of Core Strategy Policy CS7 (*Note: This Appendix will be available as part of the agenda papers for the Council meeting on 19 September 2019*)

Appendix E – Sustainability Appraisal for the Single Issue Review of Core Strategy Policy CS7 (*Note: This Appendix will be available as part of the agenda papers for the Council meeting on 19 September 2019*)



9. Background documents

9.1 Former Forest Heath Area Local Plan Documents

http://westsuffolk.gov.uk/planning/Planning_Policies/local_plans/forest-heath-local-plan.cfm

