

This Report will be made public on 15 March 2022

Report Number **C/21/92**

To: Cabinet
Date: 23 March 2022
Status: Key Decision
Responsible Officer: Charlotte Spendley, Director of Corporate Services
Cabinet Member: Cllr David Monk, Leader of the Council

SUBJECT: CORE STRATEGY REVIEW - REPORT OF THE PLANNING INSPECTORS AND ADOPTION OF THE PLAN

SUMMARY: This report summarises the findings of the planning Inspectors' report into the Core Strategy Review. The report recommends that the council proceeds to adopt the Core Strategy Review, with the main modifications identified by the Inspectors, so that the plan can be used to make decisions on planning applications.

REASONS FOR RECOMMENDATIONS:

To ensure that the council has an up-to-date development plan to guide development throughout the district.

RECOMMENDATIONS:

1. To receive and note report C/21/92.
2. To note the final report of the planning Inspectors who carried out the examination of the Core Strategy Review (Appendix 1);
3. To approve amendments to the Core Strategy Review incorporating:
 - a) The Inspectors' main modifications and amendments to the policies map as set out in Appendix 2; and
 - b) Any other minor formatting changes or typographic corrections that are necessary for clarity or comprehension; and
4. To recommend to full Council that it adopts the Folkestone & Hythe District Core Strategy Review, incorporating the amendments set out in recommendation 3, to form part of the development plan for the district.

1. INTRODUCTION

- 1.1. The council has been preparing the Core Strategy Review, a review of the district's strategic development plan, which was adopted in September 2013.
- 1.2. Development plans are assessed by independent planning Inspectors appointed by the Secretary of State. Inspectors examine the plan to determine whether it has been prepared in accordance with legal and procedural requirements, and whether it is 'sound'. The definition of 'sound' is given in the National Planning Policy Framework (NPPF); this states that a plan is 'sound' if it is:
 - a) **Positively prepared** – seeking to meet the area's housing and other development needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
 - c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters as evidenced by statements of common ground; and
 - d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the NPPF and other statements of national planning policy.¹
- 1.3. The council has received the final report from the Inspectors examining the Core Strategy Review. The Inspectors find that the plan has been prepared in accordance with legal and procedural requirements and is 'sound', subject to their main modifications. The council can now proceed to adopt the Core Strategy Review with the main modifications recommended by the Inspectors.
- 1.4. This report summarises the work that the council has undertaken in preparing the Core Strategy Review and the public examination of the plan. The report also outlines the Inspectors' findings (their full report is provided as **Appendix 1**) and their main modifications (the full schedule is provided in **Appendix 2**). The main modifications are also shown in context alongside relevant sections of the Core Strategy Review in **Appendix 3**.

2. CORE STRATEGY REVIEW – PREPARATION AND EXAMINATION

Preparation of the Core Strategy Review

- 2.1. The Core Strategy Review sets out the development strategy for the district to 2036/37. The Core Strategy Review has been prepared as a review of the

¹ National Planning Policy Framework, Ministry of Housing, Communities & Local Government, 2021, paragraph 35.

2013 Core Strategy, largely following the format and structure of the adopted plan.

- 2.2. The Core Strategy Review contains general policies, which may be used to guide decisions on all planning applications, and policies that guide development on strategic sites, including Folkestone Seafront, Shorncliffe Garrison, Sellindge and New Romney.
- 2.3. Four new policies were drafted to govern the development of a new garden settlement in the North Downs area, and the existing policy for Sellindge was revised to allow for further growth in that settlement. The development management policies were also reviewed to ensure they met updated national planning policy.
- 2.4. Work began on the review in 2017 with the commissioning of key pieces of evidence to support the plan, including an assessment of the need for new homes (the Strategic Housing Market Assessment), a review of landscape character and a study of development constraints and opportunities across the district.
- 2.5. Work was significantly affected by changes to national planning policy throughout the process; the most significant changes were to the housing requirement and to introduce a requirement for Statements of Common Ground on cross-boundary issues.
- 2.6. The plan initially provided for an average of 633 new homes a year over the plan period, following the findings of the 2017 Strategic Housing Market Assessment. In July 2018 revisions to the NPPF and accompanying Planning Practice Guidance introduced a new method for calculating housing need using a national formula. This increased the numbers of new homes the district had to plan for to a minimum of 676 a year. The 2018 NPPF also made it a requirement for local authorities to produce formal Statements of Common Ground with neighbouring authorities and other relevant bodies, setting out areas of agreement on strategic, cross-boundary issues.
- 2.7. In February 2019 the NPPF and Planning Practice Guidance were revised again with regard to housing provision, which increased the numbers of new homes to a minimum of 738 a year.
- 2.8. Officers had to undertake several reviews of housing land supply and delivery throughout the process to see how the plan could meet changing national requirements.
- 2.9. Three public consultation exercises were undertaken on different versions of the plan, from March to May 2018, January to March 2019 and December 2019 to January 2020. Detailed discussions were also held with neighbouring authorities and statutory bodies (including Kent County Council, the Environment Agency, Highways England, Natural England, the Marine Management Organisation and Affinity Water) to agree Statements of Common Ground on cross-boundary matters.

Submission to the Secretary of State and examination

- 2.10. The Core Strategy Review was submitted to the Secretary of State, alongside all consultation comments, Statements of Common Ground and supporting evidence, on 10 March 2020 to begin the examination process. The submitted plan provided for a minimum of 738 new homes a year to meet the national requirement at the time of submission (13,284 homes over the 18 years of the plan period from 2019/20 to 2036/37).
- 2.11. From the point of submission until receipt of the final Inspectors' report, the examination process is determined by the Planning Inspectorate and is run to the timetable set by the Inspectors.
- 2.12. On 19 March 2020, two Inspectors were appointed to examine the plan, Kevin Ward BA (Hons) MRTPI and Philip Mileham BA (Hons) MRTPI.
- 2.13. The Inspectors asked a number of initial questions about the plan which the council responded to during April and May 2020. Following this, the Inspectors issued a series of detailed Main Matters, Issues and Questions for the council and other parties to address, amounting to more than 170 questions; this ran from May to July 2020.
- 2.14. Officers made preparations for public hearings to be held in early November 2020; however, these arrangements had to be changed at short notice due to the Coronavirus pandemic and the national lockdown.
- 2.15. New arrangements were put in place so that the hearings could proceed as wholly virtual sessions with all external participants appearing by video link. To support officers who were giving evidence, the council's officer team and counsel took part from the Civic Centre, taking precautions against the virus and operating at a distance from each other within the Council chamber. Sessions were broadcast live and recordings were made available on the council's website.
- 2.16. The first series of public hearings opened on 15 December 2020 and ran to 18 December 2020. These hearings covered: procedural and legal requirements; the housing requirement; the spatial strategy; residential needs; the urban area; the Romney Marsh area; and economic and retail growth.
- 2.17. The hearing sessions resumed on 5 January 2021, following the Christmas and New Year break, and ran to 12 January 2021. These hearings covered: the strategy for the North Downs area; the new garden settlement; the strategy for Sellindge; the supply and delivery of housing land; and other Core Strategy Review policies.
- 2.18. The hearing sessions were then paused to allow time for the council to undertake further work and agree a supplementary Statement of Common Ground with Highways England (now National Highways) on transport matters.
- 2.19. The Statement of Common Ground was agreed by the parties and submitted to the Inspectors at the start of June; the hearings resumed on 28 June 2021, covering transport matters, and closed on 1 July 2021 with a discussion of administrative and procedural issues.

Inspectors' initial findings

- 2.20. On 16 July 2021, following the close of the hearings, the Inspectors wrote to the council² to give their initial findings. Their letter stated:

“Subject to main modifications concerning detailed policy wording, we consider that the District Spatial Strategy, the overall approach to the three character areas [Urban Area, Romney Marsh Area and North Downs Area] and settlements within them is sound. The housing requirement of an average of 738 dwellings per year over the plan period is justified. However, it is necessary to introduce a phased approach to the requirement to reflect the reality of the timescale for delivery of the New Garden Settlement at Otterpool. ...

Turning to the proposed New Garden Settlement specifically, we consider that in principle it is justified given the scale of housing need identified, the significant physical and environmental constraints that exist across much of the rest of the District and the limited scope for development within or adjacent to existing settlements, beyond that already identified through the recently adopted Places and Policies Local Plan.”

- 2.21. Officers then prepared main modifications to the plan on the instructions of the Inspectors. 21 main modifications were drafted which put forward changes to Core Strategy Review policies, supporting text and the policies map, in response to the issues that the Inspectors had highlighted during the examination. The main modifications were published for public consultation from 1 October to 15 November 2021.
- 2.22. On the close of the consultation, all consultation comments were passed directly to the Inspectors to consider in drafting their report.

3. INSPECTORS' REPORT ON THE EXAMINATION OF THE CORE STRATEGY REVIEW

- 3.1 The council received the Inspectors' report on 23 February 2022. This is available to view on the council's website and is included as Appendix 1 to this report.

- 3.2 The Inspectors are satisfied that the overall strategy for the district:

“... is based on robust evidence and that the Council has fully and properly considered the potential alternative options. It is an appropriate strategy taking into account the need to support sustainable patterns of development whilst reflecting the environmental constraints and having regard to the reasonable alternatives.” (Appendix 1, paragraph 40.)

² Document FHDC EX126, available to view at: <https://www.folkestone-hythe.gov.uk/core-strategy-review-2020/news-and-updates>

- 3.3 The plan is based on meeting the housing needs established by the national methodology in full. The Inspectors recognise that this is difficult in such a constrained area, but state:

“We are satisfied that the Council has genuinely sought to maximise the capacity for new housing within the context of the constraints that exist in the District and there is nothing before us to suggest that significant additional supply could be achieved from other suitable sites at this point in time.” (Appendix 1, paragraph 102.)

- 3.4 The approach to providing for growth through development in the North Downs area is justified, the Inspectors conclude:

“The Council has undertaken a thorough and robust appraisal of the options to accommodate the growth necessary to deliver the housing requirement. The majority of the District is subject to significant environmental or physical constraints and the potential for development within or adjoining existing settlements has been maximised. The evidence demonstrates that only one area ... is able to accommodate the scale of housing necessary. This is the area identified for the New Garden Settlement ... There are no reasonable alternatives in terms of delivering the housing requirement.” (Appendix 1, paragraph 69.)

- 3.5 The new garden settlement will provide flexibility of delivery, they find:

“The size of the allocation and the potential overall scale of housing development in the longer term is justified. It will allow for a comprehensive approach to the whole site to be brought forward which provides adequate scope for strategic landscaping and open space provision and the opportunity to ensure necessary infrastructure is in place at the right time. It will provide flexibility and choice in terms of which parcels of land are brought forward for development, allow for multiple sales outlets for housebuilders and opportunities for a range of housing types and tenures. This is important given the annual scale of housing that needs to be delivered over a sustained period.” (Appendix 1, paragraph 75.)

- 3.6 The scale of the development will also encourage residents to meet their everyday needs within the new town:

“The scale of employment development and retail and other main town centre use floorspace is justified by evidence ... It will be broadly commensurate with the scale of housing and will help to ensure that the settlement is relatively self-contained in terms of the need for travel to meet day to day needs. The [Core Strategy Review] policies will ensure that the full range of social and community infrastructure and services are provided.” (Appendix 1, paragraph 76.)

- 3.7 Policies provide “a very comprehensive and wide ranging set of principles and requirements to guide the development of the New Garden Settlement” they add (Appendix 1, paragraph 86).

- 3.8 A substantial part of the examination was given over to discussion about the delivery of the new garden settlement and the provision of infrastructure. The Inspectors find:

“The Council itself has a very substantial role in bringing forward the New Garden Settlement. It owns or has options on the majority of the land in question. It has also set up the Otterpool Park Limited Liability Partnership (the LLP) to act as the master developer. The Council is very strongly committed to the delivery of the New Garden Settlement and the arrangements in place provide the opportunity to use its resources and powers effectively to facilitate this.

... Significant work has been undertaken in relation to the planning application for the New Garden Settlement and the supporting information required. Homes England strongly supports the proposal and own part of the land in question. It is included in the Government’s Garden Community Programme.

The viability assessment produced on behalf of the Council was updated during the examination to factor in costs associated with highway infrastructure/mitigation identified through further working with National Highways during the examination. The assessment concluded that taking account of all known infrastructure costs, the New Garden Settlement remains viable. Given the context of the particular circumstances regarding ownership, funding and the role of the LLP and the strong support from Homes England, we are satisfied that the New Garden Settlement is viable and deliverable.” (Appendix 1, paragraphs 89-90.)

- 3.9 In conclusion, the Inspectors find that the Core Strategy Review is ‘sound’ subject to their main modifications:

“We conclude that the duty to co-operate has been met and that with the recommended main modifications set out in the Appendix, the Folkestone and Hythe District Core Strategy Review satisfies the requirements referred to in Section 20(5)(a) of the 2004 [Planning and Compulsory Purchase] Act and is sound.” (Appendix 1, paragraph 127.)

4. INSPECTORS’ MAIN MODIFICATIONS TO THE CORE STRATEGY REVIEW

- 4.1. The Inspectors recommend 21 main modifications to the Core Strategy Review. The main modifications are set out in full in the schedule in **Appendix 2** of this report (numbered MM01-MM21).
- 4.2. The main modifications show the submission version of the Core Strategy Review policies and supporting text to be amended, as well as additional infrastructure schedules to be inserted as appendices and changes to the policies map. New text is shown in bold underlining (**new text**) while text to be deleted is shown struck-through (~~deleted text~~).
- 4.3. To provide context, Core Strategy Review Sections 4 (The Spatial Strategy for Folkestone & Hythe), 5 (Core Strategy Delivery) and 6 (Appendices) are shown in **Appendix 3**. Main modifications are shown at the points at which

they would appear in the final document and reference numbers are provided in the right hand margins. If the plan is adopted, these references, struck-through text and underlining would be removed on publication of the plan. (Core Strategy Review Sections 1, 2 and 3 are not affected by any main modifications and are not shown in Appendix 3. The document, as submitted to the Secretary of State for examination, can be viewed in full on the examination pages of the council's website.³)

- 4.4. The Inspectors summarise the purpose of the main modifications as:
- i. Introducing a phased approach to annual housing requirements and a realistic housing trajectory to reflect the likely timescales for the new garden settlement;
 - ii. Strengthening and clarifying the approach to the protection of the Kent Downs Area of Outstanding Natural Beauty (AONB) and its setting;
 - iii. Providing clarity in relation to transport and other infrastructure requirements resulting from the new garden settlement and the approach to phasing, monitoring and mitigation;
 - iv. Introducing safeguards on nutrient enrichment for the Stodmarsh designated sites; and
 - v. A number of other main modifications to ensure that the Core Strategy Review is positively prepared, justified, effective and consistent with national policy (Appendix 1, page 5).

The background to these modifications is outlined briefly below.

- 4.5. Regarding point (i) on the phased approach to housing delivery, national planning policy guidance states that a phased, or stepped, housing requirement may be appropriate where there is a significant change in the level of the housing requirement between the previous and the emerging plan and/or where strategic sites will have a phased delivery. The submitted Core Strategy Review had a constant level of housing provision, expressed as an average annual minimum figure across the plan period. However, during the examination it became clear that, with the need to allow time for the delivery of the new garden settlement, a stepped approach would be necessary with a lower level of growth in the first five years, and higher levels of development in the remainder of the plan period. Main modifications provide for this.
- 4.6. Regarding point (ii) on the Area of Outstanding Natural Beauty, national planning policy on AONBs changed during the examination with the publication of a new version of the NPPF in July 2021. The changes had the effect of clarifying the different approaches decision-makers should take to proposals for development within the boundary of an AONB and development outside the boundary but within the setting of an AONB. These changes are reflected in main modifications to the Core Strategy Review.

³ See link: <https://www.folkestone-hythe.gov.uk/evidence-base-library>, Document Reference: EB 01.00.

- 4.7. Regarding point (iii) on infrastructure, national planning policy states that for large-scale developments, such as new garden towns, development may need to extend beyond an individual plan period and the associated infrastructure requirements may not be capable of being identified fully at the outset. Nevertheless, the Inspectors considered that more detail was needed to set out the points at which the development of the new garden settlement would trigger the delivery of new or upgraded infrastructure. Main modifications provide for this, including a series of tables which would be added to Appendix 5 of the plan, setting out transport and other infrastructure delivery trigger points; these tables were drafted in collaboration with Highways England (now National Highways), Kent County Council and other participants during the examination.
- 4.8. Regarding point (iv) on nutrient enrichment, this issue was first raised by Natural England after the plan was submitted for examination in March 2020 and so could not have been addressed earlier. New development within the northern part of Folkestone & Hythe district has the potential to increase nutrient flows into the River Stour, flowing into the Stodmarsh system of European-designated sites north east of Canterbury, risking damage to the water quality of these sites. Natural England published a guidance note, 'Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites', in July 2020 and this was updated in November 2020. Main modifications introduce changes to Policy CSD5: Water and Coastal Environmental Management to set out the policy approach to development within this area, reflecting Natural England's guidance note, and to highlight the affected area on a diagram. The wording was developed during the examination in collaboration with Natural England.
- 4.9. Lastly, regarding point (v), a number of other main modifications were identified to:
- i. Reflect changes to national planning policy and guidance and amendments to the development Use Classes Order;
 - ii. Reflect the requirement for biodiversity net gain that was emerging through the Environment Bill (now the Environment Act);
 - iii. Allow for the creation of Area Action Plans (site-specific development plans) for Dungeness power station and London Ashford Airport, should major development proposals for these sites come forward during the plan period. Any Area Action Plan(s) would need to go through their own process of drafting, public consultation and independent examination;
 - iv. Reflect proposed amendments put forward in Statements of Common Ground with neighbouring authorities and statutory organisations;
 - v. Amend retail and employment floorspace figures to reflect updated evidence; and
 - vi. Update policies and text to take account of development completed and under construction at the strategic sites of Folkestone Seafront, Shorncliffe Garrison, New Romney and Sellindge, and the granting of planning permissions on these sites.

5. OPTIONS

- 5.1. The options are prescribed by the legislative framework found in Part 2 of the Planning and Compulsory Purchase Act 2004, as well as the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 5.2. The local planning authority must either:
 - i. Adopt the Core Strategy Review with the Inspectors' main modifications; or
 - ii. Not adopt the Core Strategy Review.
- 5.3. The main modifications arose from the debate at the examination hearings and the Inspectors' consideration of participants' evidence and consultation comments. The recommendations must be adopted in full; the council does not have powers to amend them or adopt some recommendations and not others.

Option 1: Note the Inspectors' report but not adopt the Core Strategy Review

- 5.4. The council could note the Inspectors' report and recommendations and not adopt the Core Strategy Review; this would, however, serve no purpose.
- 5.5. The Inspectors have conducted a rigorous examination of the Core Strategy Review, a process which has taken almost two years from submission of the plan to receipt of the final report, has involved 11 days of examination hearings and the assessment and interrogation of hundreds of examination statements and evidence documents.
- 5.6. The Inspectors have considered issues raised by objectors throughout the process, challenged the council on areas where they found the plan lacking and weighed the plan objectively against legislation and national planning policy and guidance. The Inspectors concluded at the end of this process that, subject to their main modifications, the Core Strategy Review has been prepared in accordance with legal and procedural requirements and is 'sound'.
- 5.7. Regarding adoption of a local plan, national Planning Practice Guidance states that:

*"While the local planning authority is not legally required to adopt its local plan following examination ... it is to be expected that the authority will proceed quickly with adopting a plan that has been found sound."*⁴
- 5.8. If the council does not have an up-to-date plan in place it will be vulnerable to intervention by government. The Secretary of State has powers of intervention under Section 27 of the Planning and Compulsory Purchase Act 2004, and has indicated that he will intervene where:

⁴ Paragraph: 058 Reference ID: 61-058-20190315. See: <https://www.gov.uk/guidance/plan-making#plan-examinations>

- i. Progress in plan-making is not being made;
 - ii. Policies have not been kept up-to-date;
 - iii. There is higher housing pressure; and
 - iv. Intervention will have the greatest impact in accelerating plan production.⁵
- 5.9. If the council cannot demonstrate that it has an adequate supply of housing land, particularly through the allocation of the new garden settlement, it will be highly vulnerable to challenge by developers at public inquiry; the result of this could be that the council loses appeals on housing sites and development comes forward in less sustainable locations.
- 5.10. If the Core Strategy Review is not adopted, the council will not be able to apply the development management policies which seek to secure higher standards of design and sustainability, for example, with regard to green infrastructure, biodiversity net gain and nutrient neutrality in the catchment of the River Stour.
- 5.11. The Core Strategy Review has been prepared to replace the adopted 2013 Core Strategy. If replacement policies are not adopted, the policies in the 2013 Core Strategy will become increasingly out-of-date and open to challenge.

Option 2: Note the Inspectors' report, agree the main modifications and proceed to adopt the Core Strategy Review

- 5.12. This is the recommended option.
- 5.13. Once the examination process is complete, adoption is the final stage of putting a local plan in place. This requires confirmation by a full meeting of the local planning authority, as determined by Regulation 4(1) and (3) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. On adopting a local plan, the local planning authority has to make a copy of the plan publicly available, as well as an adoption statement and Sustainability Appraisal in line with regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 5.14. When adopted, the council will be able to use the policies in the Core Strategy Review to guide development, particularly the development of the new garden settlement. With adopted policies in place the council can have greater confidence negotiating with developers to secure higher quality developments and refusing any planning applications that do not meet these standards.
- 5.15. Following adoption, there is a six-week period during which an aggrieved party can mount a legal challenge to the decision to adopt the plan. The preparation of the plan has followed a robust process, including taking advice

⁵ Secretary of State for Communities and Local Government, Local Plans: Written Statement (HCWS254). See: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-11-16/HCWS254/>

of counsel during the examination, and this is reflected in the positive conclusions of the Inspectors' report. This should reduce the grounds for legal challenge after adoption. If the plan is legally challenged, the council will have to take specialist legal advice.

6. CONCLUSIONS

- 6.1. Local authorities are required to produce local plans governing development within their areas, looking ahead over a minimum 15 year period. Planning law requires that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. Policies in local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary.⁶
- 6.2. The Planning Inspectorate monitors progress with local plan preparation and publishes a record on its website which is updated every month.⁷ The Secretary of State has powers to intervene where local authorities are not making progress, and can step in to prepare or revise the local plan himself, or give directions to the authority in preparing or revising the plan.
- 6.3. The recently published White Paper 'Levelling Up the United Kingdom' notes that: *"Only 39% of local authorities have adopted a plan within the last five years, which limits effective community engagement about development."*⁸ Over the last few years within Kent, two local authorities have had their local plans rejected by planning Inspectors and have had to start again from the beginning of the process. A third Kent local authority has been subject to the Secretary of State's intervention in preparing its local plan.
- 6.4. The receipt of the Inspectors' report into the Core Strategy Review, with its conclusion that the plan is 'sound' subject to main modifications, therefore represents a successful conclusion to the process. In parallel with the Core Strategy Review, the council prepared a new local plan, the Places & Policies Local Plan, which sets out proposals for development on small- and medium-sized sites throughout the district, as well as a suite of development management policies. The Places & Policies Local Plan was found 'sound' by the planning Inspector and was adopted by the council in September 2020.
- 6.5. If the Core Strategy Review is adopted by full Council on 30 March 2022, the council will have completed two major district-wide development plans within 18 months. The Planning Inspectorate's record shows that no other local authority in England has adopted two local plans of this type within such a short time period or has come close to this achievement.

7. RISK MANAGEMENT ISSUES

⁶ National Planning Policy Framework, 2021, paragraph 33, available to view at: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

⁷ Available to view at: <https://www.gov.uk/government/publications/local-plan-monitoring-progress>

⁸ 'Levelling Up the United Kingdom', HM Government, February 2022, page 227. Available to view at: <https://www.gov.uk/government/publications/levelling-up-the-united-kingdom>

7.1. The risk management issues are set out below.

Perceived risk	Seriousness	Likelihood	Preventative action
That the Core Strategy Review is not adopted	High	Medium	As set out in the report, local planning authorities are required to have an up-to-date plan in place and will be liable to challenge by developers or intervention by the Secretary of State if this does not happen. The Core Strategy Review has been through a long process of preparation and an independent examination by a planning Inspector, and has been found 'sound' subject to a limited number of main modifications.
That the Core Strategy Review is legally challenged after it is adopted.	High	Medium	An aggrieved party can mount a legal challenge to the Core Strategy Review after it is adopted on procedural grounds. The preparation of the plan has followed a robust process and this is reflected in the positive conclusions of the Inspectors' report. This should reduce the grounds for legal challenge after adoption. If the plan is legally challenged, the council will have to take specialist legal advice.
That the Core Strategy Review becomes out-of-date with changing	Medium	Medium	Government requires local planning authorities to review their local plans every five years, or sooner if

Perceived risk	Seriousness	Likelihood	Preventative action
government policy.			circumstances change. On adoption of the Core Strategy Review the council will monitor the implementation of the plan through the Authority Monitoring Report (AMR). Indicators in the AMR may highlight the need for a review, or partial review, of the plan. Officers will also monitor new legislation that may be introduced following the Planning White Paper to see if this requires a review of the plan.

8. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

8.1 Legal Officer's Comments (NM)

The Core Strategy forms a statutory element of the local plan for the Council setting out the strategic planning framework and policies to guide the Council up to 2036/37.

The review of the plan every five years is a statutory requirement. The Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development) (England) Regulations 2012 set out the framework for producing local plans.

As outlined in the report, there is a risk of challenge by developers and intervention by the Government in relation to the Council's planning functions if an up to date plan is not in place.

8.2 Finance Officer's Comments (RH)

There are no financial implications to this report. Please note all Planning Inspectorate costs have been covered within the 20/21 and 21/22 budgets.

8.3 Diversities and Equalities Implications (GE)

There are no negative equality and diversity implications directly arising from this report. An Equality Impact Assessment (EIA) was undertaken at the start of the process in January 2019 and has been considered as part of the inspector's examination of the Core Strategy Review.

8.4 Climate Change Implications (AT)

The Core Strategy Review has been subject to Sustainability Appraisal and Habitats Regulations Assessment, in accordance with the Strategic Environmental Assessment Regulations, Habitats Regulations and the Planning and Compulsory Purchase Act 2004, at all stages in its preparation from the first draft plan to the main modifications.

Policies and proposals have been assessed against a framework of 15 sustainability appraisal objectives including: enhancing the local distinctiveness of the landscape and townscape; the historic environment; biodiversity, taking into account the effects of climate change; green infrastructure; the efficient use of land and safeguarding soils; the quality of ground water, surface water and coastal waters; flood risk, taking into account the effects of climate change; energy efficiency in the built environment; the efficient use of water; sustainable management of waste; reducing the need to travel; and community and social cohesion.

These reports have been published for consultation alongside the Core Strategy Review and are available to view on the examination pages of the council's website.⁹ These reports were subject to comment from statutory bodies, including the Environment Agency and Natural England, as well as other interested organisations and members of the public.

Where the Sustainability Appraisal and Habitats Regulations Assessment made recommendations for amendments to the plan these changes were incorporated into subsequent revisions.

The Inspectors conclude that the development plan as a whole includes policies that contribute to the mitigation of, and adaptation to, climate change and that it meets all other relevant legal requirements.

9. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officers prior to the meeting:

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Appendices:

Appendix 1: Report on the Examination of the Folkestone & Hythe Core Strategy Review (Ref: PINS/L2250/429/7), 23 February 2022

⁹ Available to view at: <https://www.folkestone-hythe.gov.uk/evidence-base-library>. See documents: EB 02.10; EB 02.20; EB 02.30; EB 02.40; EB 02.50; EB 02.60; EB 02.70; EB 02.80; EB 02.90; EB 02.95.

Appendix 2: Inspectors' Report Appendix - Schedule of Main Modifications

Appendix 3: Core Strategy Review Submission Draft - Section 4 (The Spatial Strategy for Folkestone & Hythe), Section 5 (Core Strategy Delivery) and Section 6 (Appendices), showing Main Modifications as they will appear in the plan if adopted