

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 10 October 2022

Portfolio:	Planning and Development
Subject:	Fareham Local Plan 2037 Main Modifications
Report of:	Director of Planning and Regeneration
Corporate Priorities:	Providing Housing Choices Protect and Enhance the Environment Strong, Safe, Inclusive and Healthy Communities Maintain and Extend Prosperity

Purpose:

To seek endorsement and a recommendation to Council to approve the Schedule of Main Modifications to the Local Plan for public consultation, alongside changes to the Policies Map and Additional Modifications, as part of the Examination process into the Fareham Local Plan 2037.

Executive summary:

The Fareham Borough Local Plan 2037 ('the Plan') seeks to meet housing and employment needs for the borough on a range of sites whilst tackling congestion, protecting settlement gaps and enhancing biodiversity.

The Local Plan was submitted to the Secretary of State in September 2021 with a Planning Inspector appointed shortly after to conduct the examination. There are three possible findings that an Inspector may make following the examination; an unsound plan, a sound plan or recommendations to make main modifications such that the plan could be found sound. Main modifications are changes that materially affect one or more of the plan's policies.

The examination started after the plan was submitted with hearings conducted in March and April 2022. Following the conclusion of the hearings, the Inspector has written twice to the Council, first in a Post Hearings Letter in June 2022 and subsequently a Further Post Hearings Letter in September 2022. These letters express her views on a range of topics and have requested further work, most notably the production of topic papers and a focused consultation which was the subject of a report to the Executive in July 2022. During the hearings and in those letters, the Inspector has requested a number of main modifications to the Plan where she feels they are needed to make the Plan sound. These main modifications must be consulted upon as part of the examination process.

Alongside the main modifications, public consultation must take place on any changes to the Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA) of the plan (see appendix 2 and 3 respectively) as well as any associated changes to the Policies Map (see appendix 4).

Officers have also identified a series of Additional Modifications which do not materially affect the Plan's policies and are either factual or spelling corrections. There is no requirement to consult on these modifications, but approval is sought to make these changes to the Plan. The schedule of additional modifications can be found in appendix 5.

Recommendation:

It is recommended that the Executive endorses and recommends to Council for approval:

- (a) the Inspector's proposed Main Modifications to the Local Plan and the supporting Sustainability Appraisal Report and Habitats Regulations Assessment Report for public consultation;
- (b) the proposed changes to the Policies Map;
- (c) the proposed Additional Modifications to the Local Plan;
- (d) that the Director of Planning and Regeneration, following consultation with the Executive Member for Planning and Development, be authorised to submit the responses to the consultation to the Planning Inspector in order for her to conclude the Local Plan examination process; and
- (e) that the Schedule of Main Modifications be a material consideration to be afforded due weight in the determination of planning applications.

Reason:

To publish the Schedule of Main Modifications for consultation, in order to continue the Local Plan examination.

Cost of proposals:

The costs of consultation and adoption are covered within the existing budgets.

Appendices:

- 1) Schedule of Main Modifications to the Local Plan
- 2) SA update report (September 2022)
- 3) HRA update report (September 2022)
- 4) Schedule of associated changes to the Policies Map
- 5) Schedule of Additional Modifications to the Local Plan.
- 6) Fareham Local Plan 2037 with main and additional modifications shown.
- 7) Revised Housing Supply Topic Paper (September 2022)

- 8) Revised Windfall Analysis Topic Paper (September 2022)
- 9) Revised Affordable Housing Topic Paper (September 2022)
- 10) Revised Policies Map (September 2022)

Reference papers:

Inspector's Further Post Hearings Letter (September 2022)

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Executive Briefing Paper

Date:	10 October 2022
Subject:	Fareham Local Plan 2037 Main Modifications Consultation
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. The Fareham Local Plan 2037 ('the Plan') is at examination stage and the hearings concluded in early April. There are three possible outcomes to the examination: an unsound plan, a sound plan or the Inspector makes recommendations to make main modifications such that the plan could be found sound. Such modifications, that achieve the soundness of the plan, are known as main modifications.
2. During the hearing sessions, the Inspector identified a number of main modifications that she considered necessary to achieve a sound plan. In addition to those main modifications identified at the hearings, the Inspector wrote to the Council in her Post Hearings letter to set out her position on a number of additional points. She recommended that the Council undertake further background work, including producing a series of background Topic Papers, and requested that the Council undertake a focused consultation on those papers in July. The Inspector wrote again to the Council in September requiring a small number of extra main modifications.
3. As mandated by the examination process, the Inspector requires the Council to consult on the main modifications for a period of at least six weeks. This report seeks to endorse and recommend the schedule of Main Modifications attached at appendix 1 to full council for public consultation. Further updates have been undertaken on the Sustainability Appraisal and the Habitats Regulations Assessment that are necessary to support the Plan. These will be available for consultation alongside the proposed main modifications schedule.

MAIN MODIFICATIONS

4. The Main Modifications that the Inspector has requested on the Local Plan are changes to the Plan considered necessary by the Inspector to make the Plan sound. There is no scope for the Council or any other individual or organisation to recommend Main Modifications, only the Inspector. They are not determined by

the scale of the change, rather the soundness of the policy to which they relate. For that reason, some of the modifications may appear small but have implications for soundness of the policies and how they would be applied to a planning application. They can be in the form of new or amended policies or text, or the removal of policies, or text. The submitted Plan was the Plan in which the Council was confident it could adopt. However, the need for main modifications is a recognised part of the process of producing a Local Plan and the number of modifications recommended for the Plan is not unusual. It should be taken as a positive sign that the Inspector is moving towards concluding that the Plan is sound.

5. The following headings give a summary of the proposed main modifications. The full schedule of Main Modifications can be found Appendix 1.

New Policies

6. There are no new policies being proposed in the Plan.

Removal of Policies

FTC3 Fareham Station East and FTC4 Fareham Station West

7. At the July 2022 Executive members were advised that in the Inspector's Post Hearings Letter, the Inspector requested that housing allocations FTC3 Fareham Station East and FTC4 Fareham Station West should be removed from the Plan. This was because the Inspector was concerned about the lack of evidence on the delivery of both of these housing allocations within the plan period. The removal of these two sites is listed on the schedule of main modifications, and there are subsequent changes necessary to all lists of housing allocations, the total number of homes to be delivered by the Local Plan, and several of the maps within the plan.

Amended Policy Wording in line with Changes to National Policy

NE2 Biodiversity Net Gain

8. At the July 2022 Executive members were advised that as a result of the Inspector's Post Hearings Letter, Policy NE2 would need to be redrafted to be consistent with the Environment Act 2021 (even though many details are to be confirmed or are capable of being amended by secondary legislation). The Inspector has requested a modification to Policy NE2 to require biodiversity net gains to be maintained for a minimum of 30 years in line with the Environment Act 2021. This modification has resulted in a change to supporting text, in paragraph 9.38 of the Plan, which further explains that the Council's position is that where possible, it will aim to secure biodiversity net gain for a longer period than required by the Environment Act 2021, up to the life-time of the development with which it is associated.

NE8 Air Quality

9. Since the submission of the Local Plan, there have been changes to the Building Regulations requiring electric vehicle charging points on all new development. These Regulations came into force in June 2022. A main modification to Policy NE8 has been requested to remove the requirement for electric vehicle charging points, as it is no longer necessary due to the inclusion within Part S of the Building Regulations.

Amended Wording to Policy Titles

Policies HP2 New Small-Scale Development Outside the Urban Areas and HP3 Change of Use to Garden Land

10. At the examination hearings, the Inspector requested that the headings for HP2 New Small-Scale Development Outside the Urban Areas and HP3 Change of Use to Garden Land be amended to include the wording 'Residential' in the policy titles. This was recommended by the Inspector to make it clear that the policies in question specifically relate to residential development and, as a result, these changes would improve the effectiveness of the policies.

Amended Policies

Policy HA55 Land South of Longfield Avenue

11. A main modification has been requested by the Inspector to replace the Indicative Framework Plan for the site with the Council-led Masterplan that has been agreed with the site promoters through a Statement of Common Ground. The Masterplan provides a greater level of detail for the site including more defined development areas and a green space strategy.
12. In addition, the Inspector is recommending that the 'Supporting Masterplanning Principles' document, which was prepared alongside the Masterplan, is to be included as a new appendix to the Local Plan with a subsequent change to the policy to reflect that any planning applications in this location will be judged against the Masterplan and the new appendix. The 'Supporting Masterplanning Principles' document sets out the guiding principles for the site including the structure of the neighbourhoods, green routes and spaces, road hierarchy and public accessibility, built form and development quantum and density.
13. The Inspector concluded in her Post Hearings Letter that she is satisfied that the principle of the allocation on Land South of Longfield Avenue is soundly based. This was reported to the Executive on 4th July 2022.

Policy HP9 Self and Custom Build Homes

14. The Inspector instructed the Council during the examination hearings to liaise with parties who had raised concerns on the deliverability of the Self and Custom Build Homes policy, to develop alternative wording in relation to the phasing of the provision of serviced plots on larger sites. The proposed modifications to the policy that the Inspector now seeks, provide guidance on how applicants for larger sites, where the delivery of homes is phased through multiple Reserved Matters planning applications, can meet the requirements of the policy.

Policy HP11: Gypsies, Travellers and Travelling Showpeople

15. At the examination hearings, the Inspector requested that the policy be amended to refer to 'pitches and plots' to ensure correct use of terminology in relation to Gypsies, Travellers and Travelling Showpeople.

Policy NE6: Trees Woodland and Hedgerows

16. At the examination hearings the Inspector expressed concern that Policy NE6 was negatively worded when national guidance is clear that policies should be positively worded. As a result, the Inspector requested the policy be amended, deleting wording such as "Avoids the unnecessary loss of trees, hedgerows and woodland", and replacing with the wording "Retains protected trees, hedgerows and woodland". These modifications do not change the outcome of the policy but ensure it is more positively worded.

Policy HA36 Land at Locks Heath District Centre and Policy HA37 Former Locks Heath Filling Station

17. At the examination hearings the Inspector expressed concern that Policies HA36 Land at Locks Heath District Centre and HA37 Former Locks Heath Filling Station were not clear as written. She instructed the Council to work with the site promoter to reach agreement through a Statement of Common Ground to provide additional policy wording which gives further clarity for development on the sites. The wording changes reflect many points of detail, such as building heights and the availability of amenity space. In order for the policies to be found sound, the Inspector requires the agreed policy wording in the Statement of Common Ground to be included within the policies.

Policy E1 Employment Land Provision

18. The Inspector has requested that the figures for the employment provision over the Plan period are rounded. In addition, the Inspector has instructed the Council to include a reference to the sub regional role of strategic employment sites (Welborne and Daedalus). The Inspector has also requested the removal of reference to the need for a minerals assessment at Swordfish Business Park (Daedalus) on the advice of the Minerals and Waste Authority. This was because the Swordfish site is not within the safeguarded area as Faraday is, and the requirement had been erroneously included.

Policy H1 Housing Provision - Welborne delivery

19. In her Post Hearings letter, the Inspector requested a change to the delivery trajectory at Welborne Garden Village. The Council provided further information to the Inspector which has enabled her to reassess the findings, as referred to in the report to the Executive in July 2022, proposing a new position. This evidence increased the first year's delivery from 30 to 150 dwellings but reduced the peak delivery from her conclusion of 260 to 250 dwellings to be built a year. The Inspector subsequently agreed with this position in her Further Post Hearings Letter. The Main Modifications therefore include an update to the housing supply table and the trajectory in Appendix B.

Policy H1 Housing Provision - The Stepped Requirement

20. The stepped requirement within Policy H1 is proposed to be amended slightly to represent the changes to the supply position. The standard methodology

defines how Councils should calculate their housing requirement, and for Fareham this figure is 541 homes a year. A stepped requirement provides an opportunity to lower this requirement in the first few years of a plan, although it must be raised in later years to ensure that the housing requirement is met overall over the plan period. The submitted plan proposed a stepped requirement. However, this needs to be amended slightly because of the changes to the Local Plan supply and information about delivery in the first few years. Instead of proposing a requirement of 300 homes a year for the first three years, the main modification to Policy H1 proposes a requirement of 210 homes per year for the first two years. This means that the remainder of the plan period would have an annual requirement of 653 homes per year to ensure the Plan can meet the requirement over the whole plan period. This proposed approach ensures that under delivery is addressed as soon as possible and that housing delivery rates are above the minimum housing need for the vast majority of the plan period. Throughout the examination, the Council's approach has been under intense scrutiny from the development industry, but it has defended its position in the interests of proper planning and the objective of securing a genuine plan-led system.

21. The use of a stepped requirement to lower the housing requirement in the first few years is not to suppress housing delivery, but to ensure that the policies within the plan, once adopted, can carry full weight as soon as possible. This is because the Council is judged by the Housing Delivery Test on its record of housing delivery against its requirement for a rolling three-year period, and a result of less than 75% requires the application of the presumption in favour of sustainable development, whereby policies within the Local Plan are afforded limited weight according to national policy. This is disadvantageous to the Council, particularly in the situation where there is a recently adopted Local Plan.
22. Acceptance of the stepped requirement is crucial to the Council in terms of its Development Management function. National policy requires planning policies to identify a supply of specific, deliverable sites for years one to five of the plan period, known as a five-year housing land supply with the appropriate buffer. The level of buffer is also determined by the Housing Delivery Test results, and results of less than 85% require a 20% buffer to be applied. Again, by applying a stepped requirement, the Council anticipates more favourable Housing Delivery Test results for the period of April 2020-2023 (the results are expected in early 2024), which would mean that it could revert to applying the 5% buffer to its five-year housing land supply calculation, instead of 20% as is required at present.
23. The Inspector, in her Further Post Hearings Letter, concluded that this stepped requirement and associated trajectory of housing delivery is appropriate and justified which is very positive news for the plan moving forward, and as referenced above, the Council's future decision-making process.

Policy H1 - Housing Provision – Local Plan Review

24. At the Examination Hearings, the Inspector asked the Council to consider whether a policy on the need to review the Local Plan at an early stage was necessary. The Council offered a view that a statement of intent could be added to the Plan but that a policy was not required. The Inspector has requested that this statement of intent be added as a main modification linking a future Local

Plan review to monitoring of progress against meeting our housing need, as well as the progress of PfSH on their Joint Strategy work, which is working to identify ways to resolve the unmet need issue across the sub-region. It has already been accepted by the other Local Planning Authorities in PfSH by way of a Statement of Common Ground that the proposed unmet need contribution of 900 homes plus a level of contingency is acceptable.

Amended policy boundaries

Policy DS3 - Area of Special Landscape Quality (ASLQ) Designation.

25. The Inspector expressed concern in her Post Hearings Letter (June 2022) that the evidence base did not support the designation of ASLQ and put forward two options for the Council to consider. One option was to withdraw the designation and policy in their entirety and rely on other countryside policies to protect valued landscapes. The second option was for the Council to prepare further justification for the policy and the designation to address her concerns.
26. At the Executive meeting in July 2022, a report on the Local Plan indicated a preference for the second option and further evidence was provided to the Inspector in early August. As well as defending the principle of the designation, this report did suggest refinement in the largest of the proposed ASLQs in the Chilling/Brownwich area of the borough recognising her concern that the designation was being over-used in the borough.
27. The Inspector has confirmed to the Council in her most recent letter that she now accepts that the designation and policy are justified, and that the change to the boundary in the Chilling/Brownwich area addresses her concerns. This change is however, a main modification to the plan which needs to be consulted upon. There is a subsequent change to map figure 3.3 on page 31 of the Plan.

Policies HA50 Henry Cort Drive and HA55 Land South of Longfield Avenue - Strategic Gap boundary

28. The Inspector has advised for both HA50 and HA55 the housing allocations should be removed from the Strategic Gap as, following the development, the designation would no longer serve a purpose. The Council has produced maps in the Schedule of Main Modifications showing these new boundaries drawn along the proposed built development edge. These main modifications would also require a change to the Policies map.

Further Changes to Policy Inset Maps

HA1 North and South of Greenaway Lane

29. The boundary to HA1 North and South of Greenaway Lane has been amended to reflect the removal of 40 Brook Lane from the allocation boundary. This is a small adjustment in the south-west corner of the site.

Employment allocations E2 Faraday Business Park and E3 Swordfish Business Park

30. Due to an update to the Solent Wader and Brent Goose designation at Solent Airfield, the Inspector has requested the inset maps for the two Employment Allocations (E2 Faraday Business Park and E3 Swordfish Business Park) be updated to reflect the changes in the designation. The change represents a significant reduction in the area of the designation as a result of a challenge the Council made regarding the mitigation strategy. This means that there is less of an area of the two allocations where mitigation would be required as a result of new building. It is worth noting that the Solent Wader and Brent Goose designation is managed by a third party, and as such the designation is not static and may be amended throughout the lifetime of the plan.

Minor Points of Inconsistency between Policies.

31. At the examination hearings the Inspector expressed some concern that there were some minor points of inconsistency between some of the Housing Allocation Policies which, despite only being minor, impacted the effectiveness and as a result, the soundness of the policies. The Inspector therefore requested wording changes such as from “indicative site capacity” to “indicative yield” for all housing allocation policies, and changes such as the inclusion of wording “and in accordance with Policy NE6” for all allocations that involve trees, woodland and hedgerows.

Policies HA42, HA44, HA50, HA51 and HA52 Fareham Housing Greener Policy

32. At the examination hearings, the Inspector expressed concern that the housing allocations in the Plan that make reference to development proposals ‘aligning with the principles set out in the Fareham Housing Greener Policy’ were not sound because the policy would elevate the Fareham Housing Greener Policy to development plan status without it having undergone due process. Therefore, to be effective and provide some flexibility in the policies, the Inspector has requested an amendment to be made deleting “align with” to be replaced with the wording “shall have regard to” the principles set out in the Fareham Housing Greener Policy.

OTHER MODIFICATIONS

Updated Sustainability Appraisal and Habitats Regulations Assessment reports

33. The main modifications to the Plan required by the Inspector to ensure soundness need to be screened for inclusion within the Sustainability Appraisal (SA) (incorporating a Strategic Environmental Assessment) and the Habitat Regulations Assessment (HRA) that accompanies the Plan. This is to ensure the required main modifications do not result in adverse effects on the designated sites in and around the Solent and that sustainable development is promoted through integrating social, environmental, and economic considerations.
34. Both of these assessments are legal requirements for plan-making and as such revised assessments have been prepared and are presented in appendices 2 and 3.

Policies Map Changes

35. Although there is a requirement to produce a policies map, it is technically not an

element of the examination and therefore the Inspector has no power to recommend modifications to the policies map. However, where there are main modifications that require a subsequent change to the policies map, these have been prepared as a Schedule of associated changes to the Policies Map as shown in appendix 4.

Additional modifications

36. The Council may, when it adopts the Plan, make Additional Modifications provided these do not materially affect the policies of the Plan as modified by the main modifications. These additional modifications include correcting or updating references to other strategies, policy cross references, typographical errors and grammar; reordering of text; changing terminology or organisational names; and other minor detailed points of clarity, definition or factual updates.
37. Appendix 5 sets out a Schedule of Additional Modifications. These modifications do not need to be consulted upon for the purposes of the examination process but are presented here to seek approval to them being available during the consultation.

Consequential evidence base changes

38. A number of changes to evidence base documents are also required. These changes represent factual corrections in the Open Space Study, Regulation 22 Statement of Consultation, the Settlement Boundary review and the Renewable Energy Study. The most significant alteration to the evidence base is to the Infrastructure Delivery Plan, which has undergone a 2022 update to reflect the updated Plan position and updated position in infrastructure requirements.

Revised topic papers

39. Three technical topic papers on housing (Housing Supply, Windfall and Affordable Housing) were subject to a three-week focused consultation in July 2022, as requested by the Inspector in her Post Hearings Letter. Representations were sent to the Inspector and informed her conclusions in the Further Post Hearings Letter received in September. The Inspector has requested that the Council update these topic papers following the feedback from the Focused Consultation and her views expressed in the second letter. The updated papers accompany this report as appendices.
40. For the Housing Supply paper, representors pointed out some errors in the supply position and trajectory which were minor in nature. For the Windfall paper, the Council had provided the Inspector with additional analysis at her request, and she has now asked for that to be included in a revised Windfall Background Paper.
41. With regards to Affordable Housing, the Inspector considers that the Council needs to provide further evidence in relation to future affordable housing need. The Council has now accessed the most up-to-date information which suggests the potential for a greater affordable housing need than currently can be accommodated over the plan period. However, there are a number of caveats associated with the data and methodology, and the Inspector accepted in her Further Post Hearings Letter that this can be caveated.

42. All three revised Background Papers are to be published alongside the main modification consultation.

MAIN MODIFICATIONS CONSULTATION

43. Subject to approval by Executive and the Council, the Inspector's proposed main modifications, will be published for consultation for six weeks. The public consultation is provisionally set to run between 31st October and 12th December 2022.
44. As referenced above, the suite of consultation documents will also include the updated Sustainability Appraisal and updated Habitats Regulations Assessment, the updated Policies map, Schedule of Additional modifications, the three revised topic papers on housing matters. Only the representations in connection with the main modifications will be passed to the inspector for the purposes of the examination, and this will be made clear in the supporting documentation.
45. To make it easier to review the changes in their entirety and in context, a revised version of the Plan with all the modifications included has been prepared.

NEXT STEPS

46. Following the consultation, the Council will pass all representations in connection with the main modifications to the Inspector, who will then consider them in the process of completing her report which will conclude whether the main modifications are sufficient to make the plan sound. It is envisaged that this will happen without further activity, as she has indicated that further hearing sessions will only be arranged on an exceptional basis.
47. The Inspector will then issue her final report to the Council on her determination on whether the plan is sound, with the main modifications. Receipt of the report will conclude the examination process.
48. Once the examination process is complete, adoption is the final stage of preparing the Local Plan, marking the end of a process that started in 2016. Adoption requires a further decision by the Council.
49. The Council's Local Development Scheme sets out the approximate timescales for the progression of the Local Plan, suggesting that the new plan will be adopted in Autumn/Winter 2022. At this time, it is considered likely that adoption will be within this timescale.

CONCLUSION

50. Subject to Council approval, the proposed main modifications summarised in this report and attached as appendix 1 will be the subject of public consultation, along with other necessary documentation. It is recommended that Executive endorses the consultation on the Inspector's proposed main modifications.

Enquiries:

For further information on this report please contact Gayle Wootton, Head of Planning Strategy and Economic Development. (Ext. 4328)