
Subject: CANTERBURY DISTRICT LOCAL PLAN PROPOSED MAIN MODIFICATIONS

Meeting and Date: Cabinet – Decision Between Meetings

Report of: Head of Regeneration and Development

Portfolio Holder: Councillor Nicholas Kenton, Portfolio Holder for Environment, Waste and Planning

Decision Type: Key

Classification: Unrestricted

Purpose of the report: To consider what comments the Council should make in response to a consultation by Canterbury City Council on proposed Main Modifications to its draft Local Plan.

Recommendation: That the recommended comments on the proposed Main Modifications to the Canterbury District Local Plan be agreed and submitted to Canterbury City Council

1. Summary

The proposed Main Modifications respond to some of the matters on which the Council made formal representations but they do not address all the key points. It is therefore recommended that representations on the proposed Main Modifications are made accordingly in pursuance of the Council's case.

2. Introduction and Background

- 2.1 The District Council agreed in July 2014 to make formal representations against aspects of the Canterbury District Local Plan Publication Draft. Officers appeared at the subsequent Public Examination in 2016 to pursue those representations. The Examination process has now reached the point of a consultation on proposed Main Modifications (MMs). The MMs are intended to address parts of the Plan which otherwise might be found to be unsound and prevent its adoption. The responses to consultation will be taken into account by the Inspector holding the Examination when he finalises the recommendations in his report to the City Council. Consultation responses will only be taken into account if they relate to the proposed MMs.
- 2.2 In some cases the proposed MMs address points made by the Council but in relation to the matter of comparison retailing and the Wincheap Retail Area proposals there are, however, several instances where they do not. The MMs relating to retail are reproduced in Appendix 1 and the District Council's recommended response to these is set out in the paragraphs below. Responses to the proposed MMs must be submitted to Canterbury City Council by 24 March 2017.
- 2.3 **MM3, Policy SP2** This reduces the overall amount of additional comparison floorspace that needs to be planned for from 50,000sqm to 33,800sqm in order to align with the findings of a more up-to-date Retail and Leisure Study (2015) and breaks this total figure down into projected demand into each of the Plan's four five-year time periods. A new footnote commits the City Council to reviewing the need for new retail floorspace around every five years and that the results will become

material considerations. This MM meets the District Council's concerns and is **supported**.

- 2.4 **MM54 Paragraph 4.6** One of the proposed changes to this paragraph sets out a clear commitment to focus new retail development in Canterbury City centre. This is in-line with national policy and is **supported**.
- 2.5 **MM58 New Policy TCL(A)** This sets out a proposed Retail Hierarchy and, amongst other things, states that the Council will apply a town centre first approach to proposals for new retail. This is in-line with national policy and is **supported**.
- 2.6 **MM61 Policy TCL2** This relates to the identification of Primary Shopping Frontages on the Proposals Map. These appear to be identified in a dark blue colour but this does not appear in the key and is therefore unclear. The key should be amended to address this point.
- 2.7 Without this amendment the proposed MM is not effective.
- 2.8 **MM66 Paragraph 4.41** This Paragraph sets out how the City Council will apply the sequential test for main town centre uses, including retail. The MM relating to the definition of edge-of-centre locations, which states that they are those within 300m of the Primary Shopping Area, brings the Paragraph into conformity with national policy relating to retail uses, addresses the District Council's concerns and is supported. The MM does not, however, reflect the different national definition for other main town centre uses (i.e. those other than retail) as being within 300m of a town centre boundary. The MM should be amended accordingly. The purpose of this Paragraph is to provide definitions for the implementation of Policy TCL6. In order to make this absolutely clear the first sentence in the Paragraph should be changed to read: "The Council will apply the sequential test for main town centre uses set out in Policy TCL6 as follows:"
- 2.9 Without these amendments the proposed MM is not consistent with national policy and not effective.
- 2.10 **MM69 Policy TCL6** Provided that the matters raised in relation to Paragraph 4.41 are accepted the District Council **supports** the MM in relation to the first part of the Policy up to and including part (d). The paragraph in the Policy following (d), as proposed by the MM, does not however reflect the District Council's concerns regarding the need for impact assessment of the Wincheap proposals raised in the Examination hearings nor the oral response given by the City Council. The MM requires any applications for main town centre uses that are not in accordance with the Plan and with a floorspace exceeding 2500sqm to be subject to an impact assessment. The District Council's concern is that this would allow a proposal that is in accordance with the Plan (and specifically one that was in accordance with Policy TCL7 regarding Wincheap) not to be subject to an impact assessment in circumstances where the Plan's retail proposals themselves have not been subject to impact assessment. Such major retail proposals could therefore be permitted without their impact ever having been assessed. The District Council strongly **objects** to this as it is quite contrary to the NPPF for all the reasons set out in response to the Inspector's question 10 h. In addition, the MM states that an impact assessment will be required if an application proposes more floorspace than identified in Policy SP2 – the assessment to relate to the impact of the excess floorspace only. This seems unnecessary as, by definition, such proposals would not be in accordance with the Plan and would require an impact assessment under the preceding part of the MM anyway. Most importantly though, the MM does not tackle the point made at the

Hearings, that there needed to be a mechanism to prevent planning permission being granted for an amount of retail floorspace in advance of the need arising. While it is appreciated that the footnote to Policy SP2 introduced through MM3 commits the City Council to reviewing retail capacity every five years and the results becoming a material consideration this, of itself, does not deal with the issue. MM73 does, however, propose text that addresses this issue (which is supported by the District Council) but it is most important that Policy TCL6 is modified to make it consistent with MM73 and reflect the discussion at the Hearing.

- 2.11 In order to address this it is proposed that the MM69 should be amended to replace the sentence “Should any retail proposals come forward that exceeds the total retail capacity, as outlined in Policy SP2, an impact test will be required on the net additional floorspace.” with “**Planning applications that seek permission for an amount of retail floorspace that exceeds the identified requirement for the five-year period in which it is submitted, as set out in Policy SP2 or as updated by any future Retail Capacity Study carried out by the Council, either singly or in combination with any other permissions or applications will require a retail impact assessment.**”
- 2.12 Without this amendment the proposed MM is not consistent with national policy,
- 2.13 **MM72 Paragraph 4.49** The District Council **supports** the reference in the second part of the MM to the GL Hearn’s Sequential Assessment and Wincheap Capacity Study and their finding that there were proposals and commitments that could accommodate around 8,500sqm of comparison retail floorspace which left around 25,000sqm floorspace to be accommodated. It should be noted that the Capacity Study consequently only tested accommodating 25,000sqm at Wincheap.
- 2.14 The District Council **objects strongly** to the final part of the MM that, despite the above points, dismisses the contribution from all the sites that could accommodate 8,500sqm and instead proposes up to 33,800sqm of floorspace at Wincheap. The grounds of objection are that: it is contrary to the Sequential Assessment that obviously considered these sites as deliverable and sequentially preferable, contrary to the various statements elsewhere in the Plan that the City Council is committed to a town centre first approach and, failing that, a strong application of the sequential approach, contrary to the second part of the same MM, and contrary to its own evidence base as it in effect proposes up to 42,300sqm of additional floorspace. The floorspace over 33,800sqm is above identified need and un-evidenced. The District Council therefore seeks the deletion of this part of the MM, with the exception of the first sentence, and replacement with text that proposes the balance of 25,000sqm to be accommodated at the Wincheap Retail Area.
- 2.15 Without reducing the amount of proposed floorspace to 25,000sqm the MM is not consistent with national policy, not justified.
- 2.16 Without prejudice to the above, if the allocation at Wincheap remains at 33,800sqm the Plan needs to explain how the delivery of development on the identified sequentially preferable sites is any less certain than at Wincheap. In addition, if the overall proposals for comparison retail floorspace amount to more than the identified need for 33,800sqm the Plan itself must be supported and justified by a retail impact assessment – which it currently is not.
- 2.17 Without addressing these matters the proposed MM is not consistent with national policy and not justified.

- 2.18 **MM73 Paragraph 4.50** The part of the MM starting “It is anticipated...” is **supported** as it complements the changes to MM69 regarding Policy TCL6 that are put forward by the District Council.
- 2.19 The District Council generally supports the final part of the MM in committing to the production of a Masterplan and Development Principles Documents but has the following specific amendments.
- 2.20 The reference to the City Council’s appointed agent preparing a Masterplan is not necessary as an agent would be commissioned by the Council and carrying out the Council’s work. It should be removed.
- 2.21 The status and approval process of the Masterplan should be made clear. The District Council remains firmly of the view that it should be prepared and adopted as a Supplementary Planning Document in order to set a clear context with unambiguous status for preparing and deciding planning applications in accordance with paragraph 153 of the NPPF.
- 2.22 The wording of the MM leaves uncertainty over who would prepare the Development Principles Documents. As they are intended to guide the preparation of planning applications and decision taking they should be prepared and approved by the City Council and the MM should be amended to reflect this.
- 2.23 Without addressing these points the proposed MM is not effective.

3. **Identification of Options**

- 3.1 The Council could choose not to make any comments on the MMs or agree to make comments as recommended.

4. **Evaluation of Options**

- 4.1 Not to make comments on MMs that have failed to address the matters on which the Council previously decided to make representations would be inconsistent. The favoured option is therefore to submit comments as recommended.

5. **Resource Implications**

- 5.1 Submission of comments does not have any financial implications.

6. **Corporate Implications**

- 6.1 Comment from the Section 151 Officer: Finance has been consulted and has nothing further to add (SB).
- 6.2 Comment from the Solicitor to the Council: The Head of Legal Services has been consulted during the preparation of this report and has no further comment to make
- 6.3 Comment from the Equalities Officer: This report does not specifically highlight any equalities implications, however in discharging their responsibilities members are required to comply with the public sector duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>
- 6.4 Other Officers (as appropriate): None.

7. **Appendices**

Appendix 1 – Canterbury District Local Plan proposed Main Modifications relating to retail.

8. **Background Papers**

None.

Contact Officer: Mike Ebbs, Head of Regeneration and Development