



Cabinet report

Date	8 SEPTEMBER 2022
Title	PUBLISHING THE ISLAND PLANNING STRATEGY FOR PUBLIC REPRESENTATION AND SUBMISSION TO THE PLANNING INSPECTORATE
Report of	CABINET MEMBER FOR PLANNING AND ENFORCEMENT

EXECUTIVE SUMMARY

1. A new local plan, the draft Island Planning Strategy, has been prepared to replace the Island Plan Core Strategy 2012. The draft Island Planning Strategy has been prepared taking into account the significant level of public consultation undertaken to date. For the Island Planning Strategy to be adopted and be used it must go through formal stages as directed by statute.
2. This report is seeking a decision from the Cabinet regarding the recommendations to it from the Corporate Scrutiny Committee and then to agree to recommend to Full Council the publication of the draft Island Planning Strategy for a period of representation and subsequently to submit the plan to the Planning Inspectorate for an independent examination.
3. Adopting the Island Planning Strategy will give the Council new planning policies to determine planning applications and, should it be adopted with the proposed level of housing, it will enable the Council to demonstrate a five year land supply, give a clear pathway to meeting the minimum threshold of the Housing Delivery Test and have an up-to-date plan.
4. Achieving these three things will mean the Council would no longer have to have regard to the tilted balance of the policy presumption under paragraph 11(d) of the National Planning Policy Framework in favour of sustainable development as set out in national planning policy when determining planning applications due to the inability to demonstrate a five year land supply. There would, of course, be no change to the requirement to apply the statutory test for determining planning applications set out in section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 as amended.
5. Whilst officers are of the opinion the current version of the plan gives the greatest likelihood of success at examination, it is recognised that this version of the plan needs to have the support of both Cabinet and Full Council.
6. Due to the timings of meetings and deadlines for reports, this paper and the recommendations have been prepared in advance of the outcomes of the

Corporate Scrutiny Committee meeting to be held on 6 September. As such this paper, in paragraph 44, identifies three options for Cabinet to consider.

RECOMMENDATION

7. To agree the current version of the draft Island Planning Strategy (see appendix 1) without any of the changes recommended by Corporate Scrutiny Committee; and then
8. To recommend to Full Council that the draft Island Planning Strategy (dependant on the choice of option 1, 2 or 3) is published for the Regulation 19 period for public representation and then submitted to the Planning Inspectorate for examination; and
9. To recommend to Full Council to delegate any final editorial and presentational changes to the Island Planning Strategy prior to publication and submission, to the Director of Regeneration in consultation with the Cabinet Member for Planning and Enforcement, so long as they do not materially alter the intention of the version agreed by Full Council.

BACKGROUND

10. Section 19(1B)-(1E) of the [Planning and Compulsory Purchase Act 2004](#) sets out that each local planning authority must identify their strategic planning priorities and have planning policies to address these.
11. Through the [National Planning Policy Framework](#), the Government has set out that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.
12. The Isle of Wight Council's current plan, the Island Plan Core Strategy, was adopted in 2012 (before the introduction of the National Planning Policy Framework). The Council is in the process of preparing a new local plan, the Island Planning Strategy (IPS), to give it the policies it needs to deal with the challenges, such as the delivery of affordable housing and climate change, it now faces. The Government has set a deadline for all local authorities to have an up-to-date plan in place by the end of 2023.
13. Since 2018 the Council, as local planning authority (LPA), has determined planning applications under the statutory test having regard to the tilted balance of the policy presumption in favour of sustainable development as set out in the National Planning Policy Framework (NPPF). This is because the LPA has not been able to demonstrate a five-Year Land Supply (5YLS) and is below the Housing Delivery Test (HDT) threshold for delivery of new homes.

14. Adopting the IPS with a new, lower, housing number will reset the 5YLS and HDT calculations, and this is modelled to show that the Council will then be able to demonstrate a 5YLS and meet the minimum HDT threshold and therefore not have to have regard to the NPPF's tilted balance of the policy presumption in favour of sustainable development.
15. The Local Government Association (LGA) recently undertook a peer review into Planning Services. One of the six recommendations from the review was:

R4 Urgently finalise and adopt the Island Plan.

The local plan provides a degree of certainty for communities, businesses and investors, and a framework for guiding decisions on individual planning applications. Without one it is possible for the submission and acceptance of developments that are deemed not in the public interest and outside of the needs and priorities of local people, as outlined in a local plan.

The stages of local plan preparation

16. The [Town and Country Planning \(Local Planning\) \(England\) Regulations](#) prescribe the stages a local plan must go through. Because these stages are set out in regulations, each stage will often be referred to by the relevant regulation.

Regulation 18 Preparation of a local plan

Whilst the regulations do not prescribe it, the Council has undertaken public consultation at this stage (twice), to ensure maximum public engagement in the preparation of the plan.

Regulation 19 Publication of a local plan

This report seeks authority to publish the draft plan for a period of representation. The plan that is published for consultation at Regulation 19 stage should be the plan that the Council intends to submit to the Planning Inspectorate for examination.

Regulation 22 Submission of documents and information to the Secretary of State

The draft plan, evidence and representations received at the regulation 19 stage will be submitted to an independent Planning Inspector, on behalf of the Secretary of State. The Council must submit what it considers to be a sound plan.

Regulation 24 Independent examination

This will be undertaken by an independent Planning Inspector, on behalf of the Secretary of State. There is the opportunity for public participation in the examination for those who submitted representation at the regulation 19 stage.

Regulation 25 Publication of the recommendations of the appointed person

This is the Council receiving the Planning Inspector's report.

Regulation 26 Adoption of a local plan

The decision whether to adopt the local plan, based on the recommendations of the Planning Inspector is a decision for Full Council.

17. As set out above, at the regulation 19 stage the Council should publish what it believes is a sound plan. For a plan to be sound it must meet the tests of 'soundness' contained in paragraph 35 of the National Planning Policy Framework.
 - a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed [housing] needs; and is informed by agreements with other authorities, so that unmet [housing] 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 that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this [National Planning Policy] Framework and other statements of national planning policy, where relevant.
18. The draft IPS has also been subject to an Integrated Sustainability Appraisal (ISA) and a Habitats Regulation Assessment (HRA). Both of these environmental based assessments reviewed all of the policies within the draft IPS which led to wording changes to increase scores on the ISA scoring matrix, strengthening policies and removing ambiguity.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

Provision of affordable housing for Island Residents

19. Once adopted the IPS will be a key document in helping the Council plan for and deliver affordable housing for Island residents. It will set the thresholds for the amount of affordable housing a development site will need to provide. It also recognises that a new home that is classified as affordable under the NPPF does not, in practical terms, equal an affordable home in the context of the Island.
20. The IPS therefore proposes policies that allow for deeper discounting of new homes to make them Isle of Wight affordable (which evidence shows ranges from 70 to 50 per cent of market value, depending on the type of property) and supports a new affordable housing product called first homes, which also allow for deeper discounts to first time buyers.
21. The IPS also proposes land allocations for new homes, and all the proposed allocations are of sufficient scale to require onsite delivery of affordable homes. The adoption of the IPS will provide a greater level of certainty to developers and affordable housing providers that sites are available and expected to deliver affordable housing.

Responding to climate change and enhancing the biosphere

22. These targets have been set out in strategic policy CC1 of the Draft IPS that also includes explicit reference to the Climate & Environment Strategy as one of the key Corporate documents that will underpin planning decisions on the island. Draft Policy CC1 also notes that making planning decisions in support of the net zero targets will support and help maintain the UNESCO Biosphere designation of the island. The Draft IPS also includes Draft Policy C11 that would require all new homes to be net zero carbon.

Economic Recovery and Reducing Poverty

23. If adopted the IPS will have a positive effect in reducing the numbers of residents, and especially children, who are living in poverty (particularly those living in absolute poverty). The proposed policies of the IPS have been written to help secure the Council's aspirations as set out in a range of other plans and strategies. The land use policies of the IPS will directly and indirectly help deliver:
- the council's regeneration ambitions
 - sustainable economic growth
 - development of opportunities for investment
 - skills development

Impact on Young People and Future Generations

24. Publishing the IPS for the regulation 19 period of representation is a key step towards adopting the IPS. Once adopted the IPS will have a time horizon of 15 years, and will play a significant role in shaping the Island over that period and beyond. The way in which we plan for and manage development and growth now will have impacts on young people and future generations, and these impacts will be interrelated across the various domains of young people's lives from housing, employment or training, health and the environment.

Corporate Aims

25. The [Corporate Plan 2021 - 2025](#) sets out the administration's key areas for action, aspirations and key activities. Once adopted the IPS and its planning policies will play a key role in helping the Council achieve in its three key areas for action:
- A. Provision of affordable housing for Island residents
 - B. Responding to climate change and enhancing the biosphere
 - C. Economic recovery

26. The specific aspirations and key activities relevant to the IPS are:
- Champion the adoption of a new Island Plan based on housing targets evidenced to meet Island needs and compliant with legislation for adoption by September 2023.
 - (33) Accelerate the completion of the Island plan. The process to be followed will include meaningful engagement with residents and town and parish councils.
 - Complete all Island consultation on draft Island plan by and seek adoption through the formal process by September 2023.

27. There are also multiple aspirations that directly and indirectly link to the IPS and its policies, and these include:
28. The LGA peer review was asked 'whether the draft local plan is aligned to deliver the objectives of both the corporate plan and the council regeneration strategy'. The response to this was:

Yes, the draft local plan is aligned to deliver the objectives of both the corporate plan and the council regeneration strategy.

The draft local plan provides a means to deliver the priorities of the corporate plan. The council also needs to recognise the presumption in favour of sustainable development and the threat of government intervention if the local plan is not adopted. Without an up-to-date local plan there is a risk to delivering the corporate objectives.

- (16) Place the health and wellbeing of residents at the centre of all we do
- (18) Promote the building of affordable supported social retirement housing to ensure residents maintain their independence for as long as possible
- (22) Support Island wide digital connectivity to support Island businesses and residents
- (23) Housing that is created must be housing fit for purpose. We will prioritise truly affordable housing for Island residents, meaning housing that is not just affordable to rent or buy but affordable to live in and maintain
- (24) Wherever possible bring appropriate empty and derelict buildings back into use for affordable housing
- (35) Complete key regeneration projects to drive employment, skills and inward investment
- (38) Use available powers to deal with long term empty or derelict buildings that mar our seafront and town centre areas
- (39) Focus on regeneration our High Street and visitor economy to assist post COVID-19 recovery and growth
- (40) Promote people-oriented place planning for town centres
- (41) Support and enhance our biosphere and AONB areas. Support the active management and development of biosphere status and secure dark sky status
- (43) Commit to develop sustainable transport options with a focus on infrastructure to encourage active travel
- (44) Promote the increased use of renewable energy in all sectors
- (45) Embed both the biosphere and the climate change strategy into policy, including the Island plan.

CONSULTATION

29. The draft IPS has been through extensive public consultation and the next step is for the Cabinet to recommend to Full Council to agree the draft and agree to publish the draft plan for a period of public representation and to then submit the draft plan and representations received to the Planning Inspectorate. Full Council will then consider the recommendation.

SCRUTINY COMMITTEE

30. The Corporate Scrutiny Committee has previously established a task and finish group to consider the draft Island Planning Strategy. The task and finish group report was considered by the Corporate Scrutiny Committee at its meeting on 15 December 2021, and a response to the recommendations of the task and finish group from the Cabinet Member for Planning and Community Engagement was considered at the Corporate Scrutiny Committee on 12 April 2022. At that meeting it was resolved that the consideration of the Island Planning Strategy be deferred to a later date.
31. At the meeting on 12 April the committee requested to receive all the relevant documents more than five working days before further consideration of the draft plan to give adequate time to properly digest all the information.
32. As a result the latest draft IPS and accompanying evidence base was provided to the committee at its meeting on 12 July 2022 to enable it to consider the material and make a recommendation at its meeting on 6 September 2022. To facilitate this the committee held an informal session to discuss potential amendments on 10 August 2022, where officers provided advice on the potential amendments being considered. Please see Appendix 2 for the Corporate Scrutiny Committee report. Any recommendations that are agreed at Corporate Scrutiny on 6 September 2022 and sent on to Cabinet for consideration will provide Cabinet with further information upon which to base their recommendation to Full Council.

FINANCIAL / BUDGET IMPLICATIONS

33. There are no direct financial / budget implications in agreeing to publish the IPS for the regulation 19 period of representation. The budget is already in place to cover the costs of both the consultation and the examination process following submission.

LEGAL IMPLICATIONS

34. The process of preparing a local plan is set out in [Town and Country Planning \(Local Planning\) \(England\) Regulations](#). Regulation 19 sets out that prior to submitting a local plan to the Planning Inspectorate (on behalf of the Secretary of State) the local authority must undertake certain actions. The publication of the draft plan and accompanying documentation for a period of representation is one of these actions.
35. It is the responsibility of the Cabinet to formulate the draft plan and make a recommendation to full council as to the final form of the plan. Full Council's role is to then either accept in full the Cabinet's recommendations in final form, or refer the matter back to the Cabinet for further consideration.
36. If Full Council has objections to the plan as presented, then it must inform the Executive Leader of those objections and give instructions requiring the Cabinet to reconsider it. The Cabinet may then submit a revised plan with reasons for consideration by Full Council or inform Full Council of Cabinet's disagreement to Full Council's objections, again with reasons.
37. Full Council cannot vote through a different version of the plan until the statutory cooling off process has been followed. It is only at a subsequent meeting of Full Council that it can overrule the Cabinet's recommendations.

EQUALITY AND DIVERSITY

38. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
39. The draft IPS has been subject to an equality impact assessment (Appendix 3) and the results can be summarised that no negative impacts on the protected characteristics are expected from the policies within the document. The Island has an ageing population and a high percentage of people with mobility problems and a greater likelihood for health problems, which in turn is placing increased demands on services. Through its policies the council wants to ensure that future development contributes to creating environments that are accessible to all generations (and associated health issues) and by doing so improve residents' health and wellbeing.
40. Negative impacts are also not expected to arise from the act of consulting on the draft IPS, and the consultation will provide the opportunity for any issues relating to equality to be raised and considered during the examination in public. Should the IPS be found sound and be considered for adoption by Full Council it will be subject to a final equality impact assessment at that stage.

PROPERTY IMPLICATIONS

41. Once adopted the IPS will contain planning policies that may be relevant to future plans for Isle of Wight Council owned property and land.
42. A number of the proposed allocations are owned by the Council. If they remain as allocations and the Island Planning Strategy is adopted there will be budgetary and place making implications on the Council. The inclusion of Council owned sites is seen to be a commitment by the local authority to its regeneration aspirations and its place making agenda.

SECTION 17 CRIME AND DISORDER ACT 1998

43. It is considered that decision of whether to publish the draft IPS or not will not have a direct implication in relation Section 17 of the Crime and Disorder Act 1998 (as amended by Police and Justice Act 2006). However, the IPS does include policies relating to design and 'designing out crime' in new development.

OPTIONS

44. It is considered that the following options are available to Cabinet:
 - (1) To agree all the recommendations of the Corporate Scrutiny Committee and amend the draft Island Planning Strategy accordingly; or
 - (2) To agree some of the recommendations of the Corporate Scrutiny Committee and amend the draft Island Planning Strategy accordingly; or

- (3) To agree the current version of the draft Island Planning Strategy (see appendix 1) without any of the changes recommended by Corporate Scrutiny Committee; and then
- (4) To recommend to Full Council that the draft Island Planning Strategy (dependant on the choice of option 1, 2 or 3) is published for the Regulation 19 period for public representation and then submitted to the Planning Inspectorate for examination; and
- (5) To recommend to Full Council to delegate any final editorial and presentational changes to the Island Planning Strategy prior to publication and submission, to the Director of Regeneration in consultation with the Cabinet Member for Planning and Community Engagement, so long as they do not materially alter the intention of the version agreed by Full Council.
- (6) To not proceed with the current Island Planning Strategy and to review the approach towards a new local plan.

RISK MANAGEMENT

45. Publishing the draft IPS for the regulation 19 period for representation is the next step to an independent Planning Inspector finding the plan sound and the Council adopting it. To minimise the risk of the plan being found unsound by the Planning Inspectorate the Council has prepared an appropriate evidence base and a draft IPS, which is considered by officers to be sound and therefore capable of being submitted to the Planning Inspectorate following the regulation 19 period for representation.
46. The draft IPS has quite rightly been considered by the Corporate Scrutiny Committee, who have recommended a number of changes to be made. If accepted some of these changes would, in the professional view of officers, increase the risk of the plan being found unsound and/or the Planning Inspector reversing some of the changes during the examination. Ultimately, however, it is for the Cabinet to make its recommendation to Full Council and it will be the Planning Inspector who determines whether the plan is sound.
47. It is considered that removing sites at this stage also presents further risks. Such a course of action may trigger planning applications being submitted for the sites in question (where there is not already a planning application submitted) and the local planning authority may have to determine the application having due regard to the 'tilted balance' and under current local plan policy. It is also a risk that the landowners of those removed sites make representations in support of their inclusion which will then be considered by the Planning Inspector, who may recommend re-instating them.
48. There is clearly also a risk of the Cabinet and/or Full Council not being able to agree a version of the plan to publish for representation and then submit. This would extend the period where the Council must have regard to the tilted balance of the policy presumption in favour of sustainable development under paragraph 11(d) of the National Planning Policy Framework (NPPF). It would also mean that the certainty a local plan can give to developers, affordable housing providers and communities would also be delayed.

49. Adopting the IPS will reset the Council's housing numbers and it is forecast that the Council will then be able to demonstrate a 5-year land supply and meet the minimum threshold of the Housing Delivery Test. Under these circumstances the Council will no longer have to have regard to the tilted balance of the presumption in favour of sustainable development under the NPPF due to not being able to demonstrate such a supply.
50. By taking the approach of accepting the standard method housing number, but then assembling a robust evidence base that demonstrates why such a figure is not deliverable on the Island helps to mitigate against the plan being found unsound. It is the view of officers, which is supported by QC advice, that this approach has a greater likelihood of success over not accepting the standard method and arguing 'exceptional circumstances'.
51. It is recognised that there may be changes to national planning policy in the intervening period between the regulation 19 stage and adoption, which could impact on the approaches set out in the IPS. Should the policy landscape change the Council may wish to not proceed with the IPS as written, withdraw it from the formal process and prepare an alternative local plan. It may also consider adopting the IPS, if it is found sound, to effectively preserve its position and begin a review of the plan (or component parts of it) to take into account new national policy.
52. Should the IPS (regardless of its content) not be progressed in a timely manner it will mean that the Council have to continue to determine planning applications having due regard to the tilted balance of the presumption in favour of sustainable development for longer. It will also mean that the Council may not achieve the Government's expectation of local authorities having an up-to-date plan by 2023, although the risk is unknown as the Government have not indicated what, if any, sanctions would be put in place on the local authority if this is not achieved.
53. Without an adopted IPS the Planning Committee and Planning Officers of the local planning authority will have to continue to use the policies of the current Core Strategy (where they are not considered out-of-date), which was adopted in 2012, to determine planning applications. This means not being able to use the new policies of the IPS, which have been specifically designed to address key issues now being faced on the island such as affordability of new homes, tackling climate change and ensuring community engagement in the development process at the earliest opportunity.
54. Whilst not proceeding with the IPS and reviewing the approach is certainly an option available, it has the potential to combine all the risks identified above and to introduce further new risks such as significant and currently unbudgeted costs associated with compiling a new evidence base. It could also impact on the Planning Policy Team delivering other (either programmed or required by law) documents such as the Waste and Minerals Plan Development Plan Document and the Local Nature Recovery Strategy.

EVALUATION

55. The risk of Cabinet and/or Full Council not being able to agree a plan to publish for public representation and submission to the Planning Inspectorate may be mitigated against by the draft plan being modified in accordance with the recommendations of the Corporate Scrutiny Committee. This mitigation does, however, generate a new and different risk to the plan ultimately being found sound. By changing the plan in

this way it is considered that the plan, its spatial strategy towards development and its evidence base will not be as robust and therefore there is a greater risk of the plan being found unsound than if the sites were retained, and as a result the content of the plan may end up being revised during the examination process.

56. The risks associated with the approach of option 1 (and 2) need to be considered against the risks of taking option 3 forward. Whilst officers are of the opinion the current version of the plan gives the greatest likelihood of success at examination, it is recognised that this version of the plan needs to have the support of both Cabinet and Full Council. Such a situation is likely to generate further delays whilst resolution is sought, therefore increasing the risk of further speculative development under the current planning policies whilst having due regard to the NPPF's tilted balance.
57. Option 6 would mean the Council would be without an up-to-date plan for longer and the risks associated with that are documented above.
58. However, it is recognised by officers that at this stage, given the complexity of the issues and processes and the number of potential scenarios involved there is a difficulty in quantifying the range of risks with a sufficient level of certainty. As such it is also recognised that Cabinet and Full Council may consider the most appropriate route forward, in light of the LGA peer review recommendations and the Corporate Scrutiny Committee process, to be agreeing to the changes recommended by the Corporate Scrutiny Committee and to test the content of the plan through the period of public representation and the examination process.

APPENDICES ATTACHED

59. Appendix 1 - Draft Island Planning Strategy
Appendix 2 - Corporate Scrutiny Committee report
Appendix 3 - Equality impact assessment

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