

Cheltenham Borough Council

Council – 11th December 2017

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy

Adoption Report

REPORT OF THE LEADER

Accountable member	Councillor Jordan – Leader
Accountable officer	Tracey Crews – Director of Planning
Ward(s) affected	ALL
Key/Significant Decision	YES
Executive summary	<p>This report seeks the resolution from Members to adopt the Joint Core Strategy, with the recommended main modifications, as part of the statutory Development Plan for Cheltenham Borough. In addition to this, a resolution is sought to delegate authority to the Chief Executive of Cheltenham Borough Council, to progress and sign two Memoranda of Understanding regarding sites within Tewkesbury Borough contributing towards Cheltenham's housing supply.</p>
Recommendations	<p>The Council is asked to:</p> <ol style="list-style-type: none">(1) ADOPT the adoption version of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy at Appendix 2 to this report as part of the Borough Council's statutory development plan(2) ADOPT the amendments (maps and text) to the adopted policies map as set out in the modified and new maps within Appendix 3 to this report(3) DELEGATE authority to the Director of Planning, in consultation with the Leader of the Council, in collaboration with Tewkesbury Borough and Gloucester City Councils to make minor spelling, grammatical, cross-referencing or typographical errors and presentational changes (including the addition of a Foreword) to the Joint Core Strategy and accompanying policies maps prior to publication(4) DELEGATE to the Chief Executive, in consultation with the Leader of Cheltenham Borough Council, to progress and sign a Memorandum of Agreement with Tewkesbury Borough Council in respect of the delivery of housing at Farm Lane, Leckhampton in Tewkesbury Borough to meet the housing needs of Cheltenham Borough;

- (5) **DELEGATE** to the Chief Executive, in consultation with the Leader of Cheltenham Borough Council, to progress and sign a Memorandum of Agreement with Tewkesbury Borough Council in respect of the delivery of housing at land to the South of Tewkesbury Road, Uckington as within Tewkesbury Borough to meet the housing needs of Cheltenham Borough.

Financial implications	<p>As set out in this report, the soundness of the JCS is predicated on the requirement for an immediate review of housing supply for Gloucester City and Tewkesbury Borough, and an immediate review of retail policy for all three JCS authorities. There are clearly significant resource implications in undertaking these reviews. The current annual contribution of £60,000 will be reviewed to ensure sufficient resources are available to complete these pieces of work. Any additional funding requirement will be approved as part of the Council's budget setting process for 2018/19.</p> <p>If the JCS is not adopted, the preparation, examination and adoption of a replacement document (joint or otherwise) will also incur significant resource and cost implications.</p> <p>Contact officer: Sarah Didcote sarah.didcote@cheltenham.gov.uk, 01242 264125</p>
Legal implications	<p>Under Section 23 of the Planning and Compulsory Purchase Act 2004, it is not possible to adopt a development plan document that an Inspector has only found to be sound with main modifications, without all the main modifications as recommended in the Inspector's Final Report. Save for any additional amendments, which (taken together) do not materially affect the policies set out in the development plan document with the main modifications, the wording must be as with the main modifications set out with the Final Report.</p> <p>At any time before the JCS is adopted the Secretary of State may exercise powers under Section 21 of the Planning and Compulsory Purchase Act 2004 to direct that the plan is modified in accordance with the direction or that the plan is (in whole or part) submitted to him for his approval.</p> <p>Under Section 113 of the Planning and Compulsory Purchase Act 2004 any application for leave to challenge an adopted plan (in whole or part) must be made before the end of the period of six weeks beginning with the day after adoption. The JCS will form and remain part of the Development Plan on adoption unless and to the extent any challenge under Section 113 of the Planning and Compulsory Purchase Act 2004 has been successful.</p> <p>As a joint plan the JCS will not be adopted until all three JCS authorities have resolved to adopt the JCS.</p> <p>Contact officer: Solicitor, cheryl.lester@tewkesbury.gov.uk, 01684 272 013</p>

HR implications (including learning and organisational development)	<p>No direct HR Implications arising from the report</p> <p>Contact officer: GO SS HR Manager, julie.mccarthy@cheltenham.gcsx.gov.uk, 01242 264 355</p>
Key risks	<p>A risk register has been completed and identifies the following key potential risk:</p> <p>1. Failure to adopt the JCS (all three JCS authorities need to resolve to adopt the JCS in order for its adoption to take effect) (see further within Appendix 1).</p> <p>Further key potential risks are</p> <p>2. Legal challenge (see further at paragraphs 4.2 to 4.4).</p> <p>3. Secretary of State call-in (see further at paragraphs 4.7 to 4.9).</p> <p>These risks will be closely monitored by the responsible officer during the relevant time periods.</p>
Corporate and community plan Implications	<p>The JCS supports and is referenced by the Corporate Strategy and wider community planning. The plan making process is open to all parties of the formal consultation processes.</p>
Environmental and climate change implications	<p>Non-adoption, could further result in an uncoordinated approach to development. It is important that future growth is plan-led to ensure that combined impacts on the environment and the infrastructure needs of the wider area are taken into account. The comprehensive approach to environmental impacts cannot be fully assessed through incremental and piecemeal growth.</p> <p>The JCS has been assessed through a sustainability appraisal process and Habitats Regulation Assessment (HRA) which consider the environmental, social and economic outputs of the Plan and ensure that development meets the needs of both present and future generations. The Sustainability Appraisal supporting the JCS encompasses Strategic Environmental Assessment as required by EU Directive (2001/42/EC). In addition HRA has been undertaken as required under the European Directive 92/43/EEC on the "conservation of natural habitats and wild fauna and flora for plans" that may have an impact on European (Natura 2000) Sites.</p> <p>To accompany this report, an Adoption Sustainability Appraisal is provided at Appendix 5</p>

Property/Asset Implications	<p>The JCS will update the Development Plan and make significant changes to designations such as Green Belt and relevant development management policies. The JCS area contains most if not all of the property owned by Cheltenham Borough Council. The Property team has been kept appraised of these changes, but will need to continue to ensure that future development proposals take account of the strategy laid out in the JCS and forthcoming Cheltenham Plan.</p> <p>Contact officer: Head of Property</p> <p>David.Roberts@cheltenham.gov.uk, 01242 264151</p>
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1.0 INTRODUCTION/BACKGROUND

- 1.1 The Joint Core Strategy (JCS) is a strategic planning document that has been prepared jointly between Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council. It provides the vision and planning framework to meet the development needs of the area between 2011 and 2031.
- 1.2 The three Councils agreed to work in partnership to prepare the JCS in 2008. During this time, the authorities have prepared a significant amount of evidence to establish the amount of new development required in the area, as well as the best and most sustainable way that it could be delivered, whilst recognising the specific characteristics and constraints within the area. This has included various public consultations where initial issues and options were considered, through to more detailed strategies.
- 1.3 The JCS was submitted to the Planning Inspectorate for independent examination in November 2014, the purpose of which was to assess the plan to ensure that it met the 'test of soundness' and was legally compliant. Hearing sessions then commenced in May 2015 where many different matters were discussed and examined in detail, including the number of new homes, the amount of employment land needed, the strategy for delivering development needs and the proposed strategic site allocations.
- 1.4 In May 2016 the authorities received the Inspector's Interim Report, which concluded that further 'Main Modifications' were necessary in order to make the Plan sound. Proposed Main Modifications were then prepared and agreed by the JCS authorities in January / February 2017 and published for consultation between February and April 2017, which was then followed by further hearing sessions in July 2017.
- 1.5 Following on from this, the JCS authorities have now received the Inspector's Final Report, a copy of which is provided at Appendix 4. The report concludes that the JCS as submitted has a number of deficiencies in relation to soundness and/or legal compliance which means the Inspector recommends non-adoption of it as submitted, but that with the recommended main modifications set out in the Appendix to the Final Report that the JCS can be made sound and/or legally compliant and capable of adoption. Further, that whilst there are issues with the

JCS which cannot be immediately resolved, it is in the public interest to have an adopted plan in place as soon as possible to reduce continuing ad-hoc, unplanned development; and that rather than delaying matters further, the balance is in favour of finding the JCS sound now subject to an immediate partial review (in respect of housing for Gloucester City and Tewkesbury Borough in order to address a shortfall in supply during the plan period, and an immediate review of retail policy for all three authorities). Such commitments can be found within recommended main modifications MM38 and MM123c. A revised Local Development Scheme (LDS) reflecting these commitments was adopted in October 2017 and a further revised LDS with detailed timetabling for the immediate reviews will be prepared for adoption in due course.

- 1.6 Given the conclusions and recommendations of the Inspector's Final Report, Council is now being asked to adopt the adoption version JCS at Appendix 2 of this report, which includes the recommended main modifications (and additional modifications which do not materially affect that policies of the JCS with the recommended main modifications) as part of the statutory Development Plan for Cheltenham Borough. Also to adopt the modified and new maps at Appendix 3 as part of the adopted policies map.
- 1.7 Once adopted by all three JCS authorities, the JCS will replace a number of 'saved' policies from the Council's adopted Cheltenham Borough Local Plan 2nd Review - 2006 (as set out at Appendix 1 of the adoption version of the JCS). However a number of the 'saved' policies within the Council's adopted Local Plan will still remain in place and will be reviewed and taken forward through the emerging Cheltenham Plan.

2.0 MEMORANDUM OF AGREEMENT: FARM LANE, LECKHAMPTON

- 2.1 A strategic allocation at Leckhampton was included in the Pre-Submission version JCS and was identified in the plan to deliver 1,124 dwellings and included land at Farm Lane within Tewkesbury Borough as well as land around Kidnappers Lane within Cheltenham Borough. This cross-boundary site was proposed to be allocated in order to help meet the housing needs of Cheltenham with the part of the site within Tewkesbury Borough being apportioned to Cheltenham's supply as part of the duty to cooperate.
- 2.2 Through the JCS Interim Report the Inspector came to the conclusion that the Farm Lane part of this site is unsound and that the numbers for the remainder of the site should be substantially reduced, bringing it below 450 homes which is the threshold for strategic allocations in the JCS. The Inspector therefore recommended that the allocation be removed from the JCS. However, the Inspector recognised that Tewkesbury Borough had granted planning permission for the Farm Lane part of the site and that developers were ready to proceed.
- 2.3 Through the work on the JCS for the proposed main modifications, the site at Farm Lane has been included in the housing trajectory for Cheltenham Borough as contributing towards their supply. This subsequently also forms part of the main modifications recommended by the Inspector, together with policy provisions that

the needs of Cheltenham will be provided within the administrative boundary of Cheltenham Borough, the cross-boundary urban extension at North West Cheltenham and West Cheltenham and commitments covered by any Memoranda of Agreement. As the site will not be included as a strategic allocation in the main modifications JCS there is a need for a Memorandum of Agreement between the two authorities to formalise this arrangement.

- 2.4 This report seeks a resolution to delegate to the Chief Executive at Cheltenham Borough Council, in consultation with the Leader of Cheltenham Borough Council, to progress and sign a Memorandum of Agreement with Tewkesbury Borough Council in respect of the delivery of housing at Farm Lane, Leckhampton in Tewkesbury Borough to meet the housing needs of Cheltenham Borough.

3.0 MEMORANDUM OF AGREEMENT: ARLE NURSERIES, UCKINGTON

- 3.1 The Inspector's Final Report recommends that an area of land is removed from the Green Belt around Tewkesbury Road, Old Gloucester Road and Arle Nurseries at Uckington. This land falls between Strategic Allocation A4 (North West Cheltenham) and Strategic Allocation A7 (West Cheltenham) and would provide a more appropriate Green Belt boundary between the two allocations that are also to be released from the Green Belt. This is a cross-boundary area of land located across both Cheltenham and Tewkesbury Boroughs.

- 3.2 In the Inspector's Interim Report it was noted that the smaller-scale area of Green Belt in this location has the potential to contribute towards Cheltenham's housing land supply. However, as this site is not allocated through the JCS there is a need for Memorandum of Agreement between the two authorities to formalise this arrangement.

- 3.3 This report seeks a resolution to delegate to the Chief Executive at Cheltenham Borough Council, in consultation with the Leader of Cheltenham Borough Council, to progress and sign a Memorandum of Agreement with Tewkesbury Borough Council in respect of the delivery of housing at land to the South of Tewkesbury Road, Uckington as within Tewkesbury Borough to meet the housing needs of Cheltenham Borough.

4.0 NEXT STEPS, CALL-IN, LEGAL CHALLENGE AND PLAN REVIEW

- 4.1 The adoption of the JCS is being considered by Gloucester City Council at its meeting on 23 November 2017, by Tewkesbury Borough Council on 5 December 2017 and Cheltenham Borough Council on 11 December 2017. Once adopted by all three Councils, the JCS will form a part of the statutory Development Plan for each of the three local authorities.

- 4.2 The Secretary of State has fairly extensive powers which may be exercised at any time prior to the resolution of all three JCS Councils to adopt the JCS having occurred. He may direct:

- i) That the document is modified – in which case no further steps may be taken until he is satisfied this has been complied with;
- ii) That the document is submitted to him for his approval – he may

approve, approve subject to modifications (which may be other than those recommended by the Inspector), or reject the plan;

iii) That the document is withdrawn.

- 4.3 Whilst considering whether to exercise any of these powers, he can issue a holding direction, in which case no further steps can be taken in connection with the adoption of the plan, until the holding direction either elapses (if a specified period is given in the direction) or it is withdrawn.
- 4.4 Unless and until any of the above directions are issued the Councils are able to continue taking steps in connection with the adoption of the JCS with the main modifications recommended by the Inspector.
- 4.5 The version of the JCS provided at Appendix 2 sets out the text of the plan and the policies and maps to which they relate. Following adoption by the three authorities, more publicly accessible printed and web versions of the JCS and Adopted Policies Map will be prepared, which may include minor presentational changes.
- 4.6 Whilst the JCS has been found 'sound' and legally compliant subject to the recommendation main modifications, this is on the basis that there will be an immediate review of housing supply for Gloucester City and Tewkesbury Borough, and an immediate review of retail is undertaken for all three JCS authorities. This will require continuing resources and funding to be allocated in respect of the JCS.
- 4.7 A person aggrieved by development plan document, such as the JCS, may, with the leave of the High Court, make an application to the High Court on the grounds that (a) it is not within the legislative powers; and/or (b) a procedural requirement has not been complied with.
- 4.8 An application for leave must be made before the end of the period of six weeks beginning with the day after the date the document has been adopted (or approved by the Secretary of State, as the case may be).
- 4.9 The High Court has wide powers in respect of quashing or the remitting (with very specific directions) of the document to either the local planning authorities or the Secretary of State that can be used in respect of the operation of the document either wholly, in part, generally or as it affect the property of the person applying to the High Court and may issue interim order whilst any application is being considered.
- 4.10 Alongside the JCS, the JCS authorities are each progressing Charging Schedules in respect of the Community Infrastructure Levy (CIL), a tariff style charge that may be charged on certain types of development to contribute to infrastructure to support growth in the area. The Draft Charging Schedules were submitted to the Planning Inspectorate for joint examination in November 2016. However it has been necessary to update the evidence and further consultation on changes to the Draft Charging Schedules made in response to changes relating to housing requirements and sites through the JCS has been undertaken. At the time of writing, it is understood that hearing sessions on the Draft Charging Schedules are likely to commence early in the New Year.

- 4.11 Members will be aware that in addition to the JCS, officers are also preparing the Cheltenham Plan. Once adopted, the JCS and Borough Plan will together form part of the Development Plan for Cheltenham Borough, along with any Neighbourhood Plans.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

Cheltenham Borough Local Plan 2nd Review – 2006

Corporate Strategy

RELEVANT GOVERNMENT POLICIES

Planning and Compulsory Purchase Act 2004

Localism Act 2011

Town and Country Planning (Local Planning) (England) Regulations 2012

Housing and Planning Act 2016

National Planning Policy Framework

National Planning Practice Guidance

6.0 Alternative options considered

- 6.1 There is no reasonable alternative to deciding whether the adoption version of the JCS is acceptable to the Councils at this stage of the plan making process.
- 6.2 An agreement was reached between Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council in 2008. Since then, the preparation of the JCS has been an iterative process, considering issues such as the amount of new development that is needed in the area and the most appropriate strategy for delivering it, responding to the specific characteristics of the JCS area. This process has been informed by a thorough and ongoing Sustainability Appraisal, a process which seeks to ensure the most sustainable outcomes when preparing Development Plans.
- 6.3 As part of the Examination in Public, the JCS Inspector has considered alternative options and has concluded, that subject to the main modifications recommended, the approach to be taken in the JCS as 'sound' in her Final Report.
- 6.4 The options open to the Council are limited by the legislation. The Council can either (i) adopt the JCS, with the main modifications recommended by the Inspector (together with any additional modification which taken together would not materially affect the policies contained in the JCS if it were adopted with just the recommended main modifications); or (ii) not adopt. In the case of (ii) the Council would need to begin the preparation of a new plan (joint or otherwise), leading to continued speculative rather than plan led development until a new plan had been prepared and adopted. The Inspector has found the JCS, with main modifications, sound and (ii) is not recommended.

7.0 Consultation and feedback

7.1 Public consultation on the JCS has been extensive throughout its development, with the key consultation stages including:

- JCS Key Issues & Questions – Spring 2010
- Developing the Preferred Option – Spring 2012
- Draft JCS –Winter 2013
- Pre Submission Consultation - Summer 2014
- The Proposed Main Modifications were published for consultation between 27th February and 10th April 2017

7.2 The examination was held in public with extended examination around key parts of the plan such as the Objectively Assessed Need, Economic Strategy, strategic sites and local green space. Some Cheltenham members (as members of Parish Councils/other bodies) have played an active role in the examination sessions.

8.0 Performance management –monitoring and review

8.1 The JCS will be subject to review and as set out in paragraph 1.5 of this report and in Part 7 of the JCS Adoption Version.

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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Joint Core Strategy – Adoption version3. Joint Core Strategy policy maps – Modified and New Maps4: Inspector's Final Report5: Sustainability Appraisal Adoption Statement

Appendix 1 Risk Assessment

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
CR33	If the council does not keep the momentum going with regards to the JCS and move towards adoption this could result in Inappropriate development. It could also lead to other negative consequences such as the intervention in the plan making process by government or the loss of New Homes Bonus.	Tim Atkins	May 2012	4	4	16	Reduce	Ongoing actions managed by JCS team	Ongoing	Tracey Crews	Corporate Risk
Note : The JCS programme holds a detailed risk assessment which is managed through Operational Programme Board and Strategic Issues Board											
Explanatory notes Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical) Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability) Control - Either: Reduce / Accept / Transfer to 3rd party / Close											