

COUNCIL

Local Plan for Lancaster District 2011 – 2031: The Adoption of the Development Management and Morecambe Area Action Plan Development Plan Documents

17 December 2014

Report of Chief Officer (Regeneration and Planning)

PURPOSE OF REPORT

To seek a council resolution to formally adopt the Development Management Development Plan Document (DPD) [Planning Policies] and the Morecambe Area Action Plan DPD as part of the Local Plan for Lancaster District 2011 – 2031. This report describes the processes that have led to the preparation of these documents, including independent Public Examination, and the process for formal adoption of the DPDs.

RECOMMENDATIONS

- (1) That the council resolves to adopt both the Development Management Development Plan Document (DPD) [Planning Policies] and the Morecambe Area Action Plan (MAAP) DPD as part the Local Plan for Lancaster District 2011–2031.**
- (2) Should the Council resolve to adopt both DPDs that the necessary measures are undertaken to publicise their adoption in accordance with national legislation.**
- (3) Additionally, following the revision of National Planning Practice Guidance on Affordable Housing contributions that was published on Friday 28th November, the council also publishes a clarification note on the implementation of Development Management Policy DM41, New Residential Dwellings, to the effect that the council acknowledges the revised guidance and the implications for the implementation of affordable housing policy, and accordingly will use an interim approach when negotiating for complements of Affordable Housing, as described within the clarification note. The council is further committed to;**
 - a. Preparing an NPPG-compliant interim policy through an imminent revision of the Supplementary Planning Document (SPD) on Meeting Housing Needs, and,**
 - b. Formally revising Policy DM41 through a review of the Development Management DPD following a refresh of evidence on development viability which will accompany the preparation of the forthcoming Land Allocations Document.**

- c. **A draft edition of the proposed interim approach (as described in the first paragraph of this recommendation) is attached to this report as Appendix 3. This interim approach described will be applicable immediately upon the adoption of the DPD and in advance of the further actions to which the council is committed in 3a and 3b above.**

1.0 Introduction

- 1.1 A report was presented to council on 11 September 2013 seeking a resolution to publish and consult upon a 'publication' version of both the Development Management DPD and the Morecambe Area Action Plan DPD, and, following the statutory publication period, that both documents be submitted to the Secretary of State via the Planning Inspectorate for independent Examination.
- 1.2 Consequently the 'publication' period for both DPDs commenced on 10 October 2013. This was for a six-week period concluding on 21 November 2013. The council invited representations to both DPDs in respect of their compliance with national legislation and consistency with national planning policy. In total 253 representations were received to the Development Management DPD (from 34 separate parties or organisations) and 18 representations were received to the Morecambe Area Action Plan DPD (from 11 separate parties or organisations).
- 1.3 The council submitted the DPDs, along with representations received and supporting information, to the Secretary of State (via the Planning Inspectorate) on 12 December 2013. With the submission of the DPDs the independent Examination commenced.

2.0 Background

- 2.1 The Examination provided the final opportunity for interested parties to influence the preparation of a development plan document and for any remaining concerns to be considered by a Planning Inspector. The Planning Inspector then concludes on whether the DPDs are 'sound' in terms of their compliance with national legislation and national planning guidance.
- 2.2 Local hearing sessions took place at Morecambe Town Hall between 1 April and 9 April 2014. Specific topics and questions set by the Inspector were discussed in a round-table format. The hearings were open to the public but participation in the discussion sessions is by invitation of the Inspector. Council officers robustly defended the policy in the documents against often assertive cases made by the other parties, generally representatives from the development industry.
- 2.3 Officers then compiled a series of 'Proposed Modifications' or, suggested changes, to the DPDs. The purpose of these was to provide improved clarity and provide greater consistency with national planning guidance.
- 2.4 Consultation on the 'Proposed Modifications' was held for a six-week period, commencing on 28 May and concluding on the 11 July 2014. Following the conclusion of the consultation the representations were sent to the Planning Inspector.

- 2.5 The council received the Inspector's report on 22 September. The Inspector concluded that both the Development Management DPD and the MAAP DPD "provide an appropriate basis for the planning of the District", providing a number of modifications are made to the plans; that is, he concluded that the documents were soundly prepared and can now be adopted providing that they are adopted with his binding modifications.

3.0 Proposal Details

- 3.1 The Development Management DPD sets out planning policies which will be used by the council to determine planning applications in order to deliver sustainable development. The Morecambe Area Action Plan DPD sets a planning framework for the regeneration of central Morecambe and the initiatives and actions required to help deliver this objective. The DPD seeks to provide a positive framework to encourage both public and private sector intervention. It provides bespoke planning policies and land allocations for the central Morecambe area.
- 3.2 These two DPDs will eventually be joined by three other DPDs which together will represent the Local Plan for Lancaster District 2011-2031. The other three DPDs, yet to be prepared are; the Land Allocations Document, the Arnsdale Silverdale AONB DPD (jointly prepared with South Lakeland District Council) and a Gypsy and Traveller and Travelling Showpeople Accommodation DPD.
- 3.3 Importantly the Development Management DPD that is the subject of this report does **not** set a new district housing requirement nor does it allocate land for future development needs; these matters will be addressed via the preparation of the Land Allocations DPD. *These matters cannot be addressed until further work is carried out on a refresh of the Objectively Assessed Housing Need figure. It is highly unlikely that a draft Land Allocations document will be brought to full council any earlier than the end of 2015.*
- 3.4 Following the receipt of the Inspector's report in September 2014 the independent Examination process has been concluded. Clearly, as the process has been concluded, further revisions cannot now be made to the editions of the documents which now contain the Inspector's Binding Recommendations. However, in the time between the receipt of the Inspector's report and the preparation of this report, the national policy position has continued to evolve, and, on Friday 28th November 2014 the DCLG revised the paragraph in the on-line National Planning Practice Guidance (NPPG) on negotiating for affordable housing; effectively introducing a threshold of 10 dwellings below which residential proposals should not be expected to provide complements of affordable housing (that is 10 dwellings or fewer), although a lower threshold of five dwellings can be applied in National Parks and Areas of Outstanding National Beauty (AONBs). In a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development.
- 3.5 However, Policy DM41, New Residential Development, of the DM DPD, confirms the council's existing practice that contributions of affordable

housing or commuted sums are sought from all residential proposals. Whilst this approach has proved very successful in Lancaster District in securing contributions of affordable housing or commuted sum payments which have supported the delivery of local affordable housing, it is clearly now not fully compliant with the NPPG. It is therefore proposed that should the council adopt the Development Management Document today that the adopted document is accompanied by an interim practice update note and a commitment to undertaking an imminent revision of Affordable Housing practice and policy; through, initially a review of the existing Supplementary Planning Guidance (SPG) on Meeting Housing Needs; this review will contain a revised interim edition of Policy DM41, and, subsequently, a formal review of the policy through a revision of the Development Management Document. The formal review would be undertaken following a refresh of the local evidence base on development viability and would be advanced to much the same timetable as the forthcoming Land Allocations Document.

- 3.6 By giving a clear description of the council’s intentions to ensure that policy and practice on negotiating for affordable housing will be compliant with the recently revised NPPG the council is advised that the publication of the revised national guidance does raise undue concerns for the adoption of the Development management Document today.

4.0 Details of Consultation

- 4.1 Extensive consultation and engagement have taken place during the preparation of the Development Management DPD and Morecambe Area Action Plan DPD. The outcomes of consultation from 2010-2014 for all stages have been reported in detail to the council’s Planning Policy Cabinet Liaison Group and published on the council’s website.
- 4.2 Following a council resolution to adopt the DPDs no further consultation is needed; the DPDs will become parts of the Local Development Plan for Lancaster District and be used for planning purposes and to support regeneration.

Following a resolution to adopt the DPDs, the council must publicise the decision to adopt the documents and give a six-week notice period to allow for any interested party to legally challenge the decision.

5.0 Options and Options Analysis (including risk assessment)

	Option 1: To formally Adopt the Development Management DPD and Morecambe Area Action Plan DPD as part of the Local Plan for Lancaster District 2011 – 2031.	Option 2: To not Adopt the DPDs and continue with the existing policy framework set by the Lancaster District Local Plan (2004) and Lancaster District Core Strategy (2008)
Advantages	Both plans have been prepared after considerable effort by the council and following much consultation and frequent previous reporting.	This would be a very unusual decision. It is difficult to envisage any advantages in choosing not to adopt up to date development management policies and regeneration policies for Morecambe

	<p>The Development Management DPD and the Morecambe Area Action Plan DPD will be part of the Local Plan for Lancaster District 2011 – 2031. The Council will have up-to-date policies for determining planning applications.</p> <p>The Morecambe Area Action Plan provides direction for regeneration and is deliverable. Adoption will help fulfil community expectations for beneficial change and improvement.</p>	<p>that have been prepared with the benefit of four years of engagement and consultation and have had the endorsement of the planning inspector at the conclusion of an independent Examination process.</p> <p>Should the Council not adopt the Development Management DPD and Morecambe Area Action Plan DPD it would have to prepare a new Documents. This would obviously be to a much delayed timetable but would be advanced with other parts of the Local Plan.</p>
Disadvantages	<p>Having Local Development Plan documents at different stages of preparation can present a complex position in terms of understanding the weight of various policies. A number of interim positions and clarifications may be needed to describe the Council's position on some matters.</p>	<p>Planning decisions will continue to rely on old "saved" within the Lancaster District Local Plan (2004) and the Lancaster Core Strategy (2008). These documents were prepared long before the guidance in the National Planning Policy Framework of 2012. Significant elements of the existing framework are no longer sufficiently robust for determining planning applications.</p> <p>Not to adopt the Morecambe Area Action Plan would render abortive four years of work and make pointless the extensive public consultations and community engagement. The Morecambe Area Action Plan addresses what is a clear 'gap' in the council's policy framework. There will continue to be a lack of direction and certainty for regeneration.</p> <p>Not adopting the DPDs would result in a confused position about the weight given to existing policies in the adopted documents and the found-sound but not-adopted policies in the DM and MAAP DPDs.</p>
Risks	<p>The policies contained within the Development Management and Morecambe Area Action Plan DPDs may be challenged by the development industry who will argue that the council's failure to identify sufficient land to meet objectively assessed development needs outweighs</p>	<p>Should the council continue to determine planning applications on the basis of out-of-date policies it may result in challenges from the development industry and an increase in appeals. Weaker policies will also lead to development with poorer sustainability characteristics.</p>

	the need to comply with the policy approaches set out within these DPDs. This risk does need to be balanced with the challenge of proceeding without up-to-date policies in place.	Were there to be no Morecambe Area Action Plan there would be a policy vacuum and a lack of certainty for the proposers of development, investment may be deterred or deferred.
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6.0 Officer Preferred Option (and comments)

- 6.1 The preferred officer option is Option 1.
- 6.2 The adoption of a Development Management DPD and Morecambe Area Action Plan DPD will provide the council with an up-to-date and robust suite of planning policies which will allow the council to determine planning applications and encourage regeneration in central Morecambe in accordance with national planning policy within the National Planning Policy Framework (NPPF).
- 6.3 The benefits of having an up-to-date, robust suite of planning policies is significant. It will give the council the opportunity to use current and appropriate policies to manage development proposals and help achieve sustainable development. Decisions taken using an up-to-date and robust local planning policy framework will be less open to challenge than the alternative of continuing to use an aging suite of planning policies that were prepared prior to the current national planning guidance in the National Planning Policy Framework.
- 6.4 Despite the robustness of the policies contained within the Development Management DPD and Morecambe Area Action Plan DPD it is anticipated that these will still be challenged by the development industry through the planning applications process. The council has a statutory obligation to prepare a Local Development Plan which also identifies land to meet objectively assessed housing needs within the district. The council intends to address this matter via the preparation of a Land Allocations DPD, however this document is at an early stage of preparation in part due to the challenge of determining the scale of development needs.
- 6.5 The development industry may argue that the council's inability to identify sufficient land for development needs, in particular the identification of a realistic five-year supply of housing, outweighs the need to accord with the policies of the Development Management DPD and, although to a lesser extent, of the Morecambe Area Action Plan DPD.
- 6.6 Potentially, the council could choose to adopt one of the DPDs but not the other, that is; it could adopt the Development Management DPD but not adopt the MAAP, or, it could adopt the MAAP and not adopt the Development Management DPD. In this case the Advantages, Disadvantages and Risks of Option 1 (Adoption) would apply to the DPD which is to be adopted and the Advantages, Disadvantages and Risks of Option 2 (Non-Adoption) would apply to the DPD which is not to be adopted. Officers strongly advise against the adoption of one DPD but not the other as both documents are key elements of the proposed suite of five DPDs that together will constitute the

Local Plan for Lancaster District. The documents have been prepared in tandem and cross refer to each other; thus, should one be adopted and the other not adopted there is the potential for a significant lack of clarity in the policy position. Uncertainties and possible contradictions between adopted policies, not-adopted policies and residual out-of-date policies could be exploited in pursuit of development that does not accord with positive policy intentions and objectives.

7.0 Conclusion

- 7.1 These documents are two of the five key elements of the Local Plan for Lancaster District 2011–2031. Once adopted the council will have a strong planning policy position in which to manage the delivery of sustainable development within the district. The lack of a Land Allocations DPD will continue to represent a challenge to the council. Members will be well aware of the challenging ongoing work being undertaken to prepare a Land Allocations DPD that will address the issue of meeting development needs.
- 7.2 In conclusion, the council is strongly advised, and formally requested to approve the adoption of the Development Management DPD and Morecambe Area Action Plan for planning purposes, and to facilitate regeneration, as parts of the Local Plan for Lancaster District 2011–2031.

Appendices and Background Reports

Editions of both the Development Management Document DPD and the Morecambe Area Action Plan DPD are attached as appendices. These editions are the submitted documents incorporating the Inspector's binding recommendations. The content of these editions is correct, final editions of both documents will be printed following the conclusion of the adoption processes. The final print editions will contain photographs, captions, and if necessary, minor corrections for example to typos and paragraph numbering. The Inspector's Report, and his Appendices A and B which list the binding recommendations, are listed as supporting documents and have been available on the Council's website for some time at;
<http://www.lancaster.gov.uk/planning/local-plan/local-planning-policy/work-in-progress/development-management-dpd/>

Appendix 1: Development Management Development Plan Document
Adoption Edition December 2014

Appendix 2: Morecambe Area Action Plan (MAAP) Development Plan Document
Adoption Edition December 2014

Appendix 3: Proposed interim approach to negotiating complements of Affordable Housing

RELATIONSHIP TO POLICY FRAMEWORK

National Planning Policy Framework (2012) – Requires all Local Authorities to prepare a Local Development Plan for their area setting out how objectively assessed development

needs will be met and clear planning policies on what or will not be permitted.

National Planning Practice Guide (2014) – Provides guidance for Local Authorities and other interested parties on how the detail of the National Planning Policy Framework should be implemented in practice.

Lancaster District Corporate Plan – Development Plan Documents adopted by the council form part of the Local Plan for Lancaster District and are part of the corporate policy framework. Policies within the Local Development Plan seek to deliver the Council's priorities as described in the corporate plan. Actions within the Morecambe Area Action Plan will have corporate priority.

Regeneration and Planning Business Plan – Commits the service to the preparation of Development Plan Documents.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

The Development Management DPD and Morecambe Area Action Plan DPD provide a planning policy framework to guide and manage development within the District. The Morecambe Area Action Plan DPD provides future policy detail (along with allocations) for the area of Central Morecambe.

Equality, diversity and sustainability implications have been taken into account through the preparation of the draft Local Plan documents. The documents have been subject to the statutory requirements for Strategic Environmental Assessment. Equality, diversity, human rights, community safety, sustainability and rural issues are all considered as part of this process. Officers are confident that this work provides an appropriate impact assessment of the DPDs and this has been confirmed by the Planning Inspector.

LEGAL IMPLICATIONS

The preparation of Local Development Plan documents are subject to legislature and regulations. Failure to meet these requirements could result in the DPDs being subject to legal challenge. The Planning Inspector has considered the preparation of the DPDs in terms of relevant legal requirements and concluded that the DPDs have been prepared in accordance with legislation and are considered sound. The council consulted on its proposed modifications in the summer of 2014 and cannot now make any further changes. The Inspector's modification are binding, thus the final form of the adopted DPDs must fully incorporate his recommendations.

FINANCIAL IMPLICATIONS

Preparation of an up-to-date and robust Local Development Plan does come with costs; the commissioning of evidence, the engagement of expert witnesses and legal representation; these costs are budgeted for in the normal way. Additionally unanticipated costs can arise from legal challenges to the adoption of documents, usually as a result of actions from affected parties. The Morecambe Area Action Plan DPD sets actions that can be implemented. The costs and implications of these are described through separate reporting means; this report solely deals with the process of adopting the Development Management DPD and the Morecambe Area Action Plan DPD. Work to implement the Morecambe Area Action Plan DPD will be reported on when necessary and appropriate.

Failure to have an up-to-date Local Development Plan will reduce the Council's ability to confidently refuse development proposals and defend refusals at appeal.

In short, the Officer preferred Option 1, helps manage related financial risks for the Council.

Option 2 exposes the Council to much greater financial risk, and gives rise to significant value for money concerns regarding the time and costs that have been expended over the last four years or so.

OTHER RESOURCE IMPLICATIONS

Human Resources:

The Regeneration and Planning Service is presently adequately resourced to advance these complex and challenging areas of work. However, maintaining the momentum of preparing a Local Development Plan in terms of policy review and plan preparation is very much dependent on maintaining the level of key personnel.

Information Services:

No direct implications.

Property:

There are potential implications for council owned assets within the MAAP area, these matters are directly dealt with through other reporting routes.

Open Spaces:

The Development Management DPD seeks to protect and enhance areas of public open space; this may have implications for land within the Council's ownership. New areas of open space may be created through the implementation of policies about ensuring that new development provides adequate amenity and, where appropriate and relevant to do so, contributes to open space and recreational facilities.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

1. Local Development Scheme July 2013 (Local Plan Timetable).
2. Report to Lancaster City Council by Paul Crysell, an Inspector appointed by the Secretary of State for Communities and Local Government, on the Examination into Lancaster District Development Management Development Plan Document and the Morecambe Area Action Plan Document. 22nd September 2014. Including Appendix A Main Modifications to the Development Management Document and Appendix B Main Modifications to the Morecambe Area Action Plan.

Contact Officer: Maurice Brophy
Telephone: 01524 582330
E-mail: mbrophy@lancaster.gov.uk
Ref: N/A