



Committee: CABINET

Date: TUESDAY, 9 NOVEMBER 2010

Venue: LANCASTER TOWN HALL

Time: 10.00 A.M.

A G E N D A

1. **Apologies**

2. **Minutes**

To receive as a correct record the minutes of Cabinet held on Tuesday 5 October 2010 (previously circulated).

3. **Items of Urgent Business Authorised by the Leader**

To consider any such items authorised by the Leader and to consider where in the agenda the item(s) are to be considered.

4. **Declarations of Interest**

To consider any such declarations.

5. **Public Speaking**

To consider any such requests received in accordance with the approved procedure.

Reports from Overview and Scrutiny

None.

Reports

6. **Arrangements For Handling Forthcoming Major Infrastructure Projects (Pages 1 - 8)**

Cabinet Member with Special Responsibility Councillor Bryning)

Report of the Head of Regeneration and Policy.

7. **Charter for Planning Performance Agreements (Pages 9 - 40)**

(Cabinet Member with Special Responsibility Councillor Bryning)

Report of Head of Regeneration and Policy

8. **Adoption of the Shoreline Management Plan** (Pages 41 - 47)

(Decision deferred from October meeting to enable Cabinet members to undertake a site visit)

(Cabinet Member with Special Responsibility Councillor Barry)

Report of the Head of Regeneration and Policy.

9. **Council Assets Funding Report** (Pages 48 - 53)

(Cabinet Member with Special Responsibility Councillor Langhorn)

Report of the Head of Property Services.

10. **Analysis of Responses to the Budget Consultation Exercise**

(Cabinet Member with Special Responsibility Councillor Langhorn)

Report of the Head of Community Engagement (to follow).

11. **Review of Statutory Services**

Cabinet Member with Special Responsibility Councillor Robinson)

Report of the Chief Executive (to follow).

12. **Medium Term Strategy: Finances and Resources**

(Cabinet Member with Special Responsibility Councillor Langhorn)

Report of the Head of Financial Services (to follow).

13. **Urgent Business Report** (Pages 54 - 56)

Report of the Head of Governance.

14. **Lancaster Market**

(Cabinet Member with Special Responsibility Councillor Barry)

Oral update, for information only, from the Lancaster Market Cabinet Liaison Group.

15. **Exclusion of the Press and Public**

Members are asked whether they need to declare any further declarations of interest regarding the exempt report.

Cabinet is recommended to pass the following recommendation in relation to the following item:-

“That, in accordance with Section 100A(4) of the Local Government Act, 1972, the press

and public be excluded from the meeting for the following item of business, on the grounds that they could involve the possible disclosure of exempt information as defined in paragraph 3 of Schedule 12A of that Act.”

Members are reminded that, whilst the following item has been marked as exempt, it is for the Council itself to decide whether or not to consider each of them in private or in public. In making the decision, Members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and should balance the interests of individuals or the Council itself in having access to information. In considering their discretion Members should also be mindful of the advice of Council Officers.

16. **Luneside East Regeneration Project** (Pages 57 - 66)

(Cabinet Member with Special Responsibility Councillor Bryning)

Report of the Head of Regeneration and Policy.

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Stuart Langhorn (Chairman), June Ashworth, Jon Barry, Eileen Blamire, Abbott Bryning, Jane Fletcher, David Kerr, Peter Robinson, and 2 Conservative vacancies.

(ii) Queries regarding this Agenda

Please contact Liz Bateson, Democratic Services - telephone (01524) 582047 or email ebateson@lancaster.gov.uk.

(iii) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN
CHIEF EXECUTIVE
TOWN HALL,
LANCASTER LA1 1 PJ

Published on 28 October 2010

CABINET

Arrangements For Handling Forthcoming Major Infrastructure Projects

9th November 2010

Report of Head of Regeneration and Policy

PURPOSE OF REPORT			
To obtain the agreement of Cabinet to joint working arrangements with Lancashire and Cumbria District and County Councils to handle forthcoming major infrastructure projects relating to the upgrading of the national grid and nuclear new build proposals			
Key Decision		Non-Key Decision	X
		Referral from Cabinet Member	
Date Included in Forward Plan			
This report is public			

RECOMMENDATIONS OF COUNCILLOR BRYNING

- (1) That Cabinet support the creation of operational working and governance arrangements between Lancashire and Cumbria Local Authorities to prepare for engagement in projects submitted to the Infrastructure Planning Commission for the national grid upgrade and new nuclear build.
- (2) That The Head of Regeneration and Policy continues to negotiate operational arrangements for the creation of a working consortium of Lancashire/Cumbria local authorities on behalf of the City Council, with nominations for Members to sit on appropriate governing panels delegated to the Leader once a call for them has been made.

1.0 Introduction

1.1 There are significant modifications currently taking place to the way in which public services are to be provided, and the new government has already announced the abolition of a number of publicly funded organisations. The previous government had created the Infrastructure Planning Commission to handle the consents regime for major infrastructure projects which are in the national interest. The creation of the Infrastructure Planning Commission meant that local authorities would no longer handle planning applications for these projects. The projects would instead be submitted straight to the

Commission for examination by public inquiry before the giving of a consent would be considered. Whilst in theory this would simplify the consent process, in practice there remains a considerable role for local authorities in the preparing for the submission of schemes, workload which incidentally equates to that of preparing for a major public inquiry. There are no planning fees paid to the local authorities for this work.

- 1.2 Following the general election the new coalition government has decided to retain the bulk of the processes but to transfer the Infrastructure Planning Commission to become part of the Planning Inspectorate, and for final decisions on major projects to be made by Ministers. This means that there remains certainty about the way in which a number of emerging projects will be handled, and a number of local authorities such as Lancaster City Council are able to prepare for the schemes which they must become involved with.
- 1.3 Following consultation by the previous government on its national policies for nuclear new build it has become clear that there is considerable potential for new build schemes in this part of the North West. Sites at Sellafield and Heysham, together with two greenfield locations in West Cumbria have been nominated as sites where new reactors could be built to create a new generation of nuclear power stations. To facilitate these, and significant new offshore wind farm developments in the Irish Sea, the national grid throughout Cumbria and Lancashire requires a fundamental upgrade to link the new generation capacity into the national grid itself. Miles of existing distribution line will have to be replaced by larger transmission lines as the national grid network itself extends from the central areas of the country outwards towards the coast. A new ring around Cumbria will also have to link southwards through Lancashire to a grid connection near Burnley.
- 1.4 What this means is that a number of local authorities like Lancaster City Council have to consider how they are going to resource their involvement with major infrastructure projects. These will be very time consuming and intensive areas of work. Work has commenced already with informal fact finding workshops held by National Grid PLC with both the Cumbrian and Lancashire Local Authorities to examine the main issues which will arise with the national grid upgrade. These work packages have already demonstrated how much time and expertise will be needed to be devoted by local authorities to ensure that the Infrastructure Planning Commission processes goes smoothly. At a recent specialised seminar held for the authorities selected to engage with new nuclear build, Sir Michael Pitt, Chief Executive of the Commission made it clear that the local authorities role is of vital importance to the process, and without their active engagement, major schemes would be unlikely to progress effectively.
- 1.5 Members will of course realise that all this comes at the same time as the government is requiring the public sector to reduce in size. Recent staffing reductions here at Lancaster have reduced capacity in front line planning operations. Many of our neighbouring local authorities are facing similar restructures. What seems clear is that all unnecessary duplication in this emerging process needs to be removed and that there is an obvious advantage to be gained if the local authorities involved pool resources and expertise together. Once again the recent nuclear new build seminar demonstrated that teams of authorities are working together in other areas to handle these unusually large projects and in Lancashire and Cumbria common sense suggests that we do the same. This report will now explain

how it is proposed that we do this.

2.0 Proposal Details

2.1 To date there appear to be three linked major infrastructure projects which will materially affect Lancaster District. The upgrading of the national grid through Cumbria and Lancashire, the construction of nuclear new build at Heysham and the construction of nuclear new build at Sellafield, which would present significant issues for the district in terms of supporting workforce development, research and supply chain issues. Depending on the governments responses to the nuclear nominations these cases could come in sequence or with a degree of overlap. The current intention is for the first phase of new nuclear power stations to begin transmission of power in 2018 with the new national grid connections to be available by 2017. This means that the national grid submissions to the Infrastructure Planning Commission need to be made by 2011.

2.2 Informal discussions about potential effects have been attended by the Head of Regeneration and Policy, but it has quickly become clear that there is an urgent need to organise the Lancashire and Cumbria local authorities in such a manner that they can handle the schemes in a joined up manner which also includes the Lake District National Park Authority, before formal discussions begin to take place in the pre application stage. Not only is there a need to establish work streams, governance measures and resources to deal with the project.

2.3 There are essentially four major work streams for the local authorities:-

- Considering the applicant's statement of community consultation
- Commenting on the quality of the applicants consultation process
- Producing a technical Local Impact Report
- Making their own representations on applications

For each local authority area the level of work to undertake these tasks would equate to a top level major project involving Environmental Impact Assessment followed by a large scale public inquiry. This as Members know involves considerable time and resources. For the national grid upgrade in particular there may be numerous local impacts in one district area, and consequential effects arising from changes to power line routes in adjoining districts. For the power station cases one could expect local authority teams to be engaged full time in these for 6 – 18 months. Adding such projects to even senior experienced staff in addition to their normal duties would be impractical. National guidance being given to local authorities emphasises the need for them to be able to continue to deal with normal business in addition to handling these unusually large infrastructure cases. For this reason the use of Planning Performance Agreements to secure funding (in the absence of planning fees) to pay for additional resources to handle these cases, is advocated.

2.4 At this point in the report it must be emphasised that requiring the developer to provide funding through a Planning Performance Agreement should **NOT** be regarded as a means by which the developer can influence the decision by paying for the means by which it is administered. It is inevitable that some

unreasonable parties might seek to make mischief by suggesting that this funding impacts on the local authorities impartiality, but this will not be the case. Local communities are entitled to have their interests represented as part of the Infrastructure Planning Commission process, and for those interests to be presented by their elected local authority. If through lack of resources Councils are disadvantaged from engaging then the democratic process would be argued to have been excluded. By being required to make the necessary resources available to Councils to fully engage, the developers are simply doing the same as paying a planning fee. They are contributing to the costs incurred by Councils to determine major projects and nothing else.

- 2.5 Initial negotiations are commencing with National Grid PLC about entering into a Planning Performance Agreement. It is proposed that the County and District local authorities in Lancashire and Cumbria act as a single consortium in their dealings with the National Grid. To spread the burden of managing these major projects it is suggested that the national grid upgrade be handled by the two County Councils with Local Impact Reports detailed to district level to ease the making of individual council's representations. For the power station cases smaller groupings comprising Copeland and Cumbria County and Lancaster and Lancashire County Councils are more likely.
- 2.6 In operational terms the officers in the consortium are currently considering the setting up of a single project team based in an accessible location near Kendal to handle the local authorities involvement. Specialist support services might be provided by individual councils in the consortium whilst a formal governance structure where Members will oversee the operation and reporting patterns of the project team needs to be devised. The work of the team is expected to be funded by the Planning Performance Agreement with the only working costs to the local authorities being the preparation of individual representations by senior officers after considering the core reports of the project team on the consultation exercise and Local Impacts. If this process works well for the national grid upgrade, there is no reason why the consortium should not consider using it for the nuclear new build schemes if they come forward.
- 2.7 This method of working could, in addition to dealing with the complexities of the applications have other potential benefits. The impacts of these significant investments in infrastructure go far beyond individual district or county boundaries. Much closer working ties between the Lancashire and Cumbrian authorities are needed to consider them properly and to act effectively to maximise any benefits for our communities. The creation of a joined up understanding of spatial interdependence between the communities to the north of the dominant urban conurbations in the region can only help assert the need for equal attention to be given to our economic and infrastructure needs, and to ensure more equality in resource allocation between largely rural and largely urban areas.

3.0 Details of Consultation

- 3.1 Informal discussions about the concept of joint working have taken place with the Government Office for the North West and at the recent specialist seminar with representatives of the regulatory sector and energy industry. The idea of Lancashire and Cumbria working as a joint consortium of local authorities has been met with consistent encouragement.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: For the City Council to engage individually with the process for the forthcoming major infrastructure projects.	Option 2: For the City Council to support working as a consortium of local authorities engaging in the major infrastructure process in the manner described in the report.	Option 3: For the City Council to decline to engage with the projects.
Advantages	Engaging in a consortium will be a complex task involving a new governance arrangement and senior officer time. To engage in the process alone might be simpler administratively.	This would enable the City Council to share skills and resources with other local authorities to manage the process. It can use its expertise to concentrate on local and strategic considerations whilst not having to micro manage the project. Negotiations undertaken by a grouping of local authorities will inevitably be stronger than as individual Councils.	In the current climate where the Council has no spare capacity to engage effectively in these projects taking no part could avoid senior officer time being consumed on the projects.
Disadvantages	The City Council could not handle cases of this magnitude with its existing staff resources. Considerable amounts of work would be outsourced and the task of coordinating inputs with communities and agencies outside the district would be large.	There will inevitable be some aspects of detail over which the local authorities might disagree.	The City Council's reputation would be harmed and the communities on both sides of the arguments would feel un-represented.
Risks	The risk of a largely parochial and uncoordinated set of responses to the	This option has less risks so long as the local authorities provide a united	Non of the potential benefits arising from the schemes would be championed for

	<p>major infrastructure projects would be high. The reputation of the local authority would be harmed if it were unable to engage strategically in the inquiry process. There would also be little opportunity to secure economic benefits for the district linked to growth of this nature because the council would not be seen as credible.</p>	<p>front. Without such a front the developers could find advantages in dividing opinion.</p>	<p>the local community by other bodies. Considerations for the Local Impact Statements could be inaccurately put forward without challenge.</p>
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5.0 Officer Preferred Option (and comments)

5.1 Option 2 is the preferred option.

6.0 Conclusion

6.1 If Members agree to continue to proceed to form a consortium, the Head of Regeneration and Policy will represent the City Councils interests in continuing negotiations with the developers. The requisite number of Members allocated seats in any governance arrangements will subsequently need to be chosen.

RELATIONSHIP TO POLICY FRAMEWORK

Working to secure the best possible benefits from investment in the Energy Coast is a top priority for the City Council. The need to balance expected economic benefits against the obligations the Council has to protect its protected natural environments will require the highest quality of intervention in the consents process in order the appropriately represent the best interest of the local community.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There are significant impacts from the major infrastructure projects. These will be visual, environmental, economic and if not safeguarded and mitigated, health related. It is difficult to contemplate schemes which would have a greater level of impact.

LEGAL IMPLICATIONS

The local authorities will not be the decision makers in this process. There will be a need however for legal representation and advice during negotiations for any Planning Performance Agreements, and subsequent appearances at Public Inquiries.

FINANCIAL IMPLICATIONS

Whilst there are no specific financial implications arising at this stage, the extent to which they may arise in future will be determined by the Council's ability to work with its partners to secure the right level of funding for any involvement in the process. If the developers do not agree to cover the Council's additional expenditure, which is likely to be needed in order to engage fully in this process, there could be considerable costs to bear if the Council wishes to be involved. These costs will not just relate to officer time and potential specialist consultants costs but also to the costs incurred in presenting a case at the public inquiry, and legal fees, etc.

On the basis that Lancaster will need to engage in the process in order for major infrastructure schemes such as the 'Nuclear New Build' and 'National Grid Upgrade' to be in a position to go ahead, option 2 offers the council the better opportunity to avoid duplication, raise strategic knowledge and understanding and to bear the least negative impact on the council's current and future resources.

As stated within the 'Charter for Planning Performance Agreements' report elsewhere on this agenda, there will be a requirement to report back to Cabinet the details of any significant contractual and financial obligations spanning more than one financial year, prior to the council entering into any contracts with either the proposed 'consortium' or developers for any specific scheme. It is anticipated that only one authority will act as accountable body and this is only likely to be Lancaster City Council if a nuclear new-build project takes place at Heysham.

OTHER RESOURCE IMPLICATIONS

Human Resources:

Senior Officer time will need to be dedicated to advising any joint team on processing the local authorities' responses to the process, and writing a report for each individual councils representations. The Governance process will have to decide whether one local authority will act as host for any temporary project staff or staff seconded from partner local authorities.

Information Services:

The host authority would have to make arrangements for IS support.

Property:

The host authority would need to provide suitable premises for the project team.

Open Spaces:

Open space issues, such as land made available for environmental mitigation, will be a material consideration in the schemes. The National Grid enlargement would inevitable have visual impacts on large tracts of the landscape in the sub region.

SECTION 151 OFFICER'S COMMENTS

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

MONITORING OFFICER'S COMMENTS

On the basis that any Member involvement in the proposed process will be to undertake executive functions, the Monitoring Officer has no further comments. However, in the event that the role of members was to be regulatory, the Monitoring Officer would advise that

member involvement would be a matter for the Planning and Highways Regulatory Committee.

BACKGROUND PAPERS

Local Impact Reports : Advice note by the Infrastructure Planning Commission

Contact Officer: Andrew Dobson

Telephone: 01524 582303

E-mail: adobson@lancaster.gov.uk

Ref:

CABINET

**Charter for Planning Performance Agreements
09 November 2010**

Report of the Head of Regeneration and Policy

PURPOSE OF REPORT				
This report informs Cabinet of the recent public consultation regarding Planning Performance Agreements, and seeks to adopt a Charter for such Agreements in the future, to be used in consideration of the most strategic, major planning applications.				
Key Decision		Non-Key Decision	X	Referral from Cabinet Member
Date Included in Forward Plan				
This report is public				

RECOMMENDATIONS OF COUNCILLOR BRYNING

- (1) That Cabinet resolve to adopt a Charter for Planning Performance Agreements.
- (2) That Cabinet determine that the ratification of the Charter should be the subject of formal approval from the Planning and Highways Regulatory Committee.
- (3) That the Head of Financial Services be given delegated authority to update the General Fund Revenue Budget as and when required (outside the normal annual budget process) to gross up additional outsourcing expenditure and associated income for one-off major applications, subject to there being a nil impact on the council’s resources.
- (4) That for strategic major applications, i.e. spanning more than 1 year, individual reports are brought back to Cabinet for approval prior to the General Fund Revenue Budget being updated.

1.0 Introduction

- 1.1 Planning Performance Agreements (PPAs) are a framework introduced by Government to assist local planning authorities and developers in delivering high-quality decisions on strategic, major planning applications.
- 1.2 A PPA allows both a developer and the local planning authority to agree a Project Plan and Programme for major planning applications, from the first pre-application

discussions through to determination of any eventual planning application. It must be stressed that signing up to a PPA is not an indicator of the outcome of any planning application – it is effectively a more collaborative project management method of considering strategic planning applications.

2.0 Proposal Details

Government Guidance

- 2.1 A pilot programme involving 22 local authorities and developers was undertaken by Government in 2006. This demonstrated that PPAs could give greater certainty on timescales for planning application decision-making, costs of development, improved community involvement, improved Elected Member involvement and resulted in speedier input from statutory consultees and agencies.
- 2.2 The Planning White Paper – *Planning for a Sustainable Future* (Department of Communities and Local Government, 2007) emphasised the need for an effective planning system which is responsive to society's needs and has the ability to resolve differences and deliver appropriate development.
- 2.3 PPAs were also encouraged through the Killian Pretty Review (2008) and it is clear that Central Government are increasingly encouraging local planning authorities to use PPAs as part of a new 'development management' approach to considering major, strategic projects.
- 2.4 The recent Government consultation, *Development Management: Proactive Planning from Pre-Application to Delivery* (2009), emphasises this further by announcing that a "revised national indicator would come into force in April 2011". Therefore, even discounting the masterplanning benefits that would ensue from the use of PPAs, it is considered prudent to put in place formal procedures prior to the introduction of any new Government performance indicators.
- 2.5 Government strongly advise that if PPAs are to be used by a local planning authority, a formal process should be enshrined in a Charter setting out the authority's general approach.
- 2.6 Government have also confirmed that any planning applications that use the PPA process are effectively removed from the current national performance indicators (currently 13 and 16-week timescales for decision-making), and will instead be measured against the timescale agreed by both the local planning authority and the developer, which will be stated in the PPA Project Programme.
- 2.7 This process cannot be imposed by either party; i.e. both the local planning authority and the developer have to agree on using a PPA. The final decision on any eventual planning application will continue to be dependent upon the planning merits of the case, regardless of whether a PPA exists or not.

Key Stages to Establishing a PPA

- 2.8 There are five key stages to creating a PPA. These are discussed in greater detail in the attached Draft Charter. In summary, the stages are as follows:

- 2.9 With regards to the first stage – **Screening** - the Planning Service has devised criteria for assessing whether a development proposal can be considered suitable for a PPA-approach.
- 2.10 Firstly, the proposals have to be in conformity with the Development Plan (The Development Plan consists of The Regional Spatial Strategy, The Lancaster District Core Strategy, the Saved Policies and Saved Land Allocations of the Lancaster District Local Plan, and the Lancashire Minerals and Waste Core Strategy). Where a proposal departs from the policies of the Development Plan, the proposal has to be one that the City Council believes it can support in principle for the wider benefit of the district, and has the potential to satisfy the Local Strategic Partnership’s Sustainable Community Strategy.
- 2.11 Secondly, the proposal also has to constitute ‘major’ development, as defined by Government. The thresholds for ‘major’ development are:
- Applications for 10 or more dwellings (or where the number of dwellings is not yet determined, the site area exceeds 0.5 hectare); or,
 - Applications proposing a building which has a floorspace of 1,000 square metres or greater; or,
 - Applications which comprise development on a site which has an area of 1 hectare or greater.
- 2.12 Finally, if the proposals satisfy the criteria referred to in paragraphs 3.3 and 3.4 above, then they must also satisfy at least one of the following:
- The decision would be likely to be referred to a Central or Regional Government Body (e.g. called-in); or,
 - The proposal would require an Environmental Impact Assessment, or has an impact upon an area of environmental sensitivity; or,
 - It would involve a large site (In excess of 1 hectare, or in the event of

Stage	Detail
Screening	Does the proposal meet the criteria for establishing a PPA?
Scoping	If a PPA is considered appropriate, what should it contain?
Development Meeting	An opportunity for the developer, the local planning authority, statutory consultees, Ward Councillors and community groups to agree a vision for the development, identify and seek to resolve the issues that affect the proposal, and agree a programme for planning application submission and a timescale for decision-making.
Programme Publication	This is where the PPA Programme is formally signed and is published.
Implementation	This is where the PPA Programme is adhered to within the agreed timescales.

residential development, 0.5 hectare) and would have complexities regarding land ownership/assembly or have a complex variety of existing and/or proposed uses; or,

- The proposal would be likely to involve a significant planning obligation agreement or highway agreement; or
- The proposal would be likely to have a significant impact upon existing communities, or would involve consultation a wide variety of statutory agencies.

2.13 Once the application has been screened, the next stage is **Scoping**. This is where the local planning authority and developer should first meet. The meeting is simply to identify both party's position on the objectives and aspirations for development; whether it accords with national, regional and local planning policies; and whether there is evidence that the development is required (physically, environmentally, socially and economically). It will also be the stage where the local planning authority advises the developer regarding the involvement of statutory agencies, relevant community/resident groups and Elected Members.

2.14 Following on from this initial contact, the parties will arrange a formal **Development Meeting**. This is where draft proposals are critically and openly considered by all essential stakeholders (usually one representative per statutory agency/group). The purpose of the meeting is to try to agree the vision for the development, identify all the relevant issues and tasks, and agree a Project Programme for the resolution of the issues before submission of the planning application. On exceptional occasions these meetings can be independently chaired by the Government's Advisory Team for Large-Scale Applications (ATLAS). Otherwise they will be chaired by the local planning authority.

2.15 The Project Programme shall then be **published** and be publicly available. It is anticipated that the Programme will be signed by the Head of Planning Services, a nominated officer of the Planning Service (who would be Project Manager) and the Project Manager for the developer. Any critical third parties (e.g. key statutory consultees) may also be expected to sign the document, with a commitment to producing their formal observations on the planning application on time.

2.16 Following publication, the Programme is then **implemented**. It is for the Project Managers on both sides to ensure implementation remains on time, so that a planning decision can be delivered at Planning Committee and there is sufficient time for conclusion of any legal agreements (should planning permission be forthcoming).

3.0 Details of Consultation

3.1 The Planning Service consulted extensively on the draft document. The consultation included all Elected Members, all Local Strategic Partnership Stakeholders, statutory (planning) consultees, residents' groups, and internal services. In addition consultation letters were also sent to our local planning agents and architects. The consultation was also advertised in the local press and copies of the draft document placed in both Customer Service Centres and online. A 6-week period was allowed for comment.

- 3.2 Responses were received from the North West Development Agency, Lancashire County Council Strategic Planning, The Campaign to Protect Rural England (Lancashire Branch), Lancaster Civic Society, It's Our City, Lancashire Wildlife Trust, The Environment Agency, The Theatres Trust, The Coal Authority, United Utilities, and one local planning agent. Two members of the public also made comment. In general the comments received were positive regarding the introduction of such a Charter. Particular concerns were raised in relation to the overall transparency of the process and whether the ambition to resolve many problems at the PPA Development Meeting was realistic.
- 3.3 Other comments regarding the selection of 'preferred developers' for larger-scale schemes are not specific matters that can be associated with either the proposed Charter, or indeed the Regeneration and Policy Service.
- 3.4 A copy of the amended, post-consultation Draft Charter is attached as an appendix to this report. A number of modifications have occurred as a result of the consultation comments received. The most significant change is confirmation that affected resident's groups and Parish Councils will be invited to participate at the Development Meeting. A further key change involves clarification of Elected Member involvement at the pre-application stages.
- 3.5 The Charter has previously been presented to Management Team.

The Charter – General Principles

- 3.6 The Charter confirms that the officers of the Regeneration and Policy Service will work on behalf of the City Council, in the public interest, to secure the best quality scheme. Officers would expect the applicant or developer to approach their project/development in a transparent and co-operative manner, and respond to any reasonable and well-founded requests for amendments or reconsideration of their scheme.
- 3.7 It also advises that the Regeneration and Policy Service expects developers to commit to meaningful and constructive community involvement. It recognises that communities often have a deeper knowledge of their immediate surroundings and how they will be able to play a part in addressing issues.
- 3.8 There needs to be safeguards in place to ensure that the decision-making function of the Planning and Highways Regulatory Committee is not compromised by previous Elected Member involvement in proposals. With this in mind, it is proposed that Members be invited to any PPA Development Meeting that affects their own Wards. To ensure that the Planning Committee process remains unfettered, any suggestions or views regarding the planning merits of the case made by Members should be discussed with the Head of Regeneration and Policy, or the Assistant Head (Development Management), or the Service's Project Manager for the PPA, who will then negotiate or direct discussions on their behalf.
- 3.9 In the event that a development proposal is amended, or altered significantly so that it no longer complies with the Development Plan or Sustainable Community Strategy, or fails to deliver previously identified benefits for the district, then the Regeneration and Policy Service reserves the right to withdraw from the PPA process.
- 3.10 In the event of a failure to determine the planning application within the timescale agreed in the PPA Programme, the applicant retains the right (as is presently the

case) to appeal to the Planning Inspectorate on the grounds of non-determination. Similarly, in the event that the planning application is refused, the applicant retains the right to appeal against the refusal as per the current, national arrangements.

The Charter – Financial Matters

- 3.11 At the present time there are no plans in place to charge for entering into a PPA. However, a PPA may occasionally involve additional expenditure incurred by the applicant (e.g. the local planning authority may request an applicant undertakes various assessments prior to submission of a planning application).

4.0 Options and Options Analysis (including risk assessment)

- 4.1 There are two options available. The first is to choose not to formally adopt a Planning Performance Agreement Charter and continue with the current arrangements for dealing with pre-application discussions for major applications. The second option is to adopt a Charter.

- 4.2 **Option 1 – Not to Formally Adopt a Charter:** This would result in the Planning Service continuing with the present, ad-hoc arrangements for pre-application discussions for major, strategic proposals. Officers would continue to informally arrange 'Development Team' meetings but this process would not be enshrined in a Charter. It would therefore not direct applicants and developers to keep plans fluid during early stages (to enable them to respond to consultation suggestions) and would not require developers to consider the wider scope of their proposals at an early stage. New arrangements for community and Elected Member involvement at Development Team meetings would not be adopted. Finally, the failure to adopt a PPA Charter means that timescales for determining major planning applications would remain at 13 and 16 weeks, rather than agreed, application-specific timescales. This would result in a continuation of the present system whereby many major planning applications are determined after their national performance indicator target.

- 4.3 **Option 2 – To Formally Adopt a Charter:** An adopted Charter would introduce a consistent procedure for the consideration and negotiation of major, strategic planning applications. Aside from formalising the pre-application process, it would provide greater opportunity for statutory consultees and community groups to be involved earlier in the development process. It would give greater certainty to all parties regarding the timescale of submission and determination of planning applications.

5.0 Officer Preferred Option (and comments)

- 5.1 The preferred option is Option 2.
- 5.2 It is considered that formal ratification of the Charter should be via the Planning and Highways Regulatory Committee. This is because the Charter is not a planning policy document, but simply a protocol for consideration of planning proposals that will ultimately be determined by the Planning and Highways Regulatory Committee.

6.0 Conclusion

- 6.1 It has been commented that PPAs will not, by themselves, solve the inherent challenges facing the national planning system. Indeed they will not be appropriate for all major development proposals. But if they are adopted for schemes which are complex and most challenging, then they are already acknowledged to have the potential to achieve greater collaboration and transparency between all parties involved in the development process. Formalisation of the process through the Charter is therefore considered necessary.

RELATIONSHIP TO POLICY FRAMEWORK

The creation of a PPA procedure accords with the principle of the Lancaster District Core Strategy which seeks to outline a spatial vision of a sustainable district whose quality of life and standards of development will lead the North West. By offering a more consultative and community-focused approach, major developments will have a greater opportunity to respond to this vision.

The identification and involvement of all relevant, affected third parties is also advocated in the rhetoric of the Sustainable Community Strategy.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There are no direct impacts relating to the above arising from this report.

FINANCIAL IMPLICATIONS

There will be no charge for entering into a Planning Performance Agreement (PPA).

Applicants/Developers may be required to undertake additional studies or assessments at the request of the local planning authority, but the costs of these would be borne by the applicant/developer.

In the event of the receipt of a number of major applications at the same time, or if a strategic major application would have a disproportionate impact upon staffing resources, there may be a requirement to pay to out-source the determination of the planning application, or recruit staff on a temporary basis to accommodate such workload. It should be noted that this is the case for either option, however under the preferred option 2, the council would be better able to cover additional costs associated with outsourcing or recruiting temporary posts as such costs would be met by the applicant/developer under the PPA.

If option 2 is agreed, then it is recommended that for one-off major applications, delegated authority be given to the Head of Financial Services to update the General Fund Revenue Budget as and when required (if falls outside of the normal annual budget process), subject to there being a nil impact on council resources. For strategic major applications however, i.e. spanning more than one financial year, e.g. 'Nuclear Industry Build' or 'National Grid Upgrade' type schemes, there will still be a requirement to report back to Cabinet for approval to update the GF Revenue Budget prior to commitment being entered into for additional outsourcing/temporary staff costs.

SECTION 151 OFFICER'S COMMENTS

No further comments to make.

LEGAL IMPLICATIONS

The introduction of Planning Performance Agreements on a national scale has raised concerns relating to the involvement of Elected Members during the pre-application discussions, and a worry that this may amount to pre-determination.

If Ward Members are invited, some of them will not have had prior training regarding planning and pre-determination/fettering discretion etc. There needs to be advice readily available from Officers to Members before Members engage in PPA discussions on a particular scheme.

However, Central Government remain of the view that Elected Member involvement throughout the process is a core theme of Development Management.

It is noted that to ensure that the process is clear, and thus avoid any allegation of pre-determination, the process described in Paragraph 5.3 is proposed.

MONITORING OFFICER'S COMMENTS

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

BACKGROUND PAPERS

1. Draft Revised (post-consultation) Charter for Planning Performance Agreements

Contact Officer: Mark Cassidy
Telephone: 01524 582390
E-mail: mcassidy@lancaster.gov.uk
Ref: MPC/DH

Charter for Planning Performance
Agreements for Major Planning
Applications



**Regeneration and Policy Service
Post-Consultation Edition (2010)**

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1. **What are Planning Performance Agreements?**

- 1.1 Planning Performance Agreements (PPAs) are a framework introduced by the Department for Communities and Local Government (CLG) to assist local planning authorities and developers in delivering decisions on major planning applications.
- 1.2 In particular they seek to increase the importance of meaningful pre-application discussion with all relevant parties such as the local community, elected members, and statutory agencies. The introduction of PPAs is intended to improve the quality of planning applications through district-wide collaboration.
- 1.3 The PPA is a public document signed by the local planning authority and the developer prior to the submission of a major planning application. The overriding aim is to produce a Project Programme, which would establish a shared vision for the scheme, seek to identify and resolve the key issues and obstacles, and set appropriate and realistic timescales for each element of the programme, ranging from pre-application discussions, to community engagement, to the submission and determination of the planning application.
- 1.4 It is important to note that the PPA is not an indicator of the eventual outcome of the planning application, but a method of establishing shared development objectives between all parties, and working to a stage where the proposal can be formally tested against relevant planning policy through the planning application process.
- 1.5 A national pilot project established by the CLG and the Advisory Team for Large Applications (ATLAS) revealed that the involvement of all relevant parties at an early stage had the potential to improve the content and focus of major planning applications. In particular, the establishment of a timetable for all elements of pre-application work, community engagement, submission of the planning application and a date for decision-making gave all involved in the process greater certainty and confidence in the planning process.

1.6 PPAs cannot be used for all types of planning applications. It will often be for the local planning authority to decide whether the size and complexity of the proposal justifies a PPA.

1.7 Lancaster City Council has devised criteria for assessing whether a proposal is appropriate for a PPA. It is as follows:

- **Firstly, the proposal has to fall within the ‘major’ category of development. Major applications are those which;**
 - (i) Propose 10 or more dwellings or - where the number of dwellings is yet to be determined – the site area exceeds 0.5 hectare;
 - (ii) Proposes a building which has a floorspace of 1,000 square metres or greater; or,
 - (iii) Comprises development on a site which has an area of 1 hectare or greater.
- **Secondly, the proposal must be in conformity with the Development Plan (see Paragraph 4.4 of this Document), or where it involves a departure from policies within the Development Plan, the proposal is one that has the potential to satisfy the Local Strategic Partnership’s Sustainable Community Strategy, or the proposal is one that the City Council believes it can support in principle, for the wider benefit of the district;**
- **Finally, the proposal must be one that is either:**
 - (i) Likely to be referred to a Central or Regional Government Body; or,
 - (ii) Requires an Environmental Impact Assessment, or has an impact upon an area of environmental sensitivity; or,
 - (iii) Involves a large site (generally greater than 1 hectare, or in the event of residential development, 0.5 hectare) which has complexities regarding land ownership or a complex variety of existing or proposed uses; or,
 - (iv) Is likely to involve the drafting of a significant planning obligation agreement, or a significant highway agreement; or,
 - (v) The proposal is likely to have a significant and strategic impact upon existing communities, or would be the subject of

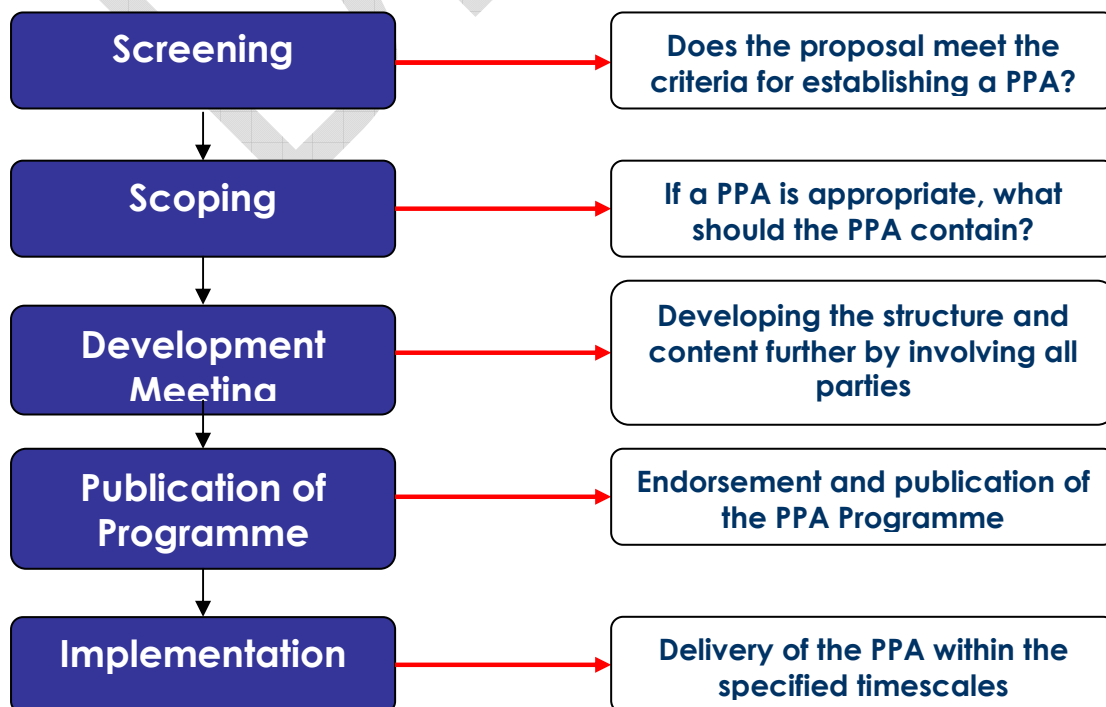
expansive consultations with a wide variety of different statutory agencies, stakeholders, interest groups etc.

- 1.8 Developers in particular should note that signing up to a PPA does not guarantee a planning approval, and the final decision regarding a planning application is dependent on the planning merits of the proposal, and is not based upon the existence of a PPA.
- 1.9 Lancaster City Council has been at the forefront of emerging planning policy in respect of PPA's since 2006, when its Planning Service took part in a PPA pilot project with The Advisory Team for Large Applications (ATLAS). The Planning Service (now the Regeneration and Policy Service) was also one of the first nationally to introduce a 'Development-Team' approach to considering and determining major planning proposals. This approach allowed collective thinking regarding major applications and proved to be successful.
- 1.10 By modifying the City Council's approach to incorporate PPA principles, the local planning authority aims to be more transparent about its pre-application discussions, to work in collaboration with the developer, statutory agencies and community groups to deliver and project-manage high-quality development, and to establish a robust timescale for determination of the planning application. This PPA Charter seeks to formalise the process.
- 1.11 At the present time Lancaster City Council does not charge a fee for participation in the PPA process. Fees for the submission of the planning application will be required in accordance and can be calculated at the National Planning Portal website, via:

<http://www.planningportal.gov.uk/pins/FeeCalculatorStandalone>
- 1.12 All parties should be aware that under the current planning application performance regimes, local planning authorities are required to determine all major applications within a timescale of 13 weeks from the date of submission of the planning application. This timescale increases to 16 weeks, where the application is the subject of an Environmental Impact Assessment. Where a PPA is agreed and signed by the local planning authority and the developer at the pre-application stage, the planning application will not be subject to those national timescales but will be determined in accordance with the timetable agreed and signed by the parties.

2. What are the key stages involved in establishing a Planning Performance Agreement?

2.1 There are **five** key stages to creating a PPA.



- 2.2 **Screening** is the process of deciding whether the development proposal is one that should be considered for the PPA process.
- 2.3 Lancaster City Council's Regeneration and Policy Service has devised criteria for assessing whether proposals merit a PPA approach. **These criteria are stated at Paragraph 1.7 of this document.**
- 2.4 The Screening Process is undertaken by the Regeneration and Policy Service, once it has received a basic indication of the extent of the proposed development. This should take the form of a written submission from the applicant/developer, which shall consist of a description of the development, an indication of the site area, and a basic proposed site layout plan. **It is not necessary, nor advisable, for detailed plans to be drawn up at this stage because development proposals will have to remain as fluid as possible to respond to observations from the Regeneration and Policy Service, the statutory agencies and community groups.** Sketched zones will often suffice.
- 2.5 Once a PPA has been identified as being appropriate, and both parties have resolved to use one, **Scoping** is the stage where the local planning authority and the developer first meet. Both parties should establish their initial positions regarding the following **six key factors**:
- What are the objectives and aspirations for the development?
What are the physical, economic, social and environmental issues and needs within the locality?
 - Who will be included within the Project Team? Which statutory agencies and community groups will be invited to participate at the Development Meeting?
 - What is the policy position regarding the site and the proposals?
 - What evidence is there that the development is required (physically, economically, socially and environmentally)?
 - What will be the Community Engagement Strategy? How will the developer and the local planning authority identify the communities and groups affected, develop a process of

engagement and ensure that their views and feedback are incorporated into the proposals?

- At what stage(s) will Elected Members be informed of the progress of pre-application discussions? How can Members become involved without compromising their role in the decision-making process?

A record of the Scoping discussions will be produced by the local planning authority and will be used to inform the Project Programme, which will be published and will be publicly available.

- 2.6 Screening and Scoping establishes the foundations for the PPA Programme. However it is the **Development Meeting** that will develop the structure and content of the PPA. This is where the draft proposals are critically and openly considered by all essential stakeholders. ATLAS has previously advised that the Development Meeting should be kept relatively small if possible, with one representative from each of the groups to focus discussion. All parties will benefit from focused debate of the proposals at a single meeting.
- 2.7 The Development Meeting is where the Project Team and all invited parties meet to formally discuss and hopefully agree the following:
1. The Project Vision;
 2. Responsibility for Decision-Making;
 3. The Project Issues and Tasks;
 4. The Project Programme and Timescales.
- 2.8 The first of these – The Project Vision - is an important element of any major planning application. It is necessary to ensure that any complexities or changes in circumstances do not dilute the quality of the proposal. Amendments to proposals should always have a positive impact that adds value.
- 2.9 The project vision sets a benchmark against which the project will be measured at all stages of the process. It should reflect national and regional planning policies and comply with any site-specific local planning guidance.
- 2.10 Responsibility for project decision-making should be agreed. This would usually involve a Senior Officer from the Regeneration and Policy Service and a Senior Officer from the developer, who shall both adopt the role of Project Managers, to oversee the completion of tasks. All other statutory agencies and community groups will nominate their point of contact.

- 2.11 The Project Issues and Tasks will then be identified and recorded for inclusion in the PPA Programme. Responsibility for solving the issues raised will be allocated amongst the Project Team. Where agreement over any specific matter cannot be fully resolved (e.g. where aspirations of different parties conflict) this shall be recorded too.
- 2.12 The Development Meeting should be minuted and all actions agreed within the Project Programme, with timescales for resolution of each task. As the best practice indicated by ATLAS suggests, lengthy minutes should be avoided in favour of recording the critical detail. The minutes shall be circulated to all attendees and shall form the basis for the publication of the Project Programme.
- 2.13 In some exceptional circumstances, the Development Meeting can be facilitated independently by ATLAS, rather than by Lancaster City Council. Further details are provided in Paragraph 3.3 of this Charter.
- 2.14 **Publication of the PPA Programme** then occurs. The signatories in all cases will be the Head of the Regeneration and Policy Service and the Project Managers. Any critical third parties (e.g. key statutory agencies) may also be expected to sign the document, which will then be publicly available.
- 2.15 The Programme should contain proposed dates of any additional meetings that are required to resolve specific problems; dates for the submission of the planning application; a scheduled date for a decision by the Planning Committee, and a likely final date for a decision (should the Planning Committee's decision require referral to Government Agencies and/or the scheme requires negotiation of legal agreements).
- 2.16 It is the responsibility of the Project Managers to review the process of **Implementation** and ensure that there are no delays at any stage. Project Managers will be expected to try to resolve any conflicts that may arise during the process, and will review progress at key stages. A final review of the project is expected to be undertaken once the proposal has proceeded to a formal decision.

3. The Role of The Advisory Team for Large Applications (ATLAS)

- 3.1 ATLAS provides independent and impartial advice to local authorities for large, complex, residential development projects. The aim is to improve the quality of the management processes and development outcomes, whilst building capacity, skills and improving relationships.

- 3.2 ATLAS is sponsored by the CLG and hosted by the Homes and Communities Agency, as part of the Planning Advisory Service.
- 3.3 To support the implementation of PPAs, national funding is allocated to provide Development Meetings, hosted by ATLAS and free of charge, providing that they meet one of the following ATLAS criteria:
- **The proposal is for a residential scheme with a minimum of 500 dwellings; or,**
 - **The proposal is for an important regeneration, town centre or mixed use project which incorporates a minimum of 200 dwellings.**
- 3.4 ATLAS does not offer this Development Meeting service unless the proposed number of residential properties meets the thresholds above. Where the proposal does meet one of these criteria, the Regeneration and Policy Service will make contact with ATLAS to request that ATLAS facilitate the Development Meeting. All parties must be aware that the City Council would need to make contact with ATLAS at least one month before the proposed date of the Development Meeting.
- 3.5 For applications which are below these thresholds, the Development Meeting will be likely to be facilitated by the Regeneration and Policy Service and not by ATLAS.
- 3.6 ATLAS staff are trained facilitators and experienced professionals with an in-depth knowledge of the planning process. For further information regarding the role of ATLAS, please contact, **ATLAS, Central Business Exchange, 414-428 Midsummer Boulevard, Central Milton Keynes, MK9 2EA.**

4. **Planning Performance Agreement - Principles and Protocol**

- 4.1 The following paragraphs explain the general principles and protocols that will be expected of Lancaster City Council's Regeneration and Policy Service, and those that will be expected of the developer and all third parties.

The General Principles – Use of PPAs

- 4.2 Lancaster City Council's Core Strategy sets out its spatial vision for the district. It is a vision of a sustainable district where quality of life and standards of development will lead the North West, comprising a prosperous knowledge-based City, a regenerated Coast and a Conserved Countryside. It also explains where new homes and jobs will be located, which areas will be regenerated and which areas will be conserved.
- 4.3 The Core Strategy forms part of a suite of '**Development Plan**' documents, against which all planning applications are considered. These Development Plan documents also include the Regional Spatial Strategy, the Lancashire Minerals & Waste Core Strategy, and the saved policies and saved land allocations of the Lancaster District Local Plan (*all policies in the Lancaster District Local Plan will eventually be replaced by policies under the new Local Development Framework regime, of which the Core Strategy is part; however until this process is complete the majority of existing District Local Plan policies have been 'saved' following a Direction from the Secretary of State and are therefore still applicable*).
- 4.4 Where major development proposals are deemed to be in accordance with the Development Plan documents listed above, or where they may involve a departure from the Development Plan but the proposals are deemed (by the Planning Service) to have the potential to satisfy the Local Strategic Partnership's Sustainable Community Strategy or are deemed (again by the Regeneration and Policy Service) to have wider benefits for the district, the Regeneration and Policy Service will offer to manage this process through a PPA. Equally an applicant or developer may wish to make a case for use of the PPA procedure for their proposals. However the final judgement will remain the responsibility of the Regeneration and Policy Service.

(The Local Strategic Partnership consists of the City Council, County Council, Police, National Health Service, Parish Councils, Further Education providers and representatives from business, voluntary and community sectors. The Sustainable Community Strategy is a collaborative document

which aims to meet the future needs and aspirations of the people of the District).

- 4.5 Where major proposals clearly do not comply with the Development Plan documents or the Sustainable Community Strategy, consideration under the PPA procedure will **not** be offered.
- 4.6 A PPA can only be used where there is agreement to do so between the Regeneration and Policy Service and the developer/applicant. A PPA cannot be forced on either party. A PPA cannot be used once a planning application has already been submitted. It must be established at the outset of the process in accordance with this Charter.
- 4.7 In the event of the proposed scheme being subsequently amended so that it no longer complies with the Development Plan, or fails to accord with the Local Strategic Partnership's Sustainable Community Strategy, or fails to deliver previously identified wider benefits for the district, the Regeneration and Policy Service reserves the right to withdraw from the PPA process.

General Principles – Conduct

- 4.8 Officers of the Regeneration and Policy Service will work on behalf of Lancaster City Council, and they will do so in the wider public interest. They aim to secure the best quality scheme, in accordance with the objectives of the Core Strategy and other Development Plan documents. **Officers will express their own professional guidance, but this guidance does not bind Officers to a final recommendation, nor does the signing up to a PPA override the requirement for a formal planning application to be determined without prejudice and within the statutory requirements of existing planning legislation.**
- 4.9 The Regeneration and Policy Service expects the applicant/developer to approach the project in a transparent and co-operative manner. They should also be prepared to respond to any reasonable and well-founded requests for amendments to the scheme. Both parties should ensure that suitable staff resources are employed to deliver the Project Programme in accordance with the timescales formally agreed.
- 4.10 For the purpose of clarity the designation of Project Managers for the respective parties does not imply that there is a conflict of interest between the regulatory role of the Council's Officers and their involvement in the project. The Regeneration and Policy Service's Project

Manager is responsible for carrying out negotiations to advance the interests of the Council, its Committees and the wider interests of the community. The developer's Project Manager is responsible for advancing the private interests of their clients, and those with a functional and/or financial interest in the project.

General Principles – Community

- 4.11 As set out in Lancaster City Council's Statement of Community Involvement, the Council is committed to open and constructive community engagement. In all projects which necessitate the creation of a PPA, a Community Engagement Strategy will be required. This would be likely to include the relevant Parish Council, residents and community groups.
- 4.12 As part of the Community Engagement Strategy, the Regeneration and Policy Service believes that a representative of any affected Parish Council or community group should be involved at the Development Meeting.
- 4.13 The Regeneration and Policy Service expects the developer to commit to meaningful and constructive community involvement in drafting development proposals. This should not be a 'tick-box' consultation exercise, but a meaningful way of allowing expressions regarding the vision and objectives of the proposal at the pre-application stages. Communities will often have a deeper knowledge of the area and may be able to address issues that have not been considered. In addition, early engagement will provide the opportunity for communities to identify their needs and potential solutions.
- 4.14 Notwithstanding this, the Regeneration and Policy Service will still continue to undertake separate public consultation as part of the formal planning application process. This will continue to take the form of the national, formal 21-day consultation period timescale.

General Principles – Member Engagement

- 4.15 The introduction of the PPA process provides an opportunity for improved pre-application engagement with Elected Members on major proposals. However, there is a need to protect the Planning Committee's decision-making functions. To avoid any potential compromise, the following principles shall be adopted:
- Ward Members shall be invited to the Development Meeting to observe the presentation and discussion.
 - To ensure that the final decision-making process at Planning Committee remains unfettered, under no circumstances should suggestions or views regarding the planning merits of the case be made by Members direct to the developer. Instead, suggestions (or a list of issues) should be forwarded to the Head of Planning Services, or the local planning authority's Project Manager for the PPA, who will negotiate or direct discussions on their behalf.
 - Members of the Planning Committee will continue to be briefed as per current arrangements, prior to Planning Committee.

General Principles – Timescales for Decisions

- 4.16 PPAs which have been formally established and signed by the relevant parties will be officially recognised by the CLG and will be removed from the National Performance Indicators (The fixed 13 week and 16 week timescales for planning application decision-making). This will allow the developer and the Regeneration and Policy Service to negotiate a timescale which reflects and responds to the particular circumstances of the proposal.
- 4.17 As part of national performance monitoring, the City Council confirms that it will notify the CLG regarding the use of any PPAs. This will be via the Standard Development Control Return Forms. The City Council understands that its performance will then be monitored against the agreed PPA timescale.
- 4.18 In the event of a planning decision not being reached within the agreed timescale, the applicant retains the right to appeal against non-determination in the same manner as they would any other planning application.
- 4.19 In the event of a refusal of planning permission, the participation in a PPA project does not affect the developer's or the Regeneration and Policy

Service's rights at any appeal against the refusal. Similarly, if a decision is called-in for determination by the Secretary of State, participation in the PPA project does not affect the statutory rights of any party.

- 4.20 All parties shall adhere to these general principles. The formal PPA Charter, containing a summary of the process recognised by this document, is attached at Appendix A.

Appendix A: The Planning Performance Agreement Charter

1. Screening

During the Screening Phase, the Applicant or Developer shall:

Make the first formal contact to the Regeneration and Policy Service, by providing a short, written description of the development, including an indication of the size of the site and basic proposed layout plans (not detailed plans at this stage – general zoning sketches are acceptable).

During the Screening Phase, the Regeneration and Policy Service shall:

On receipt of this information, Officers will formally screen the proposal against the criteria indicated in Paragraph 1.7 of this Charter;

Officers shall then provide a written response within 10 working days of the receipt of the correspondence, indicating whether the proposal is of sufficient scale and complexity to warrant a PPA approach.

If the proposal is one that is appropriate for consideration via the PPA process, and both parties have agreed to adopt the procedure, work will then commence upon the Scoping Phase.



2. Scoping Phase

During the Scoping Phase, both parties shall:

Establish their position regarding the six key criteria referred to in Paragraph 2.5 of this Charter;

Ensure that the identified Project Managers for all parties remain responsible for the co-ordination of the Project Team. This includes identifying those statutory agencies and other stakeholders whose views will be critical to the outcome of the planning application.

At the end of the Scoping Phase, the Regeneration and Policy Service shall:

Compile a written record of the Scoping discussions between the applicant/developer and the Regeneration and Policy Service, and ensure that a copy of this record is distributed to all persons involved in the Scoping discussions.

Once Scoping has been completed, the parties will work towards arranging a Development Meeting.

3. Development Meeting

Before the Development Meeting, the Regeneration and Policy Service shall:

Determine whether the proposal will be chaired by the Project Managers, or whether it is of sufficient scale to warrant independent facilitation by ATLAS. In determining this, the criteria contained at Paragraph 3.3 is applicable;

Arrange a convenient date, time and venue for all Inception Meeting participants and invite essential stakeholders;

Arrange for the meeting to be minuted.

At the Development Meeting, the Applicant or Developer shall:

Make a short presentation of the proposals to all present, explaining the project vision, and answer any questions regarding specific issues arising;

Agree to work with all present to try to satisfactorily resolve any concerns raised.

At the Development Meeting, all parties including the statutory agencies and community groups shall:

Ensure that they are represented at the Development Meeting;

Raise any concerns or points that require clarification during (or before) the Development Meeting;

Identify any likely planning contribution requests and, where possible, broadly indicate what these may be during (or before) the Development Meeting;

Commit to being proactively involved in the process and ensure that their involvement is appropriately resourced, with a single point of contact (for ease of reference and consistency).

4. Publication of Programme

After the Development Meeting, the Project Managers for the respective parties shall:

Formally draft and agree the Project Programme by signing the Planning Performance Agreement, based upon the template provided at Appendix B. This Programme shall be publicly available.

5. Implementation

Following Publication of the Programme, the Applicant or Developer shall:

Be responsible for the funding of the production of the planning

Following Publication of the Programme, the Regeneration and Policy Service shall:

Formally consult all relevant parties in accordance with

5. Implementation (continued)

Following a decision by the Planning and Highways Regulatory Committee, all parties shall:

Make arrangements for the drafting of any outstanding planning or highway agreements (if the application is approved), or make the necessary arrangements for referral to any Government Agency (if required) within the timescales agreed in the Programme;

Ensure that all tasks are concluded so that a decision notice can be issued in accordance with the project timescales;

Continue to monitor compliance with any planning conditions throughout the process;

Commit to reviewing the project once a formal, final decision on the

**Appendix B: Draft Planning Performance Agreement -
 Template Example**

Project Site	
Project Proposal	
Developer/Applicant	

1. PROCEDURAL ARRANGEMENTS

Name	Position & Role	Contact Details
	Lancaster City Council Project Manager	

Name	Position & Role	Contact Details
	Developer/Applicant Project Manager	
	(For example) Key Stakeholder	
	(For example) Key Stakeholder	
	Lancaster City Council Section 106 Officer	

2. VISION FOR THE DEVELOPMENT

(Explanation of the scope of the project and the physical, economic, environmental and social outcomes for development).

3. KEY ISSUES AND TASKS PLAN

Issues and Tasks	Responsibility	Details of Progress	Timescale

Issues and Tasks	Responsibility	Details of Progress	Timescale

4. PROJECT PROGRAMME

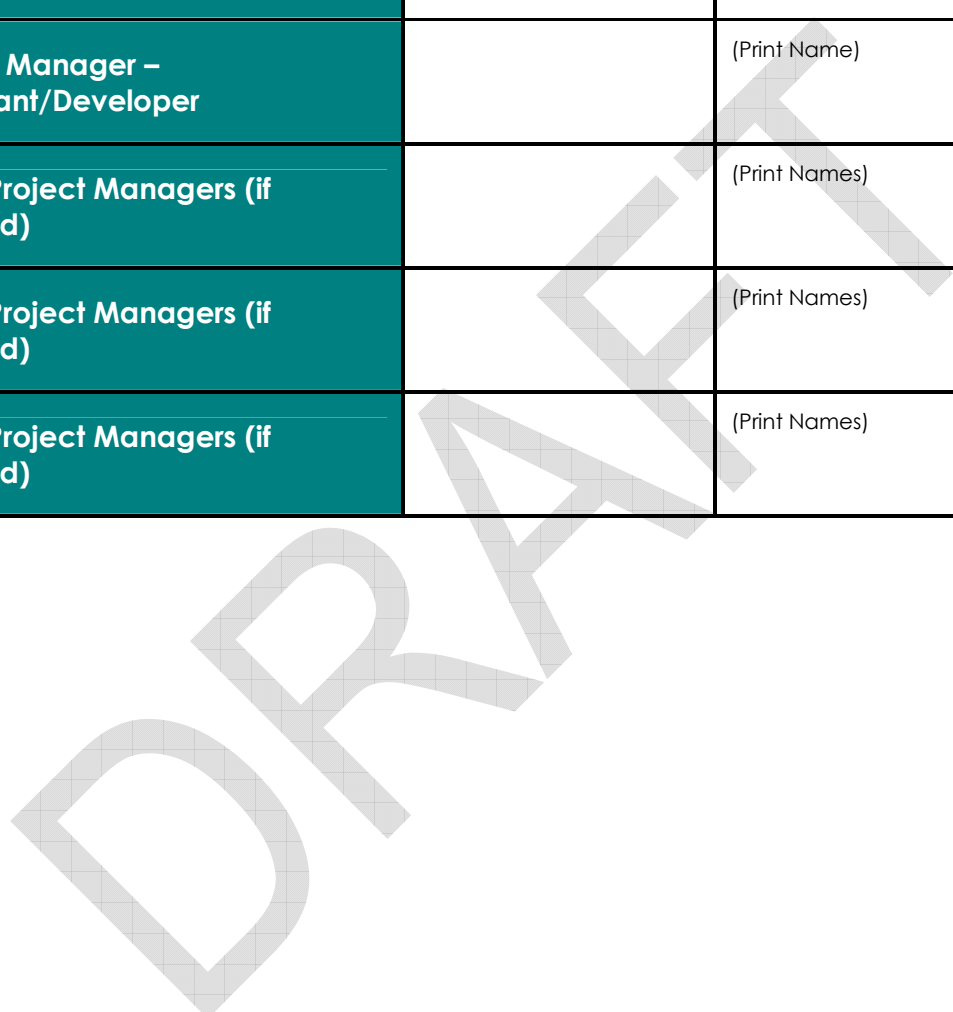
(Summary of Key Dates and Milestones to be included here, culminating in a date for reporting to the Planning Committee and a date for issuing of the decision notice).

DRAFT

5. SIGNATURES

The parties to this Planning Performance Agreement shall be committed to inter-organisational working and shall use all reasonable endeavours to adhere to the Published Programme at all times, in order to deliver a planning application decision for the proposed development.

Project Manager & Head of Regeneration and Policy Services – City Council		(Print Names)
Project Manager – Applicant/Developer		(Print Name)
Other Project Managers (if required)		(Print Names)
Other Project Managers (if required)		(Print Names)
Other Project Managers (if required)		(Print Names)



CABINET

Adoption of the Shoreline Management Plan for North West England and North Wales

**9 November 2010
(Deferred from 5 October 2010)**

Report of the Head of Regeneration and Policy

PURPOSE OF REPORT			
To consider the adoption of the revised Shoreline Management Plan (SMP2)			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	April 2010		
This report is public.			

RECOMMENDATIONS OF COUNCILLOR JON BARRY

Recommendations to follow at cabinet.

1.0 Introduction

Shoreline Management Plans (SMPs) are part of the government Flood and Coastal Erosion Risk Management planning framework. The SMP sets the long term policy for the management of the coast and is taken forward through shoreline strategies and schemes. The SMP is a high level strategic document which sets out the broad principles and will be used to assist in the determination of priorities for future funding. Where applicable more detailed strategy studies will be undertaken and these may then lead on to definitive coastal defence projects.

This is the first review of the SMP that was adopted over 10 years ago and the review was started in 2008. Lancaster is part of Coastal Cell 11, which runs from Great Ormes Head in Llandudno to the Scottish Border in the Solway Firth, and in this review there is one SMP2 for the whole length, including the many large estuaries.

It is important that the partner coastal authorities adopt the plan in unison because it will influence the level and consistency of funding provided to them to undertake coastal defence works and to maintain existing defences.

As part of the North West England and North Wales Coastal Group (NWNWCG), Blackpool Council was nominated to take the lead on procuring a consultant to undertake the SMP2 and managing the SMP2 process on behalf of all the Coastal Authorities and the Environment Agency. Blackpool Council gained funding from Defra (now administered through the Environment Agency) to undertake the SMP2 for the English coastline and Conwy County Borough Council gained funding from the Welsh Assembly Government (WAG) for the Welsh coastline. Following a tender procedure Blackpool Council contracted with Halcrow Group consultants to assist with production of the SMP2. Lancaster City Council had officer representation on the project board for the SMP2 throughout the process.

The SMP2 has been undertaken in stages in accordance with the Defra 2006 guidance, which is supported by WAG.

The guidance gives four possible policy options:

Hold the Line	maintain the existing coastline position
Advance the line	move the line forward
Managed Realignment	manage the movement of the coastline either landward or seaward
No Active Intervention	No significant public money put into management of the coastline.

The guidance states that a policy needs to be assigned to lengths of coastline over 100 years in three time epochs:

Short term	0-20 years
Medium term	20-50 years
Long term	50-100 years

2.0 Proposal and Impact on Lancaster Coastline

As can be seen in the table below Lancaster City Council has a variety of management options included over its length of coastline. The detailed consultations have brought out some concerns from residents of certain areas some of which Members will already be aware of from direct communication from residents. The main document is Appendix 1, available separately, but a summary of the policies for the Lancaster coastline is illustrated in the table below:-

Policy Unit	Location	Policy Period - Years		
		0-20	20-50	50-100
2.3	Fluke Hall to Cocker Bridge	HTL	MR or HTL	HTL
2.4	Cocker Bridge to Glasson Dock	HTL	MR or HTL	MR or HTL
3.1	Glasson Dock to Condor Green Farm	HTL	HTL	HTL
3.2	Conder Green Farm to Aldcliffe	NAI	NAI	NAI
3.3	Aldcliffe to Freemans Wood (Aldcliffe Marsh)	NAI	NAI	NAI
3.4	Freemans Wood to Skerton Weir	HTL	HTL	HTL
3.5	Lythe Bridge to Riverside Farm	HTL	MR	HTL
3.6	Riverside Farm to Overton cattle grid	NAI	NAI	NAI
3.7	Overton Cattle Grid to Sunderland Village	HTL	HTL	MR
4.1	Sunderland Village to Potts Corner	NAI	NAI	NAI
4.2	Sunderland Point	MR	MR	MR
4.3	Sunderland Point to secondary Embankment	NAI	NAI	NAI
4.4	secondary Embankment to Potts Corner	HTL	HTL	HTL
5.1	Heysham Power Station to Heysham Dock	NAI	NAI	NAI
5.2	Potts Corner to Heysham Power Station	HTL	HTL	HTL
6.1	South End of Half Moon Bay to Chapel Hill, Heysham	NAI	NAI	NAI
6.2	Chapel Hill, Heysham to Hest Bank	HTL	HTL	HTL
7.1	Hest Bank to Sewage Works	HTL	MR	HTL
7.2	Sewage Works to Red Bank Farm	NAI	NAI	NAI
7.3	Red Bank Farm to Bolton-le-Sands Caravan Park	HTL	MR	HTL
7.4	Bolton-le-Sands Caravan Park to River Keer	NAI	NAI	NAI
7.5	River Keer to Heald Brow	NAI	NAI	NAI
8.1	Heald Brow to Frith Wood	NAI	NAI	NAI

Obviously “Hold the Line” (HTL), throughout the three epochs, green in the table, causes no problems for the public. The majority of these lengths of coastline are the responsibility of Lancaster City Council or the Environment Agency with a few short lengths in the ownership of St. Peters Church, Heysham and the railway.

It should be noted that whilst there may be a policy of HTL the responsibility for the defence is still the owner of the land.

The “No active intervention” (NAI) is causing concern in the Sunderland Point area and representatives of the community are disputing the allocation of these policies. However the national guidelines under which these policies are being implemented have been fully explored by the consultants, and the project board of the NWNWCG. During the consultation period in response to concerns of residents it was agreed to further subdivide the lengths of coastline in order to isolate the “point” of Sunderland Point and give it a managed realignment (MR) policy rather than NAI. This allows for

the possibility of studies into the effect that erosion of the point has on the River Lune, but a funding source would have to be obtained.

In general the NAI areas have identified lengths of coastline where the benefits of constructing a defence are outweighed by the costs. Schemes which attract funding for grant, which are chosen on a priority basis nationally, usually have a cost benefit ratio close to ten. So whilst this process has brought to the public attention that certain areas would not be economically viable to protect it has not changed the status quo, only the public knowledge of this fact.

The “managed realignment” policy has caused a great deal of concern in the Thurnham and Cockerham Area. This area is complicated by residents being of the opinion that the Environment Agency should honour an agreement, that residents claim they inherited from the River Lune Catchment Board in 1949, to maintain the defences. The Environment Agency believes that they do not have any obligations and the responsibility lies with the individual landowners.

Members have received direct communications from representatives and individuals from this area .A great deal of detailed consultation has taken place with representatives from these areas which has resulted in a change to the policy for the second epoch. This is now a hybrid policy of HTL or MR depending on studies which will be undertaken in the first epoch. There is also a commitment from the EA to work closely with the residents to explore the future options which will include officers from the City Council.

With the exception of Sunderland Point which is a special case, due to possible impacts on the Lune Estuary, areas within this SMP2 which have been identified as possible managed realignment sites have been designated as HTL for the first epoch (20 years). This will allow studies to take place to determine their suitability, the full impact and the economics of the proposals.

Whilst certain residents are not satisfied with the outcomes in the final report, officers from the various organisations involved, together with the consultants Halcrow have sought the best outcome available within the national parameters set by the government

Under the strategic overview for the coast, the national SMP2 programme is managed by the EA. This plan has been reviewed by the EA’s SMP2 Quality Review Group to check quality and consistency nationally.

The whole of this SMP from Llandudno to the Scottish Border will be submitted to the EA Regional Board for adoption mid October.

3.0 Details of Consultation

The draft SMP2 was published for public consultation from October 2009 to February 2010 with comments in some areas being allowed until the end of March 2010 responding to some criticisms about the consultation process. The draft SMP2 was available at various council buildings along the coastline and press releases were issued from each council to advertise the public consultation. In addition all of the documents were available on the Coastal Group website at www.mycoastline.org . There were also public meetings and more local meetings to discuss the draft plan with stakeholders and the public.

Both the process to be undertaken and the implications of the SMP were presented to the Overview and Scrutiny Committee on the 9th December 2009

It has to be acknowledged that there were difficulties in engaging local communities with the process. This was probably due in part to consultation fatigue in many communities with a whole raft of policies and strategies over a similar period. Ironically the eventual raising of criticisms by some communities who realised the extent to which they were affected did more to stimulate engagement than the various efforts to consult in the first place.

Arrangements are in place for a continued dialogue with residents of the most sensitive areas of Sunderland Point and Thurnham.

All the comments that were received were reviewed by the project team to assess whether changes needed to be made to the draft plan. The consultant has amended the documentation and has written a consultation report which contains all the comments and any subsequent changes to the SMP2. This consultation report has been published on the Coastal Group website for Stakeholders to see. A copy of the relevant parts of this report is included in Appendix 2, available separately.

The SMP2 will have to undergo a Habitats Regulations assessment to assess the impacts on European designate habitats. If there is likely to be an adverse impact on a European site then the SMP will need to go to the Secretary of State to be approved. This is not expected to have any impact on the proposed policies on the Lancaster Coastline.

4.0 Options and Options Analysis (Including risk assessment)

4.1 Option 1

Members are asked to formally adopt the revised Shoreline Management Plan as a risk management tool for the sustainable management of our coastline.

Whilst there is concern in some communities about the policies being adopted the best available solution has been obtained for these areas within the national parameters laid down by the government. The SMP2 is the major risk management tool that is being used by central government to allocate priorities for funding of coastal defence works. Lancaster City Council has in the past relied heavily on access to government grants to protect itself from major coastal flooding. Whilst a great deal of work has already been completed which has reduced this risk there is still a need for further work to maintain and enhance the existing defences which will maintain the level of protection recently achieved. A programme of works to replace the existing Wave Reflection Wall, built in the early eighties, which whilst currently serviceable has suffered some deterioration is programmed over the next few years subject to final approvals. Access to such funds is likely to be at risk if this strategic management tool is not adopted by Lancaster City Council.

In those areas of controversy where the prospect of managed retreat could threaten the current status quo there is a commitment to hold the line for now and review the approach before the next revision of the plan. For this reason support is recommended at this time.

4.2 Option 2

Members may choose not to adopt the plan. Non adoption will put at risk access to funds for any coastal or flooding related grants. Lancaster City Council currently has

allocations in its capital programme which are still subject to final grant approval which may be at risk if non adoption is chosen. This Council can only operate as the local responsible body for Coastal defences if it is adequately funded by the Environment agency and working in partnership with the North West Coastal Group. Failure to adopt the plan could prejudice this.

5.0 Officer Preferred Option (and comments)

The officer's recommendation is 4.1as this is an important aid to the future management of our coastline and will be an important factor in the determination of financial support that the council will receive from central government on coastal defence and flooding issues.

RELATIONSHIP TO POLICY FRAMEWORK

A sustainably managed coast is an essential element in the long term economic regeneration and assists in the adaptation to climate change.
Partnership working with other agencies and local authorities is important to maintain coherent policies across boundaries.
The SMP2 will feed into the Local Development Framework for Lancaster

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

This report raises no implications

FINANCIAL IMPLICATIONS

Non adoption of the SMP2 by the City Council could have a negative impact on future bids for funding and the future level of support the Council receives from Central Government, if seen to be unsupportive of what the Government has identified as priority. Of the projects in the Council's Approved Capital Programme, the £2,018M Wave Reflection Wall Project from 2010/11 to 2013/14 is the only one awaiting full EA approval and could also be at risk if the plan is not adopted.

The SMP2 is underpinned by an action plan which identifies areas requiring further study to quantify the level of works needed. It has not yet been determined whether the EA or Council would undertake these studies but any capital works would be fully externally funded, aside from a small percentage of capital salaries which would need to be met from City Council resources. This cost to the Council would need be calculated and reported back on a scheme by scheme basis for approval.

Government is currently consulting on changes to the basis on which financial support for the maintenance of sea and river defences should be distributed, as well consulting on proposals regarding the funding of responsibilities arising from the Flood and Water Management Act, under which the Council will have a duty to cooperate with the lead flood authority with respect to Surface Water Management Plans for this area, i.e. the County Council. Whilst the proposals are not expected to have any direct bearing on the adoption of

the SMP, the outcome of the consultation on the distribution financial support to help meet the costs of maintaining sea and river defences could well affect the Council. This was highlighted in the financial strategy update report to Cabinet in August. Any such financial implications would also be addressed in future reports to Cabinet, on a scheme by scheme basis

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted. The Council's role in coast protection involves comparatively small financial investment from its own resources, but nonetheless the Council needs to ensure that any revenue and capital implications arising from progressing the SMP are factored into its spending plans.

LEGAL IMPLICATIONS

There are no direct legal implications directly arising from this report.

MONITORING OFFICER'S COMMENTS

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

BACKGROUND PAPERS

Availably separately
Appendix 1 Lancaster SMP2 Policies.pdf
Appendix 2 Lancaster Consultation
Extract.pdf
Appendix 3 Lancaster SMP2 text.pdf

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CABINET

Council Assets Funding Report 9th November 2010

Report of Head of Property Services

PURPOSE OF REPORT				
To update Cabinet on items considered by the Council Assets Task Group.				
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>	Referral from Cabinet Member
				X
Date Included in Forward Plan				
This report is public				

RECOMMENDATIONS OF COUNCILLOR LANGHORN

- (1) To approve the various recommendations as set out in the report below.

1.0 Introduction

- 1.1 At the meeting on 7th October 2008, Cabinet considered a report from the Council Assets Task Group and approved a number of recommendations including requesting a further report setting out the resource implications of taking forward recommendations 4(a)-(g) of the Task Group report.
- 1.2 This report sets out the actions and resource implications that relate to each individual recommendation.

2.0 Proposal Details

- 2.1 *(a) That the Charters of Lancaster be relocated to the Records Office in Preston for conservation, storage and safekeeping whilst ownership remains with the City Council, and enquiries be made with the Record Office as to the complimentary copies they would be prepared to produce.*

There is a minor cost of opening up the storage cabinets which can be contained within existing budgets. Once the cabinets are opened up the Records Office would remove the charters to Preston for storage and preservation. This would be done at no cost to the City Council, in the same way that there is no charge made for the large quantity of City Council records

already held there.

Recommendation: That the Charters be relocated to the Records Office in Preston for conservation, storage and safekeeping.

- 2.2 *(b) That an application be made for heritage funding to produce copies of all of the City's historic charters for public display.*

The county council has taken a closer look at the charters and assessed their size and the cost of copying which, as it has turned out to be a smaller sum than they previously thought likely, they will absorb this cost. The county council will supply the city council with a colour print actual size of each charter and also with copies of the images for our future use on CD. The printed copies would be simply that – there would be no replica seals etc attached. If at some future point the city council identified the need for a copy with a replica seal attached the county council would be able to do that but it would take time. At some point some of the charters will also receive substantial conservation work and after that the county council would be able to make copies which are likely to be of higher quality than those they can produce pre-conservation.

Recommendation: That the council accepts the offer of county council to produce an initial printed copy of each charter with a CD of images for future use, and to request further copies after conservation works have been completed.

- 2.3 *(c) That the original 'Williamson Family Tree' currently stored in the Legal Services strong room be transferred to the Records Office for conservation, storage and safekeeping and enquiries be made with regard to commissioning a copy for future display in Williamson Park, subject to the agreement of the Williamson Park Board.*

This copying work referred to in 2.3(b) above would not include the Williamson Family Tree as it is too large to reproduce on the county council's equipment. Any copy would need to be produced by a specialist digitisation company. Since a key reason for having a digital copy created, would be to allow use of the document in interpretation work at the Park and possibly other locations, it might be possible to build the cost of copying in to a larger project seeking outside funding for example from the Heritage Lottery Fund. If the city council decided to produce such an application to an external funder, or indeed an application to allow use of the charters in community or outreach projects, the county council has indicated that they would be happy to work with, and where possible advise, the City Council with its application. In terms of the cost of producing a copy of the Tree this might well be in the region of £500 to £1000 for a high quality copy produced in a safe, non-destructive manner.

Recommendation: That the Williamson Family Tree be transferred to the Records Office for conservation, storage and safekeeping and that should the city council wish to take forward a project relating to Williamson Park in future, to accept the assistance offered by the county council to fund such a project including the preparation of a copy of the family tree.

- 2.4 *(d) That consideration be given to finding innovative means of funding a*

rolling repair programme for the oil paintings and other restorative works to non-fixed assets in Lancaster Town Hall; including that a percentage of the hiring fees for the Banqueting Suite, Ashton Hall and tours of Lancaster Town Hall be channelled into the existing renewals reserve.

There are various potential options for the Council to consider to fund the maintenance and/or restoration of the non-fixed assets.

Last year the income from room hire was £54K which was substantially in excess of the estimate. Under the current Financial Regulations it is possible to use 50% of any additional income over and above the budget; half of the surpluses from 2010/11 onwards could be transferred into the existing renewals reserve. However, the Council's budget process is designed to minimise recurring variances from budgets so it may be that this mechanism does not yield significant resources.

Alternatively, if the Council decides to dispose of surplus furniture (see (g) below) income from the disposal could be used. This could only happen if the income from an individual item does not exceed £10K as it would then be treated as a capital receipt and could in turn, only be used to fund capital expenditure. From the information currently available the vast majority of items are under this threshold although this would have to be monitored on a case by case basis.

The third option is to establish an ongoing revenue budget for the repair and maintenance of heritage assets. This would have the advantage of ensuring that resources were in place to complete the plan of works, however, its inclusion would be subject to prioritisation by Members. The cost/benefit of this will be clearer once a survey of the non fixed assets has been completed (see e below).

Finally, and more straightforwardly, the Council's existing Renewals Reserve could be used to fund any minor works needed. The current unallocated balance on the reserve is estimated to be around £21K at the end of this year.

Recommendation: That the existing renewals reserve be used to fund the cost of any maintenance and / or restoration, subject to the outcome of survey.. In due course a planned programme would be developed which will allow Members to decide on an appropriate specific budget if need be.

2.5 (e) *That an updated inventory and where appropriate, condition survey of the City Council's fixed assets be undertaken.*

James Thompson, a reputable firm of Auctioneers and Valuers from Kirby Lonsdale recommended by the County Council's Museum Service have been approached to provide an estimate of costs to carry out this work. They will charge an hourly rate and estimate that the work will cost approximately £300 for Lancaster Town Hall £150 for Morecambe Town Hall and £150 for the furniture in store at St Leonards House. In total £600 should be enough to fund this work and this can be found from existing revenue budgets.

A full inventory and condition survey of the non fixed assets would be very useful for insurance purposes and in targeting any future spending on repair or restoration work as referred to in 2.4 (d) above. At present many of the

Council's non fixed assets are not insured and such a survey would help to quantify the costs and benefits of doing this. It would also highlight the most urgent items of concern and allow the Council to prepare an action plan for the remedial works. Depending on the results of the survey, it might be that a further report is required to outline the options for managing the assets.

Recommendation: That a full inventory, valuation and condition survey of the non-fixed assets be procured with the results and implications reported back to Members in due course if necessary.

- 2.6 *(f) That attempts are made to exhibit more of the Council's assets including the relocation to, and display of, the Morecambe Music Festival silverware in Morecambe Town Hall.*

As changes in the use of accommodation take place, it would now be most appropriate to have a modern display unit situated in the Customer Services area or somewhere in the entrance hall. A suitable display case could be found for under £1000 and it is suggested that this could be funded from the income received from the disposal of surplus furniture should that be approved.

Recommendation: That a modern display unit be acquired using funds from the disposal of surplus furniture.

- 2.7 *(g) That consideration be given to the future use/storage including the possibility of disposal of some items of furniture in view of the limitations on space within the town halls as a consequence of the Access to Services Review and that Department for Culture, Media and Sport (DCMS) guidance be followed in the event of any disposal.*

There is no specific reason to retain the items that we have in store. None of the storage areas are ideal for storing antique furniture and the condition of the assets stored is deteriorating. An initial inspection has been undertaken by local valuers recommended by the Museums Service to give a guide to prices expected with many items in the £100-300 range. The proceeds from the sale could be used to fund the restoration works to the oil paintings and other non fixed assets (see 2.4 (d) above) and/or the display unit referred to in 2.6 above.

Recommendation: That all the surplus furniture be identified for disposal and that the income be used for the acquisition of a display unit as referred to in 2.6 above.

3.0 Details of Consultation

- 3.1 There has been no consultation as such but the report has been prepared where appropriate in conjunction with information received from the Records Office.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: is to approve the various recommendations as set out in the report above.	Option 2: is to do nothing.
Advantages	This would result in the safekeeping of historic charters in the Records Office whilst obtaining copies for display locally. A condition survey would allow Officers to develop options for the ongoing maintenance of non fixed assets assets.	No further work on this project would be required.
Disadvantages	Some officer time would be required to implement these recommendations	This would result in the charters remaining as existing and continuing to deteriorate even though there is an opportunity to transfer them to the Records Office at no cost. There would be no copies available for public display. No funding would be sought for restoration of paintings etc whilst silverware would not be displayed and old furniture would remain in storage.
Risks	None identified	The charters would remain stored in unsatisfactory conditions and continue to deteriorate. If funds are not made available for restoration the condition of the non fixed assets of the council will also continue to deteriorate. If the old furniture remains in storage it will incur accommodation costs in doing so.

5.0 Officer Preferred Option (and comments)

5.1 The officer preferred option is Option 1 as this will promote the maintenance and/or restoration of the non-fixed assets and the safekeeping of the historic charters.

6.0 Conclusion

6.1 The recommendations contained within this report present a starting point for safeguarding the City's non fixed assets. If implemented they will be instrumental in preserving these assets in good condition for future

generations to enjoy.

<p>RELATIONSHIP TO POLICY FRAMEWORK</p> <p>There is no direct relationship to the current policy framework.</p>	
<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>There are no immediate impact assessments which are relevant.</p>	
<p>LEGAL IMPLICATIONS</p> <p>There are no legal implications arising from this report.</p>	
<p>FINANCIAL IMPLICATIONS</p> <p>As referred to above.</p> <p>Further review of the financial implications would be required once the results of the initial survey are available.</p>	
<p>OTHER RESOURCE IMPLICATIONS</p> <p>Human Resources: There are no HR implications arising out of this report.</p> <p>Information Services: There are no IS implications arising out of this report</p> <p>Property: Property Services have prepared this report and have no further comments to add.</p> <p>Open Spaces: There are no open space implications arising out of this report</p>	
<p>SECTION 151 OFFICER'S COMMENTS</p> <p>The s151 Officer has been consulted and her comments reflected in the report.</p>	
<p>MONITORING OFFICER'S COMMENTS</p> <p>The Monitoring Officer has been consulted and has no further comments.</p>	
<p>BACKGROUND PAPERS</p> <p>Report of the Council Assets Task Group Sept 2008 Report to Cabinet 7th October 2008 re Council Assets</p>	<p>Contact Officer: Sheila Hall Telephone: 01524 582512 E-mail: shall@lancaster.gov.uk Ref:</p>

CABINET

Urgent Business Report 9 November 2010

Report of Head of Governance

PURPOSE OF REPORT			
To advise Members of actions taken by the Chief Executive, in consultation with the relevant Cabinet Member and the Chairman of the Overview and Scrutiny Committee.			
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
Referral from Officer			X
This report is public			

RECOMMENDATION

- (1) That the actions taken by the Chief Executive, in consultation with the relevant Cabinet Member and the Chairman of the Overview and Scrutiny Committee in accordance with the Scheme of Delegation, in respect of the following, be noted:

Land at Edenbreck Farm, Carr House Farm, Lancaster

- (1) To agree to the transfer of land and buildings at Edenbreck Farm, Lancaster as set out in this report.
- (2) To agree to the principle of granting a lease to the Fairfield Association to facilitate the creation of an Urban Nature Reserve on a rental basis to be agreed by Cabinet.
- (3) In consultation with the Chairman of the Overview and Scrutiny Committee, to treat the matter as urgent and not subject to call-in under Overview & Scrutiny Procedure Rule 17.

1.0 Background

- 1.1 On 8 December 2009 Cabinet considered a report on the Fairfield Association Urban Nature Area, resolving the following:

That Cabinet gives 'in principle' approval for the City Council to work in partnership with the Fairfield Association to take the proposal forward and that the financial implications of this be included within Cabinet's draft budget proposals, for further consideration.

- 1.2 An urgent business decision was sought for a proposal to sell a farmhouse on the land to the current agricultural tenant and to lease the remainder of the

land to the Fairfield Association to create an Urban Nature Reserve.

- 1.3 The decision was urgent because the potential tenant required a commitment from the council in order that they could satisfy the requirements of one of their funding bodies.
- 1.4 The matter was a key decision but advance notice had not been included in the Forward Plan. As such the Chairman of Overview and Scrutiny Committee agreed to this being treated as a matter of special urgency in accordance with Access to Information Procedure Rule 16, and gave approval for the Chief Executive to take the decision in advance of the usual five days notice.
- 1.5 After consulting with the Leader of the Council (who is also the Cabinet Member with Responsibility for Property Services), who agreed to the decision, the Chief Executive took the decision outlined above.
- 1.6 As the potential leaseholder required the principle of the lease to be in place before mid-October, the call-in process had potential to jeopardising the implementation of the decision and the ability of the new tenant to source an important source of funding.
- 1.7 Therefore, the Chairman of Overview and Scrutiny was consulted with regards to waiving the call-in process, agreeing to this decision. The Chief Executive then took the decision to treat the matter as urgent in accordance with Overview and Scrutiny Procedure Rule 17, and not subject to call-in.

2.0 Conclusion

- 2.1 Approval was given to the above actions, which are reported to this meeting in accordance with the City Council's Constitution, Access to Information Procedure Rule 15.01(c).

**CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

Comments were contained in the original report of the Corporate Director (Regeneration).

LEGAL IMPLICATIONS

Comments were contained in the original report of the Corporate Director (Regeneration).

FINANCIAL IMPLICATIONS

Comments were contained in the original report of the Corporate Director (Regeneration).

OTHER RESOURCE IMPLICATIONS

Human Resources:

Comments were contained in the original report of the Corporate Director (Regeneration).

Information Services:

Comments were contained in the original report of the Corporate Director (Regeneration).

Property:

Comments were contained in the original report of the Corporate Director (Regeneration).

Open Spaces:

Comments were contained in the original report of the Corporate Director (Regeneration).

SECTION 151 OFFICER'S COMMENTS

Comments were contained in the original report of the Corporate Director (Regeneration).

MONITORING OFFICER'S COMMENTS

Comments were contained in the original report of the Corporate Director (Regeneration).

BACKGROUND PAPERS

1. Report of Corporate Director (Regeneration), 'Land at Edenbreck Farm, Carr House Farm, Lancaster' (exempt due to paragraph 3, schedule 12a, Local Government Act 1972)
2. Letters to Chairman of Overview and Scrutiny Committee and Leader of the Council

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CABINET

**Luneside East Regeneration Project
9 November 2010**

Report of Head of Regeneration and Policy

PURPOSE OF REPORT				
To report on options for progressing the regeneration project.				
Key Decision	X	Non-Key Decision		Referral from Cabinet Member
Date Included in Forward Plan		October 2010		
This report is exempt from publication by virtue of paragraph 3, of Schedule 12a of the Local Government Act 1972				

RECOMMENDATIONS OF COUNCILLOR BRYNING

- (1) That in the event the Head of Regeneration and Policy is able to assure the feasibility of option 1 to the satisfaction of the Council’s Monitoring Officer and the S151 Officer and that further, provided that the option would not involve any financial commitment by the Council additional to that budgeted for to date, then the Head of Regeneration and Policy is authorised to vary the Building Agreement of 2 November 2005 as appropriate to facilitate option 1.
- (2) That the Head of Regeneration and Policy report back on any variation made to the Building Agreement to put option 1 into effect and to enable the general fund capital and revenue budgets to be updated as appropriate.
- (3) That in the event option 1 proves unimplementable that the Head of Regeneration and Policy report back on options.

1.0 Introduction

1.1 This project is a long-standing corporate regeneration priority for the Council. A Cabinet resolution of 25 November 2003 governs the project. Subsequent to this officers have reported on progress at length over the years via the Luneside East Advisory Board.

- 1.2 The current position is that since early 2008 the recession has prevented the Council's development partner from taking the project forward. This developer is Lunese East limited (LEL) - itself a joint venture company between CTP Ltd and Development Securities plc. Market conditions are very adverse and the site has a nil value in its present condition. The main barriers are high upfront costs in remediating (cleaning up) land contamination and difficulties in securing a developer(s) for the residential elements
- 1.3 Council officers have worked with LEL for over two years to try and identify a changed delivery approach that offers a way forward. Until recently though this work has been to no avail. Market conditions, including much lowered asset values, much reduced prospective profit returns and limited availability of credit finance precluded all options considered.
- 1.4 The recent Lands Tribunal decision arising out of a compulsory purchase compensation claim, however, has opened up the possibility of changing the programming of the project to allow a first phase "shop window" of commercial development by LEL at the entrance to the site. This combined with some clearance and tidying up works on the wider site would signal to the public and the development industry that a start had been made and increase the chances of securing a residential developer(s).
- 1.5 As this represents a change to the approved project issues such as procurement, state aid and the attitude of the project funders need to be addressed. In addition, the proposal does need further detailing. However, subject to this the proposal set out in outline below does appear to represent a realistic way to move forward and break the current impasse. There is an imperative to move forward - as discussed more fully in section 6 of this report.

2.0 Proposal Details

- 2.1 The main problem is that the delivery approach required under the Building Agreement loads the developer with very substantial cost and cost risk up front. This reflects a planning requirement for comprehensive remediation and also a development need to provide much advance infrastructure and scene setting public realm. The need for the latter arises out of the fact that developers can only invest if they are confident of securing end use occupiers and they will not be able to attract these unless the perception of the site is transformed from its present redundant industrial character to a place that is attractive.
- 2.2 The front loaded cost means that the economics of developing the site as per the Building Agreement, marginal at the best of times, are no longer tenable given the market conditions that now prevail in the aftermath of a recession and the banking crisis. Any changed delivery approach therefore needs to address and reduce the burden of front loaded cost and risk on the private sector.
- 2.3 Members will be aware of the Council's vigorous defence of a claim for CPO compensation made by Thomas Newall Ltd (TNL) and referred to the Lands Tribunal. The preliminary proceedings into this claim involved presentation of

expert evidence concerning a variety of planning matters. One aspect related to the Council's long standing requirement for comprehensive remediation of the site prior to occupation. Expert independent evidence pertaining to this was presented by both parties and tested by counsel. One of the many conclusions of the Tribunal, presided by a Judge, was that while comprehensive remediation would be best, the remediation works necessary for the TNL landholding alone could be done on its own.

- 2.4 Officers have considered the implications very carefully; this opens up a new opportunity for taking forward the project itself via a variation to the Building Agreement, to remove the obligation on LEL to remediate the site all in one go at the start.
- 2.5 Subject to receipt of a satisfactory planning permission, LEL would undertake a first development phase under a temporary licence comprising a part conversion of the St George's Works mill building, plus lay out of public realm at the gateway to the whole site at Carlisle Bridge. To make for a quality entrance and setting to the site as a whole, that part of the mill closest to Carlisle Bridge would be demolished. Remediation works would be to the planning standards as set.
- 2.6 Also on receipt of such planning permission, LEL would assume all management and maintenance responsibility, including cost liabilities, for the rest of the site, again, under licence.
- 2.7 Once the initial phase of development and public realm works were complete, the Council would then transfer the entire site to LEL via a 999 year lease to develop further commercial phases, including options for a hotel on the riverfront, and to manage disposal of the other (greater) parts to third party residential developers.
- 2.8 The Council would oblige LEL to develop the site consistent with a revised masterplan. This agreement would grant LEL discretion in its disposals to the third parties subject to reasonable endeavours being made to attract partners and the development plans being in line with the aims of the overall scheme. All development works, including remediation works, would of course have to meet planning and other regulatory requirements.
- 2.9 Financial provisions would be in line with those set in the Building Agreement save to defer a land payment in lieu of land value. This means that there is no guaranteed developer contribution back into the Council but the removal of the up front charge would significantly increases the attractiveness of the development for the developer, in terms of risk.
- 2.10 LEL would be limited to a maximum 15% profit return over costs (as per the present Building Agreement). Above this profit would return to the Council via a preferential return. with overage shared 50:50 between the Council and the developer (but note that the Council must pass any overage to the HCA and NWDA).

3.0 Details of Consultation

- 3.1 Officers have worked very closely with LEL to bring forward this proposal and have also liased with officers of the Homes and Communities Agency (HCA)

and the Northwest Development Agency (NWDA).

3.2 Members will recall that the development concept for the Luneside East site was informed by very extensive public engagement several years ago and officers will assure that the masterplan revision respects community aspirations. The planning process also provides an opportunity for the public to comment on the development approach to be taken.

4.0 Options and Options Analysis (including risk assessment)

	<p>Option 1: To revise the Building Agreement with LEL to facilitate under licence a first phase of commercial development at the gateway to the site and, subject to performance in this, disposal of the whole site to LEL via a 999 year lease for development to fit to a revised masterplan for the site</p>	<p>Option 2: To effectively mothball the site and wait for economic conditions to change sufficient to make the project deliverable as per the present delivery approach</p>	<p>Option 3: Not to make a proposal to the funders and await a proposal from them with the risk that they require a disposal</p>
<p>Advantages</p>	<ul style="list-style-type: none"> - provides for an early first phase of development at the critical gateway that should set the scene and transform developers' perceptions of the site and help bring housing developers forward - holds prospect of over time achieving a development that can rejuvenate Luneside - retain in LEL a developer partner that has performed well to date in a commercial development and, for the wider site retains it for its understanding of the site and site conditions - removes the Council of its 	<ul style="list-style-type: none"> - retains the development opportunity 	<ul style="list-style-type: none"> - minimises work for Council officers

	<p>ongoing maintenance obligations for the site (including for site security) and the costs of these.</p> <ul style="list-style-type: none"> - reduces the Council's exposure to clawback of ERDF funding - incentivises LEL but to a minimum practicable profit level (15% above costs) above which the Council would secure a priority return - gives the council some prospect that it can recoup capital costs incurred via the priority return - will help the Council assure it has a robust housing supply and reduces risk that greenfield sites are developed instead 		
<p>Disadvantages and risks</p>	<ul style="list-style-type: none"> - If the developer does not achieve their 15% return the Council will get no income from the development. However, it is judged that under the other two options receipts would be less likely or not achievable at all. 	<ul style="list-style-type: none"> - for the foreseeable future does not further regeneration - the site will remain in a state that blights the area and is a drag on investment in Luneside - will not permit the Council to retain LEL and the capacity, site knowledge and accumulated expertise of LEL will be lost - leaves the Council with significant cost and risk liabilities for the site in management, maintenance and security and with a certainty that the costs and risks will 	<ul style="list-style-type: none"> - negates all the investment and effort made by the Council, the funders and LEL over the past ten years to bring forward this key regeneration site for development and unravels the land assembly - is very prejudicial to the Council's credibility in regeneration and, in particular, risks prejudicing the Council's ability in the future to bring forward regeneration backed by compulsory purchase and also to draw in development

		<p>escalate and probably quite rapidly as buildings deteriorate</p> <ul style="list-style-type: none"> - leaves the Council exposed to risk of ERDF funding clawback - reduces the Council's prospective housing supply and increases risk that greenfield sites will be developed 	<p>partners</p> <ul style="list-style-type: none"> - the site will remain in a state that blights and is a drag on investment in Luneside - will not permit the Council to retain LEL and the capacity, site knowledge and accumulated expertise of LEL will be lost - leaves the Council with cost and risk liabilities for the site in management, maintenance and security and with a certainty that the costs and risks will escalate and probably quite rapidly as buildings deteriorate - leaves the Council exposed to risk of ERDF funding clawback - reduces the Council's prospective housing supply and increases risk that greenfield sites will be developed <p>-</p>
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5.0 Officer Preferred Option (and comments)

- 5.1 The economic downturn has been severe and whilst the situation is better than a year ago market advice is pessimistic about prospects for an early recovery in the development sector. In terms of residential developments, recent reports from RICS have indicated further downward pressure on house prices as sellers out-number buyers. In this context, to be realistic, there is little prospect of the Council securing development of Luneside East site in line with the approved delivery approach and the Building Agreement with LEL.
- 5.2 Accordingly, for the foreseeable future it is unreasonable to expect LEL to proceed as per the Building Agreement. In these circumstances if the Council wants to move things forward it needs to adapt the project to fit to what are very changed market circumstances.

- 5.3 Since 2008, Council officers, working with both the funders and LEL, have given quite exhaustive consideration to potential options and have concluded that only three may be available and only one would move the project forward in a positive manner, this option is therefore preferred (option 1).
- 5.4 The option analysis presents many advantages for option 1 but an argument that requires amplification is that of regeneration need. The project concerns the city's oldest former heavy industrial site, some 7.1 ha (15 acres) of brownfield land, the site was for many years an oilcloth works and the town gasworks. In its current condition it is in many respects a blight on the wider area and a drag on its fortunes. The project is about remedying this by bringing the site into a mix of beneficial uses so as to create a new neighbourhood that better connects the city centre and historic quay with existing neighbourhoods to the west. The aim is that the development should be vibrant and help rejuvenate Luneside by transforming investment perceptions.
- 5.5 The project is therefore an important driver for regeneration need in this part of Lancaster and it remains imperative to move it forward. This said, option 1 is not yet fully formed. Various matters including legal considerations need to be worked through further before option 1 can be fully detailed and its feasibility assured. Officers are in continuing discussions as regards these and have sought expert advice where appropriate.
- 5.6 Subject to this, the option outlined would represent a reasonable and proportionate response to changes in market conditions. It would re-balance risk and reward by reducing risk to LEL but with adjustments to the priority return and overage in favour of the public sector.
- 5.7 Further, the option would enable the Council to retain a developer partner in whom it has confidence and that gave much support to the Council in its delivery of the first public sector stage of the project. LEL has an appetite for the proposal. It has a strong track record in delivering commercially focused developments to a high quality and has consistently maintained that it can establish Luneside East as a new location for businesses. The first phase alone should go some way to delivering on the NWDA and ERDF commercial floorspace output requirements for the project.
- 5.8 Not least, the proposal if adopted would rid the Council of its ongoing liabilities for the site as detailed further in financial implications below.
- 5.9 Time, however, is not on our side. A first consideration is that as from 24 September 2010 the Council is in default of its Funding Agreement with the HCA and NWDA. In this event the Funding Agreement gives the Council six months to submit a revised proposal (i.e by 24 March 2011)
- 5.10 Second, if the site is not presented in a better condition before long then it may well prove extremely difficult to attract developer interest because by this time it is likely that developers will have very much easier development opportunities to pursue and invest in as the market slowly recovers. These could arise elsewhere in Lancaster District but will almost certainly be available elsewhere in the Northwest region. There is therefore real risk that if we cannot move the project forward soon it may well fail.

6.0 Conclusion

6.1 This key regeneration project is stalled. After lengthy and very careful consideration realistic options are proposed. One, option 1 affords the best prospect that the project can move forward - subject to some further work. It offers real prospect of achieving development of the Luneside East site in a considered and well planned manner to secure long standing aspirations both for the development itself and what it can effect over time in terms of area wide regeneration. Members are invited to determine how officers should proceed.

RELATIONSHIP TO POLICY FRAMEWORK

The project fits with the Lancaster District Core Strategy 2008 and is identified as a priority in the Corporate Plan 2010 - 13 Supporting our Economy, under Heritage and Cultural Tourism.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The site is in as sustainable a location for mixed use development as is reasonably possible in the District.

LEGAL IMPLICATIONS

The preferred option has to be considered in the context of the Joint Funding Agreement with HCA/NWDA. Under the terms of this agreement the Council is now in default because of the failure to make progress with the project and the Council requires the consent of HCA and NWDA to proceed in any course. As regards option 1 the Building Agreement would have to be substantially revised to recognise the present circumstances but in principle the proposed terms are within the spirit of the original agreement and reflect a means of achieving the anticipated outcomes of all parties. However such a view is given subject to obtaining expert advice in respect of any State Aid and procurement issues arising from this variation (to the original terms of the tender procedure) to confirm that such variations are not open to challenge.

Options 2 would require the consent of HCA / NWDA under the Funding Agreement as would option 3 but otherwise do not present any direct legal implications.

FINANCIAL IMPLICATIONS

Capital

Option 1 The Council has not budgeted for any income from Luneside land with the amounts for developer contributions written off the capital financing in 2008-09 so further receipts would provide additional funding for the 5 year rolling programme. However, any receipt would be contingent on LEL making a 15 % return; it will have to be contractually defined as to what this means, for example, what measure of profit is used, when this is measured and how this would relate to profits generated from any land disposed to third parties. In addition, the Council has not budgeted for capital expenditure to maintain the structural integrity of the buildings, an issue which will likely become more pressing. Should options 2 or 3 be considered, the Council's exposure to this liability would need to be quantified. Property services have indicated that a condition survey of the I buildings – a necessary precursor to quantifying this liability - could easily cost in the region of £20K

Revenue

Under option 1 the Council could stand to recover in full, or part, the £48k which funded the developer contribution written off in 2008-09. Savings on site maintenance costs cannot be quantified or confirmed until the date of transfer to LEL is known. There is £90k currently budgeted for both in 2010-11 and 2011-12 but this is also subject to change when the security contract is renewed at the beginning of December 2010. Costs to the Council in monitoring the private sector delivery stage are estimated at £10k per annum for three years starting from 2012/13.

It should also be noted that this option is in line with the HCA/NWDA funding agreement giving the Council 6 months to submit a revised proposal. Failure to do this could put at risk the £502k contingency funding (split £78k revenue and £424 capital) which has been spent but will not be paid over to the Council until certain milestones have been achieved.

Option 2. As mentioned previously, continued revenue costs for the Council in site management and security of £90k per annum for 2010-11 and 2011-12 are currently budgeted for. If the site were held for longer than this there would be additional costs which the Council would need to budget for during the 2011/12 Budget Process in holding the site, plus substantial costs and cost risks arising from the impending need to intervene, stabilise or make safe certain dilapidated buildings. There would also be few or no prospects of recouping any of the Council's costs defrayed in the project to date.

If option 3 were chosen the costs and implications for the Council are at this stage difficult to quantify and could potentially be wholly dictated by the funders in deciding to either sell the site or finding a way to continue with the project.

VAT

The land and buildings at Luneside East have been opted for VAT. Before any transfer of land is made, the VAT consequences need to be fully assessed to ensure that LEL are aware of, and are happy with, any VAT charge on the transfer. However, as noted in section 1.2 above, the site is currently judged to have £0 net worth and so it is anticipated that no VAT would be chargeable. There would be no immediate VAT consequences of option 2 and as there is no concrete proposal attached to option 3, the VAT consequences would have to be considered once these proposals became clear.

Governance

Under option 1 the mechanism for the Head of Regeneration and policy to assure other statutory officers of the feasibility and legality of the scheme must include a full corporate risk assessment and appraisal in accordance with constitutional requirements including Financial Regulations and supporting arrangements. Should these be satisfied, the legal agreement would be entered into / signed off under the Council's normal arrangements. This applies equally to option 2, which would need to be fully planned and costed in terms of the ongoing liabilities of the site; it also applies to option 3 although this would be contingent on the default scheme proposed by the funder.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

Option 1 if adopted provides for disposal of the whole site to LEL via a 999 year lease as per the extant Building Agreement i.e. no change. The trigger point for this would be practical completion of a first LEL development phase. The proposal provides that on receipt of a satisfactory planning permission for its first phase LEL would develop this phase under Licence so that the Council can assure satisfactory completion before effecting a full land transfer. Concurrent with this though LEL would take management and maintenance responsibility for the wider site as well , thereby removing the Council of its current and onward liabilities for the site and costs in site management and maintenance.

Open Spaces:

The masterplan for the site provides for much new open space and high quality public realm and officers expect to sustain a similar level of provision in any revised masterplan.

SECTION 151 OFFICER'S COMMENTS

Potentially the recommended option presents a way forward with the scheme but as set out in the report, there are key issues to address before any firm conclusions may be drawn.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has no further comments at this "in principle" stage. Clearly the viability of the recommended option depends on whether or not further detailed legal advice still to be obtained, is supportive..

BACKGROUND PAPERS

Joint Funding Agreement 24 September 2004
Building Agreement 2 November 2005

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