

Advancing the Climate Emergency Local Plan Review

26 January 2022

Report of Director for Economic Growth and Regeneration

PURPOSE OF REPORT

To seek a resolution from Council to formally publish the Climate Emergency Review of the Local Plan for Lancaster District, obtain formal representations and then submit the document to the Government for the process of Independent Examination. This will ensure that the relevant regulations are followed and will enable all interested stakeholders to have their view on the soundness of the Plan and its preparation process is considered by an independent Planning Inspector.

This report is public

RECOMMENDATIONS

- (1) That Council resolves to formally publish the Climate Emergency Review of the Local Plan; comprising a revised Strategic Policies & Land Allocations DPD and a revised Development Management DPD, accompanied by evidence, a Sustainability Appraisal, and a Habitats Regulation Assessment. Then, once formal representations have been received, submit the documents and representations to the Government in order that they can be the subject of an independent Examination by a government appointed Inspector. This will ensure that the relevant regulations for plan preparation are followed and will enable all stakeholders to make representations about the soundness of the plan and its preparation process.**
- (2) To delegate to the Director of Economic Growth & Regeneration the authority to make minor changes to the DPDs that accompany this report prior to their formal publication and submission where that would improve the clarity, consistency, and appearance of the documents. Minor changes may include the insertion of additional illustrative material or non-consequential factual updates.**
- (3) Upon submission enable the Service Manager – Planning and Housing Strategy to proceed with facilitating the independent Examination process including through; the appointment of a Programme Officer; engaging with the Planning Inspectorate and the appointed Inspector in correspondence; engaging specialist consultancy support where it would be advantageous to advancing the submitted plan; and, advancing consultation on proposed modifications at the Inspector's suggestion, where, in the event of issues of soundness being identified at Examination, the Inspector is minded to explore whether the**

submitted documents are capable of being made sound though modification. The Service Manager – Planning and Housing Strategy will report to members on processes in relation to any such changes as soon as reasonably appropriate.

- (4) That Council acknowledges that the task of advancing the Climate Emergency Review of the Local Plan through to adoption has resource implications that will evolve as challenges to the submitted plan emerge and evolve; the Director of Economic Growth & Regeneration will need both capacity and flexibility to ensure that resources are available and deployed, particularly in financial year 2021/22 to address challenges.**

1.0 Introduction

- 1.1 Members will be aware that the Council adopted a new Local Plan for the district on 29th July 2020. Upon adoption the Plan established the district's development needs, for example for housing and employment land, up to the early 2030s. The plan identifies land to meet these needs whilst protecting land and assets of environmental, economic, and social importance. Preparation of a Local Plan is a legal requirement of the Council (as local planning authority) and the application of its policies in the determination of planning proposals means that it has a significant influence on the location and characteristics of development in the district.
- 1.2 When resolving to adopt the Local Plan, the Council also approved an updated Local Development Scheme (LDS) [the Local Plan timetable] which sets out the Council's intentions to proceed with an immediate review of the just-adopted Local Plan in the context of the Climate Emergency Declaration made by the Council in January 2019.
- 1.3 In September 2020, Cabinet Members endorsed the formal commencement of the Climate Emergency Review Local Plan (CELPR), setting out the proposed detailed timetable for preparation and regulatory processes.
- 1.4 On the 18 January 2022 Cabinet was asked to approve the recommendation of Cllr Dowding to endorse the content of the Climate Emergency Local Plan Review DPDs and the process of onward reporting to Council to seek a formal decision on a recommendation to publish and submit the revised document to government. Publication will enable formal representations to be received, and subsequently submitted to the government, along with the revised DPDs and supporting evidence. This will ensure that in accordance with the relevant regulations, the representations of the community and stakeholders about the soundness of the revised DPDs and the preparation process can be considered by a government appointed Inspector through an independent Examination.
- 1.5 Given the context of the Climate Emergency, the timescales for preparing the CELPR have been ambitious. The CELPR has been appropriately resourced by the City Council, including through the recruitment of a Climate Change Policy Officer and a Climate Change Policy Assistant. The review has been undertaken with a rapidity appropriate to the declaration of an Emergency.

2.0 Establishing the Scope of the CELPR

- 2.1 Consultation was held in late 2020 into the scope of the Review (the policies to be re-explored). This consultation process was held virtually due to the COVID19 pandemic restrictions. In the absence of in-person meetings or drop-in events the consultation

included video presentations prepared by offices of the Planning and Housing Strategy Team on themes including heritage and climate change, energy efficiency, blue and green infrastructure, sustainable transport, and water management.

- 2.2 Importantly, the Scoping stage confirmed the remit of the CELPR as a partial review of the Local Plan with the express objective of seeking better development outcomes for climate change mitigation, adaptation, and resilience. The scoping exercise was well-received by the local community and key stakeholders and provided a firm basis to explore making amendments to policy.
- 2.3 For clarity, the CELPR does not revisit the amount of development required to meet the needs of the community or economy, nor does it seek to re-visit specific land allocations made within the adopted Local Plan. These strategic matters were not easily established during the preparation of the adopted Local Plan over a preparation period totalling around eight years. In effect, the CELPR seeks achieve better development outcomes from the same quantum of development at the locations and opportunities identified in the recently adopted Local Plan.

3.0 Progressing the Review

Preparing a Draft CELPR

- 3.1 Once the scope of the partial review had been established, officers focused on the 32 policies which offered the potential to improve development outcomes. These policies were grouped together into themes and discussed within six topic papers relating to water management, blue and green infrastructure, heritage, transport, sustainable design and energy and a miscellaneous paper on other policy areas outside of the five key themes.
- 3.2 The papers addressed the outcomes of the scoping consultation of autumn 2020, explored alternative approaches to reviewing policies, provided an explanation of how policy changes could achieve better climate change outcomes and provided proposed revisions to the adopted policies.
- 3.3 The topic papers, along with the amended suite of draft CELPR policies were subject to consultation for an eight-week period between 23rd July and 17th September.
- 3.4 The consultation resulted in 544 comments being received from 44 separate submissions, The topic area where most comments were received was in relation to the Green and Blue Infrastructure strategy. Second to this were comments in relation to viability assessments, and then energy efficiency and sustainable design and construction matters.
- 3.5 A response was received from a developer consortium comprised of eight developers/housebuilders which raised queries relating to viability and concerns over whether the new proposed policy requirements within the CELPR would make development unviable. A response of this nature is not unexpected, as development viability can be a key issue for residential development. Council officers held a Development Industry Engagement Event as part of the consultation in the summer; invitations were sent to over 350 industry representatives.
- 3.6 A Viability Assessment was undertaken, by specialist consultants Three Dragons, prior to the formulation of the new policies. Three Dragons have also further assisted council officers in considering the responses to the issues that the consortium raised.
- 3.7 Officers are content that the viability assessment is robust, is based on realistic and

transparent assumptions, and, that issues about viability during consultation have been appropriately considered.

- 3.8 The Energy Efficiency policy proposed (Policy DM30a, b and c) represents a significant amendment to that contained within the current adopted Local Plan however, officers are content that in relation to the representations received on this policy, which was generally very positive from residents but less positive from the development industry, that the policy is robust.
- 3.9 The 544 representations received on the CELPR at Regulation 18 Stage have resulted in more than 140 changes to the publication version. However, only around 20% of these are material changes to the plan. The majority have been made for editorial purposes to improve clarity, such as updating references to national guidance including the National Planning Policy Framework (NPPF).
- 3.10 Of those material changes, again these are not significant, with most changes being made to further highlight Biodiversity Net Gain and nature recovery; improved clarity on the need to carefully consider the design of Electric Vehicle charging infrastructure in terms of mobility access and the impact upon the historic environment; and also improved reference to providing space for composting and the need for private gardens to be free from flood risk and to be well drained which will in turn assisting in helping to provide opportunities for food growing - one of the key People's Jury recommendations.
- 3.11 Officers advise that upon adoption the revised policies have the potential to realise development that could contribute to better tackling the Climate Emergency, including through:
- The objective of ensuring that all new housing approved in the district will be net zero carbon by 2028 using a method of construction called fabric first which means not relying on decarbonisation of the grid which is the Government's proposed approach.
 - Better consideration of flood risk and water management to respond more strongly to issues of surface water run-off and water efficiency.
 - Introducing a strategic focus on habitat and ecosystem connectivity and function, which will ensure greater protection and enhancement of the district's Green (land) and Blue (water) Infrastructure.
 - Increased emphasis on the key role that renewable energy generation, distribution and storage plays in climate mitigation within new development.
 - A greater focus on active travel networks and connectivity as well improved expectations on Electric Vehicle infrastructure provision.

4.0 Details of Consultation

- 4.1 The proposed CELPR has been subject to extensive consultation in various preparation stages, the scope of the partial review has been considered during late 2020 and a suite of draft policies have been the subject of consultation during the summer of 2021.
- 4.2 If the Council resolves to publish and submit the CELPR, officers will prepare the publication editions of the documents and make them available for a six-week period in which stakeholders and the wider community can make representations on the

soundness of the published CELPR.

- 4.3 The CELPR documents, the comments received upon publication, and the supporting evidence, would then be submitted to the government, potentially in April 2022. The government would then appoint an Inspector to consider; whether the Plan's preparation has complied with duty-to-cooperate requirements; whether it is compliant with legal requirements; and, whether the Plan is sound. To be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy. The Inspector may hold local hearing sessions in which other parties are invited to assist him or her in considering these issues.
- 4.4 Following the Inspector's consideration of issues, the Inspector may then ask the Council to consult on proposed modifications. Following the Inspector's consideration of the responses to the proposed modifications the Inspector will send the Council a report which will conclude whether the plan has been properly prepared and is sound. Most often where an Inspector advises the Council that it may adopt its plan the version to be adopted will need to be modified to accommodate his or her binding recommendations. At this point the Council would make a decision on formally adopting its revised Local Plan.

5.0 Options and Options Analysis (including risk assessment)

	Option 1: Approve the recommendations and formally publish the CELPR, then obtain formal representations and submit the Development Plan Documents to the government for independent Examination whilst acknowledging the challenges, risks and costs associated with advancing the CELPR.	Option 2: Do not approve the recommendations and not formally publish the CELPR for representations.
Advantages	<p>The Publication and Submission of the CELPR as set out in the published Local Development Scheme is a critical stage in advancing the Council's ambitions in using formal planning policy to support objectives on addressing the Climate Emergency.</p> <p>The CELPR would be published at the time intended and in accordance with the published Local Development Scheme. A suite of time-sensitive evidence that has been carefully commissioned, assessed, and updated to support the submission of documents now.</p> <p>Upon the adoption of the CELPR the Council can start to apply planning policies which offer potentially better outcomes for addressing the Climate</p>	<p>Further time could be spent by officers on continuing to acquire further evidence and re-shape policies before a CELPR is presented to Council.</p>

	Emergency agenda and Net Zero Carbon agenda to development proposals.	
Disadvantages	None apparent.	<p>Delay to the CELPR processes will increase the time that passes until its potential formal adoption. It is only upon formal adoption that the revised policies will be components of the development plan that is used in the determination of development proposals. Delay in plan preparation would mean a delay in realising better outcomes from development on Climate Change mitigation, adaptation and resilience that would assist in helping to address the environmental concerns that motivated the Council's declaration of a Climate Emergency.</p> <p>The time-sensitive evidence base that has been carefully prepared, assessed and updated to support the CELPR will quickly become out-of-date and is likely to need recommissioning.</p>
Risks	The independent Examination may find fault with the CELPR that could have benefited from further work.	<p>Delay exposes the Council to the disadvantages described above.</p> <p>The Council has been active in engaging stakeholders, developers, and the community and in publicising its intention to progress a CELPR. Deciding to not progress with the CELPR following the completion of the reviewed documentation would be difficult to explain.</p>

5.0 Officer Preferred Option (and comments)

5.1 Option 1. Officers recommend that the CELPR is formally published and submitted.

6.0 Conclusion

6.1 The intended publication editions of both CELPR documents are now sufficiently advanced to be formally published and submitted. Officers are sufficiently satisfied that the challenges which have been raised at earlier stages have been either addressed through revisions to both DPDs or do not warrant sufficient justification for further amendments to be made. Whilst the publication version of the CELPR represents what the Council considers to be the finalised version of both DPDs, the publication process will provide opportunity for any parties who do not consider its content and direction to be either sound (i.e. not consistent with national planning policy) or legally compliant (i.e. has not met the legal requirements of plan making) to make formal representations

setting out their concerns. Those representations will be considered by the Planning Inspector through the independent Examination process.

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

There are no adverse health and safety, human rights or community safety implications arising from this proposal. The CELPR is a partial review which relates specifically to strengthening the Local Plan in the context of the City Councils Climate Emergency declared in January 2019. The DPDs contain revised / new policies which specifically relate to how the ambitions of the Climate Emergency can be assisted through the planning policy process via new development. It will seek to ensure that in both urban and rural locations that opportunities are maximised to achieve development proposals which both mitigate and are adaptive to the impacts of Climate Change.

The review of the Local Plan is accompanied by an Equalities Impact Assessment (EIA).

LEGAL IMPLICATIONS

There are no legal implications arising directly from this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report. The process of preparing the Climate Emergency Local Plan Review is currently fully funded and resourced from within existing budgets. As it enters the public examination process the costs for additional evidence, examination support and specialist inputs are not predictable and dependent on the need to respond to the representations received.

Any future decisions or variations that result in further significant costs must be reported and approved as appropriate prior to their commencement.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces

Human Resources:

None directly arising from this report.

Information Services:

None directly arising from this report.

Property:

The Council does own land and assets where development plan policies will be applicable should development proposals be submitted, just as this would be the case on any land and assets owned by any party, however, there are no direct implications arising from this report.

SECTION 151 OFFICER'S COMMENTS

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

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no comments to add. The Local Development Plan and Development Plan Documents form part of the Policy Framework of the Council, adoption of which must be by Full Council.

[Links to Background Papers, click here](#)

- Climate Emergency Review of the Strategic Policies and Land Allocations Development Plan Document [P_01.1]
- Climate Emergency Review of the Development Management (Policies) Development Plan Document [P_02.1]
- Sustainability Appraisal Report (SA) by AECOM [P_03]
- Habitats Regulation Assessment Screening Report (HRA) by AECOM [P_04]
- Equality Impact Assessment (EIA) [P_05]
- Rapid Health Impact Assessment (rHIA) [P_06]
- Regulation 18 Statement of Consultation Report [P_07]

Other Supporting Material:
Evidence Base documents

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