

COUNCIL

Local Plan for Lancaster District: Proposed formal publication and submission of Development Management Policies and Morecambe Area Action Plan Development Plan Documents

11 September 2013

Report of Chief Officer (Regeneration and Planning)

PURPOSE OF REPORT

To seek a resolution from Council to formally publish and submit two Local Plan documents; the Development Management Development Plan Document (DPD) [Planning Policies] and Morecambe Area Action Plan (MAAP) DPD, and, arrange a six-week period during which representations on the soundness and legality of these documents may be made. This report describes the processes that have led to the preparation of these documents and the process for formal publication and submission to the Secretary of State. This report also advises that for the reasons set out the Land Allocations DPD is not yet ready to publish and submit.

RECOMMENDATIONS

- (1) That Council resolves to formally publish two Local Plan documents; the Development Management Development Plan Document (DPD) [Planning Policies] and Morecambe Area Action Plan (MAAP) Development Plan Document, and, arrange a six-week period during which representations on the soundness and legality of these documents may be made.**
- (2) That following the formal publication and closure of the period for representations the Council submits the DPDs, the supporting information, and representations received to the Secretary of State.**

1.0 Introduction

- 1.1 Members will recall a detailed report to Council on 12th September 2012 with a recommendation to publish and consult on the "Preferred Options" stage of three Development Plan Documents (DPDs);
 - 1) Development Management (planning policies) DPD,
 - 2) Land Allocations DPD, accompanied by a draft Policies Map, and,
 - 3) Morecambe Area Action Plan (MAAP) DPD.

- 1.2 Council gave authority to publish and consult on the “Preferred Options” stage DPDs. Subsequently Council officers arranged and completed an extensive consultation with the community and other stakeholders, on all three documents, between 22 October and 15 December 2012.
- 1.3 The outcomes of the consultation were reported to the Planning Policy Cabinet Liaison Group (PPCLG) in the spring of this year. Subsequently Council officers took account of the consultation responses and prepared versions of the documents intended for publication, these have also been reported to PPCLG.
- 1.4 This report describes the actions that are now proposed to take the documents to the next stage.
- 1.5 The Chief Officer (Regeneration and Planning) recommends that the Development Management DPD and MAAP are formally published. Publication is an important stage in advancing a DPD. Publication is accompanied by a statutory six-week period during which the community and other stakeholders have the opportunity to make formal representations on the “soundness” and legality of the documents. Subsequently, the published documents and the representations received are “submitted” to the Secretary of State so that the process of independent Examination can begin. An Inspector will be appointed by the Planning Inspectorate to consider the soundness of the submitted DPDs; the Inspector approaches this task with an assumption that the DPDs are sound unless he finds evidence that this is not the case.
- 1.6 The Inspector will consider the representations made and may call witnesses to Examination Hearing Sessions to further his or her understanding of any issues that he or she has identified. The Inspector then makes a report of findings on the soundness of the DPDs and, additionally, if the documents are found sound, may make recommendations to improve the clarity of the DPD.
- 1.7 Council Members will be aware that an external consultant, Turleys, is preparing a Strategic Housing Market Assessment (SHMA) for the district; this will recommend a new housing requirement which will need to be given consideration through the Land Allocations DPD.
- 1.8 At all DPD Examinations an Inspector concludes on the soundness of the plan; only a plan that has been found to be sound can be adopted by a Local Planning Authority. Additionally, an Inspector can provide binding recommendations if these are requested at the outset of the Examination.

2.0 Proposal Details

- 2.1 When the Council consulted on all three Preferred Options stage DPDs (Development Management, Land Allocations, and MAAP) it was intended that all three documents would be advanced to the same timetable and that the Council would retain the Core Strategy of 2008, subject to a review of some of its policies and approaches. It was intended that all three of these DPDs would continue to sit below a retained, but revised Core Strategy.
- 2.2 However, in the time since the publication of the Preferred Options stage documents the need to update and reconsider the evidence base which informs the Land Allocations DPD has become very apparent. This need is evident from an appreciation of the approach that Planning Inspectors are taking with DPDs at Examination in other parts of the country.

- 2.3 Following the revocation of the Regional Strategy in May this year local authorities can no longer rely on a Regional Strategy to establish a housing requirement for their areas. A very firm line is being taken by planning Inspectors on the need, clearly described in the National Planning Policy Framework (NPPF) for local planning authorities to unequivocally establish and then plan to deliver the;
- “full objectively assessed housing needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework”.*
- 2.4 The need for a local approach to establishing a local housing requirement and the need to ensure that this housing requirement is fully addressed by a local plan are matters that represent a significant challenge to every local planning authority. In other parts of the country where local authorities have not established clarity on an up-to-date position on their local housing needs, or not described how they intend to meet their full objectively assessed needs for market and affordable housing through their submitted DPDs, then planning inspectors have, at Examination, consistently, with some exceptions due to very particular local circumstances (which should not be seen as establishing practice) adjourned.
- 2.5 These adjournments are intended to provide an opportunity for local authorities to clarify their housing needs and identify enough housing sites to ensure that their **full** objectively assessed housing need can be delivered in the Local Plan period.
- 2.6 There are many recent examples of local authorities publishing new or revised consultation stage DPDs which have responded promptly to the NPPF’s exhortation to “boost significantly the supply of housing”.
- 2.7 Increasingly, where Councils are not proposing to meet the full objectively assessed needs of their housing markets areas in their submitted DPDs Inspectors have been advising local authorities to withdraw the submitted DPD and prepare a new plan rather than commence the process of an independent Examination which will almost inevitably result in an adjournment.
- 2.8 Thus, with these experiences in mind, the Chief Officer (Regeneration and Planning), commissioned Turley Associates to make a recommendation to the Council on the extent of the full objectively assessed housing needs of the district through the preparation of a Strategic Housing Market Assessment (SHMA). That work is well underway and the interim findings were reported to both the Council’s Housing Forum (comprising housing developers and agents) and a Council Briefing for all members on 18th July. Once this work has been completed it will be reported to PPCLG, along with the outcome of a parallel exercise to establish the extent of housing development opportunities through a refresh of the Strategic Housing Land Availability Assessment (SHLAA).
- 2.9 Based on the interim findings of the work being undertaken by Turleys, it is very probable that the Council will have to consider its tactics very carefully. The Council may be advised that it will need to find additional housing opportunities well above the extent identified in the current plan. Should the Council accept this, it cannot simply add more housing land without assessing major technical and policy constraints. These are of such magnitude that they might only be able to be undertaken as part of an early review of the plan. Your officers will be seeking Counsel’s advice on how to proceed in such circumstances but it is clear at this stage that further work has to be done on the Land Allocations DPD if the Council is to have any prospect of it

being found sound.

Proposed Way Forward

- 2.10 Whilst more work is required to ensure that the Land Allocations DPD takes account of revised evidence on housing needs, and ensure that it also takes account of up to date information on retailing and employment, the Development Management DPD and MAAP have been revised in response to the Preferred Options Consultation; they have been reported in detail to PPCLG, and are considered ready to first publish and then subsequently submit to the Secretary of State to begin the process of independent Examination.
- 2.11 The policies in the Council's existing Development Plan Documents; the 2004 Lancaster District Local Plan and the 2008 Core Strategy were prepared long before the publication of the NPPF. The NPPF advises that for the purposes of decision making planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise, and whilst Local Plan policies should not be considered out of date simply because they were prepared prior to the publication of the NPPF, the policies of the Framework must be taken into account. Local Plans may therefore need to be revised to take into account the policies of the Framework and "this should be progressed as quickly as possible, either through a partial review or by preparing a new plan".
- 2.12 References to preparing a hierarchy of documents commencing with a Core Strategy do not appear in the NPPF; the message in the NPPF is one which extols swift activity to address local development requirements. Helpfully, the NPPF states, at paragraph 153, that each local planning authority should produce a Local Plan for its area and that this can be reviewed in whole or in part to respond flexibly to changing circumstances. Thus, there is an expectation within the NPPF that a Local Plan may well consist of different DPDs that are prepared in an order which reflects the local circumstances of individual local planning authorities.
- 2.13 The policies in the Preferred Option editions of the Development Management DPD and MAAP presently have only very limited weight in the determination of planning applications, though they may be referred to by Development Management Officers in determining planning applications, as they reflect more recent guidance and practice. However, once published, and then submitted, they begin to gain more weight and become more helpful to the process of determining planning applications.
- 2.14 It is intended that a revised approach to the Land Allocations Document will be prepared once account is taken of the ongoing evidence based review on economic growth, housing requirements and development site availability. Changes to the Preferred Options document may require a further period of consultation; thus it may be some time yet before a Land Allocations DPD is ready to publish and submit to the Secretary of State.
- 2.15 To ensure that the Council has a suite of development management policies in place as quickly as possible there is much advantage in advancing the Development Management Document and MAAP now, rather than waiting for preparation of the Land Allocations document to catch up so that all three could be published at the same time.
- 2.16 The intention to prepare five DPDs is described in the Local Development Scheme (LDS) dated July 2013. The LDS is available as a background document, it lists the five DPDs, describes the purpose of each, the intention that once completed they will wholly replace the Core Strategy and the

Lancaster District Local Plan, and, a timetable for the preparation of each. This LDS has been prepared and endorsed through discussion at PPCLG.

- 2.17 In summary, it is recommended that the Development Management DPD and the MAAP are advanced speedily to publication stage whilst additional work is undertaken on the Land Allocations DPD. Publication would occur in early October and the six week period of representations will close in mid November. The DPD Documents, supporting documents and representations will then be gathered together and submitted to the Secretary of State before the end of this year. Potentially Examination Hearing Sessions may be held in February/March 2014. The outcome of the Examination will be reported to PPCLG. A Council decision is required to formally adopt the DPDs.
- 2.18 The Council will also be preparing a DPD for the Arnsdale & Silverdale AONB, jointly with South Lakeland District Council, and, a Gypsy and Traveller DPD.

3.0 Details of Consultation

- 3.1 Extensive consultation and engagement has taken place to inform the preparation of the Draft Local Plan documents in the period 2010 to 2013. Details of the outcomes of consultation have been reported to PPCLG and published on the Council's Website. Following a Council resolution to formally publish and consult on the Publication versions of the documents a statutory six-week long consultation will be arranged.
- 3.2 Copies of the proposed Publication Development Management Document and MAAP are available. These documents have been developed in stages through PPCLG; subject to minor revisions and formatting these are the versions that will be published and subsequently submitted.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Approve the recommendation and thus publish and submit the Development Management DPD and MAAP DPD to the Secretary of State to begin the process of independent Examination.	Option 2: Do not approve the recommendation and thus do not publish and submit the Development Management DPD and the MAAP DPD, instead withholding the advancement of these documents until the Land Allocations Document is also ready to Publish and Submit.
Advantages	Timely progress will be made on two key Development Plan Documents, ensuring that the Council puts in place local development plan policies that are in compliance with the NPPF as speedily as possible. Separating the less controversial content of the DM Document and MAAP from the highly contentious content of Land Allocations Document means that the Council could have up-to date development management policies more speedily; these would be compliant with the NPPF and provide a context for strong local	If these three key DPDs (DM, MAAP and Land Allocations are advanced together then all matters will be considered through a parallel independent Examination processes; a single process would mean that the documents would be more readily perceived by the community as a complete Local Plan for Lancaster District.

	decision making on matters such as approaches to affordable housing, design, conservation, and wind turbines.	
Disadvantages	Separates the DM Document and MAAP from the land Allocations Document, thus an already complex development position may be made more complicated by having documents at different stages of preparation, may involve establishing some interim positions until all three documents are synchronised.	Following completion of the evidence update there could well be significant additional work to do on the Land Allocations document; this may well require re-consultation. Waiting for these processes to be completed prior to submitting the now ready-to-go DM and MAAP Documents will delay the introduction of the NPPF complaint policies within the DM document. Keeping the DM and MAAP documents on hold means that they will continue to have little weight in determining planning applications and the now-fresh policies in the draft documents will start to date as circumstances, practice and guidance inevitably change.
Risks	Following on from the disadvantage described above; there is potential for advantage to be sought from developers or objectors from exploiting perceived un-clarity on which document is at a point in time setting out the strategic priorities for the area, will persist until the Land Allocations Document is also adopted.	The need to do additional work on the Land Allocations Document means that the existing development plan policies become even more dated in the period before they are replaced by up-to-date policies in the DM and MAAP. The absence of up-to-date policies may increase the chances of losing planning appeals and thus may lead to development outcomes which may not accord with the council's intentions and the community's aspirations.

5.0 Officer Preferred Option (and comments)

- 5.1 The officer preferred option is Option 1.
- 5.2 Advancing the Development Management (planning policies) DPD and the MAAP DPD to publication and submission means that the Council is taking the right steps to put in place significant components of a new Local Plan for Lancaster District. These documents have been prepared with the benefit of much engagement and consultation and it is appropriate that they are advanced promptly, thus remaining relevant to the outcomes of that engagement and avoiding the prospects of the content becoming out dated before the documents can be adopted.

6.0 Conclusion

- 6.1 The Government through publication of the NPPF, is seeking to redress what it has perceived to be a reluctance within the planning system to effectively

plan and achieve levels of development that are commensurate with actual local development needs and the promotion of a competitive economy. Lancaster City Council, in common with all other local planning authorities must prepare Local Plans to take account of this more pro-growth agenda whilst already in the process of preparing their Local Plans. It is felt that the content of the proposed publication editions of the Development Management DPD and MAAP DPD, which both take account of the responses to last year's Preferred Option Consultations, are compliant with the intentions of the NPPF and should be advanced through to the next stage of preparation by prompt publication and submission.

- 6.2 The publication of the NPPF and the revocation of the Regional Strategy mean that the Council must establish clarity on what it understands to be an objectively assessed housing requirement for the district; inevitably this requires time and consideration; thus there will be a gap in time between submitting the DM DPD and MAAP and the preparation of a revised Land Allocations Document. The Council could choose to hold the DM and MAAP Documents until the Land Allocations Document is ready, in order to have a single suite of key documents and a single Examination process; alternatively as recommended here; the Council should publish and submit the DM and MAAP documents now to ensure that an momentum is retained on achieving an up-to-date policy position to support the determination of planning proposals.

RELATIONSHIP TO POLICY FRAMEWORK

National Planning Policy Framework (2012) – Requires all Local Authorities to prepare a Local Plan for their area setting out opportunities for development and clear planning policies on what will or will not be permitted.

Lancaster District Corporate Plan – Policies within the Local Plan documents seek to deliver the council priorities described in the corporate plan.

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

CONCLUSION OF IMPACT ASSESSMENT

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

The proposed Local Plan documents contain policies to ensure that the development needs of the district are delivered whilst at the same time ensuring that the environmental, social and economic impacts are addressed. The Local Plan contains appropriate policies to ensure that this is the case.

Equality, Diversity and Sustainability implications have been taken into consideration in the preparation of the draft Local Plan documents. The document has been subject to the statutory requirements for Strategic Environmental Assessment, Sustainability Appraisal and Habitats Regulation Assessment. Equality, diversity, human rights, community safety, sustainability and rural issues are all considered as part of this process. Officers are confident that this work provides an appropriate impact assessment of the document.

LEGAL IMPLICATIONS

The preparation of Development Plan Documents is subject to regulations. Failure to meet these requirements could result in the document being determined unsound at independent

Examination or being subject to legal challenge by interested or affected parties. However, there are no direct legal implications directly arising from the recommendations of this report.

FINANCIAL IMPLICATIONS

Preparation of Local Plan documents does of course come with costs; the commissioning of evidence, the engagement of expert witnesses and legal representation; these are budgeted for in the normal way. Additional unanticipated costs can arise from Legal Challenges to the adoption of documents, usually as a result of actions by affected parties. The MAAP does of course describe actions that must be implemented; the costs and implications of these projects are described through separate reporting means; this report deals solely with the processes of advancing the Development Plan Document through to adoption.

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

OTHER RESOURCE IMPLICATIONS

Human Resources:

The Regeneration and Planning Service is presently adequately resourced to advance these complex areas of work. However the retention of momentum on development plan preparation is very sensitive to the loss of experienced personnel; it should be noted that a recent resurgence of developer interest has already lead to key personnel leaving to take up alternative employment.

Information Services:

No direct implications.

Property:

There are potential implications for Council owned assets in the MAAP area; these matters are directly dealt with through other reporting routes.

Open Spaces:

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

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and her comments are reflected within the report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and her comments are reflected within the report.

BACKGROUND PAPERS

1) Local Development Scheme July 2013

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2) Proposed Publication Version of the
Development Management DPD 2013

3) Proposed Publication Version of the
Morecambe Area Action Plan DPD 2013

Ref: