

CABINET

Adoption of the Climate Emergency Review of the Lancaster District Local Plan

14 January 2025

Report of Chief Officer – Planning and Climate Change Service

PURPOSE OF REPORT

To advise Cabinet Members of the receipt and publication of the Inspector's Report of the Examination of the Climate Emergency Review of the Lancaster District Local Plan and seek an endorsement of the intention that a report is presented to Council, provisionally on 22 January 2025, recommending that the Council adopts the updated Local Plan Development Plan Documents as elements of its statutory development plan.

Key Decision

Non-Key Decision

X

Referral from Cabinet Member

RECOMMENDATIONS OF COUNCILLOR GINA DOWDING, CABINET MEMBER WITH RESPONSIBILITY FOR CLIMATE ACTION

- (1) Cabinet Members acknowledge the receipt and publication of the Inspector's report of the Examination of the Climate Emergency Review of the Lancaster District Local Plan, which concludes that the reviewed planning documents provide an appropriate basis for the planning of the district, subject to compliance with her binding recommendations.
- (2) Cabinet Members endorse the intention that a report is presented to Council, provisionally on 22 January 2025, with the recommendation that Council adopts the Climate Emergency Review of the Strategic Policies & Land Allocations Development Plan Document (DPD) and the Climate Emergency Review of the Development Management Policies DPD.

1.0 Introduction

- 1.1 On 2nd December 2024, the City Council received the report on the Examination of the Climate Emergency Review of the Local Plan conducted by government-appointed Planning Inspector Joanna Gilbert MA (Hons) MTP MRTPI. The Inspector has concluded that the reviewed planning documents provide an appropriate basis for the planning of the district, subject to compliance with her binding recommendations. The Council can now adopt its submitted documents providing they are modified in accordance with the

binding recommendations. The City Council is legally obligated to maintain a Policy Framework. The Council's Constitution describes which documents are components of that Policy Framework. The Local Development Plan and Development Plan Documents are components of that Framework. The Constitution states that decisions made about documents on the Policy Framework must be made by Full Council, usually on the recommendation of Cabinet.

- 1.2 The purpose of this report to Cabinet is to advise Members of the receipt and publication of the Inspector's Report and seek endorsement for the intention that a report is presented to Council, provisionally on 22 January 2025, recommending the City Council adopts the updated Local Plan DPDs as elements of its statutory development plan.
- 1.3 Should Full Council resolve to adopt the revised DPDs these revised documents will supersede the versions that Council adopted on 29th July 2020. The policies in the revised versions will immediately become the updated policies against which planning proposals must be assessed¹.

2.0 Proposal Details

- 2.1 On 29 July 2020 Full Council adopted the current Local Plan and at the same time resolved to immediately commence a Climate Emergency review of the that Local Plan in the context of its decision on 19 January 2019 to declare a climate emergency. The objective of the review was to re-visit the newly adopted Local Plan's policies to explore the opportunity for achieving better outcomes from built development for climate change mitigation, adaptation and resilience.
- 2.2 On 15 September 2020 Cabinet formally endorsed the commencement of the Climate Emergency Review of the Local Plan for Lancaster District in accordance with the commitment made by Full Council and to the plan preparation timetable described in Local Development Scheme (LDS) that was also approved by Council on 29 July 2020.
- 2.3 Cabinet also endorsed the launch of the first stage of the review process, a scoping consultation, held during autumn 2020. Work to identify which policies might offer opportunities for better development outcomes, procure evidence and investigate policy options continued at pace during 2021.
- 2.4 On 18 January 2022 Cabinet endorsed the content of the Climate Emergency Local Plan Review and the process of onward reporting to Council to seek a formal decision on a recommendation to publish and submit the revised DPDs ("Local Plan") to Government.
- 2.5 On 26 January 2022 Full Council resolved to formally publish the Climate Emergency Review of the Local Plan: comprising a revised Strategic Policies & Land Allocations DPD and Development Management Policies DPD and supporting information. Council also resolved to submit the documents and

¹ To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 – these provisions also apply to appeals).

representations to the Government in order that they would be the subject of an independent Examination by a Government appointed Inspector.

- 2.6 The submitted Local Plan had broad objectives on how new development can better address the challenges arising from climate change and pressures on the natural environment, while also enabling planning decisions that would make homes and residents better protected from flooding, have lower water bills, lower fuel bills, and better access to sustainable travel.
- 2.7 One of the key policies in the plan – DM30(a) proposes that new build homes are built to be “Net Zero” (or have a 100% reduction in carbon emissions associated with regulated energy use) following a fabric first approach. This means homes would be built with better building fabric than is required by national current building regulations, making them warm and comfortable while using less energy.
- 2.8 The purpose of the Examination is to determine if the documents were properly prepared in accordance with procedural requirements. An Inspector must consider first whether the Plans’ preparation has complied with the duty to cooperate. An Inspector then considers whether the Plans are compliant with the legal requirements and whether they are “sound”. The National Planning Policy Framework 2021 (paragraph 35) (NPPF) makes it clear that to be “sound”, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
- 2.9 Through the Examination process an Inspector also has due regard to the equality impacts of the plans in accordance with the Public Sector Equality Duty (PSED) expressed in S149(1) of the Equality Act 2010.
- 2.10 The documents were formally submitted to Government, via the Planning Inspectorate, on 31 March 2022.
- 2.11 On 26 April 2022 the Council was notified that Joanna Gilbert MA (Hons) MTP MRTPI had been appointed by the Secretary of State to hold the necessary independent Examination. The Inspector appraised herself of the submitted documents and formal representations received then identified issues to be explored.
- 2.12 The Inspector identified seven issues to explore in determining whether the plan was soundly prepared:
 - Issue 1 – Are the proposed policies on climate change and economic prosperity positively prepared, justified, effective and consistent with national policy?
 - Issue 2 – Are the policies relating to sustainable design, energy efficiency and renewable energy positively prepared, justified, effective and consistent with national policy?
 - Issue 3 – Are the policies relating to transport positively prepared, justified, effective and consistent with national policy?
 - Issue 4 – Are the heritage policies positively prepared, justified, effective

and consistent with national policy?

- Issue 5 – Are the policies on water management positively prepared, justified, effective and consistent with national policy?
- Issue 6 – Are the policies on green and blue infrastructure positively prepared, justified, effective and consistent with national policy?
- Issue 7 – Do the Plans have a clear and effective framework for monitoring the implementation of the policies?

2.13 The Inspector held a series of Local Hearing Sessions, in a virtual format, between 4 and 7 October 2022. At the Hearing Sessions the Inspector invited both the Council and other parties who had made representations on the submitted documents to assist her with her exploration of the issues that she previously identified in a series of themed questions, supported by answers that parties had been given the opportunity to answer in advance.

2.14 In accordance with Section 20(7C) of the 2004 Act, the Council requested that she should recommend any “Main Modifications” that she considered necessary to rectify matters that would make the Plans unsound and/or not legally compliant and thus incapable of being adopted².

Delay to process due to revisions to national policy advice on energy efficiency in new build housing

2.15 Following the Examination Hearing Sessions there was a protracted exchange of letters between the Inspector and the Council concerning respective positions on the whether the Council’s three-step approach to improving the energy efficiency of new build housing as described in Policy DM30(a) was consistent with national policy. The Inspector had taken the view that it was inconsistent with national policy; the Council conversely believed that its’ approach was consistent with national policy. The opposing positions taken reflected alternative assessments of the continued relevance or weight of the still extant 25 March 2015 Written Ministerial Statement “Planning Update”, specifically the material at “*Housing standards: streamlining the system*”.

2.16 Given the Inspector’s assessment of the continued weight of the 2015 statement she invited the Council to prepare and consult on “Proposed Main Modifications” to the Local Plan; these are potential changes that would enable the Inspector to prepare a report finding that the submitted document was sound, if modified. These included a significant Proposed Main Modification in respect of Policy DM30a Sustainable Design and Construction.

2.17 Just after the Main Modification consultation closed the Council became aware of the potential relevance of a current legal challenge in respect of similar issues that were being explored in the Salt Cross Garden Village Area Action Plan in West Oxfordshire. The Inspector advised that her report on the Local Plan was likely to be delayed until after the outcome of the Salt

² 1.1 To not request main modifications would mean the Inspector would not be enabled to make any recommendations necessary to permit the DPDs to be made capable of being considered sound.

Cross case was known.

- 2.18 Prior to the Salt Cross challenge reaching an outcome the Government issued, on 13 December 2023, a Planning – Local Energy Efficiency Standards Update (Statement UIN HCWS123). This Written Ministerial Statement superseded the section of the 25 March 2015 Written Ministerial Statement entitled '*Housing standards: streamlining the system*'; sub-paragraph '*Plan making*' in respect of energy efficiency requirements and standards only. As a result, the Inspector wrote to the Council again seeking its response on the implications of the new Government Statement. On 10 January 2024 the Council responded to the effect that it was confident that the new Government Statement had clarified that local approaches to setting energy efficient standards through local plan policy was enabled in principle, and further, the Council was of the view that its approach satisfied the conditions regarding evidence and viability also described within the statement.
- 2.19 On 30 January 2024 the Inspector invited the Council to prepare a further consultation on a Main Modification that would in effect fully restore the objective of the submitted text of Policy DM30(a), but amended in a way that would make it compliant with the Government's December 2023 update statement. That second consultation took place between Friday 22 March 2024 and Friday 3 May 2024. All responses received were sent to the Planning Inspector.
- 2.20 Finally, on 2nd December 2024, the City Council received the report on the Examination from Inspector Gilbert. The Inspector concluded that the reviewed planning documents provide an appropriate basis for the planning of the district, subject to compliance with her binding recommendations. With these modifications the documents can now be adopted. A decision on adoption will be made by Council at a date and time to be confirmed. The Inspector's Report was published on the Council's website on 5 December 2024.
- 2.21 Adoption of the updated DPDs will ensure that the Council's development plan contains policies that have been refreshed and updated with the objective of achieving better climate outcomes across a range of objectives. This includes:
- A strategic consideration of climate change mitigation, adaptation, and resilience across all development proposals.
 - All new housing consented in the district will be net zero carbon by 2028 following a fabric first approach decoupling decarbonisation of homes from decarbonisation of the grid which is the Government's proposed approach.
 - A greater consideration of flood risk and water management in new developments to respond more strongly to issues of surface water run-off and adds emphasis on nature-based solutions to water management. Policies additionally require greater water efficiency for new development.
 - A strategic focus on habitat and ecosystem connectivity and function, which will ensure greater protection and improvement of the district's Green (land) and Blue (water) Infrastructure.
 - Policies focused on retrofitting and siting of renewables for heritage buildings.

- Increased emphasis on the key role that renewable energy generation, distribution and storage plays in climate mitigation within new development and as part of the local and national energy ecosystem.
 - A greater focus on active and sustainable travel networks and connectivity.
- 2.22 Members are also advised that work is currently proceeding on a full review of the Local Plan. That Local Plan review will be usefully informed by the experience the Council has gained in exploring approaches to addressing the increasingly more evident challenges to the well-being of the community, environment and economy from climate change impacts.

Onward Reporting to Full Council

- 2.23 Now that the Inspector has concluded the Examination process the Council can adopt its submitted DPDs with the necessary modifications. Cabinet is asked to endorse the forthcoming Council recommendation on adoption.

3.0 Details of Consultation

- 3.1 Extensive consultation during the preparation of the Climate Emergency Local Plan Review has been undertaken in accordance with the relevant legislation, national guidance and the Council's own Statement of Community Involvement (SCI). The proposed Main Modifications have been subject to consultation. With the receipt of the final Inspector's Report the Examination is complete. No further consultation is required. The final part of the plan preparation is the formal adoption.

4.0 Options and Options Analysis

- 4.1 Members are advised that there is only one realistic course of action in response to the recommendations of this report; that is to acknowledge the receipt and publication of the Inspector's report and endorse the intention that a report is presented to Council, provisionally on 22 January 2025, with the recommendation that Council adopts the Climate Emergency Review of the Strategic Policies & Land Allocations Development Plan Document (DPD) and the Climate Emergency Review of the Development Management.

5.0 Officer Preferred Option and Conclusion

- 5.1 To support the recommendations and have the adoption process proceed to Full Council. Given the resource that the Council has deployed between 2020 and 2024 to update its Local Plan to better respond to the Climate Emergency and the very public commitment it made to the community to be pro-active in addressing Climate Change including though the formal submission of the revised documents to the Government, to then subsequently decide not to proceed to the conclusion of that process by supporting an adoption recommendation to full Council would likely have immediate consequences for the reputation of the Council and potentially cause the Secretary of State to intervene in the adoption process.
- 5.2 The Climate Emergency Review of the Local Plan has been lauded by the wider planning sector as a shining example for other local authorities to

emulate. It is recommended that Cabinet endorses the intention to submit a report to Council for adoption of the Climate Emergency Review of the Strategic Policies & Land Allocations Development Plan Document (DPD) and the Climate Emergency Review of the Development Management Policies DPD.

RELATIONSHIP TO POLICY FRAMEWORK

The City Council is legally obligated to maintain a Policy Framework. The Council's constitution describes which documents are components of that Policy Framework. The Local Development Plan and Development Plan Documents are components of that Framework. The constitution states that decisions made about documents on the Policy Framework must be made by Full Council, usually on the recommendation of Cabinet. This report enables the expectations of the processes described in the constitution and facilitates decision making.

The Council Plan for 2024-2027 sets out the council's priorities and ambitions and a strategic vision for its services. The Plan is underpinned by four principles:

- A Sustainable District
- An Inclusive and Prosperous Local Economy
- Healthy and Happy Communities
- A Co-operative, Kind and Responsible Council,

and four themes:

- The Climate Emergency
- Community Wealth Building
- Increasing Wellbeing. Reducing Inequality
- Deliver Effective Services, Take Responsibility.

Work to update the Local Plan through the preparation of a Climate Emergency Review addresses all these principles and themes as development outcomes that better address the Climate Emergency will bring benefits to the community, the environment and the economy.

CONCLUSION OF IMPACT ASSESSMENT

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

There are no adverse health and safety, human rights or community safety implications arising from the recommendations of this report. The CELPR is a partial Local Plan review which relates specifically to strengthening the Local Plan in the context of the City Council's Climate Emergency declared in January 2019. The DPDs contain revised / new policies which specifically relate to how the Council's ambitions to better address the Climate Emergency can be supported by updated planning policies and subsequently regulatory processes that can achieve outcomes from approved development that better address climate objectives. It will seek to ensure that in both urban and rural locations that opportunities are maximised to achieve development proposals which both mitigate 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 future financial implications arising from this report. The process of preparing the Climate Emergency Local Plan Review was fully resourced from reserves and now the work has been completed and invoiced for, a saving of c.£62.5K has been identified. This amount will be returned to balances and included in the Q3 monitoring information which is reported to Cabinet for consideration.

OTHER RESOURCE IMPLICATIONS**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 the updated development plan policies will be applicable should development proposals be submitted, just as this is the case for land and assets owned by any party, however, there are no direct implications arising from this report.

Open Spaces:

None directly 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 further comments to add.

BACKGROUND PAPERS

The Submitted Climate Emergency DPDs and the Inspector's final Report and Main Modifications Appendix are published on the Council's Local Plan Examination webpages:

<https://www.lancaster.gov.uk/planning/planning-policy/local-plan-examination>

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