

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

**22 January 2025**

### **Report of Chief Officer – Planning and Climate Change**

#### **PURPOSE OF REPORT**

To seek a Council resolution to formally adopt the Climate Emergency Review of the Lancaster District Local Plan. This report describes the processes that have led to the preparation of these documents, including independent Examination, and the final processes for formal adoption of the DPDs.

This report is public.

#### **RECOMMENDATIONS OF PORTFOLIO HOLDER FOR CLIMATE ACTION**

- (1) That Council resolves to adopt the Climate Emergency Review of the Lancaster District Local Plan, comprised of the partially reviewed Part One: Strategic Policies & Land Allocations Development Plan Document [DPD] and the partially reviewed Part Two: Development Management DPD, as formal components of the statutory Development Plan for Lancaster District.**
- (2) Should the Council resolve to adopt both partially reviewed DPDs, then the necessary measures are undertaken to publicise their adoption in accordance with national legislation recommendation.**

#### **1.0 Introduction**

- 1.1 On 29 July 2020 Council adopted the Lancaster District Local Plan 2011-2031 and at the same time resolved to immediately commence a Climate Emergency review of the that Local Plan in the context of the Council's 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.
- 1.2 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.
- 1.3 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.

- 1.4 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.
- 1.5 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.
- 1.6 On 26 January 2022 Council resolved to formally publish the Climate Emergency Review of the Local Plan: comprising a revised Part One: Strategic Policies & Land Allocations DPD and Part Two: Development Management Policies DPD along wide evidence and supporting information. Council also resolved to submit the documents and representations to the Government in order that they would be the subject of an independent Examination by a Government-appointed Inspector.
- 1.7 The documents were formally submitted to Government, via the Planning Inspectorate, on 31 March 2022. 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 independent Examination. The Examination process is described in some detail in Section 2 below.
- 1.8 On 2 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 the incorporation of these recommendations the documents can now be adopted.
- 1.9 The Council’s constitution describes which documents are components of its 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.
- 1.10 Should Full Council resolve to adopt the revised DPDs these revised documents will supersede the versions that Council adopted on 29 July 2020. The policies in the revised versions will immediately become the updated policies against which planning proposals must be assessed<sup>1</sup>.

## **2.0 Proposal Details**

- 2.1 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 (NPPF) makes it clear that to be “sound”, a Local Plan should be positively prepared, justified, effective and consistent with national policy.

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<sup>1</sup> 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).

- 2.2 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.
- 2.3 The Inspector appraised herself of the submitted documents and formal representations received then identified issues to be explored. 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?
- 2.4 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.
- 2.5 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 adopted<sup>2</sup>.

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

- 2.6 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”.

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<sup>2</sup> 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.

- 2.7 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.
- 2.8 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 Cross case was known.
- 2.9 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 supersedes 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.
- 2.10 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.
- 2.11 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.
- 2.12 Full details of the matters above and the Inspector's other findings can be read in her appended report.
- 2.13 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. These include:
- 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 add 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.

2.14 On 14 January 2025 the City Council's Cabinet, on the recommendations of Councillor Gina Dowding, Cabinet Member with Responsibility for Climate Action, endorsed 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.

2.15 Officers have prepared illustrative January 2025 "Adoption Draft Versions" of both the DPDs. The "Adoption Draft Versions" place the text of the Inspector's binding recommendations within the submitted documents. Minor modifications to correct factual errors and improve clarity and consistency have also been made. The "Adoption Draft Versions" are provided in good faith to show the effect of incorporating the Inspector's recommendations, however a final check for accuracy, consistency, clarity, and factual updates will be completed before final versions are formatted and formally published.

### **3.0 Details of Consultation**

3.1 Extensive consultation and engagement occurred during the preparation of the revised DPDs. Consultation Reports have been prepared and published at the appropriate stages during the plan's preparation.

3.2 Should the Council resolve to adopt the DPDs for planning purposes, no further consultation is required. Following the implementation of a Council resolution to adopt the DPDs they will become formal parts of the Local Development Plan for Lancaster District and can be used for planning purposes and to support the realisation of development needs, regeneration and economic growth.

3.3 Should the Council resolve to adopt the DPDs the Council must publicise its decision. For a period of six weeks the Council's decision to adopt the development plan documents can be sought by requesting a statutory review which is similar to a Judicial Review. If such a case were brought the plan would continue in force unless and until the High Court made any order.

3.4 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. The Council has already engaged with the community on the early stages of the full Local Plan Review.

## **4.0 Options and Options Analysis**

- 4.1 Members are reminded that it was the Council itself which resolved to submit the Climate Emergency Review Local Plan documents to the Government. It is the Council itself which decided on the content of the documents. The purpose of submission to Government is to provide the opportunity for the government to independently determine if the Council's Local Plan has been properly prepared. The Inspector has concluded that the plan has been properly prepared, and now providing that the plan incorporates her recommendations, which are in effect modifications that the Council has already consulted upon, the Council can formally adopt its own updated Local Plan. Paragraph 058 Reference ID: 61-058-20190315 of [Planning Practice Guidance](#) describes what a local planning authority is anticipated to do after the Inspector's Report is received. The guidance states:

*'While the local planning authority is not legally required to adopt its local plan following examination, it will have been through a significant process locally to engage communities and other interests in discussions about the future of the area, and it is to be expected that the authority will proceed quickly with adopting a plan that has been found sound'.*

- 4.2 The decision before members is a binary one; the Council can either choose to adopt the partially reviewed plan which it submitted or to not adopt the partially reviewed plan which it submitted. A decision to adopt the plan is the rational expectation at the end of a process that has involved expending substantial time, effort, and resources to ensure that the Council can deliver its already established development needs in the context of its own stated intention to act promptly to better address the challenges raised by climate change.
- 4.3 Should the Council decide not to adopt the updated Local Plan documents then the planning policies in the currently adopted document of 29 July 2020 would continue to provide the policy framework for the determination of planning proposals. Clearly to do so would mean that the intended benefits for addressing climate change concerns, including those listed in paragraph 2.13 above, would not be realised.

## **5.0 Officer Preferred Option**

- 5.1 Members are advised that the Council should formally adopt the updated Development Plan documents and so conclude the process of the Climate Emergency Review of the Lancaster District Local Plan. The updated documents will immediately provide the framework for the determination of planning proposals. Planning proposals will then be determined in consideration of policies that have been purposefully and thoughtfully revised to help deliver better outcomes from approved development for climate change mitigation, adaptation and resilience.
- 5.2 Given the time, effort and publicity that has gone into this partial update of the adopted Local Plan it is not at all apparent that there are any advantages in the Council choosing not to adopt its own updated documents. It can be anticipated that a decision not to adopt its own updated documents would likely negatively impact the Council's reputation for following-through on its own declared climate change commitments with residents, partners, stakeholders, development investors, potential infrastructure funders and national agencies.

## 6.0 Conclusion

- 6.1 In conclusion, the Council is advised that it should resolve to approve the recommendation to adopt the Climate Emergency Review of its Strategic Policies & Land Allocations DPD and Development Management DPD as updated parts of the formal Local Development Plan for Lancaster District.

### **CONCLUSION OF IMPACT ASSESSMENT**

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

The partially reviewed Strategic Policies & Land Allocations DPD and the partially reviewed Development Management DPD provide a planning policy framework to guide and manage development across the district.

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

### **LEGAL IMPLICATIONS**

The preparation of Local Plan documents is subject to legislation and regulations. Failure to meet these requirements could result in the Partially Reviewed DPDs being subject to legal challenge. The Planning Inspector has considered the preparation of both Partially Reviewed DPDs in terms of relevant legal requirements and concluded that both documents have been prepared in accordance with legislation and are considered sound.

The Council consulted on the emerging proposed modifications. The Inspector's recommendations based on the proposed modifications are binding, thus the adopted versions of the adopted Partially Reviewed DPDs must fully incorporate her recommendations.

### **FINANCIAL IMPLICATIONS**

It is not expected that there will be any additional financial implications arising from this report as costs connected with the preparation of both Partially Reviewed DPDs and associated public consultation, publication and submission, public examination and DPD adoption have already been accounted for within the revenue budget. Should a legal challenge be made following an adoption decision, usually because of actions from affected parties, then additional costs would be incurred in defending the Council's decision to adopt.

if challenges are made then the associated costs and implications will be reported and dealt with as appropriate through the normal monitoring processes which the Council has in place.

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

None

## SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

## MONITORING OFFICER'S COMMENTS

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

## BACKGROUND PAPERS

**Appendix 1:** [Part One: Strategic Policies & Land Allocations Development Plan Document \(climate emergency review\), "Adoption Draft Version" dated, 22 January 2025](#)

**Appendix 2:** [Part Two: Development Management Development Plan Document, climate emergency review\), "Adoption Draft Version" dated, 22 January 2025](#)

**Appendix 3:** [Report to Lancaster City Council by Joanna Gilbert MA \(Hons\) MTP MRTPI an Inspector appointed by the Secretary of State on the Examination of the Climate Emergency Review of the Lancaster District Strategic Policies & Land Allocation Development Plan Document 2020 – 2031 and Development Management Development Plan Document 2020 – 2031](#)

**Appendix 4:** [Schedule of the Inspector's Main Modifications](#)

**Appendix 5:** [Equality Impact Assessment dated 22 December 2024.](#)

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