



CABINET: 18 November 2008

**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
4 December 2008**

Report of: LDF Project Manager

Relevant Portfolio Holder: Cllr Martin Forshaw

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**SUBJECT: SAVING THE POLICIES OF THE WEST LANCASHIRE REPLACEMENT
LOCAL PLAN**

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 To inform Cabinet of the need to apply to the Secretary of State for a Direction to save the policies of the West Lancashire Replacement Local Plan beyond July 2009, and to seek Cabinet approval for the LDF Project Manager, in consultation with the Planning and Transportation Portfolio Holder, to decide which policies of the West Lancashire Replacement Local Plan need to be saved beyond 2009, for consideration by the Executive Overview and Scrutiny Committee and full Council in December 2008.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the LDF Project Manager be authorised, in consultation with the Planning and Transportation Portfolio Holder, to submit draft proposals for the saving of policies within the West Lancashire Replacement Local Plan to the Executive Overview and Scrutiny Committee at its meeting on 4 December 2008, to enable that Committee to submit agreed comments for consideration by Council on 17 December 2008.

2.2 That the Planning and Transportation Portfolio Holder, in consultation with the LDF Project Manager, be given delegated authority to submit firm proposals to Council on 17 December 2008 to enable the list of Local Plan policies intended for saving to be finalised, and in this respect the Portfolio Holder take into

account any comments agreed by the Executive Overview and Scrutiny Committee.

- 2.3 That call in is not appropriate for this item as it is to be submitted to the Executive Overview and Scrutiny Committee on 4 December 2008.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

- 3.1 That the draft proposals to be submitted by the LDF Project Manager in accordance with the decision of the Cabinet be considered and that any comments agreed by the Committee be submitted to the Portfolio Holder for Planning and Transportation in advance of the Council meeting to be held on 17 December 2008 to enable him to make recommendations on behalf of the Cabinet (see 2.2 above).

4.0 BACKGROUND

- 4.1 The Planning and Compulsory Purchase Act 2004 introduced a new planning system in England whereby local plans and structure plans were to be replaced with Local Development Frameworks (LDFs), sets of documents that would shape the future development of local authority areas.
- 4.2 To help secure a smooth transition from the old “development plan system” to the new “LDF system” in England, Schedule 8 of the Planning and Compulsory Purchase Act 2004 made provision for a transitional period of three years during which old style plans would continue to have statutory effect. Thus policies in old style plans which were already adopted at the time the new planning system came into effect were able to be saved for three years after the date the new system was implemented (i.e. from September 2004 until September 2007). During this three year period, it was expected that new-style LDFs would be prepared and adopted, to supersede the older plans’ policies.
- 4.3 The transitional arrangements also allowed for draft old-style plans which were at an advanced stage of preparation at the date the new system came into being to be progressed towards adoption. In these cases, the plans’ policies could be saved for three years from the date of their adoption.
- 4.4 In the event of a need to save policies beyond the three year period (for example, if replacement policies in the new LDF had not yet been adopted during this time), it would be necessary to obtain a Direction from the Secretary of State under Schedule 8 paragraph 1(3) of the 2004 Act (such Directions being issued by regional Government Offices, usually with a covering letter).
- 4.5 Planning Policy Statement 12 (PPS12) sets out the government’s position regarding saving policies beyond the statutory three year period. Local authorities need to demonstrate that the policies they wish to save reflect the principles of LDFs, are consistent with national policy, and that it is not feasible or desirable to replace the policy within the three year period.

- 4.6 PPS12 lists six criteria which policies should meet if they are to be saved:
- (1) Where appropriate, there is a clear central strategy;
 - (2) The policies have regard to the Sustainable Community Strategy;
 - (3) The policies are in general conformity with the Regional Spatial Strategy;
 - (4) The policies are in conformity with the adopted LDF Core Strategy (if it exists);
 - (5) There are effective policies for any parts of the authority's area where significant change in use or development of land or conservation of the area is envisaged;
 - (6) The policies are necessary and do not merely repeat national or regional policy.
- 4.7 In addition, the government will have particular regard to policies that support the delivery of housing, policies showing Green Belt boundaries, policies supporting economic development and regeneration (including retailing and town centres), and policies that reduce impact on climate change or safeguard water resources.
- 4.8 In order to ensure that policies are saved beyond the three year period, local planning authorities need to write to the appropriate Government Office at least six months before the three year period expires. After the three year period, any policies in old-style plans will cease to be part of the development plan for the area, unless their "saved period" has been extended by the Secretary of State.

5.0 CURRENT POSITION

- 5.1 When the 2004 Planning Act came into force, West Lancashire District Council was at a relatively advanced stage in preparing the West Lancashire Replacement Local Plan ("the Replacement Plan"). Under the transitional arrangements, we proceeded to progress this plan to its adoption, which took place on 5 July 2006. Therefore the policies of the Replacement Plan are saved until 5 July 2009.
- 5.2 It had originally been envisaged that LDF documents superseding the Replacement Plan would be adopted by July 2009, before the end of the three year saved policies period. However, this has not turned out to be possible, with the adoption of the LDF Core Strategy not anticipated until at least 2011. (The situation whereby LDFs are taking much longer to prepare than originally envisaged is a national phenomenon, being experienced by local planning authorities throughout England.)
- 5.3 Given the above, it will be necessary to apply to the Government Office for the North West (GONW) for a Direction to save the policies of the Replacement Plan beyond July 2009. As this application needs to be made at least six months in advance of three year saved policies period ending, the deadline for writing to GONW is 5 January 2009.

6.0 ISSUES

- 6.1 The Replacement Plan contains 49 policies, each of which needs to be assessed against the six criteria contained in PPS12 (and listed in paragraph 4.6 above).
- Criterion (1) refers to a clear central strategy. The Replacement Plan, which was written bearing in mind the new planning system, contains a section (Chapters 2 and 3) entitled “Core Strategy” and including the Development Strategy and General Development policies. It is considered that this section of the Plan constitutes a clear central strategy, and that as each of the policies in the Replacement Plan conforms to and supports this central strategy, they therefore satisfy the first criterion.
 - Criterion (2) relates to the Sustainable Community Strategy. The Replacement Plan as a whole has regard to the 2003-2006 Community Strategy. Although the Replacement Plan policies do not refer explicitly to the Community Strategy, the Plan as a whole has regard to this document. The Planning Policy Manager was involved in the drafting of the Sustainable Community Strategy (which has replaced the Community Strategy), and ensured that this was in accordance with the Replacement Plan.
 - Criterion (3) requires general conformity with the Regional Spatial Strategy (RSS). The Replacement Plan was in conformity with the previous (2003) RSS. It is expected that in most cases, the policies remain in general conformity with the recently adopted 2008 RSS.
 - Criterion (4) refers to the Core Strategy, where adopted. The West Lancashire Core Strategy is currently at a very early stage of preparation, with adoption not expected before 2011, and thus this criterion does not apply.
 - Criterion (5) requires that there be effective policies for those parts of the District where significant change is envisaged. This includes Skelmersdale Town Centre, and possibly other smaller allocated sites. It is considered that Replacement Plan policies for such areas will be found to be effective.
 - The final criterion requires that policies be necessary and do not merely repeat national or regional policy. This criterion is expected to necessitate the most work in terms of examining Replacement Plan policies. If a policy is found to simply repeat higher-level policy, then it is superfluous, and does not need to be saved. However, certain policies which define areas on the Proposals Map (for example the Green Belt policy) may be saved, even if the text of the policy does in fact repeat national or regional policy.

7.0 PROPOSALS

- 7.1 A template has been drawn up, to be used by officers in assessing each policy of the Replacement Plan. Each policy will be measured against the criteria referred to above, taking into account any other relevant considerations. This will result in a draft list of policies proposed to be saved beyond July 2009, and policies proposed not to be saved after July 2009.
- 7.2 The list of policies proposed for saving or not saving will be discussed with Development Control (DC) officers within the Council, who have day-to-day experience of using the Replacement Plan’s policies. Consultation with DC will refine the list of policies, and provide more robust reasoning for the policies’

saving or otherwise. GONW are willing to look at this draft list of policies on an informal basis, and to provide any relevant advice at an early stage.

- 7.3 Following consideration by Executive Overview and Scrutiny Committee and Council, as per the recommendations in Section 2 above, the finalised list of saved policies will be formally submitted for consideration to GONW to meet their statutory deadline of 5 January 2009.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 8.1 Sustainable development is a key principle at the heart of the new planning system. One of the considerations used by GONW when assessing whether policies should be saved or not is whether the policies reflect the principles of local development frameworks.

- 8.2 Another criterion being used in assessing whether or not policies should be saved is whether they have regard to the Sustainable Community Strategy for the area.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 9.1 There are no significant direct financial or resource implications arising from this report.

10.0 RISK ASSESSMENT

- 10.1 There is a possibility that GONW could decide not to save certain policies that the District Council recommend be saved beyond the three year period 2006-2009. However, the reason GONW ask for the list of proposed saved policies six months in advance of the end of this three year period is to allow time for dialogue and negotiation over policies. A careful assessment of each policy by District Council officers against the criteria set out in PPS12 before the list of policies is submitted to GONW should minimise the risk of GONW disagreeing that certain policies should be saved.

- 10.2 Failure to meet the deadline of 5 January 2009 for submitting to GONW the list of proposed saved policies could result in the policies of the West Lancashire Replacement Local Plan no longer being counted as part of the development plan for the District. This could potentially leave a "void" in local development plan policy until the LDF Core Strategy and other related documents are adopted. By ensuring that the list of proposed saved policies is agreed in time by Council, the threat of such a void in policy can be minimised.

11.0 CONCLUSIONS

- 11.1 Following the adoption of the West Lancashire Replacement Local Plan in 2006, and the impracticability of adopting the necessary LDF documents by July 2009, it will be necessary to apply to GONW for a Direction to save the policies of the Replacement Plan beyond July 2009. The policies will be assessed against a number of criteria set out by central government in Planning Policy Statement

12. It is expected that the majority of the Replacement Plan's policies will be recommended for saving beyond July 2009.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

<u>Date</u>	<u>Document</u>	<u>File Ref</u>
June 2008	Planning Policy Statement 12: Creating strong, safe and prosperous communities through local spatial planning (DCLG)	
August 2006	Protocol for handling proposals to save adopted Local Plan, – Unitary Development Plan and Structure Plan policies beyond the three year saved period	

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

None