

DECISION FORM

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SUBJECT: PLANNING AND COMPULSORY PURCHASE ACT 2004: JOINT LANCASHIRE MINERALS AND WASTE DEVELOPMENT FRAMEWORK – JOINT COMMITTEE

**Decision to be taken by: Executive Board
Key Decision (NO)**

Portfolio Area: Leader of the Council and Executive Member for Regeneration and Environment

Portfolios Affected:

ALL

Wards Affected:

ALL

Recommendations:

The Executive is asked:

1. That the Council enters into an agreement under section 101(5) of the Local Government Act 1972, to establish a new Joint Committee for the purposes of exercising the Council's Executive functions in the relation to the preparation of the local development documents comprising the Minerals and Waste Development Framework.
2. That the Council's Executive functions as stated above be delegated to the new Joint Committee insofar as is permissible by law in accordance with the terms of the said agreement.
3. That the Council's representative on the new Joint Committee be the Executive Member for Regeneration and Environment or such other Executive Member exercising the Council's Executive functions under Part 1 and Part 2 of the Planning and Compulsory Purchase Act 2004.

Rationale:

At its meeting in April of this year, the existing Joint Advisory Committee considered what improvements might be made to the procedural process for preparing the local development documents comprising the Mineral and Waste Development Framework, to provide a simpler, clearer and speedier process for preparing and progressing documents under the Minerals and Waste Development Framework. These considerations have focussed on the protracted decision making process for progressing early drafts and proposals through initial consultation stages. This presently requires a Joint Advisory Committee recommendation to be resolved by an Executive decision of each Council at each stage of preparation, notwithstanding that the relevant Executive Member from each Council sits on the Joint Advisory Committee.

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Out of these considerations, the Joint Advisory Committee has recommended that each constituent Council be asked to agree to the creation of a new Joint Committee to receive recommendations from the Joint Advisory Committee and carry out the Executive functions on behalf of the three authorities. However, the Joint Advisory Committee could not become the decision making Committee for Executive functions because a Committee exercising those functions must be made up of Executive Members only.

It is, therefore, proposed to retain the Joint Advisory Committee in its advisory capacity but to set up a new Joint Committee comprising the relevant Executive members from each Council to exercise the Executive functions on behalf of the Councils. It is proposed that this Committee of the three Members would sit following the Joint Advisory Committee to exercise the Executive functions, thereby avoiding separate decision making sessions through each Executive Member.

Preparation of joint local development documents between two or more authorities under section 28 of the Planning and Compulsory Purchase Act 2004 is not a function of the executive under the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and will therefore require Council approval.

The decision to submit a Development Plan Document to the Secretary of State for independent examination and ultimately to adopt would remain with the full Council of each authority, and the new Joint Committee would continue to make recommendations in connection with those functions.

Policy and Corporate Implications (including consultation process):

A speedier and more streamlined decision making process will improve the likelihood of the Council achieving the milestones in its published Local Development Scheme (timetable) for the Minerals and Waste Development Framework.

This proposal seeks to address inherent risks to the Council's statutory plan-making responsibilities under the present arrangements, namely the protracted decision making process and consequent time delays, and also the potential risk that an recommendation of the Joint Advisory Committee at preparatory stages may be rejected by an Executive decision of a constituent Council leading to consequent delays to the timetable, loss of reputation and loss of financial award.

A strong and committed representation of Members on the new Joint Committee should minimise the risk that the Submission and ultimate Adoption of a Development Plan Document is not ultimately approved by each Full Council.

Decisions must be unanimous, thus providing the Executive Member from Lancashire CC, Blackpool BC or Blackburn with Darwen BC a power of veto.

Financial implications:

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There are no direct financial implications arising from this report but the proposals will seek to increase efficiency and have a positive financial impact. However this Council needs to ensure that its interests are protected and it does not expose itself to any necessary risks. These are managed by the Officer Group supporting the Joint Advisory Committee.

Legal Implications:

1. The new Joint Committee exercising the Council's Executive functions in the relation to the preparation of the local development documents comprising the Minerals and Waste Development Framework will need to be established by an agreement between the three authorities under section 101(5) of the Local Government Act 1972. This agreement will need to include governance arrangements of the new Joint Committee. Any existing agreements/terms of reference in relation to the existing Joint Advisory Committee will need to be reviewed.
2. The new Joint Committee will need to in accordance with Article 11 (Joint Arrangements) of the Council's Constitution.
3. The Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) ("the Regulations") allow for preparation of local development documents to be the responsibility of the executive. However, under the Regulations certain functions cannot be the responsibility of the executive and as such the approval of a Development Plan Document for submission to the Secretary of State and final adoption will remain functions of full Council.
4. Section 28 of the Planning and Compulsory Purchase Act 2004 provides for two or more local planning authorities to agree to prepare joint local development documents. Under the Regulations this cannot be an executive function and will require Council approval.

Other resource implications:

Support for the Joint Committee will be provided by Lancashire County Council.

Declaration of Interest:

None

Signed:

Executive Member:

Date:

Also present:

Executive Member:

Date:

Also present:



M. Lee

6/10/09


Signed:

Chief Officer:

Date:

Chief Officer:

Date:


06/10/09

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Background papers: None:

Date of Publication of Decision: 16th October 2009

Date of Expiry of Call-In Period: 22nd October 2009



EXECUTIVE MEMBER BRIEFING PAPER

TO: Executive Board

FROM: Leader of the Council and Executive Member for Regeneration and Environment

DATE: 15th October 2009

PORTFOLIOS AFFECTED: ALL

WARDS AFFECTED: ALL

TITLE OF BRIEFING PAPER: JOINT LANCASHIRE MINERALS AND WASTE DEVELOPMENT FRAMEWORK: ARRANGEMENTS FOR CONTINUED JOINT WORKING

1. PURPOSE

This report seeks approval to delegate responsibility and executive powers for the preparation of the local development documents comprising the Minerals and Waste Development Framework to a new Joint Committee comprising of Executive Members from Lancashire County Council, Blackpool Borough Council and Blackburn with Darwen Borough Council.

2. RECOMMENDATIONS

That the Executive recommends to the Council the following:

That the Council enters into an agreement under Section 101(5) of the Local Government Act 1972, to establish a new Joint Committee for the purposes of exercising the Council's Executive functions in relation to the preparation of the local development documents comprising the Minerals and Waste Development Framework.

That the Council's Executive functions as stated above be delegated to the new Joint Committee insofar as is permissible by law in accordance with the terms of the said agreement.

That the Council's sole representative on the new Joint Committee be the Cabinet Member for Regeneration and Environment or such other Executive Member exercising the Council's executive functions the Council under Part 1 and Part 2 of the Planning and Compulsory Purchase Act 2004.

3. KEY ISSUES

Since 1998 the unitary Councils of Blackpool and Blackburn with Darwen, Lancashire County Council have carried out their statutory land-use plan-making functions through joint working arrangements. With the demise of the Structure Plan, this has come to focus on the preparation of a Minerals and Waste Development Framework as a replacement to Lancashire's Minerals and Waste Local Plan. To assist this partnership working the three Councils set up a Joint Advisory Committee for Strategic Planning (JAC) comprising Councillors from the three Councils. Under the terms of this arrangement, recommendations made by the Joint Advisory Committee are presently referred for formal decision to the appropriate decision maker of each Council, be it the Full Council or the Executive.

The Joint Advisory Committee has recommended that the current arrangements for decision making be streamlined by delegating Executive functions from each Council to a new Joint Committee. The intention was that the Joint Advisory Committee would become the decision making Committee. However, this would not be possible because a Committee exercising Executive Functions in these circumstances must only be made up of Executive Members. It is therefore proposed to retain the Joint Advisory Committee in its advisory capacity but set up a new Joint Committee comprising the relevant Executive Members from each Council to exercise the Executive functions of the three Councils. This would have a number of advantages including a speedier, more efficient and cost effective process.

The decision to submit a Development Plan Document to the Secretary of State for independent examination and ultimately to adopt a Development Plan Document would remain with each Council.

4. RATIONALE

Part 2 of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) introduced new procedures and documents to replace the existing development plan. Under the legislation Lancashire County Council took responsibility for the preparation of the local development documents comprising the Minerals and Waste Development Framework (MWDF) to replace Lancashire's Minerals and Waste Local Plan.

As unitary authorities Blackpool and Blackburn with Darwen have similar responsibilities for the respective administrative areas. The three Councils have worked together since 1998 to undertake the review of Lancashire's Structure Plan and the preparation of the Minerals and Waste Local Plan. Continuing joint working achieved the adoption of the Core Strategy to the Minerals and Waste Development Framework in February this year.

This partnership working to prepare the Core Strategy has been practised through the Joint Advisory Committee for Strategic Planning. The Committee is made up of Councillors from the three authorities, with 8 from Lancashire, 2 from Blackpool and 2 from Blackburn with Darwen. Under the terms of reference for this Committee, it works purely in an advisory

capacity with its recommendations (to progress through the various stages of preparation of a Development Plan Document referred for formal decision to each constituent Council).

At its meeting in April of this year, the Joint Advisory Committee considered what improvements might be made to the procedural process for preparing the local development documents comprising the Mineral and Waste Development Framework, to provide a simpler, clearer and speedier process for preparing and progressing documents under the Minerals and Waste Development Framework. These considerations have focussed on the protracted decision making process for progressing early drafts and proposals through initial consultation stages. This presently requires a Joint Advisory Committee recommendation to be resolved by an Executive decision of each Council at each stage of preparation, notwithstanding that the relevant Executive Member from each Council sits on the Joint Advisory Committee.

Out of these considerations, the Joint Advisory Committee has recommended that each constituent Council be asked to agree to the creation of a new Joint Committee to receive recommendations from the Joint Advisory Committee and carry out the Executive functions on behalf of the three authorities. However, the Joint Advisory Committee could not become the decision making Committee for Executive functions because a Committee exercising those functions must be made up of Executive Members only.

It is, therefore, proposed to retain the Joint Advisory Committee in its advisory capacity but to set up a new Joint Committee comprising the relevant Executive members from each Council to exercise the Executive functions on behalf of the Councils. It is proposed that this Committee of the three Members would sit following the Joint Advisory Committee to exercise the Executive functions, thereby avoiding separate decision making sessions through each Executive Member.

The decision to submit a Development Plan Document to the Secretary of State for independent examination and ultimately to adopt would remain with each Council, and the new Joint Committee would continue to make recommendations in connection with those functions.

The Executive is therefore asked to agree to the formation of a new Joint Committee and to delegate the Council's Executive functions in the relation to the preparation of the documents comprising the Minerals and Waste Development Framework to it.

The Joint Minerals and Waste Planning Committee would be made up of the three Executive members of the three Councils. The agreement under section 101(5) of the Local Government Act 1972 will stipulate that any decision of the new Joint Committee must be unanimous.

5. POLICY IMPLICATIONS

A speedier and more streamlined decision making process will improve the likelihood of the Council achieving the milestones in its published Local Development Scheme (timetable) for the Minerals and Waste Development Framework.

This proposal seeks to address inherent risks to the Council's statutory plan-making responsibilities under the present arrangements, namely the protracted decision making process and consequent time delays, and also the potential risk that an recommendation of the Joint Advisory Committee at preparatory stages may be rejected by an Executive decision of a constituent Council leading to consequent delays to the timetable, loss of reputation and loss of financial award.

A strong and committed representation of Members on a Joint Committee should minimise the risk that the Submission and ultimate Adoption of a Development Plan Document is not ultimately approved by each Full Council.

6. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report. Support for the new Joint Committee will be provided by Lancashire County Council.

7. LEGAL IMPLICATIONS

1. The new Joint Committee exercising the Council's Executive functions in the relation to the preparation of the local development documents comprising the Minerals and Waste Development Framework will need to be established by an agreement between the three authorities under section 101(5) of the Local Government Act 1972. This agreement will need to include governance arrangements of the new Joint Committee. Any existing agreements/terms of reference in relation to the existing Joint Advisory Committee will need to be reviewed.
2. The new Joint Committee will need to in accordance with Article 11 (Joint Arrangements) of the Council's Constitution.
3. The Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) ("the Regulations") allow for preparation of local development documents to be the responsibility of the executive. However, under the Regulations certain functions cannot be the responsibility of the executive and as such the approval of a Development Plan Document for submission to the Secretary of State and final adoption will remain functions of full Council.
4. Section 28 of the Planning and Compulsory Purchase Act 2004 provides for two or more local planning authorities to agree to prepare joint local development documents. Under the Regulations this cannot be an executive function and will require Council approval.

8. RESOURCE IMPLICATIONS

Both officer and councillor time would be saved as duplication of decision making would be avoided. This would also result in financial advantages due to administrative as well as staff cost savings.

9. CONSULTATIONS

Consultations have been undertaken with officers from the Councils of Blackpool, and Blackburn with Darwen and Lancashire County Council.

Lancashire approved the establishment of a Joint Committee on 14th September 2009.

Blackpool approved the establishment of a Joint Committee at its Executive Board Meeting on 16th September 2009.

CONTACT OFFICER: Paul Jones Head of Democratic Services
DATE: 29th September 2009
BACKGROUND PAPER: None

