



REPORT OF: EXECUTIVE MEMBER FOR REGENERATION
TO: COUNCIL FORUM
ON: 30th August 2012

**SUBJECT: Joint Lancashire Minerals and Waste LDF-
Proposed Major Modifications to Site Allocations and Development
Management DPD**

1. PURPOSE OF THE REPORT

1. To seek member approval of the schedule of Proposed Major Modifications to the Submission Version of the Site Allocations and Development Management Policies Development Plan Document (DPD) including the Proposals Map, together with associated revised supporting documentation – Sustainability Appraisal, Habitat Regulations Screening Report and Health and Equality Impact Assessment, for submission to the Planning Inspector undertaking the examination into the soundness of the DPD. None of the major modifications relate to specific matters within Blackburn with Darwen but arose as a result of issues in Lancashire County Council’s administrative area and the publication of the National Planning Policy Framework (NPPF). All the documents referred to above are available in individual political group’s rooms.
2. To seek approval to formally request under Section 20 (7C) of the Planning and Compulsory Purchase Act 2004 that the Inspector recommends ‘main modifications’ to the DPD as was submitted in May 2011.

2. OPTIONS

As a Minerals and Waste Planning Authority, Blackburn with Darwen Borough Council is required to prepare and adopt a Minerals and Waste Local Development Framework (LDF). The Council has agreed with the other two Minerals and Waste Planning Authorities in Lancashire – Blackpool Council and Lancashire County Council to prepare a joint Minerals and Waste LDF. Thus far a Joint Core Strategy has been adopted by all three joint authorities. The Site Allocations and Development Management Policies Development Plan Document (DPD) is necessary in order to deliver the Core Strategy and provide a more detail policy basis for the determination of mineral and waste planning applications.

The Council does not realistically have the option of not progressing the DPD to adoption. The proposed major modifications do not relate to any matters within the Blackburn with Darwen Council’s administrative area. They arose as a result of issues in Lancashire County Council’s administrative area and the publication of the National Planning Policy Framework (NPPF).

3. RECOMMENDATIONS

That Members:

- (i) Approve for submission to the Planning Inspector acting on behalf of the Secretary of State for Communities and Local Government the Proposed Major Modifications to the Site Allocations and Development Management Policies Development Plan Document including the Proposals Map and associated revised supporting documents, the Sustainability Appraisal, Sites Habitat Regulations and Sites Health and Equality Impact Assessment. (These documents are available in individual political group's rooms.
- (ii) Formally request the Planning Inspector to recommend any necessary modifications to the Site Allocations and Development Management Policies Development Plan Document in accordance with the submitted proposed major modifications to make the Plan sound under section 20(7C) of the Planning and Compulsory Purchase Act 2004; and
- (iii) That the Head of Planning and Transport after consultation with the Executive Member for Regeneration be given delegated authority to propose minor amendments to improve the clarity of the documentation referred to under Recommendation (i), and which do not alter the substance of the documents, (such amendments will be collated in a list form.)

4. BACKGROUND

The three Minerals and Waste Planning Authorities in Lancashire – Blackburn with Darwen BC, Blackpool Council and Lancashire CC have been working together on a joint Minerals and Waste Local Development Framework (LDF). A Joint Core Strategy was adopted early in 2009.

In November 2010 the Council approved the publication and submission to the Secretary of State of the Joint Site Allocations and Development Management Policies Development Plan Document (DPD) and Proposals Map which will form part of the Joint Lancashire Minerals & Waste LDF.

The DPD was submitted to the Secretary of State on the 31st of May 2011 which also marked the start of the examination in public. Geoff Hill Bsc Dip TP MRTPI was appointed as the Planning Inspector to assess the DPD against national criteria of soundness. The Inspector held a series of hearing sessions in autumn 2011 and a number of minor changes were suggested by officers under delegated powers. At the end of the hearing sessions in a letter dated 21st October 2011 and addressed to the three Joint Authorities (JA), the Inspector outlined potential shortcomings of the DPD and the need for Major Modifications to overcome possible issues of soundness. The JA requested that the Inspector suspends the examination to give the JA time to consider necessary actions.

Any major changes into a submitted DPD require further public consultation and in December 2011 the Joint Committee (JC) approved a number of major changes for public consultation which has taken place over a period of six weeks between the 19th of January 2012 and 1st of March 2012.

The Joint Advisory Committee (JAC) and the JC met on the 4th of April 2012 to consider the outcome of the public consultation and approve the final set of major changes to be

recommended to each of the three Councils for formal approval. A Consultations Outcomes Report is available as a background paper. These major changes relate to matters relevant to the County Council's administrative area. None of the matters pertaining to these major changes relate to issues in Blackburn with Darwen.

In March 2012 the Government published the National Planning Policy Framework (NPPF) in which it established a presumption in favour of Sustainable Development. The Inspector holding the examination into the soundness of the Joint Site Allocations and Development Management DPD, has advised in a letter sent to the Joint Authorities (JA) on the 20th of April 2012 that Ministers consider that a model policy setting out the approach to sustainable development must be included as standard in all development plan documents to make this clear. The model policy, to endorse the presumption in favour of sustainable development is an Annex to the Inspector's letter.

The inclusion of the model policy in the DPD is an additional Major Proposed Modification to the DPD and as such formal consultation had to take place prior to submission to the Secretary of State for Communities and Local Government. A six week public consultation on the model policy took place which ended on the 13th of July 2012.

As is normal practice when relevant new Government policy is published, the JA also consulted for a 6 week period on the implications of the National Planning Policy Framework (NPPF) for Site Allocation and Development Management Policies DPD.

All the representations received will be forwarded to the Planning Inspector, on submission of the Proposed Major Modifications to the Site Allocation and Development Management Policies DPD.

5. RATIONALE

With the commencement of Section 112 of the Localism Act 2011, which came into force on the 15th of January 2012, sections 20-23 of the Planning and Compulsory Purchase Act 2004 Act have been amended. Under the new section 20 of the 2004 Act, Inspectors no longer make recommendations for modifications unless specifically requested to do so by the Local Planning Authority (LPA). Such changes are referred to in the adoption process as the "main modifications". Minor changes are known as "additional modifications" and can be made by the Local Planning Authority on adoption without the need to be examined. These changes are ones that do not, when taken with the main modifications, materially affect the policies set out in the Plan.

The three Joint Authorities, will need to formally request the Planning Inspector to make modifications to the Plan under section 20(7C) of the Planning and Compulsory Purchase Act 2004. These modifications will be the amended Proposed Major Modifications which are referred to above and were consulted on earlier in the year in response to the Inspector's letter dated 21st October 2011 and the publication of the NPPF.

These Proposed Major Modifications are required to ensure that the Plan is found sound. Failing to address the Planning Inspector's concerns or including the 'model policy' by making these suggested major modifications may result in the DPD being found unsound, and the JA being unable to move forward with adoption of the DPD as scheduled.

If the Joint Authorities do not make a formal request to the Inspector under section 20(7C) of the Planning and Compulsory Purchase Act 2004 to make any necessary modifications to make the Plan sound, there is the likelihood that the Inspector's report will be confined to identifying any soundness or legal compliance failures and recommending non-adoption of

the Plan. This would require the whole plan making process to start again.

Following the publication of the NPPF, the need to have an up-to-date development plan as soon as possible is emphasised.

The timetable for submission of the major changes is governed by the dates of the three Council meetings in each of the JA. Full Councils in Blackpool and Lancashire County are meeting on the 19th of September 2012 and the 12th of July 2012 respectively; therefore submission of the recommended major modifications is anticipated to be later in September. This will recommence the Examination in Public.

It is important that the Examination in Public of the DPD, which is currently suspended, is recommenced as soon as possible in Autumn 2012 to avoid any further delays in the adoption of the DPD and the establishment of policy for considering planning applications.

Following submission of the proposed major modifications to the Inspector, there will need to be a 6 week lead in time advertising the re-convened EIP and then wait for the Inspector to decide when any necessary hearing sessions will be held. It is expected that any necessary hearing sessions are likely to be in November. It is still anticipated that the JA will receive the Inspector's report early 2013 with adoption of the DPD in Spring 2013.

6. POLICY IMPLICATIONS

The policies within the Joint Lancashire Minerals and Waste Site Allocations and Development Management Policies Development Plan Document (DPD), and illustrated on the Proposals Map, are drafted with the purpose of implementing the adopted Joint Lancashire Core Strategy.

This DPD enables the Joint Authorities to satisfy their requirements relating to mineral production, recycling as well as to plan for their waste needs. The DPD will also assist the JA in determining planning applications relating to minerals or waste related developments. The development management policies in particular seek to ensure that the impact of any development is minimised and the residents, countryside and natural and historic environment in Lancashire, Blackburn with Darwen and Blackpool, are protected.

7. FINANCIAL IMPLICATIONS

In order to cover the preparation and examination of the Joint LDF a budget was set up to cover costs.

Lancashire County Council who leads and manages the preparation of the LDF on behalf of the three authorities has already considered potential savings and the costs in 11/12 have been lower than anticipated.

It is expected that the set budget for 12/13 will be sufficient to cover the further costs associated with the examination of the DPD. Any unanticipated costs will be the subject of a separate report.

There might be a need to obtain Counsel advice on a matter raised by the Inspector regarding confirmation from landowners on their endorsement of proposals. Officers contacted the Land Registry for information regarding land ownership to ensure that the issues of deliverability were explored. However, there were over 400 titles registered to the sites

making it unlikely that each of the individual sites were in one controlling the ownership. To have confirmed this by getting detailed records from the Land Registry would have been prohibitively expensive and not proportionate to the consultation. The cost of any Counsel advise can be made within existing budgets.

8. LEGAL IMPLICATIONS

See above under rationale in terms of the implications of the Localism Act. County Council's legal section has been involved in the examination of the DPD throughout the process including this last stage of making major modifications.

9. RESOURCE IMPLICATIONS

There are no resource implications.

10. EQUALITY IMPLICATIONS

A Health and Equality Impact Assessment on the Major Modifications has been carried out is available together with other supporting documentation.

11. CONSULTATIONS

Public consultation on the proposed major modifications took place over a six week period between the 19th of January and 1st of March 2012.

A briefing note was sent to Chief Executives, Chief Officers, and directly affected Parish Councils to inform them about the consultation and availability of documents. Over 2107 letters were sent to residents and businesses that had previously shown an interest in the Minerals and Waste Local Development Framework. These letters drew peoples' attention to the consultation, and where documents could be found, the link to the dedicated website, and gave a phone number to call.

Press releases were sent to targeted media contacts. Public notices were put in eight main papers covering the Plan area.

The Schedule of Proposed Major Changes document was put on the dedicated consultation website together with all the supporting documents. Paper copies of the documents were also placed on deposit at all the libraries in the County and in Blackpool and Blackburn with Darwen libraries, as well as the deposit points of the County Information Centres, Town Halls, District Planning Departments, and County Hall. Additional hard copies of documents were sent out on request.

All those who had been consulted on the Proposed Major Changes were also made aware of the relevant minor changes which had been discussed at the hearings in September and October of last year.

In April 2012 further public consultation took place on the implications of the NPPF on the DPD in general; in addition in June 2012 there was a six week consultation specifically on a proposed model policy setting out the approach to the presumption in favour of sustainable development.

A Consultation Outcomes Report and a Consultation Statement on the proposed major modifications are available as background papers.

Chief Officer/Member

Contact Officer: Réa Psillidou
Date: 24th July 2012

Background Papers:

- Consultation Statement
- Consultation Outcomes Report
- Letter from the Inspector to the Joint Authorities dated 20th April 2012
- Joint Committee 4th April 2012 meeting papers
- Joint Advisory Committee 4th April 2012 meeting papers
- Site Allocation and Development Management Policies DPD – Part One and Part two
- A full list of submission documents available at <http://www.lancashire.gov.uk/corporate/web/?siteid=6106&pageid=35243&e=e>
- A full list of consultation documents available at <http://lancashireconsult.limehouse.co.uk/portal/mpc?tab=files>

Form Reference Standard Committee Report Template May 2011 1.0