

**To the Chair and Members of the  
FULL COUNCIL**

**Decision on the Progress of the Sites and Policies Development Plan  
Document**

<b>Relevant Cabinet Member(s)</b>	<b>Wards Affected</b>	<b>Key Decision</b>
Councillor Bob Johnson	All	K1209

**EXECUTIVE SUMMARY**

1. The Council's Sites and Policies Development Plan Document (S&P DPD) was submitted to Government for Examination in December 2013 following the plan's approval by Council in March 2013. The first stage of the Examination in Public Hearings took place between 29<sup>th</sup> April and 2<sup>nd</sup> May 2014 to examine if the plan was sound and legally compliant. The Inspector's subsequent letter to the Council set out his conclusions which found many parts of the plan sound. However, his view was that some amendments to the plan and its supporting evidence and to the previously adopted Core Strategy would be necessary to entirely comply with the National Planning Policy Framework (NPPF) and its interpretation both by the Inspector and through the courts. A court judgement in respect of Solihull Borough Council made during the Examination had implications for Doncaster and many other Councils across the country; it established the principle that plans need to be supported by a new NPPF-compliant "Objectively Assessed Housing Need figure"; the Inspector concluded therefore that the DPD could not proceed on the basis of the figure used in the Council's adopted Core Strategy and that therefore the Core Strategy also needed to be amended in terms of its housing target. Many plans across the country have been affected by the judgement. Therefore, having considered other available options it is proposed that the way forward is to withdraw the S&P DPD and prepare a new Local Plan, which will replace it, and the Local Development Framework (LDF) Core Strategy. In the interim before a Local Plan is adopted, planning applications will be determined in accordance with the existing development plan, that is, Core Strategy, Waste Core Strategy, saved policies of the UDP (adopted July 1998) including the proposals map, any adopted Neighbourhood plans, the NPPF and any other material considerations.

**EXEMPT REPORT**

2. The report does not include exempt information.

**RECOMMENDATIONS**

3. That Full Council agrees to:-

- a) withdraw the Sites and Policies Development Plan Document and writes to the Planning Inspectorate to confirm this; and
- b) subject to (a) above, agree that a new Local Plan be prepared and considered by Council prior to its submission to Government and update the Local Development Scheme to take account of this.

## **WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

4. The withdrawal of the S&P DPD will delay the benefits of having an up-to-date adopted Local Plan. In the interim before the adoption of the new Local Plan, planning applications will continue to be determined in accordance with the existing development plan and any other material considerations. The existing development plan comprises of the Core Strategy, the Waste Core Strategy and the saved policies of the UDP (adopted July 1998) (including its proposals map); any adopted Neighbourhood Plans will become part of the development plan. Other material considerations will of course include the NPPF; in the case of housing proposals the NPPF requirement to identify and maintain a 5 year deliverable supply of housing land will be important. The preparation of a Local Plan to determine planning applications and support investment plans will be based on latest evidence base and compliant with latest national policy. A Local Plan will provide a fresh opportunity for Doncaster residents to choose where development should take place; some of the strategy set out in the Core Strategy was driven by the Regional Spatial Strategy (RSS) which has since been revoked. Part of the Local Plan preparation will include consultation on options for where new development should take place and what areas should be protected. It will enable the Council to take account of its latest strategies and those in the City Region and updated evidence.

## **BACKGROUND**

5. The Local Development Scheme, adopted in November 2010 (and updated in 2012) sets out what documents the Council intends to produce as part of its Local Development Framework. Since that time the Council has adopted a Core Strategy and Joint Waste Plan. The S&P DPD provides new development site allocations and other development management policies taking account of the Core Strategy and national guidance. The plan was approved by Council in March 2013 (with amendments approved in July 2013). Regulations require that before the plan can be adopted, the plan should be found “sound” and legally compliant following Examination by an independent Inspector.
6. The plan was submitted on 13 December 2013 to the Secretary of State and an Inspector appointed who, in line with current practices, decided to hold the public hearings in 2 stages. This allowed him to consider methodologies, processes and contextual background after which point he would issue a letter that would set out his conclusions and whether there was a need to proceed to the second stage.
7. The first stage was held between 29<sup>th</sup> April and 2<sup>nd</sup> May 2014 and the Council has now received his letter which has been published on the Council’s website. The letter is not a formal Report but provides his views to

the Council on the stage1 hearings and the options open to the Council.

8. In his letter, the Inspector recognised that planning policies in Doncaster are complex but seek to deliver the sustainable regeneration of the borough. The Inspector was positive about many of the proposals including minerals policy, gypsy & traveller policy, use of mapping technology and the way it had been prepared concluding that the Duty to Co-operate requirement had been satisfied (a requirement which is preventing many Local Plans elsewhere in the country from progressing and reflects the good working practices that Doncaster has with its Sheffield City Region neighbours).
9. However, the Inspector concludes that there are 3 fundamental areas of concern which question the soundness of the plan, and work is already well underway on all three elements;
  - the need for the housing requirement to be updated in the Core Strategy following a review of our Strategic Housing Market Assessment (to include an Objectives Assessed Need and up to date evidence on the jobs and housing balance)
  - the site selection methodologies and sustainability appraisal criteria needed to be clearer, particularly in relation to flood risk. He considers that development sites should avoid high flood risk areas and that this has been given insufficient weight and that areas of countryside including green belt should be given further consideration. In summary, the Inspector's view is that flood risk sites should only be developed where it is "impossible" to use alternative lower risk sites. Of the 19,453 dwellings on housing allocations in the draft DPD 8,410 were in Flood Zones 2/3, although 2,839 of these, were existing planning permissions.
  - the plan should be simpler and policies re-assessed against the national policy.
10. The conclusion in the Inspector's letter is that in the light of the above it would not be a good use of resources to proceed to the stage 2 hearings and that the plan should be withdrawn. This would allow parts of the Core Strategy to be reviewed such as the housing requirement and a simplified S&P DPD brought forward and the plans resubmitted. Alternatively, modifications could be made to the existing plan but these would need further consultation and Council approval and within the time taken to do this, the evidence base would be increasingly dated. In any case, the Inspector's view was that the scale of changes needed may amount to a new plan and the Council would need to go back to the preparation stages.
11. The conclusions in the Inspector's letter have been carefully considered; some of his conclusions raise concerns particularly the weight he attaches to flood risk compared to wider sustainability factors such as regeneration; and his conclusion that the Core Strategy (which has already been found sound by an Inspector in March 2012) should be reviewed so recently after its adoption (May 2012). Legal advice has been sought and clarification sought from the Planning Inspectorate and from the Planning Advisory Service. Also representations have been made to the Planning Minister about apparent inconsistencies between Inspectors at Examinations across the country and about the overly restrictive interpretation of national policy in respect of flood zones.

12. The Council has written to the Inspector requesting that he reconsider his conclusions to review the Core Strategy housing requirement and therefore any need to withdraw the S&P DPD. However, despite this, the Inspector has re-asserted that he considers the housing requirement is not up to date and compliant with current national policy and work required to address his concerns cannot be accommodated within the hearing timescale.
13. The Inspector has acknowledged that the Council is in a difficult position to move forward with its plans for sustainable regeneration for Doncaster and surrounding settlements but recognised that the evidence base is not wasted. Much of the work undertaken can be revised and updated to ensure a robust evidence base is in place to inform the next Local Plan.
14. The Council is not alone in having to withdraw a plan as Planning Inspectors are increasingly finding plans potentially unsound with varying interpretations of guidance and responses to court rulings on planning matters. Surrounding local planning authorities such as Sheffield and Barnsley have decided to bring forward Local Plans rather than pursue separate Core Strategies and “allocation” plans. To reduce future risk the Council has sought offers of assistance from the Planning Advisory Service, Planning Inspectorate and the Department of Communities & Local Government to develop robust methodologies and policies to support the planning of regeneration in Doncaster.
15. The new Local Plan will be progressed as quickly as regulations permit and will need to be prepared alongside emerging Neighbourhood plans such as those for Armthorpe and Thorne/Moorends. Notwithstanding the Government's preference for single Local Plans the development plan will eventually comprise the Local Plan and however many Neighbourhood Plans are adopted. It is likely, depending upon the scope of proposed Neighbourhood Plans, that the Local Plan will not plan for those areas where there are adopted or well advanced Neighbourhood Plans; this is in the interests of joint working and efficient use of resources and in accordance with national policy/guidance.

## **OPTIONS CONSIDERED**

16. The Council could theoretically proceed with stage 2 of the Examination hearings however the Inspector has made it clear that further work is required before proceeding beyond this stage and may well conclude that the plan would be unsound. Therefore, the cost of continuing the Examination, estimated to be in excess of £10,000 could not be justified and this cost and time taken could be used to bring forward a new Local Plan. Thus continuing with the Examination is not now considered a realistic option.
17. The option of suspending the hearings whilst further work is undertaken “to fix” the matters raised in the Inspector's letter was explored with but rejected by the Inspector, as the time taken to do this would exceed the limit that the Planning Inspectorate would consider reasonable to suspend an Examination. This is not now a realistic option.

18. The S&P DPD could be withdrawn whilst the housing requirement of the Core Strategy was updated and a simplified version of the S&P DPD is brought forward taking account of a revised site selection methodology. This was the approach recommended by the Inspector. However, the Government now prefers single Local Plans (although regulations do not prescribe this) and following Counsel advice, it is considered that there is a high risk to continue with separate plans, an approach which may be questioned by a future inspector. Revising the Core Strategy doesn't provide the opportunity for a fresh look at spatial strategy unlike a new Local Plan.

## REASONS FOR RECOMMENDED OPTION

19. Withdrawal of the S&P DPD and replacing it and the Core Strategy with a Local Plan is the only practical option taking account of the matters raised by the Inspector and the Government's preference now for single Local Plans. The recommendation provides the opportunity to bring forward up to date strategic and detailed planning policies that are no longer informed by regional policies.

## IMPACT ON THE COUNCIL'S KEY PRIORITIES

Priority	Implications
<p>We will support a strong economy where businesses can locate, grow and employ local people.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>A new Local Plan will allow a stronger evidence base to be prepared to support growth of the borough taking account of latest information. This will provide improved longer term certainty to attract jobs and housing to Doncaster that will be well located.</p>
<p>We will help people to live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>A Local Plan will include policies that will lead to developments and communities that will enable future residents to live in places that are safe and attractive.</p>
<p>We will make Doncaster a better place to live, with cleaner, more sustainable communities.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> <li>•</li> </ul>	<p>A Local Plan will ensure future development is aligned to latest information on the development needs of the borough ensuring that growth is located in the most suitable locations. Policies can support reduced emissions by reducing travel and use of energy and improved access to community facilities.</p>
<p>We will support all families to thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting</i></li> </ul>	<p>Local planning will bring forward spatial policies to support a thriving economy that will support all residents</p>

<i>Doncaster's vital services</i>	and families with in the borough with jobs and housing.
We will deliver modern value for money services.	Bringing forward a Local Plan will make best use of Council resources and ensure planning policies reflect latest trends and Government guidance resulting in a more modern plan.
We will provide strong leadership and governance, working in partnership.	The preparation of the plan will require consultation with partners and enable current council priorities to be included in planning policies.

## **RISKS AND ASSUMPTIONS**

20. The specific risks and assumptions have been detailed in the report in paragraph 16 to 18. The recommended way forward carries least risks to adopting a Local Plan as this will be based on updated evidence and national policy. Although the statutory processes to prepare the plan and assembling of evidence may take longer, there will be more certainty over the plan soundness and following this adoption by the Council.

## **LEGAL IMPLICATIONS**

21. A Local Plan cannot be adopted unless it has been found sound by the Inspector undertaking the independent Examination. There is no appeal against the conclusions set out by the Inspector and the options available to the Council are as set out above. The Planning and Compulsory Purchase Act 2004 enables a Local Authority to withdraw a Local Plan prior to adoption and regulations prescribe the steps that an authority must take on withdrawal of the plan.

## **FINANCIAL IMPLICATIONS**

22. During 2013/14 approximately £19k was spent on the production, consultation, publication and Examination of the S&P DPD.

23. At the beginning of 2014/15 a budget of £95k was set aside to fund further Examination in public and associated costs. (This includes £65k carried forward from an under spend against the Examination budget in 2013/14.) The costs to date in 2014/15 are £3k plus the Inspectors fees which are estimated to be around £10k.

24. There are financial implications in not withdrawing the S&P DPD. Continuation of the Examination would incur further costs in relation to Inspectors fees, Programme Officer and accommodation costs and in light of the Inspector's findings this would not be good use of resources.

25. The costs associated with preparation of a Local Plan such as printing, advertising, consultation and other presentation materials, are currently unknown and will be funded from the remaining Examination in Public budget. Additionally there will be other associated costs, for example, given

the Inspectors feedback, further and more detailed Flood Risk Assessment work will be required to support the Local Plan.

- 26. Staff time spent on the Local Plan will be part of the team work-plans and will be funded from existing staffing budgets within the Service Improvement and Policy teams.
- 27. Once the Local Plan has been approved by Council and progressed to publication stage there will be further costs for printing and advertising and more significantly the cost of a new public inspection and producing or updating supporting documents.
- 28. The Local Plan will not reach this stage within this financial year and therefore any under spend against the Examination in Public budget will need to be carried forward at the end of 2014/15 to contribute to funding these costs in future years. This should to be reflected in budget monitoring reports during 2014/15.

**HUMAN RESOURCES IMPLICATIONS**

- 29. There are no Human Resources implications specific to the proposals.

**EQUALITY IMPLICATIONS**

- 30. Although there are no specific equality implications arising from this report, the new Local Plan preparation process will adhere to the Council’s policies on equality and equal opportunities in line with the Public Sector Equality Duty at s149 of the Equality Act 2010. This will ensure that the document will be prepared in regard to Doncaster’s diverse communities.

**CONSULTATION**

- 31. The Inspector’s letter and correspondence has been subject to discussions with Cabinet members. As part of the consideration of the Inspector’s letter, advice has been sought from Queen’s Counsel and the Planning Advisory Service and clarification has been sought from the Planning Inspectorate.

The report recommendations were considered by the Planning Committee on 16<sup>th</sup> September. Members of Planning Committee sought clarification on the main issues behind the need to withdraw the Plan before endorsing the recommendations to withdraw the Plan and commence work on a new Local Plan.

A future Local Plan would be subject to statutory consultation procedures at several stages in the preparation of the plan with communities and a wide range of stakeholders and statutory consultees.

This report has significant implications in terms of the following:-

Procurement		Crime & Disorder	
Human Resources		Human Rights & Equalities	
Buildings, Land and Occupiers	Y	Environment & Sustainability	Y
ICT		Capital Programme	

## **BACKGROUND PAPERS**

Inspectors letter (3<sup>rd</sup> June 2014).

Correspondence between Council and Inspector (28 July and 12 August)

Available at;

[http://www.doncaster.gov.uk/sections/planningandbuildings/localdevelopmentframework/LDF\\_Sites\\_and\\_Policies\\_DPD/index.aspx](http://www.doncaster.gov.uk/sections/planningandbuildings/localdevelopmentframework/LDF_Sites_and_Policies_DPD/index.aspx)

Report to Council 7<sup>th</sup> March 2013 and 12<sup>th</sup> July 2013.

Available at;

<http://www.doncaster.gov.uk/councilchamber/index.aspx>

## **REPORT AUTHOR & CONTRIBUTORS**

Jeremy Johnson, Local Plans Team Manager

[jeremy.johnson@doncaster.gov.uk](mailto:jeremy.johnson@doncaster.gov.uk)

**Peter Dale**

**Director of Regeneration and Environment**