

CABINET (LOCAL DEVELOPMENT FRAMEWORK) COMMITTEE

5 February 2008

STREAMLINING LOCAL DEVELOPMENT FRAMEWORKS – CONSULTATION PAPER
FROM DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

REPORT OF HEAD OF STRATEGIC PLANNING

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RECENT REFERENCES:

CAB1568(LDF) – Winchester District Local Development Framework – Core Strategy Issues and Options Paper – 6 December 2007

CAB – 1482 'Planning for a Sustainable Future' White Paper - Response to Consultation'

EXECUTIVE SUMMARY:

Last June, the Government published a White Paper 'Planning for a Sustainable Future', which set out proposals for the reform of the planning system, this was subsequently followed by the publication of a consultation paper "Streamlining Local Development Frameworks" on 27 November 2007.

This report outlines the main changes set out in the consultation document together with a series of recommended comments based on the changes proposed. In principle, any changes which both simplify the complexity of the Local Development Framework process and reduce administrative burdens are to be welcomed. A matter of considerable concern is when the new regulations are likely to be brought into force and whether work already undertaken on our Local Development Framework will have to be repeated to ensure compliance with the revised procedures. This approach will require additional time and resources to prepare and produce the LDF and in particular the Core Strategy which has commenced preparation, which appears contrary to the aim of the revised guidance which is to speed up the process to provide certainty and clarity.

RECOMMENDATIONS:

- 1 That Members endorse the recommended comments at Annex A as a response to the Department for Communities and Local Government consultation on 'Streamlining Local Development Frameworks', to be submitted by Tuesday 19 February 2008.
- 2 That authority be delegated to the Head of Strategic Planning, in consultation with the Portfolio Holder for Planning and Transport, to make any minor editing changes to the response that may be necessary prior to submission to the Department for Communities and Local Government.

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DETAIL:

1 Introduction

- 1.1. The Planning and Compulsory Purchase Act introduced the new Local Development Framework (LDF) system to replace Local Plans, came into effect in September 2004. Last June, the Government published a White Paper 'Planning for a Sustainable Future', which set out proposals for the reform of the planning system, with the intention of improving the speed, responsiveness and efficiency of land use planning, and proposals for reform of major infrastructure planning. The intention is that all the proposals in the White Paper will be in place by spring 2009, at that time it was proposed that the changes to legislation and regulations required would be consulted on in the autumn 2007.
- 1.2. On 27 November the Department for Communities and Local Government published a consultation paper, in response to the Planning White Paper.
- 1.3. The main areas of change proposed in the documents cover :-
 - Improved consultation arrangements
 - Revisions to the process of plan making
 - Changes in the way Supplementary Planning Documents are produced
- 1.4. At its meeting on 6 December LDF Cabinet Members received an addendum report to CAB1568(LDF), outlining the main changes proposed and highlighting that a full report would be presented to the next available LDF Cabinet for consideration.
- 1.5. The consultation paper consists of draft Local Development (Amendment) Regulations, together with Changes to Planning Policy Statement 12, plus a series of questions about the proposed changes on which the Government is seeking views. The consultation paper can be viewed in full at:-
<http://www.communities.gov.uk/publications/planningandbuilding/streamliningldfs>

Responses must be submitted by Tuesday 19 February 2008. The following sections of this report highlight the main changes proposed to the Local Development Framework system, including draft revised Planning Policy Statement 12. Annex A sets out the officers' proposed detailed response, which the Committee is recommended to endorse.

2. Summary of Main Changes

2.1. a) Draft Local Development (Amendment) Regulations

The principal change proposed by the consultation is to replace two current separate consultation processes (issues and options and preferred options) with a single broad statutory requirement to engage the public and stakeholders. The suggested key requirements for LDF consultation include:-

- To allow the LPA to consider who should be involved in the preparation of a development plan document (DPD) and then take what steps they think are appropriate to engage them and suggest this could include i) 'specific' consultation bodies, ii) 'general' consultation bodies and iii) persons resident or carrying business out in the area. This will allow preparation of the DPD to be tailored to local circumstances.
- Introduction of a formal representation period before the document is submitted to the Secretary of State – to allow changes to the plan prior to submission for examination. This will ensure that submitted plans are, in the view of the LPA, sound when submitted.
- This period for allowing representations to be at least six weeks rather than exactly six, as is under the current system, which allows LPA's the opportunity to give a longer period if required.
- Introduction of the ability to change the DPD after formal representations – if an LPA does not wish for its plan to be found unsound and risk having to commence the whole process again, a route is proposed in the changes that would allow the LPA to withdraw its plan and at the same time make available for formal representations a new plan incorporating any proposed changes. This would make it available to those who had made representations and ask whether these still stood in light of the changes. The changed plan would need to be accompanied by a sustainability appraisal, an appropriate assessment and any evidence. These changes are anticipated to take a matter of weeks rather than needing to commence the whole process again.
- To allow Supplementary Planning Documents (SPDs) to be issued in accordance with policy documents other than DPDs – at present all SPDs must be in conformity with a DPD, the proposed changes would allow an SPD to be prepared that conforms directly with national or regional policy providing it did not contravene other DPDs in the District. It is also proposed that to assist with the delivery of development, non statutory supplementary guidance may be prepared by a government agency, regional planning body, county council or other body. Such guidance would not be a supplementary planning document, but if it had followed the same procedures then it might be afforded some weight in the decision making process.
- To reduce the administrative burden of the LDF it is suggested that paper copies of the document should only be sent to the 'specific' consultation bodies and on submission only one paper copy rather than four to be sent to the SoS. Both the

public and general consultation bodies would be able to access a copy of the DPD either on the internet or by paying an appropriate amount for a paper copy.

2.2. b) Changes to PPS12

The draft PPS is proposed to be much shorter than the current version and is to be accompanied by an on-line planning manual, to be updated at regular intervals. There is a deliberate emphasis on core strategies as the overarching element of the LDF, and the guidance sets the context for LDFs and what the government thinks they should achieve, how they should be prepared in broad terms and the type of documents to be included.

In general, the changes emphasise the need for timely delivery of DPDs so that by March 2011 the necessary DPDs are adopted to bring forward developable land for housing in line with PPS3.

In terms of Core Strategy preparation, its role and preparation are set out in some detail in the document and include the following:-

- greater emphasis on the role of the Core Strategy being at the heart of the Council's place shaping role; for the LPA to use plan making as one of their overall strategies for achieving economic, social and environmental sustainability, such that the core strategy is not only linked but also influences other strategies of the LA and the LSP.
- To provide greater flexibility as to which DPDs are to be produced by a Local Authority – which ones are needed to deliver the overall strategy, vision, objectives and targets. It sees the core strategy as being the key DPD to be produced, with others as necessary, meaning fewer plans to be prepared and tested to achieve the same results.
- Currently the guidance is clear that the core strategy is not the place to make site allocations, this is proposed to change in that it is recognised that the delivery of the strategy and key objectives is reliant on the identification of key sites. Therefore the proposals allow for the allocation of key strategic sites.
- To repackage the nine tests of soundness to avoid duplication with legal processes and to focus on the two principles of justification and effectiveness. To be justifiable a core strategy must be founded on robust and credible evidence, and to be effective they must be deliverable, flexible and able to be monitored.
- Stressing the importance of planning for infrastructure at the outset and for infrastructure planning to be part of the evidence base and the agencies responsible for infrastructure delivery to align their planning process with the LDF. (The Government is separately consulting on the abandonment of the proposed Planning Gain Supplement and its replacement by a Community Infrastructure Levy, which is a tariff system which would also allow developers to make physical infrastructure provision in lieu of a financial contribution.)

- In order to provide greater certainty to communities and investors to ensure delivery it is proposed that the lifespan of the core strategy is extended from 10 to 15 years from the point of adoption.

3. Conclusion and Next Steps

- 3.1. The thrust of the proposed changes is to speed up production and subsequent adoption of development plan documents, to provide clarity and certainty for development delivery. Whilst this course of action is to be applauded there is substantial concern that, depending on when the new requirements come into effect, many Local Planning Authorities including Winchester City Council may have undertaken work that will have to be repeated to comply with the revised regulations. This would not only have significant resource implications but may have a negative impact on public perception of the new development plan system, and be contrary to the aim of the guidance by delaying DPD production rather than speeding it up.
- 3.2. The proposed changes focus on the Core Strategy and say very little about other Development Plan Documents, which were outlined in the previous guidance as a critical part of the Local Development Framework. This increasing emphasis on the Core Strategy in terms of its range and content has further resource implications that potentially could reduce the pace at which it is produced, which again appears contrary to the thrust of the revised guidance which is to speed up the process to provide certainty and clarity.
- 3.3. Annex A details the response which it is recommended that the Council makes to the Government's consultation, which is required to be submitted to DCLG by Tuesday 19 February 2008.

OTHER CONSIDERATIONS:

4. CORPORATE STRATEGY (RELEVANCE TO):

- 4.1. The LDF is a key corporate priority and will contribute to achieving the Council's vision through the outcomes set out in relation to providing better services.

5. RESOURCE IMPLICATIONS:

- 5.1. The 2007/08 budget provides adequate funding for the existing LDF process. With the changes proposed this should continue to be the case, with the proviso that those DPDs which have commenced preparation can continue. If however they will be required to start again, even with the reduction of one stage of the process which includes full consultation, additional resources may be required.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Annex A – Recommended Winchester City Council response to DCLG Consultation Paper 'Streamlining Local Development Frameworks'.

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Detailed Response to Consultation Paper :

The following sets out in detail the Councils response to the proposed changes, it is arranged to follow the layout of the consultation paper and includes the DCLG question (boxed), followed by the Councils response.

Section B : Draft Local Development (Amendment) Regulations

B1. Improved Consultation Arrangements.

<i>Do you support the proposal to remove the requirement to have a stage of consultation in the middle of the process (i.e Regulation 26 Preferred Options)?</i>
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Winchester City Council response : We agree in principle with the removal of the preferred options stage, as the level of consultation proposed to be undertaken at the issues and options stage is more thorough and inclusive of the wider community from the outset of development plan preparation. However Winchester City Council is extremely concerned at what point and when the new regulations will become effective, as it would not wish existing preparation work on DPDs to be abortive and, therefore, need to commence DPD preparation afresh.

The proposed revised regulations refer to the new requirements applying to those development plan documents that have not reached submission stage. If this is the case then many local authorities including Winchester City Council will have undertaken significant work through technical evidence plus community and stakeholder engagement, through both frontloading and issues and options consultation that may have to be repeated. The new requirements must therefore allow all existing evidence, sustainability appraisal and stakeholder and community engagement to be taken into account to minimise the impact of the revised procedures, and for these to reduce the amount of new consultation to be required to comply with draft Regulation 25.

These proposed changes would not only have significant resource implications but may have a negative impact on public perception and cause even greater uncertainty with the new development plan system, and be contrary to the aim of the guidance by delaying/slowing down DPD production rather than speeding it up.

B2. Bringing forward the time for making formal representations on the plan before the point of submission to the Secretary of State.

Do you agree that the period for formal representation on the plan should be brought forward to submission?

Do you think that the procedure concerning "site allocation representation" is unnecessarily burdensome?

Winchester City Council response: Through the introduction of a representation period before submission suggests that changes to development plan documents would be allowed prior to formal submission, this however is not clear from the proposed changes either to the regulations or PPS12. The LA would agree with this suggestion only on the basis that there is flexibility for the LA to respond to the representations received during this period and make alterations if required, prior to submission.

With reference to the preparation of the site allocations DPD this is currently confusing and resource intensive having to re-consult on sites submitted part way through the plan preparation process. Any revisions that simplify this procedure are to be welcomed.

B3. Opportunity for change after formal representations

Do you think that we should require (by regulation) local authorities to be under a separate and specified duty to consider the representations at this stage or should this be left to the discretion?

Winchester City Council response: The LA considers that to be transparent and democratic it is necessary to give guidance on this matter as already included under existing Reg 27 (3), rather than to leave it to the discretion of individual local authorities. If representations are being sought to development plan documents then it appears a sensible solution for the LA to offer a response, rather than just inviting comments and to leave them in abeyance until these are considered through the formal examination procedure.

B4. Allowing Supplementary Planning Documents to be issued in accordance with policy in documents other than DPDs.

Do you agree that LPAs should be able to produce SPD based directly on national or regional policy rather than on local policy, provided it does not contravene their DPDS?

Do you agree that we should draw attention to the possibility that certain key bodies could produce non statutory guidance?

Winchester City Council response: The LA considers that to be able to produce SPD based directly on national or regional policy will be a useful tool bearing in mind the lack of detail contained in some DPD's due to their strategic nature. This would be particularly beneficial where there is now a presumption in favour of joint working with neighbouring LA's and partners to cover broader issues and on a sub-regional basis. The LA also welcomes the proposed simplified SPD process.

In terms of allowing certain key bodies to produce non statutory planning guidance this is too vague and could result in a number of guidance notes prepared without due regard to the LDF system and lack of clarity as to their status in terms of implementation and impact on delivery. If DCLG is keen to include this mechanism then it must be very prescriptive as to which 'key' bodies will be allowed to follow this procedure and give guidance as to the process to be followed. There is significant confusion with the LDF as it stands with the remit of various DPD's, when they can be considered as a material consideration and where SPD's fit in without introducing a new level of LDF documentation.

B5. Changes to Regulations to reduce administrative burdens

Do you agree that only specific consultation bodies must be sent copies of the DPD?

Winchester City Council response: Any changes to the LDF system which reduce administrative burdens are to be welcomed.

Section C : Changes to PPS12

C1. Emphasis on the need for timely delivery of DPDs

Winchester City Council response to C1: The LA agrees with the spirit of this, but stresses that there must be some flexibility to amend the LDS to reflect and respond to changes to the LDF process either those proposed now or in the future, particularly if at a later stage there is a requirement to produce an additional DPD.

C2. LDFs as part of the joined-up local authority strategy making

Winchester City Council response to C2: The LA agrees with the thrust of this approach but is concerned at the different regulatory requirements of the various strategies that the LDF is expected to follow, particularly with regard to community and stakeholder engagement and sustainability appraisal. If a DPD is too tightly aligned to a particular strategy there is a risk that it may be determined as 'unsound'.

C3. Greater flexibility for local authorities to determine which DPDs they will produce

Do you agree that the criteria listed in PPS12 are useful and cover all aspects needed? What else should be included or changed?

Winchester City Council response C3: The list set out in revised PPS12 para 5.1 appears to cover the main aspects that would be used to determine whether or not additional DPD's would be required to be produced.

C4. Greater flexibility for local authorities to allocate strategic sites in the Core Strategy

C5. Reduction in complexity and number of DPDs

Winchester City Council response C4 – C5: The LA does not disagree with the suggestion to allocate sites in the Core Strategy, but is however concerned that the level of detail required to inform the allocation of a strategic site, would substantially slow Core Strategy preparation to ensure that the allocated sites were deliverable. Whilst this deals with key strategic sites, there will still be a requirement for a Development Allocations DPD to be produced to deal with the other non-strategic sites, and to this effect only places a greater burden on the LA, and does not reduce the number of DPD's to be produced.

C6. re-presenting the tests of soundness in a way which avoids duplication with legal processes and makes it clearer why testing for soundness matters.

Do you agree that the proposal to focus on justification and effectiveness will make the tests clearer, and the process of examining plans more transparent?

Winchester City Council response to C6 : There is concern that the 'test of soundness' dominate the LDF process and any mechanisms to make these more valuable to ensure that the output and subsequent outcomes of a DPD deliver sustainable communities is to be welcomed.

C7. making it clear that infrastructure delivery planning to support the core strategy needs to be undertaken satisfactorily

Winchester City Council response to C7 : Provision of timely infrastructure is recognised as a key driver to the delivery of the LDF. However, the proposed references to infrastructure in the consultation papers grossly underestimate the ability and willingness of the infrastructure providers to not only have their own delivery plans in place to respond to the levels of change proposed at local, sub-regional and regional level, but also the ability to consequently work with the relevant LA's to create a development strategy that ensures delivery, and the necessary funds available to implement their part of the strategy.

C8. Extending the lifespan of the core strategy to 15 years

Do you agree with the proposal to extend the lifespan of the core strategy to 15 years?

Winchester City Council response to C8: The lifespan of the Core Strategy needs to reflect the RSS and tie into its timeframe. By extending the lifespan from 10 to 15 years will potentially create greater uncertainty towards the end of the plan period where changes to the RSS and the introduction of new legislation at the national level will have an impact on the relevance of the Core Strategy. The existing

requirement of providing certainty for 10 years from adoption, is a realistic timescale given the frequent introduction of new legislation and other requirements i.e strategies that the core strategy is to have greater alignment with, to ensure that the Core Strategy remains relevant and provides the strategic direction and certainty it is expected to.