

CABINET (LOCAL DEVELOPMENT FRAMEWORK) COMMITTEE

15 July 2008

REVISIONS TO PPS12 AND NEW LDF REGULATIONS

REPORT OF HEAD OF STRATEGIC PLANNING

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RECENT REFERENCES:

CAB1613 (LDF) - Streamlining Local Development Frameworks – Consultation Paper from Department for Communities and Local Government - 5 Feb 2008.

EXECUTIVE SUMMARY:

The Government has recently published a revised Planning Policy Statement (PPS) 12: 'Local Spatial Planning', following consultation on a draft version. This proposes changes to the Local Development Framework (LDF) process to help speed it up and make it easier for authorities to change documents without having to go back to the beginning of the process.

This report summarises the key aspects of the PPS and considers the implications for Winchester's Core Strategy and LDF. It suggests a revised process and timescale for progressing the Core Strategy, which aims for consultation on a less formal 'Preferred Options' stage in early 2009.

RECOMMENDATIONS:

- 1 That the changes to the guidance on producing Local Development Frameworks and the implications for Winchester District be noted.
- 2 That officers work towards publication of a non-statutory Core Strategy Preferred Options stage in early 2009 and revise the Council's Local Development Scheme for presentation to a future meeting.
- 3 That a report be made to Cabinet on amendments to the Constitution which may be required as a consequence of the new Regulations.

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DETAIL:

1 Background

1.1 The Government consulted on revisions to PPS12: 'Local Development Frameworks' and the Development Plans Regulations in late 2007/early 2008. These consultation documents were reported to this Committee in February 2008, when a series of comments were agreed (CAB1613 [LDF]). The main areas of change proposed in the draft revisions covered:

- Improved consultation arrangements tailored to local circumstances;
- Revisions to the process of plan making, removing the 'preferred options' as a formal stage;
- Changes in the way Supplementary Planning Documents are produced and who can produce them.

1.2 The City Council submitted a series of comments in response to the questionnaire accompanying the consultation documents (see CAB1613 Annex A). The Council's main concerns were:

- The danger that stages which had already been completed would have to be repeated due to changes in the procedures;
- The resource implications arising from the emphasis on Core Strategies and the range of evidence needed to ensure their soundness;
- The potential for confusion arising from publication of a 'pre-submission' draft document which could only be changed in the light of consultation by withdrawing it and re-submitting an alternative document.

1.3 The key points of the new PPS12 and associated Regulations are summarised below, with particular emphasis on changes from the draft and whether these address the concerns previously raised by the City Council. The report then goes on to consider the implications for Winchester's Local Development Framework process and programme.

2 Summary of Main Points of PPS12 and Regulations

2.1 The revised PPS, like the draft, is much shorter than the previous PPS12 and can be viewed on the web: <http://www.communities.gov.uk/publications/planningandbuilding/pps12lsp> It concentrates on more general advice about the nature and content of Core Strategies and other parts of the LDF, unlike the previous PPG12 which gave detailed advice on the procedures and topics to be addressed. More detailed guidance is contained within the on-line 'Plan-Making Manual', although in practice the level of detail in this is less than the previous 'Companion Guide' to PPS12.

- 2.2 Overall, therefore, the guidance is less detailed and prescriptive than previously. While this is an advantage in some ways, the requirement for documents to be 'sound' remains and it is now more open to interpretation what is required to achieve soundness. This could be problematic if the interpretation taken by the Planning Inspectorate (who test documents for soundness) is different from, or not communicated to, the local authorities.
- 2.3 Section 4 forms the main part of the PPS and deals with Core Strategies and contains only limited changes from the draft version. These changes are mainly concerned with adding references to the need to consult with developers, landowners and businesses at appropriate stages, including as part of wider public consultation.
- 2.4 The PPS confirms that all local planning authorities are expected to produce Core Strategies, setting out the vision for the area, the key issues to be addressed, a delivery strategy and measures for managing and monitoring the strategy. Core Strategies should have a time horizon of at least 15 years from the date of adoption (a change from the 10 years required by the previous PPS12).
- 2.5 The guidance confirms that Core Strategies can now allocate 'strategic sites', which are those considered central to achievement of the strategy. However, it warns that progress should not be held up by including non-strategic sites. The draft PPS's emphasis on infrastructure delivery is maintained with a requirement that Core Strategies are supported by evidence of the infrastructure needed and how/when it will be provided.
- 2.6 The process for producing Core Strategies (and other DPDs) set out in the draft PPS/Regulations is largely maintained, with the 'Issues and Options' and 'Preferred Options' dropped as a formal stage, with option testing incorporated in the earlier consultation stages. There are now 4 basic stages of production:
- a) Consultation stages leading to production of the DPD. This would include the consultations previously required under the 'front-loading', 'issues and options', and 'preferred options' stages. These stages are not named as requirements in the revised PPS, and are all non-statutory or informal consultation stages, but there is a requirement for engagement with stakeholders, consultation on the matters to be included in the DPD, an adequate evidence base, and consideration of alternatives. Consultation should be proportionate to the document being produced;
 - b) The 'Proposed Submission' stage at which the authority publishes the DPD in the form that it proposes to submit it to the Secretary of State, for the purpose of seeking representations on the document prior to submission. At this stage the authority must be satisfied that the document is sound and ready for submission. Consultation must be 'at least 6 weeks' rather than precisely 6 weeks as previously required. The Guidance suggests the purpose of publication is to gather representations on the soundness of the document, rather than an additional stage of public participation or consultation, although the Regulations themselves do not appear to be so restrictive.
 - c) Submission of the DPD to the Secretary of State. There is uncertainty about how much (if anything) can be changed following consultation on the proposed submission DPD. The draft PPS and Regulations implied that any changes would require withdrawal of the document and re-submission of an alternative – a potentially complicated and confusing process. The guidance

notes accompanying the Regulations now suggest this process would only need to be followed if the authority is proposing changes which involve a major re-write of the document, although this is an area on which officers are seeking further clarification. Once the document is submitted the examination process starts, leading to a binding Inspector's Report.

- d) Adoption of the DPD. The Inspector's Report is binding so if the authority wants to progress the DPD it has to adopt it including the modifications recommended by the Inspector. There is still the possibility that an Inspector could find a DPD 'unsound'.

- 2.7 The table below compares the original Core Strategy process with the revised process now set out in PPS12. This highlights in particular the reduction in statutory consultation stages.

Original Core Strategy Process	Revised Core Strategy Process
Pre-Production Stages (including informal Front-Loading)	Production & Preparation (including informal consultation) [New Regulation 25]
Issues & Options (Informal Consultation)	
Preferred Options (Statutory Consultation)	
	Proposed Submission (Statutory Consultation) [New Regulations 27, 28 and 29]
Submission Stage (Statutory Consultation)	Submission Stage (Notification) [Section 20 of Act and New Regulation 30]
Public Examination	Public Examination
Adoption	Adoption

- 2.8 The 'tests of soundness' previously included in PPS12 are replaced with a requirement for plans to be 'justified', 'effective' and 'consistent with national policy'. The 'justified' requirement covers the need for a robust evidence base and consideration of alternatives. The 'effective' requirement means that documents must be deliverable, flexible and able to be monitored. In addition, there are legal requirements such as compliance with the Statement of Community Involvement, undertaking a sustainability appraisal and having regard to the Sustainable Community Strategy.
- 2.9 Section 5 of PPS12 deals with other Development Plan Documents (DPDs). These should follow the same procedures as Core Strategies, but the PPS sets out a number of issues which authorities should consider when deciding whether to produce DPDs which are additional to the Core Strategy. These include matters such as the coverage of the Regional Spatial Strategy or Core Strategy, infrastructure requirements, environmental pressures, and resources. It is emphasised that non-Core Strategy documents should not be used to take the place of the Core Strategy – "it is the Core Strategy which should make clear spatial choices about where development should go".

- 2.10 Section 6 deals with Supplementary Planning Documents (SPDs), for example Village Design Statements and development briefs. It is emphasised that these should not be prepared with the aim of avoiding the need for an independent examination of a policy which should be examined. The role of local communities in preparing SPD is acknowledged but it is emphasised that this should be done with the planning authority, not independently. Supplementary guidance may also be produced by a Regional Planning Body, government agency or County Council to cover areas larger than individual Districts, but it would not be SPD. However such guidance could be given similar weight to SPDs especially if it is endorsed by the relevant local planning authority.
- 2.11 Sections 7 and 8 of the PPS are very short and deal with intervention by the Secretary of State and the Proposals Map.
- 2.12 Section 9 is relevant to the City Council as it deals with 'saved policies'. The Winchester District Local Plan Review was produced under the old, pre-LDF, system but its policies are automatically saved for 3 years from adoption (to July 2009). As Winchester's Core Strategy and other DPDs will not be adopted by then, it will be necessary to seek the Secretary of State's approval to 'save' many of the Local Plan's policies beyond July 2009. The PPS sets out issues which will be taken into account in deciding whether to save policies. There is particular emphasis on policies that support housing delivery and affordable housing, regeneration and town centres, and renewable energy. Authorities are asked to advise their local Government Office of policies they wish to save at least 6 months before their expiration. Officers will therefore be examining this issue over the coming months and reporting on it to a future meeting of this Committee.

3 Implications for Winchester

- 3.1 Winchester's Core Strategy is at a relatively early stage and still within the consultation phase (see paragraph 2.6a above). Under the previous Regulations, the 'Preferred Options' stage would have been a formal consultation stage, but consultation will now take place as part of the consultation phase (2.6a). As a great deal of work has already taken place to engage with the public and seek their views on issues and options, officers believe that it is important to make use of this information, rather than simply consulting only on the basis of the requirements in Regulation 25 (which requires consultation merely on what the DPD [(in this case the Core Strategy)] should contain). It is therefore proposed to produce a consultation document, perhaps still termed the "Preferred Options", which would cover the basic requirements in the Regulations, but also bring out the results of the consultation already undertaken. Care will need to be taken to ensure that the consultation process complies with the general legal requirements for consultation, in terms of ruling in/out options, prejudging the results of consultation, etc.
- 3.2 The new PPS does not, therefore, result in any of the work so far being abortive, or any major change to the process, other than the 'downgrading' of the Preferred Options stage. However, the production programme for the Core Strategy which was set out in the Council's Local Development Scheme (LDS) has slipped for a number of reasons:
- The scale of the public response to the Issues and Options consultation, which is still being analysed and responded to;

- Uncertainty over the changes that PSS12 and the new Regulations would make to the process;
 - Continued delay by the Government in publishing its Proposed Modifications to the South East Plan, leading to uncertainty over housing and other requirements.
- 3.3 The Council's LDS approved in August 2007 expected the completion of consultation on Preferred Options in August 2008 and submission of the Core Strategy to the Secretary of State in September 2008. This is now impossible to achieve for the reasons above and a more achievable programme is to aim for publication of a non-statutory "Preferred Options" document for consultation purposes under new Regulation 25 in January/February 2009. This assumes that the results of consultation on the options and the further assessment work that is being carried out will be reported to this Committee over a series of meetings from September to December 2008, with approval of the Preferred Options document in December 2008. It is considered that this work falls within the remit of the LDF Cabinet Committee, and does not therefore need to go to either Cabinet or Council.
- 3.4 This remains a challenging target given the analysis of public representations that needs to be undertaken, along with further technical work to assess the options, and sustainability appraisal work. If the Core Strategy allocates strategic sites, this will increase the amount of work which needs to be undertaken at this stage. However, subject to the number and nature of any site allocations, this timescale is considered achievable, provided attention is not diverted by unforeseen issues or the need for a large amount of work arising from the Government's Proposed Modifications to the South East Plan, the Strategic Development Areas, etc. Consultancy advice will be needed in some specialist areas such as sustainability appraisal, transport, renewable energy and economic matters and this is being put in place.
- 3.5 A series of technical stakeholder events are proposed for the Key Hubs during September in order to try to develop a strategy for each Key Hub and work out a delivery plan, including infrastructure provision. Parish/town Councils would be involved, and this process will fit well with the notion of 'place-making' and existing community planning initiatives such as Parish Plans and Market Towns Health Checks. It also reflects the emphasis of PPS12 on continuing involvement of key stakeholders, rather than more formal consultation at a series of set stages.
- 3.6 The programme following consultation under new Regulation 25 on Preferred Options will be largely dependent on the scale of the public response, but it should be possible to develop and consult on the 'Proposed Submission' document during Summer 2009 with a view to Submission to the Secretary of State in late 2009. On this basis, adoption of the Core Strategy is likely to be in late 2010/early 2011.
- 3.7 Clearly this programme will require a change to the Council's LDS and a report recommending a revised LDS will be brought to a future meeting. Further clarification will need to be sought in the meantime, for example in relation to the scale of change that may be possible following consultation on a Proposed Submission document. Consideration also needs to be given to the need/programme for other DPDs. The current LDS envisages production of a Development Provision and Allocations DPD which would allocate sites for development in accordance with the strategy in the Core Strategy. With the Core Strategy now able to allocate 'strategic' sites, there is a possibility that the Development Allocations DPD may not be needed. However, this will depend very

much on the strategy that is eventually agreed – a strategy relying on a small number of larger sites could possibly be allocated through the Core Strategy, whereas a strategy which required more dispersed and smaller sites is likely still to require a Development Allocations DPD.

- 3.8 There is also the likelihood that the introduction of the Community Infrastructure Levy (CIL) will necessitate an infrastructure DPD if the Council wishes to participate in the Levy. However, it may be possible to produce an ‘implementation’ DPD to combine this with a reduced Development Allocations document and possibly Development Control Policies. All these options will require further consideration once the full implications of the new PPS become apparent, and following discussion with the Government Office.
- 3.9 Given the fact that the process for the LDF has now changed, it will be necessary to amend the Council's Constitution to set out what stages are to be dealt with by the LDF Cabinet Committee and/or Cabinet, and which matters will need to go to Council. It is proposed that the results of the consultation on the Preferred Options (as part of new Regulation 25) would be considered by the LDF Cabinet Committee (December 2008). The results of the consultation process under new Regulation 25 would then be considered by LDF Cabinet Committee and Cabinet, which would approve the “Proposed Submission” document under Regulations 27, 28 and 29 (Summer 2009). Subsequently, full Council would approve the Core Strategy for Submission to Secretary of State examination under Section 20 of the Planning and Compulsory Purchase Act 2004 and new Regulation 30 (late 2009). The results of the examination and the recommendations flowing from the Inspector (which are binding on the local planning authority) would then be considered by Cabinet, and full Council, which would adopt the Core Strategy in its final form. A formal report will be made in September to deal with the necessary constitutional changes.

4 Conclusion

- 4.1 PPS12 has changed little from the consultation version and confirms some changes to the LDF process originally proposed. The work that has been carried out on Winchester's Core Strategy remains valid and it will not be necessary to repeat any stages. The proposed “Preferred Options” consultation stage will be a less formal stage but it is recommended that this takes place, rather than progressing straight to Proposed Submission, along with on-going liaison with key stakeholders.
- 4.2 The programme for progressing the Core Strategy has slipped for a number of reasons, so it will be necessary to update the Council's LDS. There may also need to be a need to review the other DPDs that the Council needs to produce and a revised LDS will be brought to a future meeting. It is proposed that officers work towards a target of January/February 2009 for publication of the non-statutory Preferred Options consultation.

OTHER CONSIDERATIONS:

5 CORPORATE STRATEGY (RELEVANCE TO):

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

6 RESOURCE IMPLICATIONS:

- 6.1 Budget provision has been made for the work associated with the LDF, including consultancy, and the future stage of work can be accommodated within the budget.

BACKGROUND DOCUMENTS:

None

APPENDICES:

None