

CABINET (LOCAL DEVELOPMENT FRAMEWORK) COMMITTEE

5 SEPTEMBER 2012

CABINET

12 SEPTEMBER 2012

AMENDED AND UPDATED TERMS OF REFERENCE FOR CABINET (LOCAL DEVELOPMENT FRAMEWORK) COMMITTEE

REPORT OF HEAD OF STRATEGIC PLANNING

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RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This report updates the terms of reference for Cabinet (LDF) Committee to reflect the many changes in legislation that have recently occurred, and in particular to refer to the planning provisions of the Localism Act.

RECOMMENDATION:

TO CABINET

- 1 That the revised Terms of Reference for Cabinet (LDF) Committee as set out the Appendix to the report be agreed.

CABINET (LOCAL DEVELOPMENT FRAMEWORK) COMMITTEE5 SEPTEMBER 2012CABINET12 SEPTEMBER 2012AMENDED AND UPDATED TERMS OF REFERENCE FOR CABINET (LOCAL DEVELOPMENT FRAMEWORK) COMMITTEEDETAIL:

- 1.1 At Cabinet on 15 November 2006 (CAB 1360 refers), it was agreed that a Cabinet (LDF) Committee be established with terms of reference to cover the preparation, production and subsequent adoption of development plan documents and other associated reports in connection with the local development framework.
- 1.2 During the course of preparing the Winchester District Local Plan Part 1 – Joint Core Strategy, the regulations and associated guidance have been subject to minor amendments on a number of occasions. Last year, the Localism Act came into force and earlier this year the National Planning Policy Framework was finalised and revised Local Plan Regulations published. Consequently, it is now necessary to update the terms of reference for the Cabinet (LDF) Committee to reflect the revised stages of development plan production and to refer to matters introduced through the Localism Act such as Neighbourhood Plans.

Development Plan Documents

- 1.3 The process of adoption of a Development Plan Document (such as the Local Plan Part 1 – Joint Core Strategy, or the Local Plan Part 2 – Development Management and Allocations) has changed significantly. It is intended that for these documents, preparation and evidence-gathering will take place, with consultation perhaps based on discrete topics within such documents, and under the draft terms of reference this exercise (as before) would be delegated entirely to the Cabinet (LDF) Committee.
- 1.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 require (Regulation 18) that local planning authorities consult specified bodies and persons (including bodies such as the Environment Agency, Highways Agency, etc., as well as other representative groups, and residents/businesses selected by the authority) prior to starting the preparation of a Development Plan Document, and invite them to make representations on what the Document should contain.
- 1.5 The next formal stage (Regulation 19) is the publication of a “Proposed Submission Document”. Representations can be made on this document (Regulation 20), but the local planning authority does not then modify the document to take these into account. Instead, the document (together with a

summary of the representations) is then submitted to the Secretary of State, and the plan then undergoes an “Examination in Public” process by an inspector. The inspector then makes recommendations to the authority, and the Document is then adopted by the authority, having taken into account those representations.

- 1.6 In most cases, it is likely that prior to the publication of the “Proposed Submission Document”, a draft document would be prepared and consulted upon (although this is not a statutory requirement, provided the preparation stage set out in 1.4 above has been complied with. As this is likely to form the basis of the final version of the document which is then submitted for examination, it is suggested that such a document should be agreed by Council (where the document is one that would be formally adopted by Council, rather than Cabinet or Cabinet (LDF) Committee.
- 1.7 The development and adoption of the CIL charging schedule is of a similar procedural nature and significance and consequently the preparation and evidence-gathering and consultation shall be delegated to Cabinet (LDF) Committee. The preliminary draft charging schedule may be considered by Cabinet (LDF) Committee and Cabinet (LDF) Committee may advise Cabinet before the preliminary draft shall be approved by Cabinet. The second stage of the process requires that a draft schedule is then prepared which is to be submitted for examination. It is proposed that as with a Development Plan Document the draft should be agreed by Council, rather than Cabinet or Cabinet (LDF) Committee (because the final schedule is to be adopted by Council).

Neighbourhood Planning Documents

- 1.8 Neighbourhood Planning documents are part of the Development Plan and have the same weight as Development Plan Documents in the determination of planning applications.
- 1.9 The process of Neighbourhood Planning is not driven by the Council. The Council provides support and guidance before a proposal is submitted to the Council by the neighbourhood forum. The Council is required to publicise the proposal and invite representations before then confirming that the proposal is legally compliant. The proposed Neighbourhood planning proposal is then submitted for independent investigation. The examined proposal is returned to the Council. The examiner’s report is not legally binding, however where the examiner’s report recommends that the proposal is submitted to a referendum, the Council is then required to make arrangements for a referendum subject only to checking that the proposal is broadly compliant with planning policy. Should the referendum be in favour of the Neighbourhood Planning document, the Council is obliged to make the plan accordingly.
- 1.10 It is not wholly clear from the published regulations whether Neighbourhood Planning documents are planning policy documents which are to be “adopted” by the local planning authority or simply “made” following the referendum. It may be that further regulations are issued in due course to clarify the position.

- 1.11 In view of the status of Neighbourhood Planning documents as part of the Development Plan it is suggested that the new Neighbourhood Planning documents (such as the Neighbourhood Plan under preparation by Denmead) should be dealt with at the Cabinet (LDF) Committee level insofar as their preparation, publication, consultation and any required referendum, together with any required advice to Council and Cabinet (should the document require formal adoption by Council).
- 1.12 It may be that later regulations direct that such plans require to be adopted by full Council or otherwise allow for adoption by Cabinet and in that event a further report and advice will be provided.
- 1.13 The preparation and adoption of other documents and plans, such as Supplementary Planning Documents, and responses to consultations on other authorities' plans, has previously been delegated to the Cabinet (LDF) Committee.
- 1.14 The revised terms of reference for Cabinet (LDF) Committee, taking account of the above matters, are appended to this report at Appendix 1.

OTHER CONSIDERATIONS:

2 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

- 2.1 The ability of Cabinet (LDF) Committee to consider in a timely fashion the various facets of LDF preparation and production is critical to the effective spatial planning of the District. This relates to the consequential delivery of the outcomes of the Community Strategy and matters expressed in the Change Plans in so far as they relate to spatial planning.

3 RESOURCE IMPLICATIONS:

- 3.1 Meetings of the Cabinet (LDF) Committee are serviced from within existing resources in the Democratic Services Division.

4 RISK MANAGEMENT ISSUES

- 4.1 Failure to have up-to date terms of reference could cause future delays in the production and subsequent adoption of DPDs and associated LDF documents.

5 BACKGROUND DOCUMENTS:

None.

6 APPENDICES:

Appendix : Revised Terms of Reference for Cabinet (LDF) Committee

CAB2384(LDF)
Appendix

Updated and Amended Terms for Cabinet (Local Development Framework)
Committee

(a) To determine all matters in the following stages of the production of Development Plan Documents in the Local Development Framework (LDF):

(i) Preparation Stage – the evidence base and arrangements for community involvement; publication of preparatory draft documents and associated public consultation

(b) To advise and make recommendations to Cabinet and Council upon the following stages of production of Development Plan Documents:

(i) approval of any full draft development plan document for initial consultation;
(ii) approval of any Proposed Submission Document prior to submission to the Secretary of State.

(iii) Adoption of Development Plan Documents following the Inspector's report and recommended modifications after the Examination.

(c) Insofar as Neighbourhood Planning documents and the CIL charging schedule:

(i) To determine all matters as relevant in the preparation, production, publication of Neighbourhood Planning documents and to advise Council as to the subsequent adoption of Neighbourhood Planning documents as covered by the Neighbourhood Planning Regulations 2012 (Neighbourhood Areas; Neighbourhood Forums; Community Right to Build Organisations; Neighbourhood Development Plans; Neighbourhood development orders and Community right to build orders);

(ii) to advise and make recommendations to Cabinet in respect of the preparation, consultation and production of the CIL preliminary draft charging schedule;

(iii) to advise and make recommendations to Cabinet and Council in respect of the preparation, production, consultation and approval of the draft CIL charging schedule to be submitted for examination and thereafter subsequent adoption.

(d) To consider and agree the adoption of Supplementary Planning Documents.

(e) To determine matters upon related projects and studies to the LDF or to make recommendations to Cabinet.

(f) To consider and comment on behalf of the Council in respect of the Regional Strategy Local Development Frameworks, Neighbourhood Planning documents and other relevant plans or consultation exercises by Government, local authorities or other relevant bodies.