

Cabinet

9 October 2012

**Report of the Cabinet Member for Transport,
Planning and Sustainability**

CITY OF YORK LOCAL DEVELOPMENT FRAMEWORK

Summary

1. This report considers the way forward for the Council with regard to the City of York Development Plan following the decision of Council on 12th July to withdraw the LDF Core Strategy from the examination process. This matter was considered at the LDF Working Group on 3rd September 2012. The draft minutes from this meeting are attached at Annex 1.

Recommendations

2. It is recommended that Members:
 - i. instruct Officers to undertake the appropriate steps to produce a Local Plan for the City of York that is fully compliant with the National Planning Policy Framework (NPPF) and other relevant statutes.*
 - ii. note the costs identified within paragraphs 37 – 39 of this report, specifically the additional funding of £192k for years 2013/14 and £249k for 2014/15. These cost will be considered as a part of the budget strategy report in February 2013.*

Reason: To produce a Local Plan for York that is fully compliant with the National Planning Policy Framework (NPPF) and other relevant statutes in the timescale identified in the report.

Background

LDF Core Strategy Context

3. As Members are aware, the Core Strategy was submitted to the Secretary of State on 14th February 2012, just before the new National Planning Policy Framework was issued. The Government Inspector undertook a preliminary assessment of the Core Strategy and supporting documents and identified a number of significant concerns regarding potential soundness and legal compliance. This led to an Exploratory Meeting on 23rd April 2012 at which the Council outlined the additional work that could be undertaken to address the Inspectors issues and requested that the examination be suspended to allow this work to be undertaken.
4. On the 1st May 2012 the Inspector wrote to the Council informing us of his decision to suspend the Examination process for approximately six months until November 2012 to allow the Council to undertake further work. In his letter the Inspector highlighted the Council's willingness to respond positively to address his key concerns that the timetable for additional work shows that it can be completed within six months and that the additional evidence is intended to clarify and explain and not to dramatically change the Core Strategy's implementation intentions. The Inspector also indicated that he was satisfied that the Council had successfully demonstrated that it has complied with the duty to co-operate legal test.
5. At Planning Committee on 17th May 2012 Members approved the community stadium and retail scheme at Monks Cross. The Inspector wrote to the Council on the 18th May 2012 indicating that following the decision on the Community Stadium a radical review of the Core Strategy would be required. The Inspector was concerned that such likely changes would result in a substantially different set of strategic policies and direction for York from those submitted. Accordingly, the Director of City and Environmental Services wrote to the Inspector on 28th May 2012 to inform him of the decision to reluctantly recommend to Council the withdrawal of the document. This course of action was approved by Council on 12th July 2012.

Public Policy Context

6. During the latter stages of the development of the LDF Core Strategy there were considerable changes to the public policy context, these are briefly summarised below.

National Planning Policy Framework (March 2012)

7. The National Planning Policy Framework (NPPF) represents a fundamental reassessment of both the overall direction and the detail of the planning system in England. It is intended to support economic recovery and play a key role in delivering the government's localism agenda. The NPPF is the outcome of a review of planning policy, designed to consolidate policy statements, circulars and guidance documents into a single concise Framework (a reduction of over a thousand pages of guidance to around 50). The overriding message from the Framework is that planning authorities should plan positively for new development, and that 'planning should operate to encourage and not act as an impediment to sustainable growth'.
8. At the heart of the new system is a new 'presumption in favour of sustainable development'. This requires local plans to meet development needs and for development proposals that accord with the local plan to be approved without delay.
9. A significant change to the previous policy approach is that the NPPF refers to 'Local Plans' rather than 'Local Development Frameworks'. It appears from the document that it is the Government's intention that there is to be a movement away from a folder of development plan documents to a single plan.

Neighbourhood Planning

10. The Localism Act introduces new rights and powers for communities. A new 'neighbourhood' layer has been added to the planning system. These Neighbourhood Plans should be produced in conformity with an authority's Local Plan. It will be important to ensure that work on both Neighbourhood Plans and local or other high levels plans are appropriately interlinked.

Duty to Cooperate

11. The Localism Act requires that local planning authorities demonstrate co-operation in plan making with adjoining or nearby authorities and other organisations in relation to cross boundary issues. Section 110 of the Localism Act transposes the Duty to Co-operate into the Planning and Compulsory Purchase Act 2004 and introduces Section 33a, which sets out a Duty to Co-operate in relation to the planning of sustainable development ("the Duty"). The Duty applies to all local planning authorities, county councils and 'prescribed bodies' and requires that they must co-operate with each other in maximising the effectiveness

with which development plan documents are prepared. Further detail on how the provisions of the Act should be implemented is provided within the NPPF.

Deliverability

12. The NPPF emphasises the need for careful attention to viability to ensure development plans are deliverable. Paragraph 173 of the NPPF talks of 'careful attention to viability', and states that the sites and the scale of development identified in local plans should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. In his key concerns the Core Strategy Inspector reflected Government's acknowledgment of the importance of deliverability, indicating that plan allocations and policy requirements must be grounded in a genuine understanding of viability.

Next Steps

13. Following the decision at Council on 12th July Officers have undertaken the appropriate legal and regulatory steps to formally withdraw the plan. It is now necessary to consider the appropriate steps to produce a development plan for York as expediently as possible. In considering the way forward there are effectively two potential options:
 - the LDF Core Strategy could be revised, subject to consultation then resubmitted; or
 - a Local Plan could be produced for the City.
14. As highlighted in Paragraph 9 above the NPPF indicates that nationally LDFs will be replaced by Local Plans. This is interpreted to refer to a single document encompassing the function of all LDF documents. This is the clear intention of Government public policy and for this reason it is questionable whether the resubmission of the LDF Core Strategy would be sensible. Indeed the Core Strategy Inspector in his comments prior and during the LDF Core Strategy Exploratory Meeting appeared to already be pushing the Council toward a far more detailed document than that originally envisaged for LDF Core Strategies.
15. The case for moving to a Local Plan is strengthened when consideration is given to the potential timetable for revising the Core Strategy relative to the introduction of Local Plans through the NPPF. The Core Strategy Inspector indicated in his letter to the authority dated 18th May 2012 that a radical review of the Core Strategy would be required. If we were

mind to amend the Core Strategy this would effectively require the re-run of the preferred options stage consultation as well as repeating the submission element. It is considered that all of this additional work, along with the other work arising from the Exploratory Meeting, would not be able to be completed in less than around 18 months. Following the Core Strategy the Council would also need to progress the LDF Allocations and Designations Document. This would be longer than the Government's proposed transition period of 12 months for amending already adopted Local Plans and Core Strategies to meet the provisions of the NPPF. Although not completely relevant to the York position this is a useful indicator of anticipated timescales for the completion of the LDF generally.

16. The NPPF states that each local authority should produce a Local Plan for its area. Additional Development Plan Documents (DPD) should only be used where justified. This is clearly different from the current Local Development Framework system with its suite of documents with an overarching Core Strategy.
17. Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) and the NPPF. The NPPF advises that Local Plans should be aspirational but realistic and should address the spatial implications of economic, social and environmental change. Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where.
18. Given the Government's views of plan making and the movement away from a folder of development plan documents to a single plan a new local plan for York would include a vision for the future development of city and spatial strategy and would cover both strategic policies and allocations (previously the Core Strategy and Allocations DPD), alongside detailed development management policies. The exception to this would be planning for waste and minerals where a separate development plan document could potentially be justified. This is considered more fully in Paragraph 34 below.
19. The production of a Local Plan would allow the creation of a planning strategy that responds to relevant contemporary issues facing York including those arising from the current position of the national economy. It will be important that a new plan reflects the City's economic ambitions

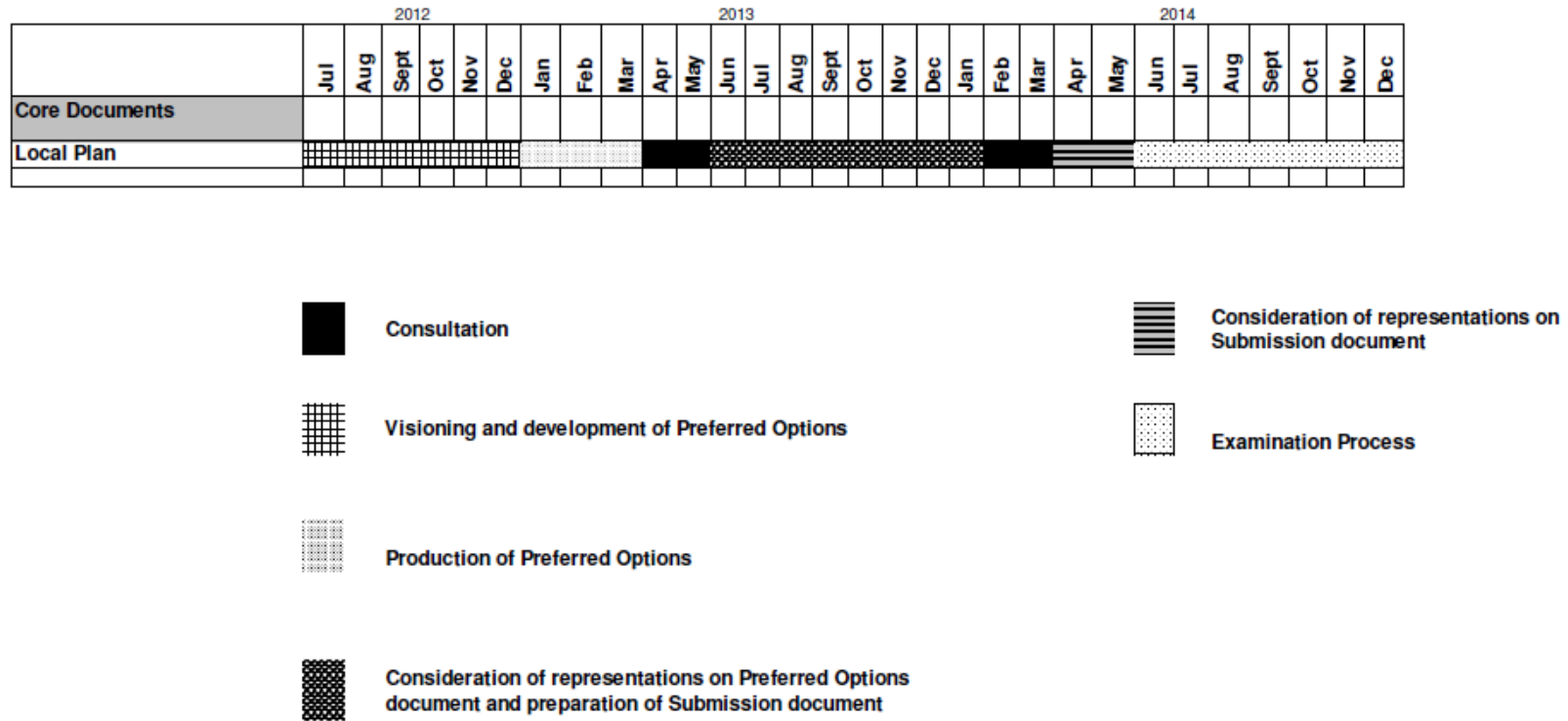
and helps deliver its continued economic success, whilst building strong communities and protecting and enhancing its unique environment.

Local Plan

20. Officers have considered the key stages involved in the preparation of a Local Plan and the likely timescales for its production. This is set out in Figure 1 overleaf and is followed by Table 1 which sets out the key tasks and new emerging evidence base work which would be involved for each stage in preparing a Local Plan. The new evidence base work has a particular focus on deliverability and viability, a key requirement of the NPPF, as well as allowing us to update some key areas. The existing evidence base will also be of key importance in progressing the new plan. This is detailed in Annex 2.

21. Annex 3 provides further information on the key project work that will be necessary in the production of a 'sound' Local Plan under the NPPF. The delivery of these projects will require cross team, group and directorate working. To ensure this work is undertaken effectively and that the work is given an appropriate level of priority a Spatial Planning Programme Board has been set up. This board comprises relevant Heads of Service relating to planning, housing, transport, design and conservation, major projects and economic development, along with the Director of City and Environmental Services, the Assistant Director for Strategic Planning and Transport and the Assistant Director for City Development and Sustainability. The group will meet on a regular basis during the full duration of the preparation of the plan.

Figure 1: Local Plan Work Programme



Notes:

Waste and Minerals DPD: Discussions are currently taking place with North Yorkshire County Council regarding the Waste and Minerals DPD and how this could be progressed.

Community Infrastructure Levy (CIL): This will be produced in parallel with the Local Plan.

Development Management Interim Statement: Officers are currently producing a project plan to deliver this work. Given the development plan context it is considered that this work should be completed and reported to Members before the end of 2012

Table 1: Key Tasks and Evidence Base

Stage	Key Tasks	Evidence Base
<p>Visioning and development of Preferred Options (July – December 2012)</p>	<ul style="list-style-type: none"> • Undertake workshops to inform production of a Spatial Planning Vision for York. • Review up to date policy/evidence base work, including NPPF. • Consider consultation responses to date. • Identify any gaps in the evidence base and undertake additional work as necessary. • Initial viability deliverability work. • Identify potential designations and allocations. • Undertake Sustainability Appraisal to support policy development. 	<ul style="list-style-type: none"> • Undertake Economic and Retail Growth Analysis and Visioning Work. • Additional Green Infrastructure related studies: <ul style="list-style-type: none"> ○ Review of the PPG 17 Open Space Study, including revisiting methodologies of achieving new provision in areas of deficiency ○ Production of a Biodiversity Action Plan ○ Production of Lower Derwent Valley Plan. • Housing Viability Work– Stage 1, including work on Strategic Allocations. • Neighbourhood Shopping Parade Study
<p>Production of Preferred Options (January – March 2013)</p>	<ul style="list-style-type: none"> • Develop policy options and associated proposals map. • Complete Sustainability Appraisal (including SEA). • Consult with key partners and ensure compliance with DTC. 	<ul style="list-style-type: none"> • Public Realm Study. • York Retail Study Update. • Update to SHLAA. • Refresh of the SFRA evidence base. • Preparation of site profiles to show top level viability, deliverability and

Stage	Key Tasks	Evidence Base
	<ul style="list-style-type: none"> • Undertake appropriate Traffic Impact Assessments. • Undertake appropriate Heritage Impact Assessments. 	phasing of employment sites.
Preferred Options Consultation (April – May 2013)	<ul style="list-style-type: none"> • Undertake city wide 6 week statutory consultation in accordance with the adopted Statement of Community Involvement 	
Consideration of representations and preparation of Submission document (June 2013 – January 2014)	<ul style="list-style-type: none"> • Collate the outcomes from the preferred options consultation. • Consider the outcomes from the Preferred Options Consultation and the Sustainability Appraisal to assist in the development of the Submission document. • Review evidence base documents published since preferred options stage and consider policy implications. • Consider changes to national and local policy. • Finalise designations and allocations 	<ul style="list-style-type: none"> • Housing Viability Work– Stage 2 • Production of Housing Implementation Strategy for 5 year housing land supply • Preparation of detailed site profiles to show viability, deliverability and phasing of employment sites

Stage	Key Tasks	Evidence Base
	<p>including completing deliverability and viability work.</p> <ul style="list-style-type: none"> • Produce an Infrastructure delivery plan • Develop submission draft policies and proposals map. • Complete Sustainability Appraisal (including SEA). • Consult with key partners and ensure compliance with DTC. • Undertake appropriate Traffic Impact Assessments. • Undertake appropriate Heritage Impact Assessments. 	
<p>Submission Consultation (February – March 2014)</p>	<ul style="list-style-type: none"> • Undertake city wide 6 week statutory consultation in accordance with the adopted Statement of Community Involvement. 	
<p>Consideration of representations on Submission document</p>	<ul style="list-style-type: none"> • Collate the outcomes from the Submission Consultation in preparation for formal submission. • Produce final Sustainability Appraisal and 	

Stage	Key Tasks	Evidence Base
(April – May 2014)	SEA ensuring legal compliance. <ul style="list-style-type: none"> • Produce statements relating to consultations to demonstrate compliance with the Planning Regulations. • Produce any supporting technical papers. 	
Examination process (June – December 2014)	<ul style="list-style-type: none"> • Provide evidence and information to demonstrate legal compliance and ‘soundness’ under the NPPF. 	

Risk Analysis

22. In developing a project plan an assessment has been undertaken to identify key risks, these include:
- resources;
 - Duty to Cooperate;
 - change in the local political agenda;
 - objections to the plan through consultation;
 - potential viability issues on strategic and key allocations;
 - lack of clarity about the full implications of the Localism Act;
 - lack of best practice in Local Plan preparation given its recent introduction;
 - legal challenge to the plan; and
 - implications of decisions on major planning applications.
23. The risk assessment is explained more fully in Annex 4, alongside potential mitigating actions. It will be a key role of the Spatial Planning Programme Board to monitor and evaluate the risks and ensure the mitigating actions are appropriately implemented where necessary.

Sustainability Appraisal, Strategic Environmental Assessment and Habitat Regulation Assessment

24. The preparation of a Local Plan would need to be undertaken in accordance with the requirements of the Sustainability Appraisal/Strategic Environmental Assessment process and meet the needs of the Habitat Regulation Assessment. Further information on this is set out in Annex 5. The importance of closely monitoring these areas of work is highlighted by the recent Joint Greater Norwich Core Strategy case which indicates the complexities of the Sustainability Appraisal process and how it can be influenced by case law and precedent. In the Greater Norwich case, following a legal challenge to the Joint Core Strategy the Court upheld one of the grounds of challenge in finding that the local planning authorities there had not complied with the requirements of the Strategic Environmental Assessment regime because they had not properly considered alternative options that did not rely on significant housing growth in one part of the plan area. The judge said that the need for outline reasons for the selection of the alternatives dealt with at the various stages of a Plan's preparation has to be addressed in the final Sustainability Appraisal of that Plan.

Additional Work

25. In addition to the work directly related to the production of a Local Plan the following related elements of the work programme are also of key importance.

Development Management Interim Planning Statement

26. Given that the NPPF is now in force and there is no adopted or emerging plan for York, in line with general advice from PAS a stand alone Development Management Interim Planning Statement for York will need to be commissioned. This will involve an exercise to determine which policies from the Development Control Local Plan (April 2005) and other local documents are consistent with the NPPF and can therefore continue to be used in decision making until the new Local Plan is adopted. An interim statement will introduce material considerations that are capable of carrying weight in the determination of planning applications. Its purpose will be to provide a clear position for development management in the short term prior to the adoption of the Local Plan. It will not allocate or identify new sites.

Community Infrastructure Levy

27. As Members are aware the Community Infrastructure Levy (CIL) is a new, discretionary charge, which local authorities will be empowered to charge on most types of new development in their area. It offers City of York Council, as a potential charging/collection authority, a flexible tool, helping it to secure the finances needed to deliver its infrastructure priorities. It will also make it easier for the council to coordinate contributions towards larger infrastructure items, including sub-regional infrastructure.
28. It should be noted that current planning obligations (e.g. S106) will continue to exist after the introduction of CIL (if introduced). However, from April 2014, this will be significantly scaled back. Planning obligations will no longer be used as the basis for a tariff to fund strategic infrastructure as the CIL will become the main mechanism for pooling contributions from a variety of developments. It will only be possible to seek pooled contributions from up to [only] five separate planning obligations.
29. 'Charging authorities' wishing to introduce a CIL will be required to demonstrate that their proposed charges will support the development of

their area. It is important that an appropriate balance is struck between the desirability of funding infrastructure from CIL and the potential effects of the imposition of CIL upon the economic viability of development.

30. Officers are currently exploring the most appropriate way of progressing the CIL for York alongside the production of a Local Plan. It is clearly important that this work is linked to site viability and deliverability work and infrastructure planning. It is also important that the CIL for York is progressed as a priority alongside the Local Plan as the absence of CIL may impact on the authority's ability to deliver strategic infrastructure.

Duty to Cooperate

31. Even before the introduction of the Duty, City of York Council took (and continues to take) a positive approach to working collaboratively with neighbouring authorities and other relevant organisations on spatial planning and transport issues. Examples of this include:
 - establishment of the York Sub-area Joint Infrastructure Working Forum;
 - York and North Yorkshire Strategic Housing Market Assessment;
 - Joint commissioning of the A64 Corridor Study; and
 - Harrogate Line Officers Rail Group.
32. At a more strategic level, City of York Council is a constituent member of the Leeds City Region (LCR) and Local Government North Yorkshire and York (LGNYY). The function and purpose of these sub regional bodies is now even more important with the imminent revocation of the Regional Spatial Strategy and is essential to address the requirements of the Duty to Cooperate arising from both the Planning Act and the NPPF.
33. With regard to the Leeds City Region (LCR), the City of York is represented at member level on the LCR Local Authority Joint Committee (Leader) and the Transport Panel (Cabinet Member). It is also represented, at officer level, on the Heads of Planning Group and the LCR Connectivity Partnership.
34. With regard to North Yorkshire the City of York is represented on the Local Government North Yorkshire and York (LGNYY) Leaders' Board and currently chairs (Cabinet Member) the LGNYY Spatial Planning and Transport Board (SPTB). At officer level City of York Council performs the secretariat function to the SPTB and the Technical Officer Group that

supports it. In recognition of the links between York, North Yorkshire and the East Riding, the East Riding of Yorkshire Council is a non voting Member of the SPTB and the associated officer group. At its meeting, on 2nd August 2012, the Board acknowledged the importance of effective collaboration, not only within the LGNYY area, but with authorities outside the LGNYY area and other bodies, such as East Riding of Yorkshire Council and the Highways Agency where there are strategic or cross-boundary issues to address. The Board also recommended the incorporation of the York Sub-area Joint Infrastructure Working Forum (a City of York Council initiative) as a 'task / finish group'. This group also includes the East Riding of Yorkshire Council in addition to North Yorkshire authorities.

Waste and Minerals DPD

35. The City of York Council as a unitary authority is also a waste and minerals planning authority in a similar way to a County Council. This responsibility effectively involves identifying all waste arising in the area from all sources, such as, household, commercial, hazardous and agricultural, and demonstrating how this is dealt with spatially. With regard to Minerals it is necessary to identify the requirement for minerals including aggregates and how these will be sourced. Both these tasks have to be addressed for the lifetime of any development plan.
36. As highlighted at Paragraph 16 above, under the NPPF additional Development Plan Documents (DPD) can be used where they can be clearly justified. Officers are currently evaluating the possibility of pursuing a joint Waste and Minerals DPD with North Yorkshire County Council (NYCC). The City of York already has a close working relationship with the County with regard to waste management, and such plans are generally produced to cover a larger geographical area than that covered by the City of York. This will be the subject a further report in due course.

Financial

37. The withdrawal of the LDF Core Strategy will necessitate the production of a revised plan and additional evidence base. The estimated costs are highlighted in table 2 below.

Table 2: Local Plan Cost Estimates

Year	Cost £k
2012/13	
Visioning & Evidence	164
Staff	61
Specialist Advice	5
Total	230
2013/14	
Evidence	25
Printing & Consultation	22
Staff	140
Specialist Advice	5
Total	192
2014/15	
Examination	128
Printing	3
Staff	111
Specialist Advice	7
Total	249

38. It should be noted that if the Council had continued with the LDF it is estimated that the costs of finalising the different components of the LDF would have been around £275k. In addition the more stringent tests relating to deliverability and viability for housing and employment arising from the NPPF account for approximately £80k of the additional costs identified for the Local Plan.
39. Based on current estimates the costs for 2012/13 of producing a Local Plan can be accommodated within the existing budgets of the Integrated Strategy Unit and predominantly the LDF Reserve. Additional funds will however be required for 2013/14 and 2014/15 equivalent to the levels identified in Table 2 above.

Corporate Strategy

40. The development plan for York has a relationship to all five specific priorities of the Council Plan.

Implications

41. The following implications have been assessed.
- **Financial** – This issue is covered in paragraphs 37 – 39 above.
 - **Human Resources (HR)** – The production of a revised plan and associated evidence base this will require the development of a comprehensive work programme that will predominantly, although not exclusively, need to be resourced within CES.
 - **Equalities** – Through the stages of the Core Strategy's development equalities issues have been considered. This will be built into any future programme.
 - **Legal** – The production of a new plan will need to be compliant with relevant statutory and regulatory framework. Legal advice will be necessary during the plan preparation stage.
 - **Crime and Disorder** - *None*
 - **Information Technology (IT)** - *None*
 - **Property** - *None*
 - **Other** – *None*

Risk Management

42. In compliance with the Council's risk management strategy, the main risks in producing a Local Plan for the City of York are:

- The potential damage to the Council's image and reputation if a development plan is not adopted in an appropriate timeframe.
- Risks arising from failure to comply with the laws and regulations relating to Planning and the SA and SEA processes.
- Risk associated with hindering the delivery of key projects for the Council and key stakeholders.
- Financial risk associated with the Council's ability to utilize planning gain and deliver strategic infrastructure.

43. Measured in terms of impact and likelihood, the risk associated with this report have been assessed as requiring frequent monitoring.

Contact Details

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Report Approved



Date 1.10.012

Specialist Implications Officer(s)

Patrick Looker – Finance Manager

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Annexes

Annex 1: Draft Minutes from LDF Working Group 3 September 2012

Annex 2: Existing Evidence Base

Annex 3: Key Projects

Annex 4: Risk Analysis

**Annex 5: Sustainability Appraisal, Strategic Environmental
Assessment and Habitat Regulation Assessment**