

**Executive**

**23<sup>rd</sup> December 2008**

Report of the Director of City Strategy

**City of York Council –Changes to PPS12 and a Revised Local Development Scheme**

**Summary**

1. This report advises Members on the production of a revised Local Development Scheme (LDS) for the City as required under the Planning & Compulsory Purchase Act (2004). The LDS is effectively the project plan for the delivery of the Local Development Framework. The report outlines the implications arising from the changes to Government Guidance (PPS12), the formal requirements relating to the production of an LDS, and financial implications.
2. A report on this matter was considered by the LDF Working Group on 4<sup>th</sup> November and the minutes from this meeting are attached as Annex A. A draft of the LDS amended to reflect the recommendations of the LDF Working Group is attached as Annex B and for the purposes of comparison the last timetable provided for Members is attached as Annex C.
3. Members are asked to approve this document for formal submission to the Government Office for Yorkshire and the Humber subject to the recommendations of the LDF Working Group.

**Background**

4. The Planning and Compulsory Purchase Act (2004) requires local authorities to produce and publish a project plan for the production of the Local Development Framework (LDF) known as the Local Development Scheme (LDS). It is important that the LDS is revised periodically to reflect changes to the LDF program. This project plan must be approved by Government Office prior to publication. Progress against the key milestones in the LDS will be one factor considered in the future awarding of the Housing and Planning Delivery Grant.
5. Guidance indicates that the LDS should look forward three years, and it should cover all aspects appropriate to the progression of the LDF. This includes the establishment of the evidence base, information on which

development plan documents will be taken forward, resource implications and reporting structures.

6. The LDS comes into effect four weeks after being submitted to Government Office unless Government Office intervenes during this period or requests more time. It is possible that Government Office may request changes to an authority's LDS to take account of issues such as the ability of the Planning Inspectorate to resource specific Public Inquiries.

### Changes to PPS 12

7. Government guidance relating to the production of development plans is contained in PPS12. This document was revised and re published in June 2008 incorporating a number of key changes that are now reflected in the revised LDF program. Given this document's critical importance to the LDS a summary of the key changes is provided below.
8. The revised PPS is much shorter than the previous PPS12 and concentrates on more general advice about the nature and content of Core Strategies and other parts of the LDF. More detailed guidance is contained within the on-line 'Plan-Making Manual'. Overall 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.
9. 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.
10. The guidance highlights 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. There is an emphasis on infrastructure delivery and a requirement that Core Strategies are supported by evidence of the infrastructure needed and how/when it will be provided.
11. A key change involves dropping the 'Issues and Options' and 'Preferred Options' as formal stages and requiring consultation before rather than after submission. There are now 4 basic stages of production detailed below.
  - (i) Consultation stages leading to production of the DPD. This would include the consultations previously required under the '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 reasonable alternatives. Consultation should be proportionate to the document being produced.

(ii) The ‘Proposed Submission’ is the 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.

(iii) 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 if it is to be progressed to inquiry. Potentially any significant changes would require withdrawal of the document and further full consultation on an alternative. However, for minor changes it may be possible to limit consultation just to the element that has changed. Once the document is submitted the examination process starts, leading to a binding Inspector’s Report.

(iv) 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’.

12. Table 1 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.

**Table 1: PPS 12 Changes to Process**

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

13. 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.

14. 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".
15. 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. 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.

### **Key Components of LDS**

16. The proposed LDS, attached as Annex A to this report, covers six key areas each of which is detailed below:
  - i. Introduction – highlights the requirements of the new system and the authority's current position;
  - ii. Programme & Contents – covers the process of adopting development planning documents under the new planning system and highlights those that the Council intends to prepare over the next three years. This includes revised timelines for the documents currently under production.
  - iii. Annual Monitoring Report
  - iv. Sustainability Appraisal & Strategic Environmental Assessment
  - v. Existing Council Strategies
  - vi. Resources

### **Options**

17. Members have three options relating to the proposed LDS:

**Option 1:** To approve the LDS subject to the recommendations of the LDF Working Group on 4<sup>th</sup> November 2008 for formal submission to Government Office for Yorkshire and the Humber.

**Option 2:** To seek amendments to the LDS through the recommendations of the Executive.

**Option 3:** Request that Officers prepare an alternative project plan.

### **Analysis**

18. In the Local Development Scheme submitted to Government Office in March 2007 we committed to developing the following documents by 2010:
  - Core Strategy;
  - Allocations DPD;
  - York Northwest Area Action Plan;
  - City Centre Area Action Plan; and
  - The Statement of Community Involvement.
19. As Members are aware the Statement of Community Involvement has been subject to the Inquiry process deemed 'sound' and formally adopted. In addition the Core Strategy, Allocations DPD, The City Centre and the York Northwest Area Action Plans have all being subject to Issues & Options consultations and are now being progressed to the next stage of production. Against a national picture of delay and whilst dealing with some difficult planning issues we feel that we are making good progress. Notwithstanding this the revised LDS does include some changes in the program. This arises in part from the changes to PPS 12 highlighted above and from some delays in document production which is explained in more detail below. It should be noted however that the proposed overall timetable is not significantly different to the current LDS approved in 2007 or the update provided to Members earlier this year with all documents due to be adopted by 2010.
20. With regard to the production of the Core Strategy this process was deliberately delayed by three months in the Summer of 2007 to allow for joint public consultation with the Sustainable Community Strategy. This was done to accord with best practice and government guidance and also to avoid public confusion which would arise from the two similar consultations being carried out close together. It should be noted that when the original LDS was prepared in late 2006/ early 2007 the exact timetable for the city wide consultation on the Sustainable Community Strategy was unknown. The joint LDF Core Strategy/Community Strategy consultation - the Festival of Ideas 2 - was very successful with over 2300 people responding. We are presently working on the equivalent to a preferred options document which should be ready for consultation early in the new year. This is considered necessary to provide full understanding of the proposed approach.
21. With regard to changes to other elements of the program, including any delays in the program, this is essentially the result of the considerable amount of evidence base work we have undertaken. As you would expect we have been closely monitoring the progression of other plans particularly

within the region and nationally. This has underlined the need for a robust evidence base to support any approach and led both to a requirement for further evidence base work and in some case a different approach to be taken.

22. As Members are aware a range of major studies have been completed since the last LDS was approved: Strategic Flood Risk Assessment; Strategic Housing Market Assessment; Strategic Housing Land Availability Assessment (Stage 1); Employment Land Review (Stage 1); Open space study (Stage 1) and a city wide retail study. In addition work relating the Open space study (Stage 2), Employment Land Review (Stage 2), detailed consideration of the retail implications of the York Northwest site, and the Strategic Housing Land Availability Assessment (Stage 2) will be completed shortly. Work relating to the following areas is also underway: nature conservation sites, green infrastructure, infrastructure provision and detailed conservation character appraisal work for the City Centre. It is expected that all this work will be substantially complete by the end of this calendar year and ready to support the Submission draft Core Strategy as per the revised timetable.
23. As indicated above good progress has been made in developing our LDF, against a national picture of some significant delays. It is considered that the program outlined in the revised LDS (Annex B) will ensure that the City has a Core Strategy, Allocations DPD, and two Area Action Plans in place before the end of 2010.

### **Corporate Priorities**

24. The revised LDS supports the following Corporate Strategy Priorities:
  - Decrease the tonnage of biodegradable waste and recyclable products going to landfill
  - Increase the use of public and other environmentally friendly modes of transport
  - Improve the actual and perceived condition and appearance of city's streets, housing estates and publicly accessible spaces
  - Increase people's skills and knowledge to improve future employment prospects
  - Improve the health and lifestyles of the people who live in York, in particular among groups whose levels of health are the poorest
  - Improve the life chances of the most disadvantaged and disaffected children, young people and families in the city
  - Improve the quality and availability of decent affordable homes in the city
  - Improve the economic prosperity of the people of York with a focus on minimising income differentials
  - Reduce the environmental impact of council activities and encourage, empower and promote others to do the same.

## Implications

25. Implications are as listed below:

- **Financial:** Members have agreed funding of £227k in 2008/09 and £224k in 2009/10 to complete the Local Development Framework. It is currently anticipated that expenditure can be contained within the budget over the two years however this is unlikely to result in a completed document. Additional resources if required for 2010/11 will need to be considered as part of future budget rounds to complete the project.
- **Human Resources (HR):** There are no HR implications.
- **Equalities:** There are no Equalities implications.
- **Legal:** As work on the LDF progresses legal advice will be sought to ensure the document under production is both procedurally and technically sound.
- **Crime and Disorder:** There are no Crime and Disorder implications.
- **Information Technology (IT):** There are no IT implications.
- **Property:** There are no property implications.
- **Other:** There are no other known implications.

## Risk Management

26. Potential risks to the delivery of the programme are highlighted in Table 1 of the LDS document itself along with potential mitigating actions.

## Recommendations

27. That Members:

- (i) approve, subject to the recommendations of the LDF Working Group on 4<sup>th</sup> November 2008 (minutes attached as Annex A), the proposed Local Development Scheme for formal submission to Government Office for Yorkshire and the Humber;

Reason: To ensure that the Local Development Scheme for York is submitted to Government Office for Yorkshire and the Humber as required under the Planning and Compulsory Purchase Act.

- (ii) delegate to the Director of City Strategy in consultation with the Executive Member and Shadow Executive Member for City Strategy, the making of any other necessary changes arising from either the recommendation of the LDF Working Group or Executive, prior to submission to Government Office; and

Reason: To ensure that any recommendations of the LDF Working Group and the Executive are incorporated into the submission draft LDS.

- (iii) delegate to the Director of City Strategy in consultation with the Executive Member and Shadow Executive Member for City Strategy the making of any minor changes arising from comments made by Government Office or the Planning Inspectorate following formal submission.

Reason: To allow the authority to respond to any comments made by Government Office or the Planning Inspectorate that would lead to minor changes to the LDS.

### Contact Details

**Author:**

Martin Grainger  
Principal Development Officer  
City Development Team  
Tel: 551317

**Chief Officer Responsible for the report:**

Damon Copperthwaite  
Assistant Director of City Strategy  
Tel: 551448

**Report  
Approved**



**Date** 02/12/08

**Specialist Implications Officer(s)**

Financial  
Patrick Looker  
Finance Manager  
Tel: 551633

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

**All**

**For further information please contact the author of the report**

**Background Papers:**

None

**Annex A: Minutes of the LDF Working Group 4<sup>th</sup> November 2008**  
**Annex B: City of York Council Draft Local Development Scheme**  
**Annex C: Previous Timetable (June 2008)**