

Report of the Director of Governance

Sustainable Development, Local Plan & Climate Change

Summary

1. This report introduces a discussion on planning guidance and best practice concerning sustainable development. The committee wish to explore the feasibility of potential actions that the Council could take in furthering the aim of York being carbon neutral by 2030. This paper looks to set out the current York position in respect of its emerging Local Plan, development of Supplementary Planning Documents (SPDs) and the national policy context.

Background

The Local Plan and SPDs related to Sustainable Development

2. The Local Plan was submitted in May 2018 and is currently under examination with the first phase of hearing sessions taking place in December 2019.
3. The submitted Local Plan sets out that a number of SPDs will be produced in order to support and add detail to the Local Plan policies themselves. The following list indicates those SPDs that are currently referenced in the Local Plan:
 - Strategic Site SPDs (for each of the strategic development sites);
 - Sustainable Transport for Development;
 - Health and Well-being;
 - Cultural Well-being;

- Green Infrastructure;
 - Affordable Housing;
 - Gypsy and Travellers and Travelling Showpeople;
 - Lower Derwent Valley;
 - Low Emission;
 - Sustainable Design and Construction;
 - Managing Environmental Quality;
 - Local Heritage List;
 - Self Build and Custom Build Housing; and
 - The review of existing draft SPDs including HMOs, Sub-division of dwellings and house extensions.
4. In September 2018, Executive Members endorsed the production of supplementary planning documents as outlined in the Submitted Local Plan, prioritising the production of an Affordable Housing SPD and Green Infrastructure SPD. Members had previously highlighted these SPDs as key priorities to support the Local Plan policy position and they were based on evidence that provided a robust rationale for their implementation. The prioritisation of these SPDs was also considered a pragmatic approach to enable development of SPDs to occur alongside the Local Plan examination and within current resources.
 5. Since this decision, City of York Council declared a 'Climate Emergency' in March 2019 and agreed to set a target to become net carbon neutral by 2030.
 6. At the Full Council meeting in July 2019, Members resolved to request that the Executive expedites the production of a number of the Supplementary Planning Documents to support the policies in the emerging Local Plan to reflect the Council's ambition to be carbon neutral by 2030, prioritising the supplementary guidance on Zero-Carbon Building and Renewable Power, and Green and Blue Infrastructure.
 7. Supplementary Planning Documents are intended to add further details to policies within a Development Plan Document such as a Local Plan. They can be used to provide further guidance for development on specific sites or on particular issues. SPDs are capable of being a material consideration in planning decisions but are not part of the Development Plan itself.

8. SPDs are intended to expand on high level 'strategic' policies contained within DPDs such as the emerging York Local Plan in order to guide development management officers, developers and development site landowners and their professional consultants. An SPD does not set policy itself but provides a framework for the implementation of policy.
9. An SPD must be produced under the provisions of the Planning and Compulsory Purchase Act 2004 and the Town and country Planning (Local Planning) England, Regulations 2012, and in accordance with the National Planning Policy Framework (NPPF). These regulations set out the process that the production of a SPD must follow. This includes a requirement for the SPD to not be in conflict with an adopted Development Plan Document, to contain a reasoned justification of the policies contained within it and that before a SPD can be adopted it must prepare a statement setting out how the Local Planning Authority has consulted on the SPD.
10. The Local Plan was submitted for examination on 25th May 2018 but until such time as there is an adopted development plan in York, any draft SPD (even if consulted upon and approved by the Council to inform development management decisions) would only have the status of interim planning guidance, it would not have the same legal status as an adopted SPD in that decision making process. A draft SPD would be capable of being a material planning consideration, but the weight that could be attached to it would be more limited than that of an adopted SPD.
11. A new National Planning Policy Framework (NPPF) was published in July 2018 and updated in February 2019. In line with the revised NPPF, the Local Plan is being examined under 'transitional arrangements'. This means the Plan is being examined pursuant to NPPF 2012 and the associated applicable planning practice guidance. This approach was confirmed in a letter from the appointed Planning Inspectors in November 2018.
12. The revised NPPF (2019) is clear however, that it applies immediately to decision-making and should be a material consideration for planning decisions. Therefore, the preparation of any SPDs must be compliant with the submitted Local Plan and take consideration of the NPPF (2019) to ensure that it is compliant for decision-making.

The Emerging Local Plan

13. The policies set out in the Local Plan aim to be ambitious in their requirements for new development to reflect the national commitment to reducing carbon emissions, the Council's ambitions to tackle climate change in York and the evidence base produced to support its delivery at a local level.
14. Section 11 'Climate Change' of the Local Plan specifically seeks to ensure development tackles climate change through ensuring it generates renewable and low carbon energy, uses natural resources prudently and is built to high standards of sustainable design and construction. These applicable policies are:
 - CC1: Renewable and Low Carbon Energy Generation and Storage
 - CC2: Sustainable Design and Construction of New Development
 - CC3: District Heating and Combined Heat and Power Networks
15. Policy CC1 encourages the development of renewable and low carbon energy generation and storage. It requires new buildings to achieve a 28% reduction in carbon emissions through the provision of renewable and low carbon technologies in the locality of development or through energy efficiency measures, unless it can be demonstrated that this is not viable. Applicants must submit an energy statement setting out how this will be achieved, taking into consideration the impact of the scheme on other planning considerations and demonstrate any viability issues with meeting the target.
16. Policy CC2 sets out the sustainable design and construction requirements that all new development (by type) must adhere to and demonstrate in a Sustainability Statement. In summary, the policy requirements are:
17. For new residential development – deliver at least a 19% reduction in Dwellings Emission Rate (DER) compared to the Target Emission rate (TER) (calculated using SAP as per the Building Regulations) and a water consumption rate of 110 litres per person per day (calculated as part G of the Building Regulations).

18. For Non-residential development over 100sqm internal floor area - meet BREEAM 'excellent' standard (or equivalent).
19. Policies in the Local Plan are underpinned by evidence commissioned from the Carbon Trust (2017) [CD122], which sets out the most appropriate strategy for delivering carbon reduction and energy efficiency in new developments in York based upon national policy, building regulations and guidance. For policy CC1 specifically, this work drew on evidence base commissioned for the Local Plan, including the Renewable Energy Study (2014). This study assessed the city's potential for generating renewable energy and concluded that there is potential to generate power from a variety of sources, including wind, solar and hydro. It recommends appropriate areas across the city but does not preclude schemes in alternative locations subject to these meeting the provisions set out in policy CC1.
20. For policy CC2, the Carbon Trust identified that the Deregulation Act 2015, ministerial statement following the Housing Standards Review and the HM Treasury report Fixing the Foundations: Creating a more prosperous nation (2015), were all relevant. These limit the Councils' ability to demand energy efficiency improvements beyond the Building Regulations. However, it is recognised that a 19% reduction in BER vs TER is currently permitted and this has therefore been transposed into the policy.
21. For water efficiency, the consumption levels included are based upon evidence provided by Yorkshire Water and the Environment Agency demonstrating that implementing water efficiency measures is essential to prepare for and adapt to climate change and increased water demand. Limiting the water consumption rate is considered to be an effective measure therefore for water demand management.
22. Non-residential development must meet BREEAM 'excellent' standard. BREEAM is a recognised sustainability assessment method for masterplanning projects, infrastructure and buildings. BREEAM requires assessment and certification of a scheme's environmental, social and economic sustainability performance, using standards developed by BRE. It recognises and reflects the value in higher performing assets across the built environment lifecycle, from new construction to in-use and refurbishment. Whilst the 'excellent' standard relates to non-residential development, a second assessment method operating alongside

it – CEEQUAL – provides the evidence-based sustainability assessment, rating and awards scheme for civil engineering, infrastructure, landscaping and public realm projects.

23. The NPPF requires that planning policy and the contributions expected from development does not undermine the deliverability of the plan. The Viability Study (2018) submitted in May 2018 [CD018] tests whether the policies in plan are viable to implement. This draws upon the evidence from the Carbon Trust and adds in the costs of applying policy CC2 for residential and commercial/other development.
24. The viability study concluded that together with other applicable policies that incur a cost, the implementation of policy CC1/CC2 is not expected to render development unviable. At a strategic level therefore, the policies are viable and their implementation would not undermine the delivery of the plan.

Supplementary Planning Documents

25. Following Members resolution at Council in July and their declaration to become carbon neutral by 2030, there is a clear consensus for robust action and policy to be enforced to meet the climate change agenda in York. Policies in the Local Plan work towards this agenda. The opportunity of a SPD that articulates expectations and guidance as to how to achieve or demonstrate the Council's policy ambitions, will provide a consistent framework against which officers and applicants can refer.
26. A Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD is proposed to be taken forward. A report setting out the scope of this document together with progress/scope for a Green-Blue Infrastructure SPD and progress on Affordable housing matters, was taken to the [Executive Member Decision Session for Strategic Planning on 17th October 2019](#)¹.
27. The scope of these SPDs was taken to the decision session of the Executive Member for Economy and Strategic Planning in October 2019 and endorsed. Work is now being progressed on producing a draft SPD to be brought back to members of the Local Plan working Group and Executive for consideration prior to city wide consultation. The timescale for the production of the draft SPD is Spring 2020 but this is dependent on the outcome of

¹ <https://democracy.york.gov.uk/ieListDocuments.aspx?CId=735&MIId=11429&Ver=4>

the Inspectors Report on the first phase of Local Plan examination hearings.

28. All SPDs researched and used as exemplars to inform the scoping work for a Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD have included a checklist approach for applicants. This helps to ensure that the requirements the applicants must evidence and the documents they should submit with planning applications, are as clear as possible. Many also include guidance for development schemes split into residential / non-residential based advice under themed topics. In most cases energy efficiency and renewable energy considerations are dealt with together and separate consideration is provided for sustainable construction (including water efficiency and materials).
29. For York, it is considered that the approach of combining a checklist together with subject based detail is the most appropriate approach. This would utilise Council's existing approach to development management thereby ensuring fewer issues during the application process. The scope of the SPD is proposed on this basis to cover each part in detail. The SPD would therefore focus on:

Part 1 – Guidance

- Importance of Urban design to Climate change, carbon reduction and renewable energy
- Mechanisms for Securing delivery
- Energy Efficiency and Renewable Energy
- Sustainable Design and Construction

Part 2 – Checklist

- Residential development
- Non-residential development

Supranational and National Legislation

30. The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases are reduced and that climate change risks are prepared for. The Act

also establishes the framework to deliver on these requirements. The UK's long-term emissions target is to reduce the emissions of carbon dioxide and/or greenhouse gases by at least 100% of 1990 levels (net zero) by 2050.

31. The EU has established and recently updated a legislative framework that includes the Energy performance of buildings directive (EPBD) and the Energy efficiency directive. Together, the directives promote policies that will help achieve a highly energy efficient and decarbonised building stock by 2050, create a stable environment for investment decisions to be taken and that will enable consumers and businesses to make more informed choices for saving energy and money.
32. In response to the EU Directive, the Ministry of Housing, Communities & Local Government (MHCLG) informed local authorities on 14 January 2019 that, effective from 1 January 2019, the requirement for nearly zero energy buildings would be mandatory for new buildings owned and occupied by public authorities and that from 31 December 2020 the nearly zero energy requirement would be mandatory for all other new buildings.

Planning Practice Guidance

33. The Government's planning guidance on renewable and low carbon energy identifies specific planning considerations:
 - Local planning authorities are responsible for renewable or low carbon energy development of 50 megawatts or less installed capacity.
 - Microgeneration is often permitted development and therefore may not require planning permission.
 - Although the NPPF explains that communities must increase the use and supply of low carbon energy, this does not mean that the need for this development overrides environmental protections and the planning concerns of local residents.
 - Local planning authorities should consider:
 - o A range of technologies and the policies needed to encourage their development in the right places;
 - o The falling costs of these technologies, increasing their attractiveness;

- The impacts of different technologies on the places in which they would be located; and
 - There is no specific quota of renewable and low carbon energy that must be delivered by the Local Plan.
- Local planning authorities may wish to establish policies that give positive weight to those projects led by the local community.
 - Particular renewable energy technologies have different site considerations. For example:
 - For biomass, appropriate transport links;
 - For hydro-electric power, sources of water;
 - For wind turbines, predicted wind resource.
 - Cumulative impacts of development require particular attention, for example that of wind turbines or solar farms on landscape and local amenity. Protecting local amenity should be given proper weight in planning decisions.

Government Consultation on The Future Homes Standard

34. In October 2019, the Government published an open consultation on the uplift to the standard of Part L of the Building Regulations and changes to Part F. The uplift is the Government's first step in achieving the Future Homes Standards (FHS).
35. The consultation sets out the Government's plans for the Future Homes Standard, including proposed options to increase the energy efficiency requirements for new homes in 2020. The Future Homes Standard will require new build homes to be future-proofed with low carbon heating and world-leading levels of energy efficiency.
36. This consultation is the first stage of a two-part consultation about proposed changes to the Building Regulations. It also covers the wider impacts of Part L for new homes, including changes to Part F (ventilation), its associated Approved Document guidance, airtightness can improving as-built performance of the constructed home.
37. The consultation proposes achieving this via one of two options:

- Option 1: 20% reduction in carbon emissions compared to the current standard for an average home. This can be delivered by very high fabric standards (typically with triple glazing and minimal heat loss from walls, ceilings and roofs) in addition to waste-water heat recovery and use of a gas boiler.
- Option 2: 31% reduction in carbon emissions compared to the current standard. This could be delivered based on better fabric standards, though not as high as in option 1 (typically double not triple glazing). In addition this would likely feature waste-water heat recovery and use of a gas boiler and solar PV. This is the government's preferred option.

38. The officer recommendation in the report due for consideration on 6 January 2020 is:

- Support the Government's recommendation of option 2 and highlight that Local Authorities should be able to set their own efficiency standards including use of Photovoltaics (PV) on all new and renovated buildings. City of York Council would like to urge the Government to move towards a compulsory requirement for PV to be installed in new buildings and renovated buildings where there are no significantly adverse implications in terms of any heritage assets.

Consultation

39. There was no consultation necessary in the production of this report.

Options

40. Members can decide whether they would like to take a specific aspect of this report in to their work planning or decide that no further work is required.

Analysis

41. There was no analysis necessary in this report. This report provides background information to assist the committee in their discussions with officers and guests.

Council Plan

42. The issues that will be discussed in this session are linked to the Council Plan themes of 'A Greener and Cleaner City' and 'Creating Homes and a World-class Infrastructure', as set out in the Council Plan 2019-23.

Risks and Implications

43. There are no risks or implications arising from the recommendations in this report.

Recommendation

44. The Committee is asked to consider the information in this report and highlight whether there are particular aspects that they would like to take forward into their work plan for the coming months.

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**Report
Approved**

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Wards Affected:

All

For further information please contact the author of the report

Additional further reading and resources:

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=969&MId=11664&Ver=4>

- Planning for Climate Change, Executive Summary and Full Report - Town and Country Planning Association
- Friends of the Earth, 33 Actions that Local Authorities can take on Climate Change
- Planning and Climate Change Supplementary Planning Document – Crawley Council