

**Report of the Director of City Development**

**Report to: Executive Board**

**Date: 16<sup>th</sup> May 2012**

**Subject: Natural Resources & Waste Development Plan Document – “Post Submission Changes” – Further Revisions**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. The Natural Resources & Waste Development Plan Document (DPD) is one of a number of planning documents currently being prepared as part of the Local Development Framework (LDF). The preparation of this document has been driven by the requirements of national planning guidance (PPS10), the implications of European Waste Management Directives, the City Council’s commitments to managing environmental resources and tackling climate change and the need to identify sufficient sites for waste management activities (aligned to the Council’s own municipal waste strategy).
2. Further to Executive Board’s consideration of the schedule of post submission changes at the 11<sup>th</sup> April meeting, further correspondence has been received by the Inspector (Mr Middleton) requesting further changes. These are largely minor changes, with the exception of a request for a more substantive change requesting the inclusion of a specific policy to promote the sustainability aspects of the recently published National Planning Policy Framework. It is felt that the emerging plan does strongly reflect the principles of sustainable development and the inclusion of such a policy would duplicate national guidance. Nevertheless, advice from the Planning Inspectorate is that the imperative for the inclusion of such a policy has

come from Ministers, consequently the policy needs to be included to reflect this requirement.

### **Recommendations**

Executive Board is asked to agree the new supporting text and policy wording (as detailed in para. 3.2) for inclusion in the Post Submission Schedule of Changes for a 6 week period of public consultation.

## **1.0 Purpose of this Report**

- 1.1 Further to Executive Board's consideration of the schedule of post submission changes at the 11<sup>th</sup> April meeting, further correspondence has been received by the Inspector (Mr Middleton) requesting further changes. These are largely minor changes, with the exception of a request for a more substantive change requesting the inclusion of a specific policy to promote the sustainability aspects of the recently published National Planning Policy Framework (NPPF). The purpose of this report is to request Executive Board approval for this further change, for inclusion of the post submission changes (previously considered by the Board on 11<sup>th</sup> April).

## **2.0 Background Information**

- 2.1 The City Council has been progressing the Natural Resources and Waste DPD through its examination stage and is keen to draw the process to a conclusion as quickly as practicable. The preparation of a schedule of post submission changes has coincided with the launch (in March) of the NPPF. In reflecting this change and Ministerial requirements, the Planning Inspectorate (PINS) have been advising local authorities, to include a policy promoting the sustainability aspects of the recently published NPPF within their DPDs, prior to adoption. Within this context, the NRWDPD Inspector has written, via the Programme Officer, to request that Leeds incorporate such a change:

“The Inspector has recently learnt that Ministers are expecting all adopted DPDs from now on to include a policy promoting the sustainability aspects of the recently published National Planning Policy Framework. PINS have suggested that the following model policy be amended to suit the plan in question and for it to be included, along with appropriate supporting text, at an appropriate juncture in all DPDs from now on, in order to satisfy the Ministerial requirement.

You may consider it appropriate to include a proposed change to cover this in your list of main modifications and to avoid further consultation at a later stage, to consult on it at this point in time”

(Extract of letter received 24<sup>th</sup> April 2012).

- 2.2 The broad legal implications of the preparation of the NRWDPD, is set out in para. 4.5 below. In relation to the specific legal implications of introducing such a policy into the NRWDPD (which forms part of the Development Plan for Leeds) relate to the approach to be taken to the determining of planning applications which fall within the scope of the NRWDPD. The statutory requirement set out at s38(6) of the Planning & Compulsory Purchase Act 2004 is that local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. Therefore, when taking planning decisions, the starting point is the Development Plan, and any other relevant considerations such as the NPPF constitute 'other material considerations' which the decision maker must consider but which do not have the status of the Development Plan. By incorporating the proposed policy which reflects the NPPF presumption in favour of sustainable development into the Council's own Development Plan the legal status of this policy is brought within the ambit of S38(6) as part of the Plan.

- 2.3 The practical implication of this, will be to give significant weight to the presumption in favour of sustainable development, in making what was previously implicit, more explicit of part of the NRWDPD. Ultimately, when challenged, it will be for Planning Inspectors at appeal and the courts to determine how this should be interpreted. However, as emphasised previously to Executive Board, a key trust of the NRWDPD is to put in place a planning framework, based on a robust evidence base, to utilise and maintain the District's natural resources in a sustainable fashion. Reference to the sustainability principles of the NPPF within the DPD, should therefore have the potential to strengthen and support the City Council's policy approach as set out in the plan.

### **3.0 Main Issues**

- 3.1 As noted above, following consideration by Executive Board of the post submission changes the City Council has received further correspondence from the Inspector via the Programme Officer, requesting further changes. With the exception of the request for a new policy to reflect the NPPF, the requested further changes are relatively minor and include additional wording to improve cross referencing in the document and additional wording to further clarify and strengthen policy wording and explanation in the supporting text.
- 3.2 As described above, the most substantive change relates to the need to include a policy promoting the sustainability aspects of the recently published NPPF. In reflecting this requirement (and the draft wording from the Inspector) and it's application to the NRWDPD, the following supporting text and new policy is proposed for inclusion in the post submission changes for consultation.

#### Further Post Submission Change

*Before Para 2.33 insert a new paragraph and policy and renumber the remaining three paragraphs of chapter 2 accordingly:*

**“To ensure that the positive sustainability aspects of the National Planning Policy Framework are embodied into this plan, the following policy will be relevant to all development proposals.**

#### **GENERAL POLICY 1**

**When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions of Leeds.**

**Planning applications that accord with the policies in this plan (and where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.**

**Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant**

**planning permission unless material considerations indicate otherwise – taking into account whether:**

- **Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or**
- **Specified policies in that Framework indicate that development should be restricted**

3.3 In reflecting this further change and in order to ensure compliance with the Strategic Environmental Assessment (SEA) Directive, a further Addendum to the Sustainability Appraisal has been completed. This has been included in Appendix 1 to this report and will also be made available as part of the post submission changes consultation.

#### **4.0 Corporate Considerations**

As noted above, the Natural Resources & Waste DPD, forms part of the Local Development Framework and once adopted will form part of the Development Plan for Leeds.

#### **4.1 Consultation and Engagement**

4.1.1 The Natural Resources and Waste DPD has been subjected to a number of public consultation exercises as part of its preparation and as required by the LDF Regulations. The Independent Inspector who is examining the DPD has indicated that he is content with the public consultation that has been undertaken so far. The Post Submission Schedule of Changes are changes that have arisen during the Examination process and from subsequent correspondence with the Inspector. As emphasised previously, these will be subject to a 6 week period of public consultation. Responses to the consultation will be sent to the Inspector and considered by him.

#### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 An Equality Impact Assessment Screening was carried on the Natural Resources and Waste DPD and submitted with the DPD to the Secretary of State for Examination. The Post Submission Changes are changes to the main DPD and do not result in any specific implications for equality and diversity / cohesion and integration. The EIA Screening Report is one of the background documents to this report.

#### **4.3 Council Policies and City Priorities**

4.3.1 The Natural Resources and Waste DPD allocates the wholesale market site as a strategic waste site and therefore supports the delivery of the Council's Residual Waste PFI which is a key priority for the Council.

#### **4.4 Resources and value for money**

- 4.4.1 The DPD is being prepared within the context of the LDF Regulations, statutory requirements and within existing resources. There are no specific resource implications for the City Council arising from the consultation since it will largely be handled by the Planning Inspector and Programme Officer.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The Natural Resources and Waste DPD enables Leeds City Council to comply with the requirements of the European Waste Directive and thereby avoid penalties incurred for non-compliance. The DPD is being prepared within the context of the LDF Regulations and statutory requirements. The DPD is a Budgetary and Policy Framework document and as such this report is exempt from call-in by Scrutiny.

#### **4.6 Risk Management**

- 4.6.1 Without the changes in the Post Submission Schedule of Changes the Natural Resources and Waste DPD is not likely to be found sound and the Council would not be able to adopt it. This would create uncertainty over how and when the matters covered in the DPD would otherwise be addressed through the LDF. It would also expose the Council to potential EU penalties.

### **5. Conclusions**

- 5.1 The Schedule of Post Submission Changes has recently been considered by Executive Board. The further changes described in para. 3.2 above are prompted by a further request by the Inspector, following the 11<sup>th</sup> April Executive Board meeting. This change in turn is a consequence of the launch of the NPPF and the requirement of Ministers for adopted Development Plan Documents to include a policy to promote the sustainability aspects of this framework.

### **6. Recommendations**

- 6.1 Executive Board is asked to agree the new supporting text and policy wording (as detailed in para. 3.2) for inclusion in the Post Submission Schedule of Changes for a 6 week period of public consultation.

### **7. Background documents<sup>1</sup>**

- 7.1 A substantial number of documents are available representing various stages in preparation of the DPD and the background evidence base and Equalities Impact Assessment Screening. These are all available on the Natural Resources and Waste DPD web pages or by contacting David Feeney on 247 4539.

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

## **Appendices**

Appendix 1 Sustainability Appraisal – Further Addendum