

Development Plan Panel

Tuesday, 26th September, 2023

PRESENT: Councillor C Gruen in the Chair

Councillors J Akhtar, B Anderson,
K Brooks, P Carlill, H Bithell, K Dye and
A Lamb

9 Appeals Against Refusal of Inspection of Documents

There were no appeals.

10 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

11 Late Items

There were no late items.

12 Declaration of Interests

Members did not declare any interests at the meeting.

13 Apologies for Absence

Apologies for absence were received from Councillor C Campbell, Councillor J McKenna, Councillor H Hayden, Councillor A Carter and Councillor R Finnigan, with Councillor A Lamb substituting for Councillor A Carter and Councillor K Dye substituting for Councillor J McKenna.

14 Minutes

RESOLVED- That the minutes of the Development Plan Panel meeting held on the 18th of July 2023, be approved as an accurate record.

15 Matters Arising from the Minutes

Referring to the intention for a report regarding the Biodiversity and Nature Recovery Update to be submitted to the Executive Board in September 2023, detailed at minute 7 at page 7 of the report pack, The Head of Strategic Planning noted this had been deferred. Reason for this were due to outstanding information regarding the legal implications of the Council acting as a Habitat Bank against the Environment Act 2021 with a response from the Department for Environment Food and Rural Affairs awaited prior to progressing the report to Executive Board and also attempting to identify alternative options.

16 Local Plan Update 1 (Pre-Submission Changes Consultation)

The report of the Chief Planning Officer outlined that following detailed consideration of consultation responses to the Publication draft policies of the Local Plan Update, a range of changes were proposed to the draft policies before the Plan will be submitted to the Secretary of State. The report requested endorsement of the

revised Local Plan Update 1 (LPU1) Draft policies and a recommendation to Executive Board to approve further public consultation on this pre-submission draft as well as accompanying consultation documentation.

The Head of Strategic Planning presented the report, providing Members with the following information:

- The revised suite of policies were noted to be ambitious and had been influenced by the Council's three pillars of the Best City Ambition (Health and Wellbeing, Inclusive Growth and Zero Carbon), with policy developed to improve built development quality and travel infrastructure, whilst protecting nature.
- The LPU1 policies had been subject to two key consultations and was on a final round prior to submission to the Secretary of State and Planning Inspectorate. The final consultation was for discreet, specific changes.
- The following key amended, and newly developed policies were presented to Members for their views and suggestions:
- *Replacement Policy EN1B Carbon Reduction* – This policy had been changed in response to comments received from bodies within the built development industry regarding a transitional period to enable the industry to adjust to net zero developments. The original proposal had been ambitious and challenging and also exceeded current and projected Building Regulation standards, set nationally by the Government, including the introduction of metrics surrounding energy use intensity (EUI) and consideration of the fabric and orientation of buildings. Developers and architects had noted feasibility issues and that the industry was not yet equipped to respond, largely due to supply chain issues. The transition period that had been developed into the policy was, that from the point of adoption (likely late 2024) up to December 2027, developments will be expected to meet interim EUI and Space Heating Demand targets, but not be expected to pay an off-setting contribution from any carbon that they could not address on-site as the evidence showed this way too expensive and, from January 2028, required to meet EUI and Space Heating Demand targets and off-set any carbon that they could not address on-site.
- *EN2 – Sustainable Design and Construction* – Originally intentions were for commercial developments to meet BREEAM Outstanding standards, however, as Outstanding had only been achieved by 1% of the top buildings in the UK, and following consultation with industry bodies, it had been deemed largely unfeasible. The new expectation was an Excellent rating as a minimum for commercial developments and noting a Communities rating for mixed use developments comprised of over 100 residential units or 10,000m² floor space, which would overlap with wider design coding through the requirements of the Regeneration and Leveling Up bill.
- *New Policy EN3 – Renewable Energy Generation* – In response to comments from Natural England, nesting bird locations on functionally linked land, as part of, and nearby, the South Pennine Moors, will be taken into account for solar farm sites. Assessments will have to show no effect on the functionally linked land and the Habitats Regulations Assessment had assessed the revised policy and concluded that no likely significant effects will arise from this policy.

- *New Policy G10 – Biodiversity Enhancements for Species* – Government guidance around net zero and supplementary documents to the Environment Act 2021, had introduced policy for swift and bat nesting for both minor and major development.
- *New Policy SP1A – Achieving Complete, Compact and Connected Places* – This policy had been changed to better reflect its ambitions and reflecting on terminology used in the Town and Country Planning Association 20 Minute Neighborhood Guide. The policy will now focus and refer to complete, compact and connected places.
- *G4 – Green Space* – Following emerging play sufficiency policy within the Council, this was proposed to be incorporated to the placemaking and green spaces policies to reflect the need for sufficient provision, to link up with wider Council strategies. The associated strategy was due for consideration by the Executive Board in December 2023.
- It was also noted that there were maps still to be added to the documents prior to its publication, including a more detailed Ordinance Survey base layer of the Leeds Habitat Network, Green and Blue Infrastructure Network, Long Established Woodland and Energy Opportunity Areas.

Members discussed the following key matters:

EN1B

- The need to retro fit buildings was outlined to likely not be required for developments within the transition period due to the encouragement of energy reduction building techniques and considerations which aim go further than the Government Building Regulations. The intention of the transition period was to alleviate the use of offsetting carbon when not achieved on site and then to allow policy to create full net zero developments. This gap would in time be remedied by decarbonisation of the national grid in due course, outside the control of the Council.
- It was noted that a December 2026 deadline would have given the industry three years to adapt, and if applied across all authorities, time and market pressures would be sufficient to establish relevant supply chains and practices.
- The Local Government Association, which was recently under new leadership, had argued policy should be locally led and local authority aspirations should be dealt with more efficiently to address key issues.
- In response to questions regarding the applicability of the transition period for approved planning applications or all developments built after the time expired, it was outlined that the more ambitious new EUI targets will be applied from January 2028 for all approved planning applications after this date, with a projection that if development built out within 2 years all developments in Leeds from January 2030 will be net zero. Members recommended that additional wording be added to clarify this point.
- A rush of applications coming forward before the January 2028 deadline was not expected as developers seek permissions on what they can deliver at that time, and it had not been the case when new policies had been introduced in the past.
- To discourage the process of offsetting carbon through payments or off site schemes, it was noted there was a hierarchical element to policy EN1B and

an application will have to go through checks and balances to determine the validity of their inability to deliver on site, with energy statements required as part of the process.

- If skills and development within the industry and relevant stakeholders was needed, as part of the request for a transition period, this will need to be prioritised. Although this was outside of the control of the planning department, it could be, and was beginning to be, addressed through the Inclusive Growth Strategy, as well as cross service and partnership working.
- There were components of the policy plan and timeframes which were outside of the control of the Council's sphere of influence, such as the decarbonisation of the national grid, so Members suggested additional wording, as a point of arrangement, to ensure by 2030 developments will be net zero. It was noted that all developments from January 2028 will be net zero through the challenging targets, off setting and retrofitting.
- Concerns were raised regarding the potential effect the transition period would have on the carbon budget for Leeds. Officers noted this was a challenging topic to decipher and would provide Members with an update once more data had been gathered and further text can be added to conceptualize net zero against the carbon budget.
- The decarbonisation of the national grid was outlined to be one out of a multitude of factors that would allow a development to be net zero and the EUI targets will encourage more efficient use of energy and heat, so although decarbonisation of the grid was an integral factor to net zero, it was not stand alone.
- Promotion of on site renewable energy sources, resistance to fossil fuel usage and reducing the need for overall energy requirements to heat and power buildings will be prioritised, rather than offsetting carbon, prior to the decarbonisation of the grid which was external to the influence of developers and the Council.
- It was noted that the transition period, and the overall net zero by 2030 ambition may allow a more achievable pathway and displayed engagement with developers. This allowed greater justification of the ambitious policies when submitted for examination to the Planning Inspectorate.
- Concerns were raised regarding the use of 'encourage' and 'promote' for policy wording which may increase the capacity for developers to raise viability issues during the transition period, whilst also potentially creating difficulties during determination of applications, regarding how much weight the policy will hold during the transition period.
- To monitor the development of skills and methods required for developers to achieve the end net zero targets, it was outlined that post decision and post construction monitoring was planned to ensure consistent standards.
- In order to monitor standards as developments can often take a number of years, conditions regarding the implementation of policy can be added to a decision, as well as providing supporting text to policy, however, approved applications will be held against the policies at the time of approval.
- In order to alleviate pressures on the carbon budget and to limit viability issues being raised, the transitional period will need to be proportionate to the industries response. It was noted by Officers that the EUI targets will

encourage developers' attention to improving efficiency and the reduction of carbon use, as will be expected of them once policy had been fully adopted.

- The Panel recommended that the transition period be reduced so all applications approved from January 2027 must adhere to the final EN1B requirements so that all new development built from 2030 will be net zero, and to amend the wording for '*in order to achieve the above, applications will be expected to meet the following Transitional Energy Use Intensity (EUI) and Space Heating Demand targets*' to '*in order to achieve the above, applications **will** meet the following Transitional Energy Use Intensity (EUI) and Space Heating Demand targets.*'

EN2

- It was outlined that achieving Outstanding ratings for buildings was still desirable and a suggestion was made to include additional wording in the policy to encourage more than 1% of buildings meeting this standard.

SP1A

- Although reference was made to the reduced need for motor vehicles, it should be expressed in the policy wording that there is an overall reduction in the need to travel for key services and amenities.
- For instances where this policy is unable to be delivered, which will be dependant on a developments location, it was noted that the policy was an ambition and sets out how the planning system can influence areas operating with sufficient community amenities.
- The policies methodology will assist with preparations for Leeds Local Plan 2040, addressing the sustainability of a given area when determining applications.
- In response to a question regarding the defence mechanisms for existing residents when applications were not compliant and pressure on existing services was expected, it was outlined that the policy sets out a clear approach to spatial strategy, which will influence further policy development for Leeds Local Plan 2040 and the determination for the level of compliance with the policy will be a balance of material considerations.
- The policy was noted to have a wide scope of influence to connect with other strategies, particularly transport, as a framework for connectivity. Some doubt was cast on the impact and feasibility of implementing the policy, given the differences in areas across the district.
- Further to the policy wording, '*Encourages mixed uses and innovative and flexible design of buildings and spaces to provide multifunctional uses to facilitate thriving local economies and inclusion; important for sustaining a wider range and level of services and infrastructure as well as creating a sense of place with a recognisable centre and identity*', specific reference to provision of socially beneficial infrastructure, such as community centres, was recommended to be included.
- Concerns were raised surrounding the ability of the policy to be delivered and may contribute to public frustration with the planning process. In response Officers noted that when applied to development in existing places, the policy will contribute to cohesive, socially beneficial infrastructure, as far as practicable when considering the merits of an application and its location. Emphasis on the needs of an area will be stressed against this policy, to assimilate new developments into existing communities.

- Addressing the needs of an area against site allocation plans was queried as there will be an inability for provision in some places. It was noted that this policy brings together a multitude of ambitions and was ambiguous to inspire what should be provided for communities against the mapping tools and public opinion.
- In relation to existing site allocation plans, this new policy was limited in its capacity to identify pressures on existing services, but will be useful for being mindful when considering new applications and allocations.
- It was recommended that additional language be added to the policy to outline the reality of outcome to residents. A workshop to consider this policy and site assessment criteria in depth had been scheduled.

Additional comments

- An update will be provided to Members to identify whether existing policy or transport strategy can be potentially utilized for developer contributions to the Leeds city bike hire scheme.
- To supplement the large volume of information contained in the policy document, a summary of what was open again for consultation and why certain resolutions had been reached will be published, allowing the process to be accessible and understandable for the public.

The discussion and recommendations of Panel Members, that will be incorporated into the Local Plan Update 1 policies, were summarised as follows:

- Policy EN1B – To change the transition period end date from 31st December 2027 to 31st December 2026 to ensure that (because some planning permissions may take up to 3 years to implement) all new development will be built to net zero standards from 1st January 2030 in line with the Net Zero Ambition of the Council.
- Policy EN1B – To change the transitional energy use intensity targets and space heating requirement wording from “*applications will be expected to meet*” to “*applications will meet*” to ensure that during the transition developers understand fully their obligations.
- Policy EN2 – amend to read “Non-domestic buildings are expected to deliver at least an **Excellent** rating *and those with an **Outstanding** rating will be encouraged and supported*” to promote ambition.
- Policy G4 – Amend to add explicit reference to “play sufficiency” in line with the Council’s emerging or subsequent local play sufficiency assessments.
- Policy P10 – Amend to add explicit reference to “play sufficiency” in line with the Council’s emerging or subsequent local play sufficiency assessments.
- Policy SP1A – Amend justification to insert “social infrastructure and community facilities including community halls” into the list of amenities.
- Policy SP1A – Amend justification to add explanation of the policy to clarify the expectations of the policy as follows: “Achieving complete, compact and connected places is an aspiration of the Council, because it brings together a wide range of policies for sustainable development that align with its Best City Ambition. The policy sets out all of the aspects of a complete, compact and connected place, which will help to guide new

development allocations in the district. However, it is recognised that not all existing places will be able to meet all of these characteristics because of the existing patterns of development and levels of services.”

RESOLVED –

a) That, subject to the amendments outlined above, the proposed Pre-Submission Draft changes, and supporting paragraphs of the Local Plan Update 1, as set out in Appendix 1, and as a schedule of changes in Appendix 2 and the Sustainability Appraisal, as set out in Appendix 3, be endorsed and recommended to the Executive Board.

b) That the approval of a 6 weeks consultation of the proposed Pre-Submission Draft changes and supporting paragraphs as set out in Appendix 1 and Appendix 2, which will form the content upon which representations are sought, together with supporting technical information (comprising Sustainability Appraisal at Appendix 3, Habitat Regulations Assessment Screening at Appendix 4, Report of Consultation at Appendix 5 and Duty to Co-operate Statement at Appendix 6) and note that this will be accompanied by additional draft supporting consultation documentation, including the Council’s evidence base and background papers alongside accessible summary material for consultation purposes, be recommended to Executive Board.

17 Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms

The report of the Chief Planning Officer outlined the proposals by the Government, which were out for consultation between 25 July to 18 October 2023, on implementation of plan-making reforms.

The Head of Strategic Planning and Principal Planner from City Development, presented the report, providing Members with the following information:

- The Government consultation specially related to proposals regarding plan making, as part of the Leveling-Up and Regeneration Bill and alongside the planning reform white paper of 2020.
- Key points from the consultation were noted as vision, plan content, shorter and simpler timeframes, frontloading the process, consultations, access to information, monitoring and digitalization.
- Previous consultation responses had been incorporated and taken into account before the Government had resubmitted the consultation.
- The proposals had been broadly welcomed but had raised some concerns and this Bill formed part of bigger reforms and plans being taken forward.

Members discussed the following key matters:

- The 30 month turnaround timeframe was noted to be short considering the wide scope of debate and consultation that go alongside complex policy development and adoption. It was noted that the initial scoping was not included in the 30 month timeframe and had no attached time limit.
- The Statement of Community Involvement (SCI) and the open consultation with the public conducted in Leeds, was considerable and the response to the Government will outline this as a concern as well as querying whether the SCI will remain or be replaced by project initiation documents.

- It was confirmed that the reform was proposed to cover all development plan policy, including Site Allocation Plans, however it was unclear whether it will also cover neighbourhood policy.
- As the development and adoption of policy can be delayed by factors outside of the Council's control, the response noted that the 30 month timescale was unreasonable, especially given the planning system's resource issues, within Local Authorities and Planning Inspectorates. Policy progressed at the pace of the slowest responder.
- Comments from other Local Authorities had been similar, and although there was sense in the consultation, the 30 month time frame being unachievable had overshadowed the overall contents.
- It was not known whether sanctions will be in place for not meeting timeframes, but the gateways will be a point of determining achievability and a request had been made for the same Planning Inspectorate to deal with each policy development, to allow consistency.
- It was outlined that a specific timeframe the Council could propose to work to had not been included within the response but given the complexity and scale of the process in Leeds, it was difficult to define a plan time frame.
- As part of the Council's response, it had noted gateway 3 was an appropriate time to pause the clock on the timeframe and allow consultation to reach agreements with Government as to much time was required to complete the process.
- The gateways were to frontload and de-risk the process, allowing early contact with a Planning Inspectorate to encourage peer support and identification of unnecessary work at an earlier stage.
- It was unclear whether Supplementary Planning Documents were to be replaced, although the intention was thought to allow new supplementary guidance to be developed alongside headline policies. Further information on this issue was to be sought.
- Digital consultation, although useful and saved time and resources, it will raise issues of exclusion. The Council still intended to hold open, public engagement and provide feedback.
- Neighbourhood plans were noted to be complex and had a requirement to conform with the generality of reasonable public comments. Further details on the bills impact upon neighbourhood plans was needed.
- Members requested that the updated response be provided back to them prior to it being sent to Government.

RESOLVED – That the contents of the report, along with Members comments regarding the Councils consultation response, which will be sent by the Chief Planning Officer following further consultation with the Executive Member for Sustainable Development & Infrastructure, be noted.

18 Date and Time of Next Meeting

RESOLVED – To note the date and time of the next meeting as the 14th of November 2023 at 1:30pm.

The Head of Strategic Planning noted that Planning Officers will be consulting with Members to seek their availability to hold workshops covering LPU1 and Leeds Local Plan 20240.