

Interim Update on the Local Plan Update: Your City, Your Neighbourhood, Your Planet

Date: 30th January 2024

Report of: Chief Planning Officer

Report to: Development Plan Panel

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This report seeks to provide Members of Development Plan Panel with an interim update on initial analysis of consultation comments received on the 'Local Plan Update – Your Neighbourhood, Your City, Your Planet', following the close of consultation on Pre-Submission Changes which closed on the 11th December 2023. This plan has the objective of supporting the Council's declared Climate Emergency and Net Zero Strategy through a range of policies including around design, placemaking, flood risk, green and blue infrastructure, biodiversity and net zero carbon buildings.

The report also includes information on a new Written Ministerial Statement (WMS) that was published by the Government on the 13th December 2013. The intent of this Statement is to limit the ability of Local Authorities from setting their own zero carbon building policies. It is therefore of relevance to some of the Local Plan Update policies.

Recommendations

That members note the contents of this report.

What is this report about?

- 1 This report seeks to provide Members of Development Plan Panel with an interim update on initial analysis of consultation comments received on the 'Local Plan Update – Your Neighbourhood, Your City, Your Planet', following the close of consultation on Pre-Submission Changes which closed on 11th December 2023.
- 2 The report also includes information on a new Written Ministerial Statement (WMS) that was published by the Government on 13th December 2013. The intent of this Statement is to limit the ability of Local Authorities from setting their own zero carbon building policies. It is therefore of relevance to some of the Local Plan Update (LPU) policies e.g. operational energy and sustainable construction. Given the importance of the WMS to the progression of the LPU this matter is addressed first.

Written Ministerial Statement – ‘Planning – Local Energy Efficiency Standards Update’ 13th December 2023

As part of the preparation of the Local Plan Update Members have been made aware of national policy issues presented by a March 2015 WMS. This instructed Local Authorities not to go beyond energy performance standards set out under what was then known as the “Code for Sustainable Homes Level 4”. The Council’s position has consistently been that this 2015 WMS should not be given full weight, and nor should it prevent the Council from pursuing its own net zero policies (particularly in the context of the Government’s own 2021 Net Zero Strategy).

- 3 On 13th December 2023 the Government published a WMS entitled ‘Planning – Local Energy Efficiency Standards Update’. This new WMS makes clear that the Government will not support Local Authorities in setting planning policies that takes energy efficiency standards beyond those set out in the Building Regulations, particularly in light of updated Regulations which are due to come into force in 2025 (via the Future Homes Standard). An excerpt of the WMS is provided below:

“The improvement in standards already in force, alongside the ones which are due in 2025, demonstrates the Government’s commitment to ensuring new properties have a much lower impact on the environment in the future. In this context, the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale. Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:

- That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.*
- The additional requirement is expressed as a percentage uplift of a dwelling’s Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).”*

- 4 The standards proposed in the draft Future Homes Standard for 2025 are not zero carbon standards and are instead described as net zero ‘ready’, meaning that they are reliant upon the national grid being decarbonised before those homes could be considered zero carbon. Two separate standards are proposed within the Future Homes, which began consultation on 13th December 2023. As such, there is no certainty at this stage what the eventual 2025 standard will be. It is, however, understood that neither option proposes to increase the standards of fabric efficiency as set out within *existing* building regulations, and it is likewise understood that one of the two options in the new standards would not require solar panels to be installed on residential properties. It is, therefore, considered that the proposed Future Homes Standard falls significantly short of the approach proposed through policy EN1B of the Leeds Local Plan Update.
- 5 The consultation on the Future Homes Standard closes on 6th March and a response will be submitted by the Council. It is suggested that this response notes the inconsistency between the declared Leeds Climate Emergency in relation to the authorities’ carbon budget and the Government’s pace of net zero progress, the critical importance of net zero buildings as part of bridging that carbon budget gap and the frustration felt by ambitious local authorities, who are seeking to deliver improvements locally but are seemingly being impeded by national policy changes.

- 6 Irrespective of the Future Homes Standard, the 2023 WMS presents a significant risk to the adoption of the Local Plan Update as currently drafted, as policy EN1B sets a zero carbon standard incorporating ambitious Energy Use Intensity targets, which are not necessarily consistent with the provisions of the WMS. As set out above, one of the Tests of Soundness for Local Plan Examination (and for Plans to be submitted for Examination), is that Plans are considered 'sound' if they are 'Consistent with national policy'. The Government has made clear that they consider WMS to be an expression of national policy. Therefore, the WMS is of importance to the soundness of the Local Plan Update.
- 7 The WMS will have significant implications for roughly 70 Local Authorities which are currently preparing net zero policies through their Local Plans. Officers are therefore working closely with similarly affected Local Authorities to better understand what approaches might be taken and how other authorities are responding.
- 8 As set out within the quoted section in paragraph 3, the WMS does introduce caveats to enable authorities to go beyond Building Regulations where they can demonstrate the viability of their Plans, and where the improvement is expressed as a percentage improvement over the target Emissions Rate of buildings. The Council is confident in the viability evidence that has been developed to accompany the Plan and likewise, as expressed by Members of Development Plan Panel consistently throughout the preparation of the Local Plan Update, is confident in the evidential basis which justifies going beyond Building Regulations to achieve net zero developments in Leeds. However, the WMS will raise the bar on this matter at examination and it is therefore imperative that the viability evidence is robust and also that the Council understands the specific weight that the WMS provides over and above the approach to viability as set out in the NPPF.
- 9 Moreover, with regard to the second bulleted caveat, policy EN1B is not expressed in the terms required by the WMS. The reason for this divergence is that, as previously reported to and supported by Members of Development Plan Panel, the policy not only focusses on achieving net zero development but also requiring high standards of energy efficiency by setting ambitious Energy Use Intensity targets. These have been developed in response to issues presented by the costs of heating and powering homes being exacerbated by the 'Cost of Living crisis'.
- 10 A number of routes therefore present themselves, if the Council is to continue to pursue adopting planning policy requiring net zero development. Most obviously, a redrafting of the current policy to ensure explicit consistency with the WMS will require a delay for re-drafting and most likely a further round of consultation. Other options include continuing with the existing policy, however this would incur significant risks of the policy not being found sound and ultimately potential delay and cost.
- 11 The Council are in contact with the Town and Country Planning Association (TCPA), who are coordinating discussions with all Local Authorities who are similarly affected by the WMS. The clear message from the TCPA is that, in spite of the WMS, Local Authorities should continue to pursue net zero policies.

Local Plan Update Pre-Submission Changes Consultation

- 12 The Pre-Submission Changes Consultation on the Local Plan Update was presented to Development Plan Panel on 26th September 2023 and was subject to public consultation for six weeks between 30th October to 11th December 2023. This was a technical consultation that focussed on detailed amendments to the existing draft policies that had previously been consulted on in Winter 2022.

- 13 In terms of the consultation, 44 responses have been received, including comments from: statutory consultees such as Natural England and the Environment Agency; housebuilders and the wider development industry; members of the public and local action groups; and from local institutions such as the University of Leeds.
- 14 Whilst this response rate is significantly lower than has been recorded for previous consultations, it should be remembered that this was a consultation on detailed and technical wording changes to specific policies. It was therefore anticipated that response rates would be lower than for more general Local Plan consultations. More importantly than the overall response rate is the fact that responses have been received from a wide variety of stakeholders and include a great deal of detailed and carefully considered responses that enable the Council to understand views on the latest draft of the policies and also help us better prepare for the likely lines of enquiry at the Examination in Public.
- 15 To support the Local Plan Update Pre-submission Changes consultation a multi-channel marketing campaign was utilised to drive engagement. This included an extensive organic social media campaign across a variety of council and partner social media accounts, as well as local media engagement and press activity. This drove traffic to the consultation website, which saw nearly 10,000 views from over 2,000 unique users.
- 16 Members should note that as the WMS was published two days *after* the consultation closed. Consequently, no formal representations were received regarding the effect the WMS might have on the policies as currently drafted.
- 17 At the time of writing this report a detailed analysis of all representations has not been completed. However, this is expected to be completed over the next month. This will then be presented to Members of Development Plan Panel at the next earliest opportunity with recommendations for any further amendments that may be required before submission of the Plan.
- 18 Below is a brief summary of some of the issues raised as part of the consultation, on a per topic basis:
- 19 Carbon Reduction
- i. Support from the University of Leeds for the changes proposed, including the transition policy, and strong support for the policy provisions that require new developments to be fossil-fuel free,
 - ii. Concerns raised by the development industry on the policy intention to require a full consideration of a building being re-used before demolished for new development,
 - iii. Concerns raised by the development industry that the proposed approach to delivering net zero development is not consistent with recent Inspector decisions in Lancaster.
 - iv. Objections from the development industry that net zero requirements should apply to changes of use and conversions,
 - v. Some support from the development industry to the transition period,
 - vi. Remaining concerns from the development industry on the viability evidence accompanying the Plan.
 - vii. Requests by Wakefield City Council for further clarity to be inserted into the policy that would require the impacts of solar farm proposals are identified and mitigated in affected communities in adjacent districts.

20 Flood Risk

- i. Support for all flood risk policies from the Leeds Chamber of Commerce,
- ii. Objections from the development industry to applying water consumption targets to all residential development,
- iii. Some concerns raised by the industry about the consistency of draft policies with national policy [for clarity, the proposed changes in the Plan reflect recent changes to the National Planning Practice Guidance, which the industry may not be cognisant of],
- iv. Concerns raised by the NHS that they should be exempt from the water consumption requirements [for clarity, the standard is only designed to apply to residential schemes so it is not considered that this will impact upon the NHS in any event],
- v. Many comments from the development industry re-iterating comments made at the previous Publication draft stage, but not commenting on the recent changes specifically,
- vi. Some support from the Environment Agency but also requests for further detailed changes that are largely technical in nature.

21 Green and Blue Infrastructure

- i. Support from the Leeds Local Access Forum on the inclusion of Public Rights of Way into the factors to be considered through a Green & Blue Infrastructure Assessment,
- ii. Detailed changes requested by the Leeds Swift group to the new policy on Species Biodiversity Enhancements, in order to make the policy more effective at providing new habitats,
- iii. A request from the Conservative Group to make explicitly clear that the 10% biodiversity net gain is mandatory and that schemes that do not meet this should be refused,
- iv. Concerns raised by the development industry that the updated tree replacement policies are unlikely to be achievable on-site and will be viable if treated through commuted sums,
- v. Comments from the development industry that policies on biodiversity net gain (BNG) require further revision in light of recent Government announcements [For clarity, officers are currently considering the implications of recent Government announcements (including guidance and secondary legislation) on BNG which emerged after the LPU consultation material was finalised and continues to emerge].
- vi. Concerns raised by Leeds Bradford Airport that the latest mapping identifying Strategic Green and Blue Infrastructure would restrict future development at the airport,
- vii. Concerns raised by a member of the public that the policies do not clearly define the distinction between strategic and non-strategic green and blue infrastructure.

22 Placemaking

- i. The British Horse Society request that policy P10 should make reference to horse riding, alongside other vulnerable road users,
- ii. The NHS support the updated policy on Health Impact Assessments,
- iii. Concerns raised by the University of Leeds that the removal of the term '20 Minute Neighbourhoods' may weaken the intent of the policy, but support for the overall policy direction as re-drafted.
- iv. Support from Historic England on the Tall Buildings element of updated policy P10,
- v. A mixed reaction from the development industry on the revision towards 'Complete, Compact and Connected Places', with some representations welcoming the change, as well as some requesting that consideration be given to the role of new development in delivering new infrastructure for communities,
- vi. Concerns raised by the development industry that re-drafted policy SP1B set requirements that outline applications would be unable to satisfy,

- vii. Objections from the development industry that requirements for play sufficiency facilities, as currently drafted, should not apply to all forms of development, such as offices,
- viii. General support from the development industry that the change to policy SP1 has been removed.

23 Sustainable Infrastructure

- i. Broad support for changes to policy SP11A (Mass Transit and Rail Infrastructure), however some specific concerns raised by the West Yorkshire Combined Authority and the Climate Action Leeds
- ii. General support for the removal of policy DC1 in light of recent changes to the Building Regulations.

24 Officers will continue to review and analyse all duly made representations. In light of the issues raised with the Written Ministerial Statement as well as changes to national Biodiversity Net Gain guidance and comments from statutory consultees like the Environment Agency, it is considered likely that changes to some policies will be required before the Plan is submitted for Examination.

What impact will this proposal have?

25 This report is provided as an interim update to the Local Plan Update Pre-Submission consultation, with a more comprehensive update to be provided at the next available opportunity, in addition to an update on national policy regarding energy efficiency, in the form of a recently published Written Ministerial Statement. As such, there are no proposals presented as part of the report.

How does this proposal impact the three pillars of the Best City Ambition?

- Health and Wellbeing Inclusive Growth Zero Carbon

26 This report is an update and does not contain a proposal. However, the adoption of the Local Plan Update has a clear and supportive impact on all three of the pillars of the Best City Ambition as has been noted in previous DPP papers on this matter.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

27 The Local Plan Update Pre-Submission Changes was subject to public consultation for six weeks between 30th October to 11th December 2023. This report provides an interim update on some of the responses that were received to that consultation.

What are the resource implications?

28 This report is an update and there are no resource implications as a result of this report. However, how the Council seeks to respond to the provisions laid out within the WMS may have some resource implications. These will be reported to Development Plan Panel at a future date.

What are the key risks and how are they being managed?

29 This report is an update and no direct risks emerge from this report. However, there are risks attached to how the Council seeks to respond to the provisions of the WMS. One of the Tests of Soundness for Local Plan Examination is that Plans are considered 'sound' if they are 'Consistent with national policy'. The Government has made clear that they consider WMS to be an expression of national policy. Therefore, the WMS is of relevance to the soundness of the Local Plan Update.

What are the legal implications?

30 This report is an update and there are no legal implications arising of this report specifically. However, as per other implications listed above, how the Council responds to the WMS will need to take account of legal advice.

Options, timescales and measuring success

What other options were considered?

31 This report is an update and does not require a decision and as such no formal options are considered at this stage.

How will success be measured?

32 Ultimately success on this matter will be measured by the adoption of the Local Plan Update.

What is the timetable and who will be responsible for implementation?

33 This report is an update and there is no decision to be implemented at this time. However, it is likely that the WMS will result in some form of delay to the Local Plan Update if the policy is required to be amended and subject to further consultation. This delay would be in the region of up to 6 months.

Appendices

- None

Background papers

- None