

Development Plan Panel

Tuesday, 30th January, 2024

PRESENT: Councillor C Gruen in the Chair

Councillors B Anderson, K Brooks,
C Campbell, P Carlill, H Hayden,
J McKenna, H Bithell and A Lamb

19 Appeals Against Refusal of Inspection of Documents

There were no appeals.

20 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

21 Late Items

There were no late items.

22 Declaration of Interests

Members did not declare any interests at the meeting.

23 Apologies for Absence

Apologies for absence were received from Councillor J Akhtar, Councillor R Finnigan and Councillor A Carter, with Councillor A Lamb substituting for Councillor A Carter.

24 Minutes

RESOLVED- That the minutes of the Development Plan Panel meeting held on the 26th of September 2023, be approved as an accurate record.

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

The report of the Chief Planning Officer provided 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 of December 2023.

The Group Manager for Policy and Plans presented the report, providing Members with the following information:

- The report covered two key areas which were, an interim assessment of the pre-submission changes to the Local Plan Update – Your Neighbourhood, Your City, Your Planet' (LPU) following the closure of the consultation and an update regarding the impact of a Written Ministerial Statement (WMS), which was published by Government on the 13th of December 2023, had on the suite of policies.
- The 2023 WMS sought to clarify uncertainty that had arose from a previous WMS in 2015 which had appeared to be superseded but had not been formally revoked by Government.

- The 2023 WMS was to formally replace the 2015 WMS in terms of energy efficiency standards and intended to set out to Local Authorities that they should not seek to adopt planning policy which went beyond existing building regulations.
- On the same day of the publication of the WMS, a consultation for the Future Home Standards (FHS) had opened, with a response to be completed by the Leeds planning authority before its closure on the 6th of March 2024.
- It was thought the FHS did not include a model for increased material energy efficiency standard over existing building regulations and the approach was for new buildings to be net zero ready, to be connected to the grid as it became decarbonized, with an emphasis on electric technology.
- The FHS was an emerging standard, referred to in the WMS but was not yet adopted policy.
- The effect that the WMS had on LPU, detailed from paragraph 3 of the report, was outlined as ensuring development and housing was still viable and deliverable and how policies that go further than building regulations were to be expressed and justified, as a percentage improvement over a target emissions rate.
- Draft policy EN1B had not been expressed in a manner that would satisfy the conditions raised in the WMS and Energy Use Intensity targets (EUI), which focused on reduction in carbon and energy costs, were not applicable, as part of the FHS, in terms of building fabric. To comply with the WMS, some policies were required to be re-written.
- Other Local Authorities were in a similar situation. Greater Manchester Council were currently working a Planning Inspectorate to examine and review their proposed policies to adhere to the WMS.
- There were two broad options available in light of the WMS and FHS consultation which were to maintain the current draft policy position through their examination at significant risk or to pause and review policies in order to comply with emerging standards.
- As a key test of the Planning Inspectorate's examination for LPU was to demonstrate consistency with national policy, including National Planning Policy Framework (NPPF) and the WMS. Some LPU policies were considered to not be compliant with the WMS and were thus required to be reviewed.
- The Town and Country Planning Association were coordinating conversations with Local Authorities in regard to progressing local policies, in line with Government set standards.
- The interim update on the LPU consultation had been provided to Members to keep them acquainted with the holistic overview of the path to adoption. 44 responses had been received upon the consultation's closure on the 11th of December 2023.
- The responses received displayed a fairly low turn out but were considered proportionate to the technicality and specifics of the information and consisted of a wide breadth of input from community groups, statutory consultees and developers.
- The previous rounds of consultation for LPU had been extensive (with over 10,000 views from 2,000 users published online) and the number of people and organizations notified for this consultation was vast and it was alluded

that the lack of response may be a positive sign of contentment with the draft policies.

- A brief summary of the responses to the consultation were available from paragraph 18 of the report, summarized as;
 - Support from the University of Leeds for transition to net zero and carbon reduction policies.
 - Some support from the development industry on transition policy but viability concerns.
 - General support for flood risk policies, with some developers raising concerns for water consumption targets.
 - General support from the Environment Agency subject to some technical detail changes.
 - Support for green and blue infrastructure changes including public right of way alterations and detailed comments from the Leeds Swift Group.
 - NHS support for placemaking and Health Impact Assessments.
 - Amendment requests from the British Horse Society.
 - Mixed views towards Complete, Compact and Connected Places.
 - Broad support for sustainable infrastructure changes including removal of policy DC1.
- Officers were to continue addressing consultation responses and were to update Members on the final position, as well as the consideration and response required to address the WMS which had been published two days after the LPU consultation had closed. Conversation with the Town and Country Planning Association were ongoing to address the impact the WMS had on LPU draft policies and the subsequent work required to comply and justify the position.

Members discussed the following key matters:

- It was confirmed that the intention of the WMS and FHS was for buildings to be ready to connect to the grid, once decarbonized, and would not require to be retrofitted, as opposed to being net zero upon completion of a development.
- The interpretation of the WMS was that it allowed local planning policies to exceed building regulation energy efficiency standards, following a net zero model, however, how local policy were to be examined had changed.
- If policy was to exceed building regulation standards, Members outlined that developers were likely to raise viability concerns. Further clarity from the Minister was requested regarding the process for policy being able to go further, it was also noted that the revision of policy for Greater Manchester was to be instructive in regard to expectations for the Leeds planning authority, once details had been published.
- Requests from Wakefield City Council, detailed on page 16 of the report were explained as reassurance that new solar schemes were to take account of impacts on communities across district jurisdiction boundary lines and required a minor redrafting of the relevant policy.
- The concerns raised by Leeds and Bradford Airport, referenced on page 17 of the report, were unclear and the mapping of strategic green and blue infrastructure was considered to be based on factual evidence, with policy allowing for future analysis and was not an absolute determination factor for any future applications submitted by the Airport.

- To address the consistently raised viability concerns of stakeholders and parties within the development industry, the local plan process entailed a viability study which was to be examined by a Planning Inspectorate to devise a plan level strategic understanding of viability but was not applicable to study individual planning applications. The frustration with the viability argument was understood and was required to be evidence based on material considerations.
- It was noted that reasons of viability and market confidence were a factor behind the transition policy and had reduced some requirements of LPU, particularly related to applications for tall buildings in the city centre, and was perceived to be robust, even against the WMS.
- Policy that exceeded building regulation standards was noted to create pressure on infrastructure but had been planned as part of LPU before the WMS, focusing on fabric energy efficiency first. Through the FHS it was clear the Government were in favour of improving energy efficient technology and capacity, mandating use of innovations such as air source heat pumps.
- As the WMS put less weight on material, fabric energy efficiency measures, and given that more energy may be required through electrical technology, putting greater pressure on the grid and a less certain expected date for it to be decarbonized, it was queried whether an assessment of allowable energy use had been conducted. The planning authority was keen to work with climate commissions on climate budgets and had concentrated on EUI, focusing on fabric changes to relieve pressure from the grid.
- Officers agreed to explore what impacts the WMS and FHS were to have on the Council and city's carbon budget allowances and to feedback notable findings to Members. The response to the FHS consultation was to outline the emphasis on electric technology and air source heat pumps were welcomed but without improvements to energy efficiency fabric the pathway to the decarbonising the grid was more challenging.
- The weight decision makers should give to the WMS was noted as dependant on when and what was being decided. For plan making, a Planning Inspectorate was to determine a plans conformity with the WMS, which was considered national policy, for planning applications it held the same weight as the NPPF, making it a material consideration and now law like the Planning Act 2008. There was however potential for the WMS to amend laws.
- As the WMS was not an act of Parliament and had been devised and signed by one Minister, it seemed potentially undemocratic for it to hold major effects to Local Authority autonomy.
- With the notion of planning policy being rejected at examination if not well reasoned or a robustly costed rationale, the revision of policy to ensure this was justified was through addressing viability. Some policies of the LPU were not expressed as a percentage uplift of targets emission rates.
- As the NPPF and WMS explicitly referenced viability, this raised focus on this issue through the LPU's examination stage.
- The FHS proposed developments were to be net zero ready, using carbon up to the point of the grid being decarbonized, whereas LPU had sought fully net zero buildings by 2027. Policy EN1B was expressed as EUI, driving down the

amount of energy required to power buildings and requiring offsetting energy use through sustainable means or paying for carbon credits. The WMS approach was a simplified percentage uplift and was to be based on estimations whereas EUI could oversee carbon use.

- To ensure a net zero approach and adhere to the WMS, it was suggested the requirements for target emissions rates would need to be a 100% increase over building regulations. It was thought Greater Manchester were taking this approach, but the Planning Inspectorate's response was not yet known.
- The WMS was considered a management instruction and the planning system was able to control material requirements, but not the rate of grid decarbonization. Developments were to be as efficient as possible whilst remaining affordable and viable, justified against the WMS.
- A fallback proposal, to be taken to the examination was likely not applicable as only one version of the policy suite was able to be submitted. Energy efficiency standards were required to be revised to sit within the expression of the WMS.
- Paragraph 33 of the report noted up to a 6 month delay in LPU's adoption, creating the inability for all policy to be given weight by decision makers; removing EN1B from the plan may allow other policies to be applied sooner. In response it was outlined instruction from Members and the Executive Board were to push for net zero and energy efficiency and decoupling parts of LPU risked further delays for full implementation.
- A key component of LPU was to achieve greater energy efficiency, in line with the Council's climate emergency declaration and plans for the city's adaptability; decoupling energy efficiency policies would require further consultation, so a priority was for all policy to be compliant with the WMS.
- The next iteration of this report was to instruct decision makers which draft policies were applicable or allowed to be given weight, with many policies being outside of the WMS terms and in line with NPPF guidance.
- Policies EN1B and EN1A may be applied differently with EN1B focusing on operational carbon and EN1A on whole life cycle carbon assessment and raised challenges if both were not applied to net zero developments. Officers noted EN1A required assessments unlike EN1B which set targets, EN1A outlined potential benefits of demolition rather than repurposing old buildings and the WMS was focused on energy efficiency standards.
- Home Quality Mark policies were also potentially impacted as some of their contents were energy efficiency targets. EN1B had been focused on in the report as the policy most obviously impacted by the WMS but further work was required to ensure the full scope of LPU was compliant.
- As a viability assessment had been conducted for the net zero approach it was felt that it was able to be justified against the WMS, subject to necessary amendments, to ensure energy efficiency.
- It was thought the WMS had been published to create consistency across the UK planning system and to address viability issues raised by developers with a range of new requirements to adhere to, including safety and biodiversity conditions, as well as the rise in various costs. The frustration for its timing of publication was understood, given that the process for LPU's adoption may be

delayed and as the data or drive for the Climate Act 2008 had not changed. Land sale and purchase processes were also imperfect and had changed due to additional costs and availability.

- It was noted that the cost of development was impacting viability more than land values, with some instances of developers being unable to enact planning permission.
- It was suggested that, as the totality of LPU aspired for developments to be net zero, alternative policy wording could state 'development zero' to address the unclear path to the decarbonization of the grid.
- There was some value in the WMS approach to set a standard across the country, much like previous housing need policies, but the profit levels expected by developers was sometimes unreasonable. The housing need policies had been superseded so it was alluded that a similar issue may occur with the WMS due to changes in decision maker or developer pressure on Government.
- In response to developer concerns for play sufficiency provision referenced on page 18 of the report, it was outlined that strong, hard to resist policy wording to embed the principle that places to relax, and play were a requirement for all ages and social demographics.
- The enhancement to people's lives, brought by areas to relax and play was stressed, and it was recommended that training related to play provision be available for Plans Panel Members. The Council had conducted a 'play sufficiency' audit which was to set out how the built environment can encourage play and the planning authority was not minded to change play facilities being applied to all forms of development.
- The need for visual markers for spaces allocated for play spaces was discussed in order for children and young families to feel invited and comfortable using the space, particularly in busy, central areas, however, informal play spaces required imagination and innovation. Policy related to play sufficiency was to ensure provision was not solely formal facilities, to create diverse options. A play sufficiency report was being produced and there was a dedicated officers within Children's Services and a process for Members training was to be sought.
- Frustration with the timing of the WMS and subsequent additional processes to address its contents was outlined, given the amount of work already conducted in relation to viability and energy efficiency. Dependence on the decarbonization of the grid impacted the weight and security of energy efficient fabric preference given the long term benefits for people and the environment, in light of cost of living and energy crisis.
- It was hoped a materials first approach could still be implemented, subject to the revision of LPU, to encourage secure and sustainable developments. Officers were thanked for their diligence responding the unforeseen changes.

RESOLVED – That the report, along with Members comments be noted.

26 National Planning Changes

The report of the Chief Planning Officer outlined that on 19 December 2023, the Government published a revised National Planning Policy Framework (NPPF) document. On 26 October the Levelling Up and Regeneration Act (LURA) became law.

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

- The Government had opened a consultation in December 2022 regarding proposed changes to the NPPF, which received over 26,000 responses. The responses had been taken into account and reflected in the revised NPPF document published in December 2023.
- Paragraphs 5 to 15 of the report detailed the changes made to the NPPF, which predominantly focused on housing need with flexibility for local housing need, clarification of the standard method with an advisory position and that assessments were subject to examination.
- The framework gave Local Authorities the ability to review green belt boundaries, but without a requirement to do so, when addressing local housing needs.
- Design code evidence was required as proof that additional housing was inappropriate in areas with existing high housing density. Housing need targets may not be met for locations that were deemed out of character.
- The 5 year housing land supply model had been relaxed, not requiring a Local Authority to demonstrate whether there was a 5 year deliverable supply of homes to meet the planned housing requirement in the same way as previous
- Plans in preparation that were seeking to widen the 5 year housing land supply were no longer to be penalised and were subject to the development of a 4 year supply plan. Clarity on the details of the new requirements were to be requested as it had been a topic of discussion for planning authorities.
- The 5-10% buffers previously applied to the 5 year housing land supply had been removed but a 20% buffer was required for low scoring authorities in terms of housing delivery.
- There was increased protection for neighbourhood plans for 2 to 5 years post adoption, with the condition of providing a plan of identified sites.
- Additional support was offered for self, custom and community built housing projects. The delivery for older people's housing model was similar to the Leeds Local Plan 2040 (LLP2040) and the ongoing work with the Strategic Housing Market Assessment (SHMA).
- Wording of the NPPF for polices related to beauty and place making had been revised, which was also emphasized in LPU and LLP2040.
- Extra protection for farmland and food production had been implemented, where food production land was required to be considered as part of the plan making process.
- Greater support for energy efficiency for existing buildings was included, placing weight on energy needs and improvements.
- The Secretary of State had also set out ambitions for plan performances for Local Authorities with the intention of creating a league table to rank performance in relation to decision granting, meeting time frames and delivery of targets. In 2022 there were around 20 Local Authorities that were subject to consequences given their poor housing delivery standards. Two Local

Authorities were under special measures in response to too many planning decisions overturned at appeal. There was also a clamp down on time extension agreements.

- The LURA became law on the 26th of October 2023, understood as framing legislation for changes to Community Infrastructure Levy (CIL), abolition of the duty to cooperate, environmental impact assessments replacing strategic environmental assessments, which were EU legislation, and improved timeframes for neighborhood plan production.

Members discussed the following key matters:

- Leeds's performance within the proposed league table was expected to be good with strong conduct in housing delivery and approvals, but there was need for resourcing for the continued determination of applications.
- There were some contradictions within the league table model if an authority was considered to be performing badly when refusing poor applications.
- The move from extension of time agreements was an issue as decision making required in depth analysis of a vast amount of information, amended plans or additionally requested information that may be submitted. It was suggested that this issue should be lobbied for to seek a resolution for navigating these circumstances.
- Although there was no requirement to do so, more direction for developers to submit pre-applications was planned to get relevant information correct the first time round and address new requirements such as bio-diversity net gain.
- Extension of criteria for documents required for validation were suggested as the point of validation was the start of the time deadline for determination. This was to be communicated to the relevant Minister.
- The Council's planning decision makers were considered to be good at negotiating with developers and time extensions had been mutually beneficial, deferrals caused delays and were sometimes due to omission of sound plans or evidence from a developer and were thus sometimes necessary.

RESOLVED – That the report, along with Members comments be noted.

27 Date and Time of Next Meeting

RESOLVED – To note the date and time of the next meeting as the 26th of March 2024 at 1:30pm.