

Report to	Sustainable Development Panel 27 June 2012	Item
Report of	Head of planning services	3
Subject	Development Management Policies Development Plan Document	

Purpose

This report seeks comments of the panel on the draft version of the Development Management Policies Plan DPD before it is reported to cabinet on 11th July. Subject to member consideration it is intended to publish the plan for soundness consultation under Regulation 19 of the Town and Country Planning Regulations 2012 during the summer.

Recommendation

To:

- (1) note the report and relevant supporting information including:
 - (a) the proposed submission version of the plan comprising plan text and appendices (Annex 1) and Policies Map;
 - (b) the draft Sustainability Appraisal of the emerging plan and reasonable;
 - (c) alternatives to it and the council's suggested responses to the report's recommendations (Annex 2).
- (2) endorse the emerging plan and recommend that cabinet approves it, as amended by the changes set out in annex 2, for pre-submission consultation under Regulation 19 of the Town and Country Planning Regulations 2012.

Corporate and service priorities

The report helps to meet the corporate priority A prosperous city and the service plan priority to deliver the Development Management Policies DPD.

Financial implications

There are no direct financial implications to this report.

Ward/s: all wards

Cabinet member: Councillor Bremner – Environment and development

Contact officers

Mike Burrell	01603 212525
Graham Nelson	01603 212530
Jonathan Bunting	01603 212162

Background documents

Schedule of key policy changes - consideration of policy changes made to the Development Management Policies DPD, since the 2011 draft, how these have addressed representations made to date and responded to other changes in policy and planning circumstances.

Report of consultation and publicity – report setting out the representations made on the 2011 draft and the council's detailed responses.

Report

Introduction

1. This report is about the Development Management Policies Development Plan Document ('the DM policies plan'). It does a number of things:
 - provides an update on policy developments and the development of the evidence base;
 - reports representations made to council at previous stages in plan preparation (which will be made available on the council's website shortly);
 - reports the emerging results of the Sustainability Appraisal (non technical summary attached in Annex 2, and the full assessment will be made available on the council's website shortly);
 - seeks panel endorsement for the content of the emerging Plan (attached as Annex 3).
2. Members should note that the terminology used to describe local planning documents has recently changed. 'The Local Plan' (rather than 'the Local Development Framework') is now the government's preferred term to describe the suite of policy documents which will guide and manage development at a local level. In addition, the planning regulations which set out the legal requirements for plan-making were reviewed (and renumbered) in 2012. As a consequence, the regulation numbers which apply to the various formal stages of the plan-making process have changed: for example, publication and consultation on the final draft version before it is submitted for examination (the stage now reached for this plan) is the "Regulation 19" stage, rather than "Regulation 27" as it would have been before the regulations were amended.
3. The Local Plan for Norwich includes development plan documents (DPDs) which set out detailed planning policies and proposals for the city and the wider area. The Joint Core Strategy (JCS) for Norwich, Broadland and South Norfolk was adopted in 2011, providing the overall strategic framework of policies to guide, manage and deliver development in the greater Norwich area to 2026.
4. For Norwich itself, the DM policies plan sets out local policies to guide decisions on planning applications, which will apply to development across the whole city. The Site Allocations and Site Specific Policies DPD (the "Site allocations plan") contains more detailed policies for individual sites where change is anticipated or proposed, and will operate alongside the DM policies plan.
5. Both these documents are being taken forward on the same timescale. They are complemented by the Northern City Centre Area Action Plan (NCCAAP, adopted in 2010) which includes policies and site-specific proposals aimed at the regeneration of the northern city centre.

Evolution of the plan

6. The DM policies plan has been in development since late 2009. Details of the plan-making process are set out on page 16 of the plan at Annex 3.
7. A first draft version of the DM policies plan was published for consultation between January and March 2011. 244 individual comments were received, many of them detailed and covering a range of issues in response to a single policy. Since then, the plan has been extensively revised to take account of the wide range of comments made, discussion with other areas of the planning service and officers elsewhere in the council, advice sought from statutory bodies, business and community representatives, independent assessment of the plan by the Planning Officer's Society (POSe) and findings of the sustainability appraisal (see below). Decisions of this panel have also helped to inform particular aspects of emerging policy. Further review has been necessary to ensure that the plan is fully compliant with changes in national policy, in particular the National Planning Policy Framework (NPPF) published in draft in July 2011 and in its final form in March 2012.
8. Over the past year officers have reported periodically to this panel to update members on the progress of the plan and invite discussion on emerging policy issues. These included:
 - A report to present the representations made at first draft stage and recommend in general terms where change would be necessary to DM policies to address those representations (June 2011)
 - A report to present a number of alternative options for policy DM3 (Design) to address particular member concerns around green design, biodiversity and resilience of development to climate change, and to recommend a preferred policy option (July 2011)
 - Regular reporting on progress made, and emerging evidence supporting the DM policies plan and Site Allocations Plan, as well as related policy issues which will influence their content, such as the emerging draft of the National Planning Policy Framework and the council's response to it.
9. Following substantial review and redrafting of the DM policies plan, officers are now in a position to present the final draft version - known as the 'pre-submission version' - for consideration and endorsement by members. The full text of the pre-submission draft plan is attached at Annex 3. Following consultation on this version, the city council is due to submit the plan to the Secretary of State for independent public examination. The role of the Inspector at examination will be to assess whether the plan has been prepared in accordance with the Duty to Cooperate, accords with legal and procedural requirements, and whether it is sound.
10. The representations made at draft stage, and the Council's detailed responses to them, are set out in the Report of Consultation and Publicity, which will be circulated as a background paper prior to the meeting and will be available on the Development Management Policies page on the city council's website shortly. (See <http://www.norwich.gov.uk/Planning/Pages/Planning-DevelopmentManagementPolicies.aspx>) .

Sustainability appraisal

11. Sustainability appraisal (SA) of the DM policies plan has been undertaken at two key stages in parallel with the evolution of the plan. SA is a legal requirement of the plan making process to ensure plans and programmes are independently assessed against wider sustainability objectives and that the environmental, economic and social impacts of policies are fully assessed and taken into account, including consideration of reasonable alternative policy options and their predicted outcomes.
12. Independent consultants (LUC) were commissioned in 2010 to undertake the SA. The first stage SA report of initial draft DM policies was produced in December 2010 and helped inform aspects of policy for consultation on the first published draft of the plan in January 2011, as well as further refinement of the plan afterwards. A second round of SA was undertaken in May-June 2012, providing a detailed assessment of the final draft policies now proposed for submission.
13. The full SA report is available on the Council's website as part of the background documentation; however Annex 2 of this report contains a Non-Technical Summary of the SA report findings, and a list of LUC's recommendations, with the Council's responses.
14. The SA report concludes that "It is apparent that the sustainability effects of the DM Policies DPD are generally minor" and in general terms, endorses the proposed policies as the most sustainable options. Consequently, the report makes only a very small number of recommendations for further change. In summary, the report recommends that the plan should include:
 - A requirement to minimise the impacts of new schools development on car travel (in Community Facilities policy DM22);
 - A reference to the potential need to seek advice from Natural England and the Environment Agency on the indirect impact of development at the Airport on internationally protected nature conservation sites and habitats (in policy DM27);
 - A reference to the need for the airport master plan to be subject to sustainability appraisal (in policy DM27); and
 - An appendix to set out in more detail the matters to be covered by planning obligations (supporting policy DM33).
15. It is considered that the first recommendation can be addressed by a minor amendment to the criteria of policy DM22 relating to schools development. The issues raised in relation to policy DM27 for the airport are noted and may be appropriately addressed by references within the supporting text to that policy (the general need to safeguard protected sites and habitats is covered in policy DM6). An appendix setting out particular matters that may be covered by planning obligations under policy DM33 is likely to be premature pending the formal adoption of CIL, although further guidance either in an appendix to the plan or supplementary planning documents, is likely to be necessary in any case to amplify the

16. The plan has not yet been amended in accordance with these recommendations. Member approval is sought to agree the changes set out in Annex 2, which if agreed would enable the plan to be amended to reflect the SA prior to the soundness consultation.

National planning policy

17. The National Planning Policy Framework was published in March 2012. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, with the content of the framework constituting the government's view of what sustainable development is in relation to planning. To this end, local plans are required to contribute to the achievement of sustainable development. They must be aspirational but realistic, and should address the spatial implications of economic, social and environmental change. This is reflected in the DM policies plan through the general sustainability criteria of policy DM1 and an improved focus of other policies on sustainable development and planning positively to deliver it.
18. The NPPF sets out detailed policy requirements in a number of key areas, the majority of which are relevant to the DM policies plan and have been taken into account in its preparation. In particular, local planning authorities are required to deliver sustainable development through local policies which:
- Promote a *strong, competitive economy* (in this document, DM policies DM16, DM17 and DM19 are most relevant to this objective generally, with place-specific policies to manage the future development of the University – DM26 – and the Airport – DM27);
 - Ensure the *vitality of town centres* (relevant policies DM18; DM20, DM21 and DM25)
 - Promote *sustainable transport* (relevant policies DM28, DM29, DM30, DM31 and DM32);
 - Support *high quality communications infrastructure* (relevant policy DM10)
 - Deliver *a wide choice of high quality homes* (relevant policies DM12, DM13 and DM15) ;
 - Attach great importance to *good design* (relevant policy DM3);
 - Promote and plan for *healthy communities* (relevant policies DM8, DM22, DM23 and DM24);
 - Meet the challenge of *climate change* (relevant policies DM4 and DM5);
 - Conserve and enhance *the natural environment* and it is protected from environmental hazards (relevant policies DM2, DM6, DM7 and DM11);
 - Conserve and enhance *the historic environment* (relevant policy DM9);
19. The NPPF also stipulates that plans should be founded on a sound evidence base. Accordingly, the DM policies plan is supported by a broad range of evidence (links to which are provided on the council's website), much of which also informed the preparation of the Joint Core Strategy. A series of topic

papers has also been prepared to explain the background to and provide further justification for the approach in particular policy areas.

20. Plans are required to be deliverable, therefore both the DM policies in this document and specific proposals in the Site allocations plan should not result (in the NPPF's terms) in *"such a scale of obligations and policy burdens [on developers] that their ability to develop viably is threatened"*. Proposed DM policy DM33 (planning obligations and development viability) deals with this issue in Norwich.
21. The government's national policy statement on Planning for Travellers, published concurrently with the NPPF, sets out the considerations to be applied in planning locally for the Gypsy and traveller community. Proposed DM policy DM14 deals with this issue in Norwich.

Duty to cooperate

22. The NPPF states that public bodies have a duty to co-operate on planning issues that cross administrative boundaries particularly in relation to strategic priorities. In the case of the local plan for Norwich, the duty to cooperate is judged to be satisfied by the adopted Joint Core Strategy, which has involved the City Council, Broadland District Council, and South Norfolk Council working together in the Greater Norwich Development Partnership to ensure that strategic priorities across administrative boundaries are properly coordinated.

Soundness considerations

23. The DM policies plan has been informed by soundness considerations throughout its preparation. The NPPF identifies four basic tests which local plans have to satisfy to be regarded as 'sound' when independently examined, namely that they should be *justified, effective, consistent with national policy and positively prepared*. The four tests are expanded on below in paragraph 343.
24. Norwich City Council commissioned independent advice from the Planning Officers Society (POSe) on soundness during plan preparation, for both the Development management policies plan and Site Allocations plan. The purpose of this 'health check' was to independently assess both emerging plans for their robustness and soundness, enabling issues to be identified at an early stage which might impact on the overall soundness of the plan. The consultant's report of February 2012 (and supplementary comments made in May 2012 following further review of policies) forms part of the background documentation supporting this plan and can be found on the Council's website *[provide link]*.
25. In summary the report finds that the draft plan fits well with the NPPF (which was in draft form at the time of the initial health check) and adopted Joint Core Strategy. The document demonstrates clearly *'how the preferred policies and allocations have been justified by the evidence, generally meet local needs and help realise the community's vision for the city'*. However the consultant identified a number of areas for improvement and made a number of recommendations for both plans. These recommendations have all been addressed by the Council as part of the plan-making process and amendments are made to the final version of the plan where appropriate.

26. In deciding to press ahead with preparation of Development Management plan regard has been had to the implications of the legal challenge to the adoption of the JCS. As members will be aware the court held that there had been some procedural flaws in the preparation of the JCS and it is clear that this may have some implications for planning in the City. Notwithstanding the fact that the JCS remains intact and adopted for the City in its entirety the court order issued pursuant to the judgment prescribes a process by which the local authorities must reassess the significant growth proposals in the Broadland part of the Norwich Policy Area and any reasonable alternatives to them.
27. Since the “parent” policies in the JCS that guide the Development Management policies remain adopted it is not appropriate to delay preparation of the plan to await this reassessment process.

Overview of pre-submission draft plan

28. As set out in the introduction, the Development management policies plan will be part of the local plan for Norwich and must be read alongside other planning documents (the JCS, and Northern City Centre Area Action Plan and, in particular the Site Allocations plan, which makes specific allocations of land for development where change is anticipated or proposed and sets out detailed policies and requirements for each site).
29. In common with the previous draft version, this pre-submission draft of the DM policies plan contains 33 policies which are based broadly on the themes of the Joint Core Strategy. Supplementary text is also provided for each policy which gives further detail and clarification. The policies are listed below:

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM4 Providing for renewable and low carbon energy
- DM5 Planning effectively for flood resilience
- DM6 Protecting and enhancing the natural environment
- DM7 Trees and development
- DM8 Planning effectively for open space and recreation
- DM9 Safeguarding Norwich's heritage
- DM10 Improving communications infrastructure
- DM11 Protecting against environmental hazards
- DM12 Ensuring well-planned housing development
- DM13 Communal development and multiple occupation
- DM14 Meeting the needs of Gypsies, travellers and travelling showpeople
- DM15 Safeguarding the city's housing stock
- DM16 Employment and business development
- DM17 Supporting small business
- DM18 Promoting and supporting centres
- DM19 Encouraging and promoting major office growth
- DM20 Protecting and supporting city centre shopping
- DM21 Protecting and supporting district and local centres
- DM22 Planning for and safeguarding community facilities
- DM23 Supporting and managing the evening and late night economy
- DM24 Managing the impacts of hot food takeaways
- DM25 Use and removal of restrictive conditions on retail warehousing and

other retail premises

DM26 Supporting development at the University of East Anglia (UEA)

DM27 Development at Norwich airport

DM28 Encouraging sustainable travel

DM29 Managing car parking demand in the city centre

DM30 Access and highway safety

DM31 Car parking and servicing

DM32 Encouraging car free and low car housing

DM33 Planning obligations and development viability

30. The policies for submission cover essentially the same themes and are numbered identically to those in the 2011 consultation draft, except that:

- Previous draft policy DM1 had required supporting statements and other evidence to be submitted with planning applications. Its content is transferred into the supporting text as part of a general preamble (“A positive approach to development management”). A new policy DM1 now sets out general planning criteria to ensure the delivery of sustainable development in Norwich.
- Previous draft policy DM33 had set out various requirements for developer contributions for transport improvements. Much of its content (where still relevant) is transferred to other transport policies and Appendix 4 of the plan (Parking Standards). A new policy DM33 now deals with planning obligation requirements and development viability generally, with a preamble discussing the role of the Community Infrastructure Levy.

31. Annex 1 sets out the substantive changes to the DM policies which have been made since the consultation draft version in 2011, and the reasoned justification for those changes, taking account of representations, member decisions, national policy changes, other emerging issues and the results of engagement with the business community. The most recent SA report has made recommendations for a very small number of additional changes to the plan (see paragraph 19 above and Annex 2), however further policy changes may be necessary to respond to emerging issues identified in recent internal discussion with city council development management and transport planning officers.. The potential degree of policy redrafting involved, and the timing of the suggested changes late in the plan-making process, have meant that it has not been possible for appropriately redrafted policies to be submitted to consultants in a final form and tested through the SA. These late changes affect the following policies:

- DM21 – Protecting and supporting district and local centres
- DM22 – Planning for and safeguarding community facilities
- DM32 – Encouraging car free and low car housing

32. Norfolk County Council and the Environment Agency have also raised late concerns in response to the proposed wording of environmental protection policies DM5 (flooding) and DM11 (protection against environmental hazards) resulting in the need for some redrafting of these policies.

33. Since late policy changes suggested in internal and external discussion have not been subject to SA, it is proposed that further policy changes be taken forward through the pre-submission consultation process and changes made (if appropriate) prior to submission of the plan. None of these changes are yet incorporated in the plan text.
34. Subject to finalising the policies above, all the proposed policies are judged to meet the following tests of soundness:
- They are **justified** in terms of being based on extensive public and stakeholder engagement, and based on a robust evidence base. The reasons for selecting the preferred policies from the full range of alternatives is set out in background documents, and the evaluation of alternatives has been guided by SA undertaken at several stages in the plan-making process.
 - They are **effective** in that the sites are judged to be deliverable and viable within the plan period. Effective monitoring of activity on sites will enable the Council to take a flexible approach to changing circumstances by highlighting any barriers to deliver at an early stage and taking appropriate action.
 - The policies are **consistent** with the policies of the NPPF and those of the JCS.
 - The plan is **positively prepared** as required by the NPPF by positively seeking opportunities to deliver sustainable development to meet the development needs of the area.
35. In addition the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements.
36. Given that all the proposed policies are considered to be sound as stated above, any member decision to make further substantive changes to policy at this stage may leave the plan open to challenge through the public examination process, or through a later legal challenge. Therefore, any such decision must be fully documented and justified to ensure clarity in the decision-making process.

Policies Map

37. As with the 2011 draft, a Policies Map illustrating the areas of the city where particular policies will apply has been prepared alongside, and will form part of, the pre-submission version of the DM policies plan for consultation. The map will also indicate the extent of site-specific allocations being taken forward through the Site allocations plan. For ease of reference, policies map content will, as previously, be made available online as a series of downloadable maps for smaller areas of the city illustrating the plan's policies by theme. These individual plans are still in preparation and will be available for the pre-submission consultation on the plan. A draft policies map for the city as a whole will be available for consideration by the panel and Cabinet.

Next steps

38. Subject to agreement by this panel and authorisation by Cabinet, the plan will be published for soundness consultation, the consultation period running from August to October 2012. Following this, the plan will be reviewed in the light of the representations received. It is anticipated that the plan will be submitted to the Secretary of State by the end of March 2013, to enable an independent public examination to take place in the summer, and adoption in autumn 2013.