

Report for Discussion

Report to Sustainable development panel
2 December 2011

Report of Head of planning services

Subject Norwich Local Development Framework programme update

Item
6

Purpose

To update the SD Panel on the progress of Local Development Framework, including the need for a change in the timetable for Site Allocation and Development Management Policy DPDs and their next stages of production.

Recommendations

That SD Panel members note the change in the timetable for LDF production, which will be confirmed through a revision to the Local Development Scheme.

Financial Consequences

The revised timetable will lead to a more efficient plan making process with reduced uncertainties which is likely to reduce costs.

Risk Assessment

Risk reduction is the major consideration in revising the timetable for plan making. The revised approach reduces risks by delaying pre submission consultation on the plans to enable the requirements of the forthcoming National Planning Policy Framework (NPPF) to be incorporated, so that Norwich will have some of the first plans adopted under the new planning system

Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority “Strong and prosperous city – working to improve quality of life for residents, visitors and those who work in the city now and in the future” and the service plan priority to deliver the Local Development Framework for Norwich

Cabinet Member: Cllr Bremner

Ward: All

Contact Officers

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Background Documents

None

Report

Introduction

1. The purpose of this report is to:
 - Update Sustainable Development Panel (SD Panel) members of the progress of Local Development Framework (LDF) Development Plan Documents (DPDs) and supporting work.
 - Inform SD Panel members of the need for a change in the timetable for Site Allocation and Development Management Policy DPDs.
 - Outline the next stages of the production of the Site Allocation and Development Management Policy DPDs.

Section 1 - Update on the LDF

The Joint Core Strategy (JCS)

2. The JCS is currently the subject of a legal challenge, due to be heard at the High Court on 6 and 7 December 2011, with the judgment likely to be given within a fortnight of the hearing. If the legal challenge is successful, in whole or in part, it will be necessary to reconsider how to progress plan making both within the greater Norwich area as a whole and within the city itself. This is because the emerging Norwich LDF documents, the Site Allocations Plan and the Development Management Policies, are reliant on the JCS. The JCS provides the strategic framework for the area, with the other DPDs providing more detailed policies and sites to enable implementation of the strategy.
3. In addition to the JCS legal challenge, another critical announcement in relation to the JCS is scheduled to be made in December concerning whether Department for Transport funding will be made available for the Norwich Northern Distributor Road.

Updated sustainability appraisal data

4. Members will recall that sustainability appraisal (SA) has been carried out for both the Development Management Policies and Site Allocations plans, by consultants (Land Use Consultants) using a GIS based approach. This methodology was explained in detail at a LDF Working Party in December 2010. It involves analysing the sustainability of proposed sites in relation to agreed sustainability criteria including their distance from key services, facilities and environmental assets.
5. The consultants have addressed errors identified following member comments at Sustainable Development Panel on 27 July. They have provided a re-analysis of the data for all the Regulation 25 proposed sites, including the additional sites which were recently consulted upon during the summer. The

errors mainly relate to how sites perform in terms of schools data, conservation areas and nature conservation sites

6. The overall impact of the re-analysis is mixed. Although a number of sites were affected, many of these were found to perform better in sustainability terms than previously, particularly in relation to distance from primary schools (as a number of schools had been excluded in error). However more sites are now within a 250m buffer from Conservation areas, as the previous assessment erroneously excluded this buffer zone, and some sites also perform less well in relation to distance from nature conservation sites (as some of these sites had not been included originally).
7. The GIS based approach provides an indication of sites' overall performance in sustainability terms – it helps to flag up potential constraints and opportunities that need to be considered in site selection and delivery. The updated data will be used, along with other data and assessments, to inform the choice of sites going forward to Regulation 27 (draft plan) stage. The consultants will produce final SA reports for both plans at that stage, which will make clear where there were errors in the original GIS-based analysis and what the correct assessment should have been. A clear audit trail will be presented for each site and the reasons for choosing the preferred sites.

Section 2 - The plan making timetable

8. Regulation 25 consultations for both the Development Management plan and the Site Allocations plan took place between January and March 2011, with an "Additional Sites" consultation from July to September 2011. The previous timetable, agreed by SD Panel members on Wednesday 29 June 2011, is set out in table 1 below.

Amendments to the timetable

9. Members may recall that the June 2011 SD Panel report on the Development Management policies plan stated that "The timetable for this work will depend largely on whether any major changes to the plan are necessary in response to the draft National Planning Policy Framework (NPPF)." It also referred to the critical role that the sustainability appraisal and the timing of the decision on the statutory challenge to the Joint Core Strategy would play for the plan making timetable.
10. Given the content of the draft NPPF, which varies in significant ways from existing national policy (e.g. its lack of national policy for prioritisation of city centres and of brownfield sites), there is no option other than to delay production of the pre submission version of Development Management policies until the production of the finalised NPPF. The NPPF is due to be finalised in April 2012.
11. Paragraph 22 sets out the main ways in which the currently drafted DM policies are expected to need to be amended, based on the content of the current draft NPPF, to be "NPPF compliant".

12. There would be considerable risks associated with following the current timetable, thereby proceeding to examination during a time of uncertainty in relation to the NPPF and to a lesser extent the RSS (due to be rescinded through the Localism Bill by Spring 2012). It would be very difficult for an examination to take place in a time of transition between two national planning regimes. The current timetable for examination in spring 2012 is when the finalised NPPF is now due. The risks particularly apply to the Development Management policies plan, the content of which is highly dependent on national policy.
13. Similar decisions to delay pre submission consultation have recently been made elsewhere in the region and country:
 - St Albans City and District Council has just taken the decision to delay regulation 27 consultation on its Core Strategy until the NPPF is finalised and the RSS rescinded. The rescinding of the RSS is of less relevance in the greater Norwich area as the recently adopted JCS provides clarity on key issues such as housing numbers and jobs targets and provides strategy on key issues such as the environment and transport;
 - Rossendale Council recently undertook a further round of consultation on how the Draft NPPF affects the soundness of the Submitted Core Strategy DPD on the advice of their Inspector.
14. Therefore the best approach is to ensure that the extensive consultation that has already taken place on the DPDs can be used to progress the plans to adoption as soon as possible, whilst also ensuring that they comply with the NPPF.
15. To ensure this can happen, it will be necessary to make it absolutely clear to the Inspectors at the examination in public which changes to the draft plans previously consulted on have been made in response to the consultations and which have been made as a result of the NPPF. Paragraph 22 refers to this in more detail.
16. The proposed revised timetable takes account of city council election cycles and aims to proceed as rapidly as reasonably possible after finalisation of the NPPF and greater clarity has been provided on the JCS. The timetable assumes that the DM Policies Plan and the Site Allocations plan continue to be produced simultaneously (see paragraph 18 below).

Table 1 Current and Revised plan making timetables

Plan making stage	June 2011 timetable	Proposed timetable
Further evidence gathering and preparation of revised documents	June – September 2011	November 2011 to January 2012
Sustainability appraisal of policies	September –	February 2012 – May 2012

and further changes	October 2011	
Pre-submission consultation (Regulation 27)	December 2011 – February 2012	August – October 2012
Submission and examination	Spring 2012	Spring / summer 2013
Adoption	Late 2012 or early 2013	August 2013

17. Consideration was given to whether to progress the Site Allocations plan ahead of the Development Management policies plan. This is possible as the Site Allocation Plan is far less dependent on the NPPF than the Development Management policies. If this approach were taken, the Site Allocations plan adoption could be a few months earlier than the revised timetable set out above.

18. However, this approach has not been taken forward as the risks associated with this approach far outweigh the advantages. Keeping the plan timetables simultaneous enables:

- Avoidance of confusion for the public and developers;
- Reduced costs resulting from combined consultations and examinations;
- new Development Management policies to be incorporated in the Site Allocation plan;
- production of one of the first NPPF compliant local plans nationally, showing the city is “open for business”;
- reduced risk of procedural objections, particularly from residents, organisations and developers over the inclusion or exclusion of particular development proposals.

Section 3 - The next stages

Procedural Issues

19. Prior to submission of the DPDs, Norwich City Council will have to consider a number of procedural issues arising from the transition to the NPPF, including:

- **Local Plan or Local Development Framework?:** the NPPF does not require the same structured approach to plan making as required under LDFs. It leaves it up to local authorities to decide what type of plans they should produce to provide an effective local policy framework. The NPPF refers to “Local Plans” rather than LDFs. However, no changes to the relevant legislation have been made (the Planning and Compulsory Purchase Act 2004 and Planning Act 2008). At this stage, until this situation is clarified, progress will continue to be made on the basis of an LDF. The

exact title concerning LDF/ Local Plan will need to be agreed by Pre-submission publication.

- **Tests of Soundness:** The tests of soundness are very likely to be updated through the NPPF to include a requirement for plans to be “Positively prepared” to aid economic development and environmental protection. This requirement will need to be appropriately addressed alongside the existing tests of soundness at all future stages of DPD preparation.
- **LDS update:** The DPDs need to be prepared in accordance with the timetable set out in the Local Development Scheme (LDS). The timetable in the current LDS is out-of-date. The LDS will be formally reviewed to include the new timetable referred to in this report. This will be considered by SDP and agreed by Cabinet. See Appendix 1 for proposed revision to LDS. Members’ comments are sought on the proposed revision.

The Development Management policies plan

20. Over 240 representations were received to the Regulation 25 consultation of the Development Management Policies plan. An assessment of the impact of these representations on draft policies has been completed. However further work is currently underway to update the policies in line with the draft NPPF. This will enable sustainability appraisal of the draft policies to be carried out in spring 2012.
21. It is anticipated that the final version of the NPPF will be published in April 2012, and both the Development Management policies plan and sustainability appraisal will be updated following its publication. The draft pre-submission (Regulation 27) Development management policies plan will be reported to Sustainable Development Panel in June, and following that will be reported to Cabinet in July 2012, seeking authorisation to commence the Regulation 27 ('soundness') consultation in August.
22. In order to ensure that the final version of the plan conforms with the tests of soundness required in the Planning Regulations, the reports to SDP and Cabinet will clarify how the plan-making process has been affected by the NPPF. In particular the reports will indicate where changes have been made to the plan:
 - to take account of representations made at Regulation 25 stage
 - to make it consistent with the NPPF, for example including more flexibility with uses on industrial estates
 - to include deleted PPS guidance: for example if the content of the draft NPPF is retained for flood risk policy, it will be necessary to adopt locally some elements of flood risk policy currently produced nationally, such as definitions of flood risk zones
 - to include content on which the NPPF is silent, for example retaining the town centre first policy approach for uses which the draft NPPF no longer gives town centre status e.g. hotels, offices, tourism, arts and culture uses.

The Site Allocations plan

23. The additional sites consultation which took place over the summer attracted a high level of representations. These are currently being analysed alongside the representations from the Regulation 25 consultation carried out earlier this year. The sites proposed to be carried forward to Regulation 27 stage will be subject to further sustainability appraisal in spring 2012. The draft pre-submission (Regulation 27) Site allocations plan will be reported to the Sustainable Development Panel in May / June, and to Cabinet in July 2012, seeking authorisation to commence public consultation in August.

Local plan health check

24. Officers intend to commission a 'local plan health check' to be carried out for both DPDs by external consultants. This will involve:

- An independent assessment of the emerging plans for their robustness and soundness, including assessment of the evidence base to support policies and allocations, and compliance with procedure and the planning regulations, and
- Assessment of the plans at a wider level in relation to the Localism Act and the draft NPPF, in particular any aspects of the plans which may not conform with the latter.

25. The advantages of commissioning a local plan health check at this stage in the plan development process include early identification of issues that might impact on soundness, e.g. whether the evidence base is sufficient and up-to-date and whether the correct procedures have been followed in plan making. Given current policy uncertainties, this should help in managing the transition to NPPF and reducing risk. The health check is likely to commence in December.

Topic Papers

26. Draft topic papers on retail and transport issues will be produced for the next meeting of the Sustainable Development Panel on 25 January 2012.

Supplementary Planning Documents

27. An affordable housing supplementary Planning document will be produced in 2012.

Appendix 1

DEVELOPMENT PLAN DOCUMENTS PROGRAMME 2010-2013

Document	2010												2011												2012												2013																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
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* please see the commentary section for details

KEY

Prepare Draft Plan
 Regulation 25 consultation
 Production of Submission Document
 Regulation 27 consultation
 Handling Site Allocation Responses (Reg 32)
 Public consultation
 Submission to Secretary of State
 Pre-Examination Meeting
 Examination in Public
 Inspector's Report
 Adoption
 Proposals Map Amended

