



Report of	Meeting	Date
Joint LDF Officer Team	Central Lancashire LDF Joint Advisory Committee	1 September 2011

LOCAL PLANNING REGULATIONS: CONSULTATION

PURPOSE OF REPORT

1. This report advises Members that the Government has begun a consultation on proposed new regulations governing the process by which local councils prepare their development plan and associated documents.

RECOMMENDATION(S)

2. Members are recommended to:
 - (a) Note the contents of the report;
 - (b) Support responses to the Government on the matter of greater clarity for the continued production and adoption of Core Strategy, Site Allocations DPDs and other related documents.

EXECUTIVE SUMMARY OF REPORT

3. The Government has decided to update the 2004 Local Development Regulations in response to the proposed reforms in the Localism Bill, and to take the opportunity to consolidate the changes made since 2004 into a single document, while revising the remaining regulations in order to ensure that they are as effective and as simple as possible.
4. The Central Lancashire Councils have the opportunity to comment on the new regulations. In general the proposed changes to the Regulations can be welcomed. The main area of concern is in the need for a clear understanding of the role of examining Inspectors and any transitional arrangements between the current suite of LDF documents and the proposed local plans.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

5. To ensure that all aspects of the preparation of local plans are clear, and for the avoidance of any unnecessary work.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

6. None

BACKGROUND: LOCAL DEVELOPMENT REGULATIONS

7. The process of preparing a local development plan is currently set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development) (England) Regulations 2004, as amended. These do not actually use the term 'Local Development Framework'. This appears in the Government Policy Document PPS12 and other guidance and is explained to mean a portfolio of documents. The Localism Bill is intended to amend the 2004 Act, and the Government's consultation seeks views on revised regulations to replace the amended 2004 Regulations. These draft regulations and the draft National Planning Policy Framework (see separate report on this meeting's agenda) use the term 'local plan' and imply this is or can be made up of a single policy document.
8. The main matters that the 2004 regulations cover are:
 - the form and content of plans and supporting information
 - the process of preparing, consulting and examining development plan documents
 - the process of preparing non-statutory supplementary planning documents
 - monitoring; and
 - publicising information on plan preparation

WHAT IS CHANGING AND WHY

9. The Government rightly believes that it is beneficial for communities and developers to have an up-to-date 'local plan' in place to help guide the delivery of the sustainable development and protect significant features. Through reforms set out in the Localism Bill, the Government wants to return decisions on planning to local councils and communities, in particular through the proposed abolition of regional strategies and the introduction of neighbourhood planning, as well as streamlining the process of plan preparation. The reforms will make the role of local plans more important, as they will set a planning strategy in co-operation with neighbouring councils, as well as be a framework to guide neighbourhood plans.
10. The Localism Bill is introducing the following changes to the way local plans are prepared (see also Appendix 1):

Duty to co-operate

11. The Bill introduces a new duty to co-operate, which will require councils and other public bodies to work together on planning issues. The Government proposes to use the revised local plan regulations to set out the proposed list of bodies that the duty will apply to (see Appendix 2). It is notable that the list does not include the utility companies, or neighbouring authorities, although the latter are covered by the wording contained in the Localism Bill. The exclusion of utility companies is a concern as infrastructure planning matters are key to plan preparation and these are often of cross boundary significance. This aspect should be raised in the Councils' consultation responses.

Adoption of local plan documents

12. The Government believes that despite the great benefits of having an up-to-date development plan in place, the current process for preparing local plans does not always allow a local council or their communities to have ownership of their plan. The Government wants to change the process, and make it simpler and more transparent.
13. Local councils are currently required to submit their draft plan for public examination by an independent Inspector, appointed by the Secretary of State. Following the examination, the inspector produces a report which may modify the plan, these are 'recommendations' that the

local authority must accept before they can formally adopt the plan. These changes can therefore feel imposed.

14. In the Localism Bill, the Government proposes to remove the inspectors' powers to impose changes. Inspectors will report to the local authority and identify any conflicts between the plan and national policy and regulatory process. However, Inspectors will only be able to recommend non-binding modifications to overcome these issues if the council asks for them. In addition, councils can suggest their own modifications for assessment by the Inspector during the examination. However these may not meet with the Inspector's approval so the choice then is for the council to accept the Inspector's modifications and adopt the plan, or resubmit a new plan. Although in theory this approach will encourage a more collaborative process as the examination becomes more recognised as a forum for mediation the actual freedom for councils to successfully resolve the outcomes examinations could prove to be quite limited. This is matter that should be raised with Government.

Withdrawal of local plan documents

15. This change in the Bill would allow a council to withdraw a development plan document at any time before its adoption. If the development plan document has been submitted for independent examination, the council would no longer require a recommendation from the Inspector carrying out the examination or a direction from the Secretary of State that the document should be withdrawn.

Local Development Scheme

16. Councils must prepare and maintain a Local Development Scheme specifying the documents that will be development plan documents, their subject matter and area and the timetable for their preparation and revision. The draft regulations propose that councils are no longer required to submit the local development scheme to the Secretary of State. The intention is councils must still publish up to date information on their progress in preparing development plan documents against the timetable in Local Development Scheme but will have the freedom to do this however they wish such as for example using on-line publication.

Reporting to communities

17. Councils are currently required to publish an annual monitoring report on the implementation of their local development scheme and whether the policies in their plan are being achieved. The Bill aims to remove the need to submit this report to the Secretary of State, but the duty to monitor would remain by requiring an 'authorities' monitoring report' to be prepared for local people, in the interests of local transparency and accountability. This would allow for say monitoring information to be made available on-line and in council offices as soon as it is available for publication, rather than it be made available related to a submission date to Government.

National planning policy

18. In addition to the reforms set out in the Localism Bill, the Government intends to replace national policy on local plan preparation set out in Planning Policy Statement 12 (PPS12): *Local Spatial Planning*, published in 2008. PPS12, along with the other existing planning policy statements will be replaced by a new consolidated National Planning Policy Framework (NPPF). This policy document is the subject of a separate consultation and a separate report on this meeting's agenda. New local plans will need to conform with the NPPF and receive a

certificate to that effect, neither the draft regulations nor the draft NPPF explain how this process will be achieved.

What is not changing?

19. In revising the regulations in response to the Bill, and consolidating changes made since 2004, the basic process of plan preparation would largely be unchanged. This process consists of an engagement stage and one formal consultation stage before submission to the Secretary of State for examination and will remain as such steps. The main steps in preparing supplementary planning documents are similarly unchanged and kept to a minimum.

CONSULTATION QUESTIONS

20. The consultation paper includes the following questions, and it invites all interested parties to submit responses by 7 October 2011.
- Do you agree that the revised regulations effectively reflect the changes proposed in the Localism Bill?
 - Do you agree with the list of bodies included in the duty to cooperate?
 - Do you agree the revised regulations effectively consolidate the 2004 regulations with the revisions in 2008 and 2009?
 - Are there any ways in which the regulations should be changed in order to improve the process of preparing local plans, within the powers set out in the Planning and Compulsory Purchase Act 2004 and the Localism Bill?
21. The proposed changes to the Regulations generally can be welcomed. They will increase local discretion and will make a modest but worthwhile contribution to the speed of local plan preparation. The main areas in which some additional clarity is required concern the proposed transition from the suite of documents contained in the Local Development Framework to the production of a local plan, the duty to cooperate regarding utility companies, the role of examining Inspector's recommendations and the NPPF conformity procedure. Most importantly authorities such as the Central Lancashire Councils, currently preparing Core Strategies, Site Allocations Documents and Supplementary Planning Documents, need re-assurance that their current work programmes will not be undermined by the proposed changes.

NEXT STEPS

22. Following the consultation period, the Government will consider all responses received and aims to publish its response to the consultation exercise by 1 November 2011.

Report Author	Tel	Email	Doc ID
David Porter	01772 536775	david.porter2@lancashire.gov.uk	JAC Report – Sept 11 – Local Planning Regulations

Background Papers			
Document	Date	File	Place of Inspection
Local Planning Regulations; Consultation DCLG	July 2011		Lancastria House, Preston Civic Offices, Leyland Union Street Offices, Chorley County Hall, Preston

Appendix 1: Summary of proposed changes

In summary, the Government proposes to make the following changes to the regulations:

- Part 1 makes minor consequential amendments.
- Part 2 streamlines existing requirements and lists the public bodies to whom the new 'duty to co-operate' applies, and requires these bodies to take account of the views of local enterprise partnerships.
- Part 3 sets out a simple definition of development plan documents, without referring to complex 'local development framework' terminology such as 'core strategy' or 'area action plan', which made the process confusing for the public and business, and inflexible for councils. This allows councils to decide what they want to include in their development plan documents and review policy more quickly. Part 3 also removes the current regulations on local development schemes, giving councils the freedom to report the information that they think most relevant to local people, while maintaining the requirement to keep the public informed about the status of planning documents, as set out in the Bill.
- Part 4 makes minor consequential amendments.
- Part 5 streamlines the regulations on the preparation of supplementary planning documents, in particular in relation to the role of the Secretary of State.
- Part 6 streamlines how the Secretary of State's powers for intervention are set out and removes the need to seek compliance with regional strategies for areas outside London in response to their proposed abolition in the Bill. The revised regulations also remove the detailed prescription for public participation in the preparation of the statement of community involvement.
- Part 7 does not include any changes.
- Part 8 removes the requirement to prepare a monitoring report for the Secretary of State. Councils are instead required to make the report for local people on key issues to be determined locally, as set out in the Bill. New regulation 39 prescribes minimum information to be included in monitoring reports beyond current regulation 48, including net additional affordable housing, Community Infrastructure Levy receipts, the number of neighbourhood plans that have been adopted, and action taken under the duty to co-operate. It also requires the monitoring information to be made available online and in council offices, as soon as it is available to the council, rather than waiting to publish in a report annually.
- Part 9 streamlines requirements into a single regulation on the availability of documents which makes it easier for readers to understand and removes repetition from other regulations.

Appendix 2: Bodies included in the duty to co-operate

- (1) The Environment Agency;
- (2) The Historic Buildings and Monuments Commission for England;
- (3) Natural England;
- (4) The Mayor of London;
- (5) The Civil Aviation Authority;
- (6) The Homes and Communities Agency;
- (7) Primary Care Trusts;
- (8) Office of Rail Regulation
- (9) The Highways Agency;
- (10) Transport for London;
- (11) Integrated Transport Authorities;
- (12) Highway authorities;
- (13) The Marine Management Organisation;
- (14) Local enterprise partnerships.