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**PLANNING POSITION WHILST PREPARING THE NEW LOCAL PLAN**

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**Responsible Cabinet Member -  
Councillor Chris McEwan, Economy and Regeneration Portfolio**

**Responsible Director -  
Ian Williams, Director of Economic Growth**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The report seeks Members agreement to formally withdraw the draft Making and Growing Places Development Plan Document (MGP DPD), to enable work to start on a comprehensive new Local Plan.
2. The report sets out the current policy position for the Council in terms of determining planning applications and regulating development. It provides details on which adopted policies remain relevant to the decision making process and also sets out in what circumstances National Planning Policy is likely take precedent.
3. The report also sets out the local planning considerations that should be taken into account should National Policy apply. It provides a number of topic based position statements that utilise existing up to date evidence base documents used to prepare the Making and Growing Places Development Plan Document (MGP) and other council documents which remain consistent with the NPPF, as such they should carry some weight in the decision making process whilst a new local plan is being prepared.
4. The report should inform:
  - (a) Applicants to shape and make their applications;
  - (b) Interested parties to form their views on development proposals;
  - (c) Officers and the Planning Applications Committee to consider determining planning and other applications and enforcement matters.

**Summary**

5. The Council has an adopted development plan which should be used in determining the majority of planning applications within the borough. However, certain elements of that development plan have been deemed out of date in relation to housing development.

6. As reported to Cabinet in November 2015 the implications of a planning appeal decision to allow up to 250 new homes on land at Sadberge Road, Middleton St George went against the Council, primarily because the Council could not demonstrate a five year supply of deliverable housing land against a housing target based on an up to date assessment of housing needs. As a consequence, none of the Council's development policies relating to the supply of housing can be considered up to date, and as such, the national planning policy presumption in favour of sustainable development applies. In practice, this means that new housing development should be permitted unless there are site specific or significant sustainability reasons indicating otherwise.
7. In response to this decision, work has been undertaken to quantify the assessment of housing need and as reported to Cabinet in November 2015 this is significantly larger than that which was being planned for in the MGP. Cabinet agreed that work be halted on the MGP development plan document. The MGP will need to be formally withdrawn to enable work to commence on a comprehensive new Local Plan. As such, its draft policies cannot be referred to in determining planning applications. Much of the evidence base gathered in developing the MGP remains valid and will be used to inform the new local plan. Cabinet also agreed in November that a further report be received as soon as possible setting out the draft policies that could be agreed as interim planning position. This report sets out a proposal to achieve this. An Interim Planning Position Statement is therefore proposed to set out the relevant local material considerations that should be used in the application of the National policy on presumption in favour of sustainable development contained in the NPPF. Endorsement of this approach by Place Scrutiny was gained on 11 February 2016 and a document has since been prepared (**see Appendix 1**) to be reported back to Cabinet via Place Scrutiny.
8. An interim planning position is recommended during the plan preparation period to comprise:
  - (a) Use of **Existing Development Plan** – This is made up of policies that are contained in the Core Strategy (not prejudiced by the housing supply position described above) and saved Policies from the Borough of Darlington Local Plan 1997 (including adopted alterations 2001) that remain consistent with NPPF.
  - (b) Publication of an **Interim Planning Position Statement**. This would include:-
    - (i) The sustainable housing sites that would have been submitted to the Government within the Making and Growing Places DPD.
    - (ii) The adoption of an approach to considering local circumstances for development in the context of the NPPF and its associated presumption in favour of sustainable development. This will include a number of position statements based upon the work and evidence base gathered as part of the Making and Growing Places DPD.
9. These elements will have different weight in determining planning applications depending upon the stage reached in the plan making process. This position will

be set out in a standalone 'Interim Planning Statement' that will be aimed at decision makers and developers to provide clarity on the material considerations while the local plan is prepared.

10. As well as guiding planning application decision making, application of the Interim Statement will help provide information on interpretation of national policy and our current evidence base that will inform the development of forthcoming new Local Plan.
11. An interim position for new housing is also included in this statement. This acknowledges the up to date evidence of increased housing needs reported to Cabinet in November, and identifies much of the land that has been previously identified through the Making and Growing Places plan preparation process that could be brought forward for sustainable housing development. Further detail around the local consideration of the national presumption in favour of sustainable development is also included.
12. The opportunity has also been taken to clearly indicate which of the up to date development plan policies the Council regards as its strategic policies. This is important to communities preparing neighbourhood plans, as those plans must be in general conformity with the strategic policies of the local plan.

### **Recommendation**

13. It is recommended that Cabinet:-
  - (a) Withdraw the Making and Growing Places Development Plan Document.
  - (b) Approves the Interim Planning Position Statement attached to this report.

### **Reasons**

14. The recommendations are supported by the following reasons :-
  - (a) To facilitate the preparation of new planning policy in line with revised interpretation of the NPPF.
  - (b) To provide greater clarity to applicants and decision makers whilst the new local plan is being prepared as to the relevant planning policy and evidential studies affecting development in Darlington.

**Ian Williams**  
**Director of Economic Growth**

### **Background Papers**

No background papers were used in the preparation of this report.

David Nelson : Extension 6291

S17 Crime and Disorder	The statement proposed are unlikely to have a direct impact on crime and disorder. Principles of designing out crime are a cross cutting issue for planning matters.
Health and Well Being	The statement proposed should have an indirect beneficial effect on health and wellbeing.
Carbon Impact	A Sustainability Appraisal was carried out on the MGP Preferred Options. Achieving sustainable development is a fundamental objective of the Position Statement.
Diversity	An Equalities Impact Assessment was carried out on the MGP Preferred Options.
Wards Affected	All
Groups Affected	All
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework.
Key Decision	Yes
Urgent Decision	No
One Darlington: Perfectly Placed	The Local Plan reflects the spatial implications of the overarching aims of One Darlington: Perfectly Placed it has particularly close links to the outcomes of delivering successful communities, giving children the best start in life and providing a strong economy.
Efficiency	By reducing uncertainty and clarifying local policy, the proposed statement and other material presented will help development management decision making.

## MAIN REPORT

### Formal Withdrawal of Making and Growing Places DPD

15. In November 2015, Cabinet agreed that work be halted on the Local Plan Making and Growing Places (MGP) development plan document and that a new local plan be prepared instead. Regulations require the Council to formally withdraw MGP as soon as reasonably practicable subject to Cabinet agreement. A notice of withdrawal will be published followed by a six week period for legal challenge before the plan can be formally withdrawn. At this point all material relating to the document, such as the Preferred Options document and consultation responses will be removed from the public domain. The council will still retain this information and where appropriate, use it to inform the preparation of the new Local Plan in due course.
16. Cabinet will be aware that policy development was at an advanced stage on many topics, having been subject to one or more public consultations and one or more sustainability appraisals. In view of this, and the fact that these policies have been

drawn up to be in conformity with the National Planning Policy Framework (NPPF), it is expedient to make as much use as possible of the work already done.

17. Much of the evidence base gathered in developing the MGP remains valid and will be used to inform the new local plan. Cabinet also agreed in November that a further report be received as soon as possible setting out the draft policies that could be agreed as interim planning policies. This report sets out a proposal to achieve this. An Interim Planning Position Statement is therefore proposed to set out the relevant local material considerations that should be used in the application of the National policy on presumption in favour of sustainable development contained in the NPPF. Endorsement of this approach by Place Scrutiny was gained on 11 February 2016 and a document has since been prepared (see Appendix 1) to be reported back to Cabinet via Place Scrutiny.
18. Options are being considered to prepare a new local plan in a significantly quicker time than has previously occurred and it is anticipated this will take in the region of 2 to 3 years. Key time savings identified so far include; the existing evidence base documents being up to date due to the significant work undertaken on the MGP still being relevant, a streamlined consultation process as many issues are now known, greater early engagement with key stakeholders on potential development sites and streamlined published documents. This is reported elsewhere on the Cabinet agenda

### **Existing Development Plan Policies which remain up to date**

19. It is important to remember that Darlington has an adopted development plan with policies that carry significant weight in determining planning applications.
20. The Council's current adopted development plan includes:-
  - (a) The policies of the adopted Darlington Local Development Framework Core Strategy (Adopted May 2011);
  - (b) Policies of the adopted Tees Valley Minerals and Waste Core Strategy and Policies and Sites DPDs that are relevant to Darlington Borough (Adopted September 2011); and
  - (c) Saved policies of the Borough of Darlington Local Plan (Adopted 1997 with alterations 2001).
21. The table at **Appendix 1(Annex i)** sets out all the adopted development plan policies and indicates which can be considered up to date. Of particular note is that the Gladman appeal Inspector's decision<sup>1</sup> means that policies relating to the supply of housing (parts of policies CS10, CS1 and the operation of policy E2) cannot be considered up to date.
22. It is also important for communities preparing neighbourhood development plans that the Council clearly identifies which of its adopted development plan policies it regards as strategic, because national planning policy indicates that neighbourhood

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<sup>1</sup> Appeal Ref: APP/N1350/A/14/2217552, Land off Sadberge Road, Middleton St George, Darlington, County Durham, DL2 1JT

plans must be in general conformity with the strategic policies of the local plan. The policies that are proposed should be regarded as strategic are identified in **Appendix 1 (Annex i)**. The NPPF<sup>2</sup> states that strategic policies should deliver the following:-

- (a) the homes and jobs needed in the area;
- (b) the provision of retail, leisure and other commercial development;
- (c) the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- (d) the provision of health, security, community and cultural infrastructure and other local facilities; and
- (e) climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.

23. Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the Council used the following considerations:-

- (a) whether the policy sets out an overarching direction or objective;
- (b) whether the policy seeks to shape the broad characteristics of development;
- (c) the scale at which the policy is intended to operate;
- (d) whether the policy sets a framework for decisions on how competing priorities should be balanced; and
- (e) whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan whether the Local Plan identifies the policy as being strategic.

24. Other planning policy documents and guidance can also be material considerations and be given some weight in determining planning applications. These are things like the Planning Obligations and Design of New Development Supplementary Planning Documents (SPDs) and design and technical guidance, all of which have previously been agreed or adopted by the Council. A full list of all these other planning policy documents, guidance and evidence that represent material planning considerations are set out in **Appendix 1 (Annex ii)**.

## **Proposed Planning Position Statement in relation to NPPF Presumption in Favour of Sustainable Development**

### **Background**

25. If an application is submitted that cannot be assessed against up to date local policies national policy will take precedent. A key part of this is the presumption in favour of sustainable development, as set out in paragraph 14 of the NPPF. It is therefore proposed that the Interim Planning Position Statement will guide local interpretation of national policy.

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<sup>2</sup> NPPF Paragraph 156-157

26. It is important that this interim position is formally agreed by the Council as it will help make sure it gets the best form of development possible from any schemes that come forward whilst the new Local Plan is being prepared. It is also important to provide potential developers with a useful framework for any proposals they bring forward. As well as guiding planning application decision making, application of the Interim Statement will help provide information on interpretation of national policy and our current evidence base that will inform the development of the forthcoming new Local Plan.
27. The proposed interim planning statement has been finalised, taking into consideration the comments received by the public and others during at least two public consultations that were carried as part of MGP preparation. In many cases, the finalised position also reflects the findings of sustainability appraisal work, and takes into account the most recent changes to national planning policy, guidance and best practice. The statements are also consistent with the up to date evidence base and draft policies that were already considered by Members. These factors suggest that, if agreed, the interim planning position could be afforded some weight in determining planning applications, rather than the full weight that can be afforded to up to date adopted development plan policies, and that the Council should be able to argue successfully at planning appeal that these should be given some weight.
28. A position statement has been prepared (Appendix 1) which sets out the Council's aspirations and ambitions for sustainable economic growth including existing work on key growth zones. The strategic growth zones identified in Core Strategy remain key priorities for the council and still represent the most sustainable locations for significant growth in the borough and we will continue to encourage suitable development in these areas. Each area has a 'Growth Zone Concept Plan' included in the statement to provide context of the key considerations in each zone.
- (a) In addition the document contains position statements on the following matters:-
- (i) Town Centre
  - (ii) Retail
  - (iii) North West Urban Fringe
  - (iv) Eastern Urban Fringe
  - (v) Employment Sites
  - (vi) Housing Sites
  - (vii) Gypsy and Travellers Sites
  - (viii) Heritage Assets
  - (ix) Landscape Character
  - (x) Green Infrastructure
  - (xi) Outdoor Sports
  - (xii) Biodiversity & Geodiversity
  - (xiii) Access and Accessibility
  - (xiv) Parking
  - (xv) Physical Infrastructure
  - (xvi) Sustainable Drainage Systems (SuDS)
  - (xvii) Airport Safety

29. A number of these statements are intended to provide context for the local interpretation of the 'show stopper' considerations that override the presumption in favour of sustainable development as detailed in NPPF footnote 9. For Darlington these are:

- (a) Sites protected under Birds and Habitats Directives and/or Sites of Special Scientific Interest;
- (b) Local Green Space
- (c) Designated Heritage Assets (within the Borough of Darlington this could include Scheduled Monuments, Listed Buildings, Registered Parks & Gardens or Conservation Areas)
- (d) Locations at Risk of Flooding

### **Outline of Interim Planning Position on Housing Proposals**

30. In order to achieve a five year supply the council needs to deliver housing quickly and cannot wait for a comprehensive local plan to be in place otherwise a backlog of under delivery will develop. The council will consider suitably located sites in sustainable locations. In order to assist developers, further guidance is provided within the planning position statement to identify local considerations for applying the NPPF presumption in favour of sustainable development.

### **Identified Sustainable Housing Sites**

31. Owing to the rigorous site assessment process already undertaken it is considered that the sites identified in the MGP Revised Preferred Options<sup>3</sup> are capable of accommodating a sustainable housing development, subject to the submission of an acceptable scheme in relation to other material considerations, be deemed acceptable against national policy criteria. Further detail is provided in Appendix 1 (Section 7).

### **Approach for land not previously identified for housing**

32. The Council recognised the potential for under delivery of housing in the adopted Core Strategy Policy CS10, supporting windfall housing development in appropriate locations at the Urban Fringe and within or adjacent to larger villages if housing delivery fell below projected rates. This part of Policy CS10 continues to be relevant to determining applications. However, in order to continue to plan positively for housing development to meet the needs of our population, applications for planning permission for residential development in all areas of the Borough should be considered in accordance with the presumption in favour of sustainable development set out in the National Planning Policy Framework. This means that planning permission should be granted unless the adverse impact of doing so would significantly outweigh the benefits when assessed against the Framework as a whole, or in specific circumstances where development should be restricted. Saved Local Plan policies and surviving Core Strategy policies (Appendix 1, Annex 1) continue to be relevant to determining site specific issues and whether a development can be considered 'sustainable'.

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<sup>3</sup> Excluding Egglestone View and sites already developed.



33. The interim housing statement sets out an approach to this that is a logical extension of the approach set out in the Core Strategy, tempered by key sustainability priorities.
34. Key sustainability considerations in Darlington are ensuring proposals:-
- (a) Do not unacceptably impact strategic infrastructure without sufficient mitigation;
  - (b) Have access to education facilities that have sufficient capacity or capability for expansion (typically 1km to a Primary School with appropriate safe route);
  - (c) Have access to goods and services (including shops, post office, etc.);
  - (d) Accessibility to public transport and connectivity with existing settlements (such as footpath and cycleway links);
  - (e) Utilise good design that respects the character of the area including protection of open countryside (NPPF Para 55);
  - (f) Does not prejudice the good planning and future delivery of the strategic vision for the borough.
  - (g) Compliance with restrictive policies identified in the NPPF <footnote 9ref>. For Darlington these could be:
    - (i) Sites protected under Birds and Habitats Directives and/or Sites of Special Scientific Interest;
    - (ii) Local Green Space
    - (iii) Designated Heritage Assets (within the Borough of Darlington this could include Scheduled Monuments, Listed Buildings, Registered Parks & Gardens or Conservation Areas)
    - (iv) Locations at Risk of Flooding
35. At both pre-application and application stage these principles will be applied and balanced in an assessment of the sustainability credentials of a proposal being made under the national presumption in favour of sustainable development.

### **Place Scrutiny Committee**

36. Place Scrutiny Committee endorsed this general approach at a meeting held on 11 February 2016<sup>4</sup>. A verbal update will be provided to Cabinet on Scrutiny Committees consideration of the Position Statement due to be held on 31 March 2016.

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<sup>4</sup> Minutes of Place Scrutiny Meeting 11 February 2016