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**DARLINGTON LOCAL DEVELOPMENT FRAMEWORK:  
SAVING OF EXISTING DEVELOPMENT PLAN POLICIES**

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**Responsible Cabinet Member - Councillor David Lyonette,  
Regeneration and Planning Portfolio**

**Responsible Director - John Buxton, Director of Development and Environment**

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**Purpose of Report**

1. To outline the implications of the legislative provisions whereby existing structure and local plan policies will automatically expire in September 2007 unless their life is extended by the Secretary of State for Communities and Local Government.
2. To assess the continuing application of the various planning policy documents which comprise the current statutory development plan for the Borough.
3. To make recommendations, in the light of the above, in respect of extending the life of policies in the Tees Valley Structure Plan, the Borough of Darlington Local Plan, and the minerals and waste local plans inherited from Durham County Council.

**Information and Analysis**

4. Under the development planning provisions of the Planning and Compulsory Purchase Act 2004 regional spatial strategies and local development frameworks will collectively replace structure plans and local plans. All development plan policies in existence when the Act came into force automatically expire on 27 September 2007 unless the Secretary of State makes a direction that extends them beyond this date, the Government expecting at the time that replacement would be largely complete within three years.
5. The Government indicated at the time that requests for extension would be able to be made:
  - (a) in the case of structure plans, by regional planning bodies (in Darlington's case, the North of England assembly), following discussion with the relevant structure plan authority (in Darlington's case the Council, in conjunction with the other Tees Valley authorities/Tees Valley Joint Strategy Committee)
  - (b) in the case of local plans, by local planning authorities (in Darlington's case the Council), as part of a review of their local development schemes (a local development scheme sets out what an authority is proposing to do and when, in respect of preparation and updating of its local development framework).

6. Local Planning Authorities would have to demonstrate to the Secretary of State that saved policies reflect the principles of local development framework, and that it is not feasible or desirable to replace them by September 2007.
7. In August 2006 the Department of Communities and Local Government issued to all local planning authorities a 'protocol' outlining detailed procedures for reviewing and agreeing extension to saved structure plan and local plan policies. Those relating to local plans in particular are considerably more extensive than might be anticipated from the original indication, involving submitting assessments of the case for saving or not saving all policies, not just those which an authority wants be saved. Planning Authorities have to submit requests to their local Government Offices by 1 April 2007.
8. To inform the Council's submission, officers have reviewed the application of the various planning policy documents which comprise the current statutory development plan for the Borough, in conjunction with review and update of the Local Development Scheme (subject of a separate report on this agenda), and assessed the case for saving or not saving each policy. The review and assessment are summarised at **Annex 1**.
9. It is suggested that that it would be prudent for the Council to inform the Secretary of State that:
  - (a) it wishes the life of the majority of the policies and proposals in the Borough Local Plan to extend until replaced by new national, Regional Spatial Strategy or Darlington Local Development Framework policies (currently expected to be complete in 2010); and
  - (b) it is content for the remaining policies in the Borough Local Plan, and those in the old minerals and waste local plans, to expire.
10. It is also suggested that the Council endorses the recommendation of the Tees Valley Joint Strategy Committee to the North of England Assembly that the life of a small number of Tees Valley Structure Plan policies be extended, until publication of View: Shaping the North-East, the new regional spatial strategy.
11. As circumstances may change, including receipt of further Government guidance, in the period before the deadline for submission, it is suggested that authorisation be given for the Director of Development and Environment to make any necessary amendments, in consultation with the Cabinet Member responsible for the Planning and Regeneration Portfolio. A further report would be submitted to a future meeting of Cabinet should such amendments be substantial, or should the Secretary of State's response require or justify further consideration. As change to Council policy is involved the final recommendation of Cabinet will need to be forwarded for consideration by Council.

## **Outcome of Consultation**

12. No consultation was required in the production of this report.

## Legal Implications

13. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

## Section 17 of the Crime and Disorder Act 1998

14. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## Council Policy Framework

15. The issues contained within this report represent change to Council policy or the Council's policy framework, and need to be referred to Council.

## Decision Deadline

16. For the purpose of the 'call-in' procedure a decision is required in time to enable submission to Government Office for the North-East by the deadline of 1 April 2007.

## Recommendation

17. It is recommended that:-
  - (a) the Council informs the Secretary of State for Communities and Local Government that:
    - (i) it wishes the life of the policies and proposals in the Borough of Darlington Local Plan, with the exception of those identified in **Appendix 1 of the Annex** to this report, to extend until they are replaced by national planning policy, Regional Spatial Strategy, or documents in the Darlington Local Development Framework; and
    - (ii) it is content for the policies in the Borough of Darlington Local Plan, identified in **Appendix 1 of the Annex**, and those in the County Durham Waste Disposal Local Plan and the Magnesian Limestone Escarpment (Minerals and Landscape Restoration) Local Plan, to expire.
  - (b) the Council endorses the request of the Tees Valley Joint Strategy Committee that the North of England Assembly asks the Secretary of State for Communities and Local Government to extend the life of the Tees Valley Structure Plan policies identified in **Appendix 2 of the Annex** to this report, until she approves View: Shaping the North-East.

- (c) authorisation be given for the Director of Development and Environment to make amendments prior to submission of the Council's request, in consultation with the Cabinet Member responsible for the Planning and Regeneration portfolio, if required in response to changed circumstances.
- (d) a further report be submitted to Cabinet should such amendments be substantial, or should the Secretary of State's response require further consideration, before forwarding a recommendation to Council.

## **Reasons**

18. The recommendations are supported by the following reasons:-

- (a) There is a high risk of significant gaps in planning policy provision arising unless a large number of existing development plan policies are saved until they can be adequately replaced through the local development framework; and
- (b) issues surrounding the replacement of existing policies should be subject to consultation and independent scrutiny as part of the preparation of replacement planning policy documents; and
- (c) the planning policy framework for the Borough should facilitate navigation between national, regional, saved and emerging planning policy documents; and
- (d) consideration of, and decisions on, the matters covered is necessary at this stage in order for submission to be made to the Secretary of Secretary of State by her deadline of 1 April 2007.

**John Buxton**  
**Director of Development and Environment**

## **Background Papers**

Letter from Department of Communities and Local Government to all Councils in England dated 11 August 2006.

Letter from Government Offices to all Councils in England dated 6 December 2006.

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