

Report to the Council

Committee: Cabinet

Date: 16 December 2008

Portfolio Holder: Councillor Mrs A Grigg

Item: 12

1. LOCAL PLAN ALTERATIONS POLICIES

Recommending:

(1) That, subject to the views of the Cabinet to be reported orally by the Planning and Economic Development Portfolio Holder, the schedules of Alterations to Local Plan policies and the reasons for either extending the “saved” period for those policies beyond July 2009 or deleting the policies as set out in the attached Appendix be approved; and

(2) That the Director of Planning and Economic Development be authorised to amend the attached schedules to reflect changes or additions agreed by the Cabinet and/or Council and to produce a final version of the schedules.

Background

1. The Planning and Compulsory Purchase Act 2004 provides for the saving of policies in plans adopted after the commencement of that Act ie 28 September 2004. By virtue of that Act the Local Plan Alterations policies which were adopted in July 2006 are automatically “saved” for a period of three years. As a result the policies are due to expire in July 2009 unless an application is made for a direction from the Secretary of State that the policies should be saved beyond this time. An application to the Secretary of State has to be submitted to Go-East at least six months before the expiration of the three-year period.
2. As this is a matter concerning adopted Council policy it is necessary for the matter to be considered by the Council at its meeting on 16 December 2008 in order to meet the deadline for submitting an application to Go-East by January 2009.
3. The matter is due to be considered by the Cabinet at its meeting on 15 December 2008, the day before the Council meeting, and the views of the Cabinet will be reported orally to the Council by the Planning and Economic Development Portfolio Holder.

Saving or deletion of policies

4. Section 38 of the 2004 Act defines the Development Plan as the Regional Spatial Strategy (ie the East of England Plan) and the Development Plan documents (DPDs) which have been adopted or approved. In determining planning applications decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

5. Provision was made in the Act for Local Plan policies to be “saved” to allow for what was considered to be sufficient time for the old-style plans to be replaced by DPDs. In the event the new system has proved far more complex and time-consuming to implement and the three-year period has proved to be inadequate.
6. The East of England Plan was published in May 2008 and although it is currently subject to judicial review, it is now in use as part of the Development Plan. It is a strategic document dealing with six counties and the policies are intended to deal primarily with strategic issues. Only six policies of the Essex and Southend Structure Plan remain extant and of these only three had marginal connections with this District. It is therefore most important that Local Plan policies can be saved until they are replaced by relevant DPDs.
7. PPS12 (Local Spatial Planning: June 2008) advises that the Government will take the following issues into account in considering requests for extending the “saved” period for Local Plan policies:
 - (a) where appropriate, there is a clear central strategy;
 - (b) policies should have regard to any sustainable community strategy for the area;
 - (c) policies should be in general conformity with the Regional Spatial Strategy;
 - (d) policies are in conformity with the core strategy Development Plan document – where one has been adopted;
 - (e) where significant change in the development of land or conservation of an area is envisaged, there are effective policies for these parts of the district; and
 - (f) policies are necessary and do not repeat national or regional policy.
8. In particular, the Government will have regard to:
 - (a) policies that support the delivery of housing, including up-to-date affordable housing needs, and policies relating to the infrastructure necessary to support housing;
 - (b) policies on the detailed boundaries of the Green Belt;
 - (c) policies that support economic development and regeneration, including ones for retailing and town centres;
 - (d) policies for waste management, including unimplemented site allocation; and
 - (e) policies that promote renewable energy, reduce impact on climate change or safeguard water resources.
- ... 9. The schedules set out in the attached Appendix address the issues listed in the two previous paragraphs.
10. Consultations with Development Control staff have taken place concerning the saving of the Alterations policies. Three policies are being proposed for deletion – GB14A (Residential extensions in the Green Belt); H1A (Housing Provision); and ST3 (Transport Assessments). Difficulties have been experienced with policy

GB14A as in a number of instances members have considered that the limit of 40%, up to a maximum of 50 square metres is unduly restrictive. Indeed the permitted development regulations introduced on 1 October 2008 enable householders to build 40% or 50 square metre extensions as permitted development, thus rendering the policy redundant. Policy H1A deals with the Structure Plan housing target 1996 to 2011, but this is now out of date with the publication of the East of England Plan which sets new targets up to 2021. ST3 requires the submission of transport assessments for major developments, but these can now be asked for in any event as part of the national requirement for the validation of planning applications introduced with the 1APP forms earlier this year."

11. Policies from the 1998 Local Plan, which were not superseded or amended by the Alterations, have already been through the "saving process". This is because the three-year period applied from 28 October 2004 to plans which were adopted before that date. Most of the policies have been saved and a document combining the saved Local Plan policies and the Alterations policies was published in February 2008.

Implications of not meeting the timescale for saving/deleting policies

12. It is extremely important that the timetable for applying for extension of the saved period is met. Due to the delay in adopting the East of England Plan, and the need to work with Harlow and East Herts District Councils, it is unlikely that the Core Strategy of the Local Development Framework will be adopted before 2011. This document will not include detailed development control (or management) policies and as a result a separate DPD will need to be prepared once the Core Strategy is adopted. The earliest such a document could be adopted would be late 2012 and it is essential that the Alterations policies are retained for the period beyond 2009 until they can be replaced.
13. Failing to apply for an extension would lead to numerous challenges to decisions on planning applications, with the possibility of significant costs dealing with appeals.
14. In order to meet the timescale this matter is being considered by the Cabinet on 15 December 2008 and the views of the Cabinet will be reported orally to the Council by the Planning and Economic Development Portfolio Holder. To enable the application to be made immediately after the Council meeting we are proposing that the Director of Planning and Economic Development be authorised to amend the attached schedules to reflect changes or additions agreed by the Cabinet and/or the Council and to produce a final version of the schedules for submission to Go-East.
15. We recommend as set out at the commencement of this report.