

Report to the Cabinet

Report reference: C-070-2008/09.

Date of meeting: 15 December 2008



**Epping Forest
District Council**

Portfolio: Planning and Economic Development.

Subject: Saving the Local Plan Alterations Policies.

Responsible Officer: Ian White (01992 564066).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) That the schedules of alterations to Local Plan policies and the reasons for either extending the “saved” period for these policies beyond July 2009 or for deleting the policies as set out in Appendix 1 to this report be recommended to the Council for approval; and

(2) That any changes or additions to the schedules suggested by the Cabinet or the Council be incorporated in the final version of the application, and the Director of Planning & Economic Development be authorised to make any consequential text amendments.

Executive Summary:

There is a three-year time limit on the Local Plan Alterations policies from the date of their adoption (July 2006). This can be extended by a Direction from the Secretary of State, but such a Direction has to be applied for with reasons given for saving individual policies. The application should be with GO-East six months before the expiry date – i.e. by January 2009.

It is unlikely that new policies under the Local Development Framework can be fully adopted before 2012 at the earliest, so it is essential that successful Alterations policies be saved after July 2009 until they can be replaced, to enable the development control process to continue to operate effectively.

Reasons for Proposed Decision:

As this is a matter concerning adopted Council policy, the item should be considered by the Council. In order to meet the deadline for submitting an application to GO-East by January 2009, the report should be submitted to the next Council meeting – i.e. 16 December.

Other Options for Action

There are no other reasonable options at this time.

Report:

1. The Planning and Compulsory Purchase Act 2004 provides for the saving of policies in plans adopted after the commencement of the Act (28 September 2004). The Local Plan Alterations policies were adopted in July 2006, and by virtue of the Act, these policies are automatically “saved” for 3 years from the date of adoption. Theoretically, therefore, they 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. Such an application should be submitted to GO-East 6 months before the expiration of the relevant 3-year period (ie by January 2009).

2. 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 plan unless material considerations indicate otherwise.” (Section 38(6)). Provision was made for local plan policies to be “saved” to allow 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, so the three year period has proved to be wholly inadequate.

3. The East of England Plan was published in May 2008. While 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 6 counties, and inevitably the policies are intended to deal primarily with strategic issues – they are therefore often not directly applicable to local circumstances. Only six policies of the Essex and Southend Structure Plan remain extant, and of these only three have marginal connections with the District. This makes it all the more important that the Alterations policies can be saved until they can be replaced by relevant DPDs.

4. PPS12 (Local Spatial Planning: June 2008) advises that the Government will take the following into account in considering extensions to the saving of local plan policies:

- Where appropriate, there is a clear central strategy;
- Policies should have regard to any sustainable community strategy for the area;
- Policies should be in general conformity with the regional spatial strategy;
- Policies are in conformity with the core strategy development plan document – where one has been adopted;
- 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;
- Policies are necessary and do not repeat national or regional policy.

5. The Government will have particular regard to:

- Policies that support the delivery of housing, including up-to-date affordable housing needs, and policies relating to the infrastructure necessary to support housing;
- Policies on the detailed boundaries of the Green Belt;
- Policies that support economic development and regeneration, including ones for retailing and town centres;
- Policies for waste management, including unimplemented site allocations; and
- Policies that promote renewable energy, reduce impact on climate change or safeguard water resources

6. The schedules of Alterations policies, which are an Appendix to this report, address the issues listed in paragraphs 2 and 3 although some of these obviously have little relevance for the District.

7. It is extremely important that the timetable for application for extension of the saved period is met. Because of the delay in adopting the East of England Plan, and the need to work in co-ordination with Harlow and East Herts Councils, officers do not now expect the Core Strategy of the Local Development Framework to be adopted before 2011. This document will not include detailed development control (or management) policies, so a separate DPD will need to be prepared once the Core Strategy is adopted. The absolute earliest such a document could be adopted would be late 2012. It is obviously essential that the Alterations policies are retained for the period beyond July 2009 until they can be replaced.

8. 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. Members have had difficulties with Policy GB14A because they have felt in a number of instances that the limit of 40%, up to a maximum of 50 sq m was unduly restrictive. The permitted development regulations introduced on 1 October mean that householders will be able to build 40% or 50 sq m extensions as permitted development, rendering this policy redundant. 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.

9. 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 September 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.

Resource Implications:

Submitting the application to extend the saved period requires no more resources than those already used to prepare this report and the schedules. Not to apply for an extension would lead to numerous challenges to decisions on planning applications, with probably significant costs dealing with appeals and Hearings or Inquiries.

Legal and Governance Implications:

Planning and Compulsory Purchase Act 2004; PPS12: Local Spatial Planning (June 2008)

Safer, Cleaner and Greener Implications:

The Alterations policies include several dealing with sustainable development objectives, the quality of the rural and built environment, energy conservation, renewable energy, sustainable building and urban development patterns, and sustainable transport and economic development.

Consultation Undertaken:

Internal only – with development control staff.

Background Papers:

DCLG letter of 11 August 2006 which includes a protocol setting out the procedures for applying to the Secretary of State to request extension to policies beyond the three year period.

Impact Assessments:

Not to apply to save the Alterations policies would seriously compromise and restrict the Council’s ability to offer an efficient development control service.

No issues are raised under the Council’s Equalities policies.