



REPORT TO THE EXECUTIVE

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REPORT OF THE TRANSPORTATION, DESIGN AND PLANNING DIRECTOR TO THE MEETING OF THE EXECUTIVE TO BE HELD ON 28TH May 2002

SUBJECT:

The Replacement Unitary Development Plan Revised Deposit

SUMMARY STATEMENT:

The purpose of this report is to bring before the Executive the main issues for the Replacement Unitary Development Plan raised by the "first deposit" consultation, the changes proposed to the Plan following consideration of the representations and other matters which have arisen since the replacement Plan was drafted. Following the approval of this report there will be a statutory six weeks consultation period on the "revised deposit" Plan and a Public Inquiry will be held into unresolved objections.

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Overview and Scrutiny Area:
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The Replacement Unitary Development Plan Revised Deposit

EXECUTIVE SUMMARY

- This report sets out the progress made on the replacement Unitary Development Plan (UDP) since the Executive Committee considered the matter in March 2001. It explains the extent and breadth of representations made at the “first deposit” consultation and other matters which have led to proposals to change the UDP. The Executive is recommended to accept these changes and authorise the “revised deposit” consultation and a Public Inquiry into unresolved objections.
- The “first deposit” consultation attracted over 10000 comments from 4700 individuals and organisations, 7500 of which have been accepted as ‘duly made’ objections to the Plan.
- The summary of representations has been categorised to identify each individual issue to be considered; this has resulted in over 900 separate issues. At the Inquiry some of these issues will be able to be brought together for the presentation of evidence. There will also be a reduction in the number of issues as a result of negotiations resolving objections.
- All accepted objections made in the six weeks period have been considered to determine if a revision to the Plan will either completely remove or reduce the extent of the objection and improve the quality of the Plan. Where these tests have been met changes have been proposed.
- Where practical, significant changes in circumstances since the first deposit have been taken into account in drafting the revised deposit.
- Planning Regulations set down the form and content of the documentation for the revised deposit. Appendix C is the full text and accompanying maps as described in the regulations.
- Appendix D identifies the policy, site or text that has been changed, why the change has been made and the origins of the change.
- Appendix E is a quick guide to the substantive changes to help the reader get an overall impression of how the plan has changed.
- Having an up to date Development Plan has been an important national Best Value performance indicator for Planning and the Council is meeting the Government’s expectations. This will be an important consideration in the forthcoming Comprehensive Performance Assessment.

The Replacement Unitary Development Plan Revised Deposit

1.0 SUMMARY

- 1.1 This report sets out the progress made on the replacement Unitary Development Plan (UDP) since the Executive Committee considered the matter in March 2001. It explains the extent and breadth of representations made at the “first deposit” consultation and other matters which have led to proposals to change the UDP. Appendices to the report set out the proposed changes and the reasons for them. The Executive is recommended to accept these changes and authorise the “revised deposit” consultation and an inquiry into unresolved objections.
- 1.2 The first deposit consultation process provided much valuable information which has been used to revise the Plan. These revisions have improved the clarity of parts of the Plan and allowed revisions to proposals in light of information that was not available at the time when it was original drafted. It is now vital to make further progress on the Plan to ensure its prompt completion. This second round of consultation will confirm the degree to which the Plan has been improved. Once completed it is important to progress quickly to Inquiry so that those people who remain discontented with parts of the Plan can put their concerns to the independent Inspector and see a resolution within a reasonable time period. The Council also will then have an up to date Plan upon which to make planning decisions and to guide the provision of infrastructure and investment.

2.0 BACKGROUND

2.1 Replacing the Unitary Development Plan

The Executive Committee considered a report on the replacement UDP on 27th March 2001 (document DU and minute 211). In that report the reasons for replacing the current adopted Plan were set out as were the main changes to be made. Following member approval a first deposit version of the replacement UDP was placed on deposit for public comment between 29th June and 8th August 2001.

2.2 The output from the Consultation.

The “first deposit” consultation attracted over 10000 comments from 4700 individuals and organisations 7500 of which have been classified as ‘duly made’ objections to the Plan. (This period was extended by one day to 8 August because of confusion in the press about the deadline for representations. A number of late representations were received after this

deadline. Each one was examined and where appropriate legal advice was sought. In all cases objectors had not offered compelling reasons for their late representation and none have been accepted). In addition three Petitions were received and Appendix A provides more detail on these.

- 2.3 A report to the Environment Overview and Scrutiny Committee on 29th November 2001 (document X minute 54) provides further information on how the consultation was conducted at first deposit. That report provided a useful vehicle to examine the strengths and weaknesses of the consultation process and involve Members in discussions on how to improve the process.
- 2.4 Since the completion of the first round of consultation, staff have summarised the representations and identified the issues arising for each individual case. This was made public on 7th December and all elected members were offered a briefing prior to publication. The summary of representations reports can be viewed in the main libraries (Central Library, Shipley, Bingley, Keighley and Ilkley) and the Councils Planning Offices. At the same time the full record of representations received (some forty lever arch files) was made available for public inspection at the Council's Jacobs Well Office. To ensure the public were made aware of this information the local press were briefed and provided extensive coverage at that time. In addition the Area Co-ordinators were briefed and they included the information in the Spring round of Neighbourhood Fora. The publication of this information allows anyone to find out exactly what comments have been made on any part of the Plan. Further information on the strategic issues raised in the consultation at first deposit can be found in appendix B.
- 2.5 The nature of the representations.
- The summary of representations has been categorised to identify each individual issue to be considered; this has resulted in over 900 separate issues. At the Inquiry some of these issues will be able to be brought together for the presentation of evidence. There will also be a reduction in the number of issues as a result of negotiations resolving objections.
- 2.6 Government advice to Planning Authorities recommends that time spent on negotiations with objectors will help reduce the scale of the inquiry and improve the quality of the replacement UDP. Where the suggestions are practical the Plan should be changed. There are also instances where objectors may have either misunderstood the Plan or the process of Development Plan making. Where this is the case advice has been offered to the objector in an attempt to resolve the issue before the inquiry.

- 2.7 All accepted objections made in the six weeks period have been considered to determine if a revision to the Plan will either completely remove or reduce the extent of the objection and improve the quality of the Plan. Where these tests have been met changes have been proposed.
- 2.8 There are changes in local circumstances which have led to revisions: for example, revisions to the text explaining the strategy for the city centre in light of the experience in the Broadway Compulsory Purchase Order Inquiry.
- 2.9 Many of the representations received are objections relating to green belt, open land and housing development proposals, as should be expected. Owing to the conflicting interests involved it has not proved possible for these objections to be withdrawn through negotiations at this stage. It is expected that several hundred objections could be withdrawn following approval of the proposed changes to the allocation and status of particular sites. This may result in counter objections arising from the revised deposit consultation such that the issue has been progress to the Inquiry for resolution.
- 2.10 The Government Office for Yorkshire and Humber has made well over 100 objections to the Plan; almost all of these have been resolved through the changes proposed. However, despite Ministers exhorting local government to speed up the Development Plan making process, the Government Office has not always been able to respond quickly to requests for clarification and advice. In particular, DEFRA were asked in early December for more information to help the Plan address rural recovery. Regrettably this request remains unanswered and the proposed changes have had to address what is understood of these concerns as far as possible.
- 2.11 Changes in circumstances since the replacement Plan was drafted.

The circumstances in which the Plan is being produced inevitably are subject to change. These changes range from the publication by Government of new national Planning guidance through to the circumstances of an individual site on the Plan. Where it is practical these changes have been taken account of in the redrafting of the plan. The significant changes in circumstances since the first deposit have been

- The publication of final Regional Planning Guidance (RPG12) in October 2001 has helped bring greater clarity to the strategy of the Plan especially regarding the Principal Policies, housing and transport. In the case of housing provision, at the time of the first deposit the Secretary of State was consulting on a specific upward change to the Bradford district housing requirement within the West Yorkshire area.

This would have resulted in an increase of 160 homes per year. The Council objected to this increase. The Secretary of State accepted this which has led to a provision figure in the final RPG of 1390 homes per year (compared with the 1400 figure used in the first deposit replacement UDP) This matter was considered by the Executive Committee on 2 May 2001 (document E minute 8)

- Further progress is being made in the District's Community Strategy and this is reflected in the introduction to the Plan. The Community Strategy as it develops, as advised in Government guidance, will include aspects of the UDP to provide the geographic (or spatial) dimension.
- Since the drafting of the first deposit the Government has issued final versions of PPG13 Transport and PPG25 Flood Risk. Changes have been made to the policy framework text to reflect the new guidance.

2.12 Arrangements for the "revised deposit".

The Town & Country Planning Act 1990 Regulations as revised in 1999 prescribes the form and content of the documentation for the revised deposit. These state that the revision ".....shall comprise the full text of the plan or proposals as revised indicating clearly any new text included or any text deleted as part of the revision" and maps to show the revisions to the proposals map. (It is not necessary to reprint the Proposals Maps at this time avoiding a cost of around £30,000 in production costs).

2.12 Appendix C is the full text and accompanying maps as described in the regulations. The following conventions have been adopted to identify the changes. (This appendix is on view through the Councils Web Site but has had limited circulation on paper).

- All changes to text are shown in bold
- Text to be deleted is enclosed in square brackets and begins with the word delete i.e. [delete:.....]
- Additional text is shown in italics
- Where changes lead to a change on the Proposals Map a separate A4 plan has been produced for each change with a title and key indicating what the change is for example a revision to the extent of a housing site. These maps can be found at the end of each proposals report

2.13 To help the reader the Regulations require a list of the revisions made. This is reproduced at appendix D and is arranged in 3 columns. The first identifies the policy, site or text which has been changed. The second briefly explains why the change has been made and the third gives one or more of six origins of the change and these are listed below.

- 1 objection
- 2 national/regional policy change
- 3 local policy change
- 4 factual
- 5 drafting error
- 6 change of circumstance (planning approval etc)

This will help the reader identify whether an aspect of the Plan they are concerned about has been changed and guide them to the relevant section of the Plan text.

2.14 A further appendix E has been produced which describes in narrative form the main changes to each part of the Plan. This is simply intended to be a quick guide to the substantive changes to help the reader get an overall impression of how the plan has changed.

2.15 The Executive is recommended to approve the changes proposed to the first deposit for the purposes of a second six week “revised” deposit stage to take place starting later in June. The regulations specify representations can only be made to the changes proposed at this stage in the statutory process. Therefore it is not proposed to undertake active consultation on the scale of the first deposit. There will be another edition of Planning News and it is intended that this should be distributed by the Post Office to all homes in the District. The revised Plan and the schedule of changes will be available for inspection in all libraries and Planning Offices. The statutory deposit points will be the same location as used in the first deposit – the Planning Offices at Jacobs Well, Shipley, Keighley and Ilkley Town Halls and the libraries in the city centre and the towns of Shipley, Bingley, Keighley and Ilkley.

2.16 Everyone who made a representation in the first deposit period will receive a letter advising when the revised deposit will take place. This will ensure those who have commented at the first deposit will be aware of the next stage. There will be detailed briefings for the Press that carried extensive coverage of the first deposit stage. As there are only a small number of site changes it is practical to post Site Notices for those sites where a completely different allocation is proposed or an allocation is completely withdrawn. Once again all aspects of publicity will be monitored through a feedback section on the representations form.

2.17 The Public Inquiry

Once the revised deposit process is completed and the representations received have been analysed, a public local inquiry can be opened to deal with unresolved objections. The Inquiry will be conducted by Inspectors appointed by the Planning Inspectorate, an agency of DTLR. The

Inspectors are paid by the Council but the Council does not have any involvement in their appointment. As was the case with the previous UDP Inquiry held in 1995/6 a team of Inspectors has been requested to enable quick progress and the earliest practical date for completion of this stage. This approach of which Bradford was an early pioneer is now recognised as good practice by the Inspectorate.

- 2.18 The Council will appoint a Programme Officer to assist the Inspectors who acts independently of the officer team, to oversee the dialogue between the Council and the Inspectors and to plan the Inquiry programme in consultation with objectors and the Council. A venue for the Inquiry is currently under consideration. Feedback on the venue from the people involved in the Inquiry into the original adopted UDP held at Victoria Hall in Saltaire was very favourable and this venue is being actively considered as the site for this Inquiry. The Inquiry is expected to open in late November this year.
- 2.19 The Inquiry is conducted in several ways depending on the type of objector and objection. Strategic issues, such as the overall amount of housing, are dealt with through inquisitorial round table sessions. Individual site or policy issues may be dealt with by formal sessions with legal advocates or informal hearings led by the Inspector or by simply making written submissions. All inquiry sessions are open to the public.

3.0 OTHER CONSIDERATIONS

- 3.1 None

4.0 OPTIONS APPRAISAL

- 4.1 The Executive may consider the principle of continuing the statutory processes of this Plan. The prime reasons for commencing the review set out in the report to the Executive Committee on 27th March 2001 remain unchanged. The Committee should be aware that the Minister for Planning - Lord Falconer - has said that it is vital to keep Development Plans up to date and the proposed changes consulted upon in the recent Planning Green Paper should not be used as an excuse to defer or abandon a Plan review.
- 4.2 The speed of the process is important. The first deposit Plan in accordance with Government advice included a target date of 2004 for adoption of the Plan. This remains an achievable target provided progress continues at the current pace. It is important to meet this target as the full weight of the Plan in decision making is only achieved at

adoption. Having an up to date Development Plan has been an important national Best Value performance indicator for Planning and the Council is meeting the Government's expectations. This will be an important consideration in the forthcoming Comprehensive Performance Assessment.

- 4.3 Having considered the principle of continuing the statutory process matters of more detail relating to the reasons for changes to the plan should now be considered. Any changes being considered need to be assessed to ensure they do not adversely affect the consistency of the Plan and its strategy. All the changes proposed in appendix C meet this test
- 4.4 Should the Executive choose to propose other changes at the meeting, these need to be supported by sound planning arguments. Furthermore should the Executive make significant further changes which impact on the plan strategy, this may require the Council to restart the statutory process because what is proposed is effectively a new plan, not a revision.

5.0 FINANCIAL AND RESOURCE APPRAISAL

- 5.1 Parts of the plan-making process will incur direct costs. These are primarily the hire of Planning Inspectors to conduct the public inquiry into unresolved objections to the Council's proposals and for the Council's external specialist legal advice and representation. The costs of documentation could be substantial but can be recouped to an extent through sale. It is not possible to quantify the scale and complexity of the public inquiry until after consultation on the second deposit draft plan. As an indication the adopted Plan incurred costs of the order of £500,000 for holding the public inquiry and legal representation. The Executive Committee in their consideration of the report of the 27th March 2001 required that these costs be a commitment to be borne from the Department's budget.

6.0 LEGAL APPRAISAL

- 6.1 Specialist legal advice and representation is required to support the preparation of the replacement Plan, to advise upon representations received and to represent the Council as appropriate at the expected public inquiry. Accordingly, Counsel has been retained.

7.0 OTHER IMPLICATIONS

7.1 Equal rights.

The process for preparing development plans is set out in Government Planning regulations. This provides that third parties should be consulted upon the draft policies and proposals, to make representations, to have those representations considered and to have unresolved objections considered by an independent Planning Inspector. This independent consideration can be by written representation, informal hearing or in a formal Public Inquiry session

7.2 Equal rights is relevant also to the policies and proposals themselves.

Policies for community facilities have been reviewed to consider whether it is possible or necessary to reflect further the composition of the local communities and their needs. Accessibility and mobility, especially for disabled people, pedestrians and those without access to private transport has been addressed. This also can be a gender issue. In attempting to give greater planning recognition to regeneration strategies that emerge during the life of the plan, it is recognised that such programmes often have a strong purpose in improving a community's participation in the future development of their locality.

7.3 Those parties supporting specific policies or allocations in the Council's replacement UDP in the English planning system have a lesser role than their counterparts in Scotland who may be heard in their own right.

At the previous public inquiry some people considered that they had been prevented from informing the Inspector of additional local information through their role as supporters. The concern over this experience, which is still felt strongly in some places, will be expressed to the Planning Inspectorate when arrangements for the public inquiry are being made. The Inspector appointed to hold the Inquiry will explain the role of supporters at the pre inquiry meeting. The Council may as appropriate call a supporter as a witness when presenting its case at the inquiry.

7.4 Sustainability implications

All substantive changes to policies and proposals in the revised deposit Plan are being assessed against a range of indicators. This appraisal uses the same methodology as the first deposit. The indicators attempt to explain the impact of the policy or allocation for sustainability. This information is then used to judge the desirability of retaining, amending or not proceeding with the item. The findings of the testing of revisions will be incorporated into a second report on the Sustainability of the Plan that will be published as supporting documentation at revised deposit stage.

7.5 Community Safety

The current Plan contains policy regarding the security of development. The effectiveness of this has been appraised and policy has been carried forward into the replacement Plan

7.6 Human Rights Act

The process of formulating and adopting the policies in the replacement Plan is likely to have implications that affect individuals rights and possessions. Due account must be taken of the need to adopt procedures which take account of the right of individuals to make representations in respect of the said policies, and to adopt policies which as far as possible, enable action in the public interest to be balanced against individual rights.

7.7 Trade Union implications

None apparent.

8.0 NOT FOR PUBLICATION ITEMS

8.1 None

9.0 RECOMMENDATIONS

That the Executive resolves to:

- 1) Approve the content of the revised deposit Plan as set out in appendix C and the accompanying schedule of changes appendix D for statutory consultation.
- 2) Approve the consultation process proposed in this report
- 3) That authority be delegated to the Transportation Design and Planning Director to carry out any minor amendments necessary to complete the revised deposit Plan prior to the statutory consultation period.

10.0 APPENDICES

- A) Petitions received
- B) Strategic issues raised in first deposit
- C) Proposed changes to the Plan

- D) Schedule of proposed changes
- E) Description of main changes to the Plan

11.0 BACKGROUND DOCUMENTS

Town & Country Planning Act Development Plan Regulations 1999
Planning Policy Guidance Note 12: Development Plans
RPG 12 Regional Planning Guidance for Yorkshire and the
Humber to 2016
Draft summaries of representations made
Report to Environment Overview and Scrutiny Committee on the
consultation process