

Luton & South Bedfordshire Joint Committee

23 July 2010

Agenda Item No.8

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| AUTHOR | Joint Officers (JTU): Lachlan Robertson, Kevin Owen and Maria Garcia |
| SUBJECT | New legislation, guidance and political context |
| PURPOSES | Inform the Joint Committee of the latest legislation directly affecting plan policy making in Luton and South Bedfordshire. |
| RECOMMENDATIONS | 1. That the Joint Committee considers the implications of new legislation on the progression of the Luton and South Bedfordshire Local Development Framework. 2. That decisions on the type and timing of Local Development Framework documents and evidence base are informed by this update. |
| REASON FOR RECOMMENDATIONS | To enable the JTU to make informed decisions and respond to national and regional issues at local level based on the latest available political and planning legislation context. |

REPORT

1. INTRODUCTION

- 1.1 This report outlines the key changes in legislation, Government guidance and political context since the last Joint Committee meeting, in order that decisions can be based on the most up to date information.

2. OPEN SOURCE PLANNING, THE COALITION MANIFESTO AND THE ABOLITION OF REGIONAL SPATIAL STRATEGIES

- 2.1 The new Coalition Government have begun to implement many of the items relating to Planning from their respective manifestos. There are a number of sources of information on the changes that will or may have an impact on the content of the L&SB Local Development Framework:-

- The Conservative pre-election Green Paper 14 “Open Source Planning” - March 2010.
- The Coalition – Our Programme for Government - May 2010.
- The Queen’s Speech 2010.
- Secretary of State’s Letters to Councils 6 July 2010 and 27 May 2010 on the abolition of Regional Spatial Strategies.

2.2 From these sources, the Joint Committee can make the following assumptions when considering its decisions:

2.3 The current Local Development Framework (LDF) system for policy making remains in place, though the guidance that underpins it is changing. There is provision within the forthcoming Bills of Parliament for radical changes to be made to that system, but it will be some time before these can come into effect. It would be reasonable to assume that no changes to the requirements of the LDF system will be introduced for at least 18 months. In the meantime, there is a window of opportunity to progress a Joint Core Strategy.

2.4 The emphasis on “localism” means that there will be a return of local decision making powers by some means or other. Little of the detail of how this will occur is known and further announcements are awaited. It is, however, likely that some arrangements for joint working in joint planning areas, such as this area, will be included in any new planning system.

2.5 In a Parliamentary Written Statement on 6 July 2010 the Secretary of State revoked Regional Strategies with immediate effect. In the longer term the legal basis for Regional Strategies will be abolished through the “Localism Bill” that will be introduced in the current Parliamentary session.

2.6 The Statement included additional information on how the LDFs should be progressed in the meantime. The Secretary of State affirms that they are to be continued as before and that a swift review of their content should be undertaken in the light of the policy statements that he has made.

3. COMMUNITY INFRASTRUCTURE LEVY (CIL)

3.1 The programme for government (i.e. set out in ‘The Coalition: our programme for government’) recently published by the Conservative-Liberal Democratic Coalition is silent on the future of the Community Infrastructure Levy - CIL (reported to Joint Committee on 23 October 2009). The Conservatives had previously promised to scrap CIL and replace it with another local tariff. CIL was only introduced on 6 April 2010 by the previous Government, and was intended to eventually replace tariff based Section 106 obligations.

3.2 An associated point is that the previous Government issued a consultation document entitled “New Policy Document for Planning Obligations”, with consultation from 25 March to 21 June 2010. The point of this was that the introduction of CIL was intended to place new statutory restrictions upon the use of planning obligations – in particular to put the tests of an Obligation on a statutory basis; ensure that CIL and Obligations did not overlap; and limit pooled contributions towards infrastructure which may be funded by CIL.

3.3 New planning legislation is programmed for the Autumn, and a statement of intent is expected later in the Summer, which may provide further guidance on thoughts regarding CIL or a possible replacement.

4. PLANNING POLICY STATEMENT 4: PLANNING FOR SUSTAINABLE ECONOMIC GROWTH (PPS4), 2009

4.1 On 29 December 2009 the Department for Communities and Local Government (DCLG) published comprehensive advice on planning policies for economic development which incorporates and replaces:-

- PPG4: Industrial and Commercial Development and Small Firms;
- PPG5: Simplified Planning Zones;
- PPS6: Planning for Town Centres;
- PPS7: Sustainable Development in Rural Areas (relating to economic development policies only); and
- PPG13: Transport (Annex D).

4.2 The PPS defines economic development to include traditional B class employment uses together with a wider economy prospectus to include retail and other town centre uses including leisure, entertainment, offices, arts and cultural pursuits.

4.3 The Government's overall objective is to foster sustainable economic growth through a 'town centres first' approach, including improving vitality and viability within town centres and other local centres which should be identified within development plans and supported by policies to deliver such sustainable objectives. PPS4 is therefore, structured around 19 policies on key planning processes - using evidence to plan positively (Policy EC1); plan making (Policies EC2 – EC8); monitoring (Policy EC9); and development management (Policies EC10 – EC19).

4.4 More significantly, the 'needs' test is no longer required to determine planning applications. Applications will now be determined on the basis of compliance with the sequential approach and a more comprehensive 'impact' test.

4.5 To help implement policy supporting guidance was also published: 'Town Centre Practice Guidance on Need, Impact and the Sequential Approach'. PPS4 is silent on the Competition Commission's recommendation to apply a competition test for larger grocery stores and the Government indicated that a decision may be taken on this early in 2010 and is yet awaited.

4.6 The Core Strategy will need to ensure that it addresses the thrust of PPS4 and the 'sequential approach' setting out proactive policies including to identify, allocate and, where necessary, facilitate the development of sites for main town centre uses (for example, by using planning tools such as compulsory purchase orders and area action plans).

5. OTHER GUIDANCE UPDATES

- 5.1 The draft Core Strategy Submission stage prepared for consideration by the Joint Committee was last updated in November 2009. Since then and in addition to national, regional and local political changes there have been a number of legislative and planning guidance updates to be considered in the future progression of the Local Development Framework. In addition to the above, these are:
1. **The Sustainable Communities Act 2007 (Amendment) Act 2010.** Royal Assent was given on 8 April 2010.
 2. **Energy Act 2010.** Royal Assent was given on 8 April 2010.
 3. **Flood and Water Management Act 2010.** Royal Assent was given on 8 April 2010.
 4. **Changes to Planning Regulations for Dwelling Houses and Houses in Multiple Occupation** This guidance applied from 6 April 2010.
 5. **Planning Policy Statement 25: Development and Flood Risk, DCLG,** March 2010.
 6. **Proposed Permitted Development Rights for Parish Councils to Build Affordable Homes, DCLG,** 5 April 2010.
 7. **Primary Urban Areas and Travel to Work Area Indicators: Updating the Evidence Base on Cities, DCLG,** 20 April 2010
 8. **Sustainable New Homes: The Road to Zero Carbon: Consultation on the Code for Sustainable Homes and the Energy Efficiency Standard for Zero Carbon Homes, DCLG,** 16 December 2009. Consultation closed on 24th March 2010 and the results expected in early summer 2010.
 9. **Who Should Build our Homes, CABE,** 15 December 2009
 10. **Improving Engagement by Statutory and Non-statutory Consultees: Consultation, DCLG,** 21 December 2009. Consultation closed on 19 March 2010 and the results are expected in July 2010
 11. **Housing and Planning Statistics 2009, DCLG,** 3 December 2009.
 12. **River Basin Management Plans, The Environment Agency and Welsh Assembly Government,** 2 December 2009.
 13. **Development Management: Proactive Planning from Pre-application to Delivery – Consultation on proposed PPS, DCLG,** 21 December 2009. Consultation closed on 19 March 2010. The new PPS is expected in Autumn 2010
 14. **Planning Policy Statement 25: Development and Flood risk - practice guide, DCLG,** 7 December 2009
 15. **Planning for Town Centres: Practice Guidance on Need, Impact and the Sequential approach, DCLG,** 29 December 2009.
- 5.2 The above time scales precede the change in Government.
- 5.3 Appendix 1 contains a summary of the main interventions and changes brought forward or proposed by each of the listed documents. At the time of writing, the new Communities Secretary, Eric Pickles, had not provided a direction on the future of CLG policy documents and guidance and it is unknown whether those which are in draft form will be finalised and to which timescale.

FINANCIAL IMPLICATIONS

- 6.1 There are no direct financial implications in terms of the LDF work but individual legislative or guidance changes may have financial implications for the constituent Councils in terms of additional work.

LEGAL IMPLICATIONS

- 7.1 This report outlines the key legislative changes that have taken place since the Joint Committee last met. These will need to be fully considered as part of the LDF process going forward, in particular the revocation of Regional Strategies. However, this report has no legal implications in itself since it simply reports on the changes that have taken place.

EQUALITIES IMPLICATIONS

- 8.1 There are no direct equalities implications arising from the changes outlined. However the Core Strategy will be subject to the Equalities Impact Assessment process as work progresses and any issues can be picked up at that stage.

BACKGROUND DOCUMENTS

Appendix 1 – Other legislative changes and guidance update

APPENDIX 1: OTHER LEGISLATION AND GUIDANCE UPDATE.

| Legislation/guidance | Summary |
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| <p>The Sustainable Communities Act 2007 (Amendment) Act 2010. Royal Assent was given on 8th April 2010.</p> | <p>Under the 2007 legislation people are able to propose changes to Government policies or national laws which they feel would help their local area economically, socially or environmentally. This new Act improves the process to allow communities a greater say in how their proposed changes can happen. The principles behind the new Act - and the original Sustainable Communities Act (2007) - are aligned with recent reforms of local government, and the policy direction set out last autumn in the paper Putting the Frontline First.</p> |
| <p>ENERGY ACT 2010. Royal Assent was given on 8th April 2010.</p> | <p>This Act makes provisions:</p> <ol style="list-style-type: none"> 1. relating to the demonstration, assessment and use of carbon capture and storage technology; 2. about reports on decarbonisation of electricity generation and development and use of carbon capture and storage technology; 3. for requiring benefits to be provided by holders of gas or electricity supply licences; 4. about functions of the Gas and Electricity Markets Authority; about general duties of the Secretary of State in relation to gas and electricity markets; 5. about electricity generation licences; 6. about persons authorised to supply gas or electricity. |
| <p>Flood and Water Management Act 2010. Royal Assent was given on 8th April 2010.</p> | <p>This Act makes provision about water, including provision about the management of risks in connection with flooding and coastal erosion.</p> |
| <p>Changes to Planning Regulations for Dwelling Houses and Houses in Multiple Occupation This guidance applied from 6th April 2010.</p> | <p>This circular gives guidance on the planning regulations for dwelling houses and houses in multiple occupation, as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (Statutory Instrument 2010 No 653) and the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010.</p> |
| <p>Planning Policy Statement 25: Development and Flood Risk, DCLG, March 2010.</p> | <p>This sets out the Government's spatial planning policy on development and flood risk. It replaces the earlier version of PPS 25 published on 7th December 2006. The amendments are: Tables D1 and D2 in Annex D have been revised to clarify the definition of functional floodplain, and to amend how the policy is applied to essential infrastructure, including water treatment works, emergency services facilities, installations requiring hazardous substances consent and wind turbines in flood risk areas.</p> |

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| <p>Proposed Permitted Development Rights for Parish Councils to Build Affordable Homes, DCLG, 5th April 2010.</p> | <p>The proposals will allow a limited number of affordable homes to be built in rural settlements of less than 3000 people where the parish council identifies a registered social landlord as their development partner, without the need for individual planning applications.</p> <p>The intention is to extend 'permitted development' rights so that a maximum of 10-15 new affordable homes could be built when parish councils have set out clear evidence and design expectations. New guidance on social housing allocations published in December 2009 has also strengthened the scope for local authorities to ensure that people living and working locally are given more priority for affordable housing in rural parishes.</p> <p>Green Belt, habitat sites and other important designated protections will be retained.</p> <p>Consultation is expected during the summer 2010, and also to seek views on other options which could support the same policy aim, including a system of prior planning approvals and wider use of Local Development Orders (LDOs).</p> |
| <p>Primary Urban Areas and Travel to Work Area Indicators: Updating the Evidence Base on Cities, DCLG, 20th April 2010</p> | <p>This release updates the evidence base on a series of key socioeconomic and environmental indicators for the 56 Primary Urban Areas (PUAs) and 55 Travel to Work Areas (TTWAs) in England. Luton is covered by this update.</p> <p>Where data is available, data points are provided for 1998, 2003 and 2008. The 'additional information' section provides information on the composition of these indicators.</p> <p>These statistics update a selection of the key indicators on the State of the Cities Database.</p> |
| <p>Sustainable New Homes: The Road to Zero Carbon: Consultation on the Code for Sustainable Homes and the Energy Efficiency Standard for Zero Carbon Homes, DCLG, 16th December 2009. Consultation closed on 24th March 2010 and the results expected in early summer 2010.</p> | <p>It sought views to changes to the Code for Sustainable Homes in 2010, to align with changes to Part L of the Building Regulations and the proposed approach to adopting the 2016 definition of zero carbon.</p> <p>It put forward proposed changes to credit issues such as Lifetime Homes, Home Security, surface water run-off and Waste as well as setting out issues for possible further investigation. It also sought views on the energy efficiency definition to be incorporated into the definition of zero carbon homes from 2016 and whether that should be introduced into Building Regulations at an intermediate level from 2013.</p> |
| <p>Who Should Build our Homes, CABE, 15th December 2009</p> | <p>This report challenges any presumption that house building should continue from where it left off. CABE has launched a debate about who should build our homes. They put the case for new models - for much less reliance on build-to-sell; and for renting to become the norm once again. They also argue for self-build and community commissioned housing to enter the mainstream instead of being marginalised at the periphery.</p> |
| <p>Improving Engagement by Statutory and Non-statutory Consultees: Consultation, DCLG, 21st December 2009. Consultation closed on 19th March 2010 and the results are expected in July 2010</p> | <p>This consultation seeks views on a range of proposals to improve the consultation arrangements for statutory and non-statutory consultees.</p> |
| <p>Housing and Planning Statistics 2009, DCLG, 3rd December 2009.</p> | <p>The publication replaces the annual Housing Statistics publication and contains all the information previously contained within that publication, but with the addition of two sections on Planning Statistics. This annual compendium covers all aspects of housing and planning in England (and in some cases, tables also cover the United Kingdom).</p> |

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| <p>River Basin Management Plans, The Environment Agency and Welsh Assembly Government, 22nd December 2009.</p> | <p>The plans for ten river basin districts in England and Wales set out how good water status will be achieved for each lake, stretch of a river, estuary or coastline. The ten river basins are: Thames, South East, South West, Anglian, Severn, Dee, Western Wales, North West, Humber, Northumbria and the Solway Tweed. The plans are available on the Environment Agency website.</p> |
| <p>Development Management: Proactive Planning from Pre-application to Delivery – Consultation on proposed PPS, DCLG, 21st December 2009. Consultation closed on 19th March 2010. The new PPS is expected in Autumn 2010</p> | <p>This consultation seeks views on a draft new Planning Policy Statement (PPS) on development management and on draft policy annexes on pre-application procedures and determination. It will replace The Planning System: General Principles</p> |
| <p>Planning Policy Statement 25: Development and Flood risk - practice guide, DCLG, 7th December 2009</p> | <p>This practice guide is complementary to Planning Policy Statement 25: Development and Flood Risk (PPS 25) and provides guidelines on how to implement development and flood risk policies by the land use planning system. The guide also includes working examples through case studies. This edition replaces the earlier version of the Practice Guide published on 12 June 2008. Appendix B contains a checklist to help developers and applicants to prepare an appropriate, site-specific flood risk assessment in accordance with the policy in PPS 25, and the advice in the Practice Guide.</p> |
| <p>Planning for Town Centres: Practice Guidance on Need, Impact and the Sequential approach, DCLG, 29th December 2009.</p> | <p>This practice guidance is intended to support the implementation of town centre policies set out in Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS 4). It is aimed at helping those involved in preparing or reviewing need, impact and sequential site assessments.</p> |