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| Item No: 6          |
| Date: 13 March 2012 |

**WEST NORTHAMPTONSHIRE  
JOINT STRATEGIC PLANNING COMMITTEE**

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| <b>Joint Core Strategy: Update and<br/>Timetable</b> |
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**REPORT OF THE HEAD OF THE JOINT PLANNING UNIT**

**1. Purpose**

1.1 The purpose of this report is for the Joint Strategic Planning Committee:

- a) To receive an update on the national context including the Localism Act, transitional arrangements and the draft National Planning Policy Framework; and
- b) To agree the next stages and timetable of the Joint Core Strategy, as set out in Appendix 1 of this report.

**2. Update on the National Context**

Localism Act

2.1 The Localism Bill received Royal Assent on 15 November 2012. It is expected that the majority of the measures relevant to the preparation of the Joint Core Strategy set out in the Act, including revocation of the Regional Spatial Strategy, will take effect by April 2012 but no further information is currently available.

Local Planning Regulations Consultation

2.2 In July 2011 the Government published a consultation on the Local Planning Regulations. The consultation closed on 7 October 2011. The consultation sought views on the Government's proposed new regulations governing the process by which local councils prepare their development plan and associated documents. The Government reviewed these regulations:

- (i) In response to reforms set out in the Localism Bill;
- (ii) To consolidate changes made to the 2004 regulations into a single document; and

- (iii) To ensure the regulations are as effective and simple as possible.
- 2.3 It is expected that the final Local Plan Regulations, accompanied by transitional arrangements, will be published by April 2012.

#### Draft National Planning Policy Framework

- 2.4 In July 2011 the Government published the draft National Planning Policy Framework (NPPF) for consultation. The consultation closed on 17 October 2011. On 19 October 2011 Greg Clark (The Minister of State for Decentralisation and Cities) issued a Written Ministerial Statement regarding Planning Reform. In the Statement the Minister confirmed that the Government will now consider the comments it has received to the draft NPPF. The Government has asked the Communities and Local Government Select Committee to consider and make suggestions on the draft. The Minister also confirmed that the Government will also take fully into account the comments in the House of Commons debate on 20 October and in the House of Lords on 27 October as well as all the comments made in the debates during the proceedings on the Localism Bill. Once all the suggestions made have been considered the Government will then publish the revised text. The Government are still committed to the publication of the final version of the NPPF by 31 March 2012 but they intend to do so well ahead of that time.

#### Revocation of the East Midlands Regional Plan

- 2.5 As part of its intention to revoke the existing regional spatial strategies, outside London, the Government decided to carry out assessments of the likely significant environmental effects of the revocation of the eight existing regional strategies, on a voluntary basis. This included an assessment of the East Midlands Regional Plan. The assessments have been carried out in line with the procedure set out in the Strategic Environmental Assessment Directive. In October 2011 the Government published the assessments for consultation. The consultation closed on 20 January 2012.

#### Stevenage Borough Council High Court Judgement

- 2.6 On 1 December 2011 a High Court Judgement was delivered in the case of *The Queen on the application of Stevenage Borough Council v SSCLG and North Hertfordshire District Council EWHC 3136*. This Judgement refers to the High Court Judgement published on 27 May 2011 given in *The Queen (on the application of Cala Homes (South) Limited v SSCLG [2010] EWHC 2866* where it is stated in the penultimate sentence of paragraph 24:

“It would be unlawful for a local planning authority preparing, or a Planning Inspector examining, development plan documents to have regard to the proposal to abolish regional strategies. For so long as the regional strategies continue to exist, any development plan

documents must be in general conformity with the relevant regional strategy.”

- 2.7 In his judgement on the Stevenage Borough Council vs SSCLG and North Hertfordshire District Council case Justice Ouseley stated in relation to paragraph 24 of the Cala Homes High Court Judgement on 27 May 2011:

“I reject that submission. The statutory obligation is quite clear. The DPD must be in general conformity with the Regional Strategy at the stage when it is submitted for examination; S20(2)(b) requires the local authority to submit it when it is ready and when it thinks that the plan generally conforms to the Regional Strategy. There is no earlier obligation in relation to general conformity. S20(5) requires the DPD to be submitted for examination for such conformity, and for soundness. S24 does not bite at any earlier stage in the preparation of the DPD.”

- 2.8 The effect of this Judgment is that the Partner planning authorities may proceed in the preparation of Development Plan Documents (in this case the Joint Core Strategy) that are not in general conformity with the RSS, pending the RSS’ revocation but only up to the point of submission and provided that it keeps under review and adjusts appropriately its plan making process as the wider statutory and policy context becomes clearer.

#### Officers’ Conclusions

- 2.9 In the light of the Localism Act now being in place that provides the necessary provisions to secure the revocation of the RSS, and the High Court Judgement *The Queen on the application of Stevenage Borough Council v SSCLG and North Hertfordshire District Council EWHC 3136*, officers consider that, on balance, the Partnership can and should progress the preparation of the Joint Core Strategy. There are, of course, risks associated with this approach: the possibility that the RSS is not revoked or that revocation is delayed due to legal challenges associated, for example, with the related environment assessments. However, although the timescale for RSS revocation is uncertain the risk of retention is now small. Equally, it appears likely that the Government will put in place transitional arrangements to allow reliance to be placed in plan making steps taken under the existing Regulations. In the light of this it is considered that the benefits to the Partnership of being ready to submit the Joint Core Strategy at the earliest possible stage, post-revocation, outweigh the risks. This is especially in the light of the cost implications of progressing the Joint Core Strategy to Submission being relatively small and the majority of costs would be incurred in any event as they involve progressing changes to the Pre-Submission Draft which would be required irrespective of the conformity issue. Importantly, the proposed timescales are such stock can be taken of progress on the revocation of the RSS, new policy and new regulations, before any further additional significant expense is incurred.

2.10 The February 2010 edition of the West Northamptonshire Local Development Scheme (LDS) will be updated to reflect changed circumstances and priorities including the Localism Act. It is necessary to update the LDS and publish it ahead of the submission of the West Northamptonshire Joint Core Strategy to the Secretary of State for its public examination, as this is a statutory requirement. As it is now anticipated that the Joint Core Strategy will be submitted later in 2012 it is important that an up to date LDS is prepared. The updated LDS will be presented to the Joint Strategic Planning Committee on 16 July 2012 for resolution to bring the Scheme into effect.

### **3. Next Stages of the Joint Core Strategy Preparation Process and the Timetable**

3.1 A local authority, if faced with issues of soundness raised during representations, is able to undertake mitigating action. This can include proposing changes to the development plan document.

3.2 To make changes the Joint Planning Unit would need to:

- Prepare changes to the Pre-Submission Joint Core Strategy;
- Review the implications of the changes for the Sustainability Appraisal and the Habitats Regulations Assessment; and
- Publish the changes to allow representations to be made.

3.3 At the close of the statutory 6 weeks period for representations, the Joint Planning Unit would then submit the original development plan document (i.e. the Pre-Submission Joint Core Strategy), the representations to the Pre-Submission Joint Core Strategy, the changes to the Pre-Submission Joint Core Strategy and the representations to the changes to the Secretary of State.

3.4 The advantage of preparing changes is that it enables representations that were made at the Pre-Submission stage to be addressed ahead of the Examination helping to ensure that no fundamental issues of soundness arise at the examination stage.

3.5 The timetable for the changes stage and the Submission of the Joint Core Strategy is set out in Appendix 1. The timetable includes brief notes about each stage of the process.

### **4. Recommendations**

4.1 It is recommended that the Joint Strategic Planning Committee:

- a) Notes the update on the national context including the Localism Act, transitional arrangements and the draft National Planning Policy Framework; and

- b) Agrees that changes to the Pre-Submission Joint Core Strategy are now formally prepared and presented to the Joint Strategic Planning Committee on 16 July 2012 for consideration in accordance with the Joint Core Strategy timetable set out at Appendix 1 of this report.

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### Appendix 1 – West Northamptonshire Joint Core Strategy Timetable for changes and Submission

| <b>Stage</b>   | <b>Timing</b>            | <b>Notes</b>  |
|--|--------------------------|---|
| 1) Prepare changes to the Pre-Submission version of the Joint Core Strategy.                                     | Completed April 2012     | This period of work includes the JPU:<br><ul style="list-style-type: none"> <li>- Considering the representations in detail particularly in the light of the evidence base and national policy</li> <li>- Drafting possible changes</li> <li>- Informally consult key organisations on possible changes including the Partner Councils</li> </ul> |
| 2) Review the Sustainability Appraisal and Habitats Regulations Assessment.                                      | May - June 2012          | This period of work includes:<br><ul style="list-style-type: none"> <li>- Reviewing and updating the Sustainability Appraisal and the Habitats Regulations Assessment</li> <li>- Reviewing the final NPPF and making any consequent changes</li> <li>- Final legal check</li> </ul>   |
| 3) Joint Strategic Planning Committee considers the changes for publication to allow representations to be made. | July 2012                |   |
| 4) Publish the changes to allow representations to be made.  | July – August 2012       | Statutory 6 weeks representations period with an additional 2 weeks to account for the Summer holidays.   |
| 5) Process and Summarise the Representations Received  | September - October 2012 |   |
| 6) Joint Strategic Planning Committee considers the Submission of:   | November 2012            |   |

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| <ul style="list-style-type: none"> <li>• The Pre-Submission version of the Joint Core Strategy;</li> <li>• The Representations to the Pre-Submission version;</li> <li>• The changes; and</li> <li>• The Representations to the changes.</li> </ul>  |                      |  |
| <p>7) Regulation 30 – Submission of:</p> <ul style="list-style-type: none"> <li>• The Pre-Submission version of the Joint Core Strategy;</li> <li>• The Representations to the Pre-Submission version;</li> <li>• The changes; and</li> <li>• The Representations to the changes.</li> </ul> | <p>December 2012</p> |  |