



# REPORT TO EXECUTIVE

## PORTFOLIO AREA: ECONOMIC DEVELOPMENT

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**Date of Meeting:** 18 APRIL 2011

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**Public**

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**Key Decision:** Yes

**Recorded in Forward Plan:** Yes

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**Inside Policy Framework**

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**Title:** REVOCATION OF THE REGIONAL SPATIAL STRATEGY

**Report of:** ASSISTANT DIRECTOR ECONOMIC DEVELOPMENT

**Report reference:** ED.17/11

**Purpose of the Report:** To update Members on the current position regarding the revocation of the Regional Spatial Strategy and to seek Member approval for an interim response.

**Summary:** The Government's announcement last year to revoke the Regional Spatial Strategy and the subsequent on-going legal challenge by CALA Homes has implications for current planning policy in Carlisle. This report sets out what those impacts are, puts forward an interim approach to fill the policy vacuum and provides some certainty to developers until a new policy direction is established through the Carlisle Local Development Framework.

### **Recommendations:**

1. That the Executive agree that the interim planning policy approach for Carlisle comprises:
  - a. That for the purposes of calculating and maintaining a 5 year supply of housing sites, the RSS figure of (450) dwellings per year be retained.
  - b. That for the purposes of determining the requirement for Gypsies and Travellers and travelling showpeople, the Cumbria Gypsy and Traveller Accommodation Needs Assessment will be used for requirement to 2016.
  - c. That the Parking Standards set out in the Cumbria and Lake District Joint Structure Plan are used as parking guidelines.

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None**

2. That the CLG are informed that the Carlisle Local Plan Policies contained in Appendix 1 will be saved pending the development of the Carlisle Local Development Framework.

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## 1. BACKGROUND

- 1.1 The Regional Spatial Strategy (RSS) for the North West sets out the Secretary of State for Communities and Local Government's policies for development in the region. The RSS forms part of the Development Plan for Carlisle, meaning that it is used in the determination of planning applications. In addition, all Local Development Framework (LDF) documents have to be in 'general conformity' with the policies and approach of the RSS.
- 1.2 On the 6<sup>th</sup> July 2010, the Secretary of State for Communities and Local Government (CLG) purported formally to revoke the RSS, pursuant to the Local Democracy, Economic Development and Construction Act 2009, with immediate effect, with the intention of returning decision making powers on housing and planning to local authorities and their communities.
- 1.3 Guidance issued by the CLG in July 2010 also said that in the longer term, the intention of the Coalition Government was (and still is) that the legal basis of RSS would be abolished through the 'Localism Bill' which was introduced late last year and is currently going through Parliament.
- 1.4 The Guidance also made it clear that the (purported) revocation of RSS was 'not a signal for local authorities to stop making plans in their area' and in fact there was a pressing need for Local Authorities to progress development plans reflecting local people's aspirations and views on important issues such as climate change, housing and economic development. The Guidance (which assumed that revocation had been effected) advised that local authorities "will be responsible for establishing the right level of local housing provision in their area. Some authorities may decide to retain their existing housing targets that were set out in the revoked Regional Strategies. Others may decide to review their housing targets. We would expect that those authorities should quickly signal their intention to undertake an early review so that communities and land owners know where they stand."
- 1.5 Subsequent to this, the CALA Homes legal challenge has been going through the Courts. The position which has been reached is presently as follows:
  - The purported revocation was unlawful and RSS remains presently part of the development plan and applications should be determined in

accordance with the development plan unless material considerations indicate otherwise;

- The Secretary of State's statement that local authorities should have regard to the fact that he intends to revoke RSS is a material consideration in decision making by local planning authorities (this point is due to be considered by the Court of Appeal in the early summer);
- Recent decisions of the Secretary of State indicate that, whilst the Localism Bill is at an early stage, he intends to give his intention to revoke little weight;
- The weight to be given to the relevant provisions of RSS will be for decision-makers to gauge;
- The work that informed the preparation of the RSS could be relevant.
- Unless and until the Localism Bill is enacted, LDFs are required by current law to be 'in general conformity' with the RSS.

## **2. IMPLICATIONS FOR THE COUNCIL**

2.1 Applications must continue to be determined in accordance with the Development Plan *unless* material planning considerations indicate otherwise. With regards to Carlisle, the development plan presently comprises principally saved policies in the Carlisle Local Plan and RSS policies. The law requires that where there is a conflict between the policies of different development plans, the more recently adopted is to prevail. In Carlisle, the RSS is more recent than the Local Plan.

2.2 The policies in the Carlisle Local Plan are saved until September 2011 and the Council has to give 6 months' notice that it wishes to extend the time that these policies are saved.

2.3 The continuing existence of the RSS and its proposed revocation has implications for the Council. Until the Localism Bill is enacted, some uncertainty arises during the interim period. The July 2010 guidance that it will be for local authorities to establish housing targets has to be read alongside the fact that at present the RSS remains in force, as well as taking into account that the Localism Bill remains at a relatively early stage in its progression through Parliament (and may be amended) and that the Secretary of State is at present giving little weight in determining appeals to his intention to revoke RSS.

### **3. DETERMINING HOUSING NUMBERS AND MAINTAINING A 5 YEAR SUPPLY**

- 3.1 Housing figures for Carlisle were set through the RSS, which provided the Council with a target of 450 dwellings per year. In 2009, the Council were awarded Growth Point status. Reasons included:
- Regenerate the City and revitalise the City Centre
  - Increase the population of the City
  - Develop Carlisle as a University City
  - Increase the provision, quality and choice of housing in the City; including the delivery of affordable housing
  - Attract new businesses and unemployment opportunities and improve skill levels.

In order to support this, the Council agreed an annual housing target of 600. However, due to the down turn in the economy, this accelerated growth is unlikely to be delivered.

- 3.2 The July 2010 guidance also advises that authorities must continue to maintain a 5 year supply of deliverable housing land and 15 year supply of housing land through their annual Strategic Housing Land Availability Assessment (SHLAA). As regards the period before the Localism Bill is enacted there appears to be limited scope for local authorities to decide upon housing targets which are different to those set out in the RSS.
- 3.3 The Council could retain the existing housing target or could undertake a review. The guidance note states that an authority may wish to use the 'option 1 target' (i.e. that proposed by Carlisle for inclusion in the RSS, which in Carlisle's case is, 450 dwellings (net) per year (and this is the adopted RSS figure too).
- 3.4 If the Council wish to carry out a review, the note stressed that any review should be done quickly so that 'communities and land owners know where they stand.'
- 3.5 It is also important to stress that any target selected will need to be robustly justified as it is likely to be challenged during the Examination process or at a planning appeal.

- 3.6 It is therefore recommended that, (for the purposes of calculating and maintaining a 5 year supply of housing land), the Council should continue its current approach of using the housing target set by the RSS and managed annually through the SHLAA / Managed Release of residential sites process. The RSS figure is the most recent figure which has been subject to consultation, was supported by the Council through the Examination and reflects the Council's growth ambitions.
- 3.7 In the medium term, it is recommended that a housing figure for Carlisle be reviewed as part of the preparation of the LDF. This would be undertaken as part of the current review of Strategic Housing Market and Needs Assessment.

#### **4. GYPSY AND TRAVELLERS SITES**

- 4.1 The guidance states that local authorities are best placed to assess the needs of Gypsy and Travellers and will be responsible for determining the right level of site provision in accordance with current guidance.
- 4.2 Throughout the north west a number of assessments were undertaken to inform the Partial Review of the Regional Spatial Strategy. The assessment for Cumbria was published in May 2008. This information was supported through the examination of the RSS and whilst the Partial Review was not formally adopted the figures were seen to be appropriate. The City Council is undertaking further work on demand and needs assessments but until this is complete and new figures are included in the Local Development Framework the Cumbria Assessment is the most up-to-date information on needs.
- 4.3 The need identified is for an additional 35 Gypsy and Traveller pitches up to 2016. This takes the total number of permanent pitches to 65 by 2016 and an additional 4 pitches are required for travelling showpeople. Many permanent pitches have already been provided and Hadrian's Park, Ghyll Bank House and through the new site provided by the City Council at Ghyll Bank Caravan Park (61 in total). There are also a number of individual private consents including temporary permissions.
- 4.4 A recent appeal decision at Sandysike, Longtown gave temporary permission for an additional 4 pitches for a period of 5 years. This recognised that there may be additional need over the Cumbria Assessment figures but this should

be dealt with through the Local Development Framework to bring additional pitches forward. In considering this appeal whilst concerns were raised, it was accepted that the Cumbria Assessment was the best assessment available. It is therefore recommended that in the absence of more recent information on needs, the Cumbria Assessment be adopted as an interim measure.

## **5. PARKING**

- 5.1 The partial review of Regional Spatial Strategy also considered a review of parking requirements depending on the proposed development. Detailed parking standards appeared in the Local Plan in 1997 and these were updated in the Structure Plan in 2006. The structure plan policies were extended as part of the Regional Spatial Strategy and therefore these may also be removed when RSS is revoked.
- 5.2 The work for the partial review sets out standards for regional towns and cities, smaller centres and other parts of the north west. All three of these areas apply to the Carlisle district. At the examination for the Partial Review the figures were found to be robust. The base line figures are in line with the Structure Plan except those which relate to Storage and Distribution where there is a considerable difference. The different zoning of areas within the district also reduces the parking requirement within Carlisle which is dependent on a large rural hinterland.
- 5.3 The County Council as Highway Authority is currently working with planning authorities to come up with interim standards although these have not been prepared for Carlisle. In the absence of this further work it is considered that the Structure Plan figures should still be used and that the RSS figures form the basis of further work.
- 5.4 It should be noted that in recent announcements the reference to maximum standards for parking has been removed from PPG13 and that parking standards should now be considered as guidance rather than a fixed target.

## **6. CONCLUSIONS**

- 6.1 The current situation concerning the intended revocation of the RSS for the North West has resulted in uncertainty on a number of key issues.

6.2 The interim response set out in this report will provide greater certainty to developers and will provide a policy framework that is consistent with the City's economic growth objectives.

## **7. RECOMMENDATIONS**

- 7.1 That the Executive agree that the interim planning policy approach for Carlisle comprises:
- a. That for the purposes of calculating and maintaining a 5 year supply of housing sites, the RSS figure of (450) dwellings per year be retained.
  - b. That for the purposes of determining the requirement for Gypsies and Travellers and travelling showpeople, the Cumbria Gypsy and Traveller Accommodation Needs Assessment will be used for requirement to 2016.
  - c. That the Parking Standards set out in the Cumbria and Lake District Joint Structure Plan are used as parking guidelines.
- 7.2 That the CLG are informed that the Carlisle Local Plan Policies contained in Appendix 1 will be saved pending the development of the Carlisle Local Development Framework.

## **8. REASONS FOR RECOMMENDATIONS**

## **9. IMPLICATIONS**

- Staffing/Resources – Work through the LDF to replace targets will be undertaken within the planning service.
- Financial – Work undertaken to provide additional evidence will utilise planning budgets and growth point funding to satisfy the conditions of that funding award.
- Legal – The current situation with regard to the RSS has arisen because of the action taken by the Government and the subsequent challenges to that action by Cala Homes (South) Ltd. The most recent judgment is dated 7 February 2011 (Cala Homes (South) Ltd (Claimant) v Secretary of State for Communities and Local Government (Defendant) & Winchester City Council (Interested Party) [2011] (but permission to appeal to the Court of Appeal has been granted)) in which it was held that the Secretary of State had acted lawfully in advising local authorities, when making decisions to



which regional policy was relevant, to take into account the Government's intention to promote, through legislation, a reform of the existing planning system, the effect of which will be to remove regional strategies. Regional Strategies continue to form a central element of the statutory planning system but local planning authorities could take into account the Government's intention to revoke the same as a material consideration. The intention of this report is to bring clarity to the current position so that the Council, through its function as the Local Planning Authority, is able to determine relevant planning applications.

- Corporate – Progress of the Local Development Framework will help to deliver the Economic Corporate Plan priority
- Risk Management – Lack of clarity on targets will create ambiguity in dealing with development proposals and potentially risk inconsistent decisions either by the Council or at appeal.
- Environmental – Environmental impacts will be taken into account when considering future targets and have already been considered as part of the evaluation process of existing targets.
- Crime and Disorder – This will be taken account in the wider Local Development Framework work
- Impact on Customers – Clarification of the targets to be used will help customers to understand the Council's policies.
- Equality and Diversity –

**Impact assessments**

**Does the change have an impact on the following?**

Equality Impact Screening	Impact Yes/No?	Is the impact positive or negative?
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Does the policy/service impact on the following?		
Age	No	
Disability	No	
Race	No	
Gender/ Transgender	No	
Sexual Orientation	No	
Religion or belief	No	
Human Rights	No	
Health inequalities	No	
Rurality	No	

**If you consider there is either no impact or no negative impact, please give reasons:**

The targets proposed in this report are already being used and do not therefore create any additional impacts

**If an equality Impact is necessary, please contact the P&P team.**

## APPENDIX 1

Carlisle District Local Plan 2001 - 2016 Proposed Saved Policies
DP1 - Sustainable Development Locations
DP2 - Regeneration
DP3 - Carlisle Airport
DP4 - Carlisle Racecourse
DP5 - Trunk Roads
DP7 – European Natura 2000 Sites
DP8 - University Development
DP9 - Areas Of Outstanding Natural Beauty
DP10 - Landscapes Of County Importance
CP1 - Landscape Character
CP2 - Biodiversity
CP3- Trees And Hedges On Development Sites
CP4 - Agricultural Land
CP5 - Design
CP6 - Residential Amenity
CP7 - Use of Traditional Materials
CP8 - Renewable Energy
CP9- Development Energy Conservation And Efficiency
CP10 - Sustainable Drainage Systems
CP11 - Protection Of Groundwaters And Surface Waters
CP12 - Foul And Surface Water Sewerage And Sewage Treatment
CP13 - Pollution
CP14 - Waste Minimisation And The Recycling Of Waste
CP15 - Accessibility, Mobility And Inclusion
CP16 - Public Transport, Pedestrians And Cyclists
CP17 - Planning Out Crime
EC1- Primary Employment Areas
EC2 - Mixed Commercial Areas
EC3 - Office Development
EC4 - Primary Retail Area
EC5 - Large Stores And Retail Warehouses
EC6 - Primary Shopping Frontages
EC7 - Neighbourhood Facilities
EC8 - Shopfronts

EC9 - Use Of Upper Floors
EC10 - Food And Drink
EC11 - Rural Diversification
EC12 – Live/Work units
EC13 - Sustaining Rural Facilities And Services
EC14 - Farm Shops
EC15 - Tourism Caravan Sites
EC16 - Tourism Development
EC17 - Advertisements
EC18 - Areas Of Special Control Of Advertisements
EC19 - Telecommunications
EC20 - Satellite Receiving Equipment
EC21 - Overhead Power Lines
EC22 - Employment & Commercial Growth Land Allocations
H1 - Location Of New Housing Development
H2 - Primary Residential Areas
H4 - Residential Development On Previously Developed Land And Phasing Of Development
H5 - Affordable Housing
H6 - Rural Exception Sites
H7- Agricultural And Forestry Need
H8 - Conversion Of Existing Premises
H9 - Backland Development
H10 - Replacement Dwellings In The Rural Area
H11 - Extensions To Existing Residential Premises
H12 - Subdivision Of Houses And Houses In Multiple Occupation
H13 - Special Needs Housing
H14 - Gypsies And Travellers
H15 - Travelling Showpeople
H16 - Residential Land Allocations
LE1 - Urban Fringe Landscape
LE2 - Sites Of International Importance
LE3 - Sites Of Special Scientific Interest
LE4 - Other Nature Conservation Sites
LE5 - River Corridors
LE6 - Hadrian's Wall World Heritage Site
LE7 - Buffer Zone On Hadrian's Wall World Heritage Site
LE8 - Archaeology On Other Sites

LE9 - Other Known Sites And Monuments Of Archaeological Significance
LE10 - Archaeological Field Evaluation
LE11 - Enhancement Of Major Archaeological Sites
LE12 - Scheduled/ Nationally Important Ancient Monuments
LE13 - Proposals Affecting Listed Buildings
LE14 - Alterations To Listed Buildings
LE15 - Demolition Of Listed Buildings
LE16 - Change Of Use Of Listed Buildings
LE17 - Historic Structures And Local Listings
LE18 - Demolition Of Unlisted Buildings In Conservation Areas
LE19 - Buildings At Risk
LE20 - Conservation Areas
LE21 - Cathedral Precinct
LE22 - Townscape Improvement Areas
LE23 - Historic Parks, Gardens And Battlefields
LE24 - MOD Safeguarding Zone
LE25 - Equestrian Development
LE26 - Agricultural Buildings
LE27 - Undeveloped Land In Floodplains
LE28 - Developed Land In Floodplains
LE29 - Undeveloped Coastal Zone
LE30 - Land Affected By Contamination
LE31- Derelict Land
LE32 - Hazardous Substances
T1 - Parking Guidelines
T2 - Parking In Conservation Areas
T3 - Parking Outside Conservation Areas
T4 - Park And Ride
T5 - Rail Freight
T6 - Public Transport Interchange
LC1- Leisure Development
LC2 - Primary Leisure Areas
LC3 - Amenity Open Space
LC4 - Children's Play And Recreation Areas
LC5 - Playing Fields
LC6 - Surplus Playing Fields
LC7 - Allotments
LC8 - Rights Of Way

LC9 - Disused Railway Lines
LC10 - Golf Courses
LC11 - Educational Needs
LC12 - Cumberland Infirmary
LC13 - Doctors' Surgeries And Health Centres
LC14 - Carleton Clinic
LC15 – Percent for Art
LC16 – Recreational Land Proposals/Allocations
IM1 - Planning Obligations
IM2 – Monitoring