

CARLISLE CITY COUNCIL

Report to:- **Council**

Date of Meeting:- **7 March 2006**

Agenda Item No:-

Public*

Operational

Delegated: Yes

Accompanying Comments and Statements

	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
Financial Comments:	No	No
Legal Comments:	Yes	Yes
Personnel Comments:	No	No
Impact on Customers:	No	No

Title:- **JOINT COMMITTEE - SUPPLEMENTARY PLANNING DOCUMENTS**

Report of:- **Director of Development Services &
Director of Legal Democratic Services**

Report reference:- **DS.09/06**

Summary:-

The Executive on the 20 February 2006 considered Report DS.04/06 setting out the powers available to establish a Joint Committee of Cumbrian Authorities in accordance with Sections 29 - 31 of the Planning and Compulsory Purchase Act 2004. The Joint Committee would be responsible for the preparation of Supplementary Planning Documents for Cumbria on wind energy development and landscape character.

A copy of the Executive Minute is attached as Appendix 1 and Report DS.04/06 is attached as Appendix 2.

Recommendation:-

That the Council agree with the Executive Minute EX.024/06.

Catherine Elliot

Director of Development Services

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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

**EXCERPT FROM THE MINUTES OF THE
EXECUTIVE**

HELD ON 20 FEBRUARY 2006

EX.024/06 JOINT COMMITTEE - SUPPLEMENTARY PLANNING DOCUMENTS (Key Decision)

Portfolio Environment, Housing, Infrastructure and Transport

Subject Matter

The Head of Planning submitted Report DS.04/06 setting out the powers available to establish a Joint Committee of Cumbrian Authorities in accordance with Sections 29 - 31 of the Planning and Compulsory Purchase Act 2004 to prepare Supplementary Planning Documents for Cumbria on wind energy development and landscape character.

Terms of reference for the Joint Committee were the subject of discussion between the Councils involved and a draft legal agreement restricting the Joint Committee acting as the decision making body for the sole purpose of producing the two Supplementary Planning Documents was being prepared.

With regard to Member representation on the Joint Committee, it was an aspiration that the nominated representative should have responsibility for Town and Country Planning and be a member of the Council's Development Control Committee. The draft Agreement also provides for two named reserve Members.

The matter had been reported to the Infrastructure Overview and Scrutiny Committee on 26 January 2006 and a Minute Excerpt was submitted. The Chairman was present at the meeting and reported that the Committee had agreed in principle with the establishment of a Joint Committee for the preparation and adoption of Supplementary Planning Documents, but there were concerns over how any proposals could be scrutinised and the accountability of any Member representative to adequately reflect the views of the City Council. The Infrastructure Overview and Scrutiny Committee was also of the view that one of the reserve representatives might usefully be a serving Member of the Committee.

At the request of Members, the Director of Legal and Democratic Services clarified the role of the Joint Committee which would have delegated powers to agree Supplementary Planning Documents on wind energy development and landscape character which would be adopted by Local Planning Authorities throughout Cumbria. Individual applications affected by the policies would continue to be dealt with by the relevant individual Councils which would need to have regard to the overall policies when determining applications.

The Executive were concerned that the Terms of Reference should be acceptable to this Council prior to the City Council agreeing to participate in the Joint Committee.

Summary of Options Rejected

None

DECISION

1. That the Executive agrees in principle to participate in the establishment of a Joint Committee of Cumbrian Authorities in accordance with Sections 29 - 31 of the Planning and Compulsory Purchase Act 2004 to prepare Supplementary Planning Documents for Cumbria on wind energy development and landscape character, subject to the Terms of Reference being agreed by the City Council before final participation is confirmed.
2. That the following nominations be made to the City Council for representation on the Joint Committee should it be decided to take up membership:-
 - (a) Councillor Bloxham be nominated to represent the City Council on the Joint Committee.
 - (b) Councillor Earp be nominated as first reserve and Councillor Martlew as second reserve to represent the City Council on the Joint Committee when the appointed representative is unable to attend.

Reasons for Decision

The Executive was prepared to agree in principle to participate in the establishment of a Joint Committee of Cumbrian Authorities in accordance with Sections 29 - 31 of the Planning and Compulsory Purchase Act 2004 to prepare Supplementary Planning Documents for Cumbria on wind energy development and landscape character, subject to the Terms of Reference being agreed by the City Council before final participation is confirmed.

Report DS. 04/06

REPORT TO EXECUTIVE

PORTFOLIO AREA: ENVIRONMENT, HOUSING, INFRASTRUCTURE AND TRANSPORT

Date of Meeting: 20TH FEBRUARY 2006

Public

Key Decision: Yes

Recorded in Forward Plan: Yes

Inside Policy Framework

**Title: JOINT COMMITTEE - SUPPLEMENTARY PLANNING
DOCUMENTS**

Report of: HEAD OF PLANNING SERVICES

Report reference: DS. 04/06

Summary:

This report sets out the requirement to establish a Joint Committee of Cumbrian Authorities in accordance with sections 29-31 of the Planning and Compulsory Purchase Act 2004 to prepare Supplementary Planning Documents for Cumbria on Wind Energy Development and Landscape Character. The report sets out the need for such a Committee and representation by the Council on the Committee.

Recommendations:

The Executive recommended to Council that:

1. The Council participate in the establishment of a Joint Committee.
2. A Member is nominated to represent the Council on the Joint Committee.
3. Two reserve members are nominated as first reserve and second reserve to represent the Council on the Joint Committee when the appointed representative is unable to attend.

Alan Eales

Head of Planning Services

1.0 BACKGROUND INFORMATION AND OPTIONS

- 1.1 In September 2004 the Cumbria and Lake District Joint Structure Plan underwent an Examination in Public (EIP) by a Panel appointed by the Planning Inspectorate as part of the process of the Structure Plan review. Within the Structure Plan it made reference to the preparation of two supplementary planning documents (SPDs) and the EIP panel supported the proposed preparation of these documents.
- 1.2 The Cumbria and Lake District Joint Structure Plan (JSP) 2001-2016 Modifications September 2005, in response to the Panels report, makes reference to the preparation of an update to the Supplementary Planning Document on Wind Energy Development in chapter 8. The current Wind Energy SPG was produced in July 1997 as a joint countywide document. This does require updating in light of the changes to national policy. In respect of the Landscape Character SPD this directly links to Policy E37 of the JSP Modifications September 2005, paragraph 6.9 also sets out the need for a character-based approach when assessing development proposals.
- 1.3 The two documents referred to are of countywide importance – relating to wind energy development and landscape character. Due to this it was considered most appropriate by the Panel and the County Council and district authorities that the documents be prepared as joint district/County/LDNP supplementary planning documents, enabling a more consistent and comprehensive approach to be taken in advising and decision making.
- 1.4 Section 28 of the Planning and Compulsory Purchase Act makes provision for the production of joint local development documents. The section allows for any necessary steps to be undertaken to ensure that two or more local planning authorities may agree to prepare joint documents.
- 1.5 Section 29 of the Planning and Compulsory Purchase Act 2004 and the Town and Country (Local Development) (England) Regulations 2004 establish a mechanism for setting up a Joint Committee to produce joint documents. This would have a representative member from each of the district authorities as well as the County Council, forming a new Committee which would be the Local Planning Authority for its defined purposes.

- 1.6 The ability to set up a Joint Committee pursuant to Section 29 of the Act requires one or more local planning authorities to agree with the County Council in relation to any area of such County Council for which there is also a District Council to establish a Joint Committee to be, for the purposes of Part 2 of the Act, the Local Planning Authority for the area specified in the agreement and in respect of the matters specified.
- 1.7 The Secretary of State may by Order, which must specify the constituent authorities, then constitute a joint committee to be the local planning authority.
- 1.8 Constituent authorities may subsequently agree under Section 30 of the Act that the Joint Committee is to be the Local Planning Authority for additional purposes, or area. The current proposal is that the remit of the joint committee be specific in nature as enshrined in the Order.
- 1.9 Any constituent authority may request the dissolution of a joint committee. Under Section 31 the Secretary of State is not bound to comply. He is empowered to exclude the dissentient authority, whilst retaining the remaining authorities.
- 1.10 Attached at Appendix 1 is a possible process by which a Joint Committee can be established. This report is the first stage towards establishing agreement for a Joint Committee and that Carlisle City Council will partake in the process. The process requires a local agreement which eventually progresses to a Parliamentary Order to enable transference of the required functions.
- 1.11 The County Council is taking the lead in drafting the two joint SPDs as well as the production of the documents and administration of the process. The Joint Committee would meet to comment and make decisions, at the relevant stages on the documents with Officer support, and subsequently adopt the documents on behalf of the member authorities at the end of the process. Decisions made by the Joint Committee will be binding on all the member planning authorities.
- 1.12 Whilst the Council will have an opportunity to input during the process of SPD production (Officer and appointed Member), the SPDs would not necessarily be reported through the Council's own Committee process. The Joint Committee will stand as the Local planning Authority for its specified functions.

- 1.13 As stated above, once the Joint Committee is established, Section 30 of the Planning and Compulsory Purchase Act 2004 enables the Joint Committee to take on other functions with agreement from constituent authorities were it considered to be an effective way of delivering services on a joint basis. There is no intention at this stage that any additional functions are taken on by the Joint Committee. It is only the intention to undertake SPD production and adoption.

Terms of Reference for the Joint Committee

- 1.14 A draft Legal Agreement containing the terms of reference for the Joint Committee has not yet been finalised and discussions are on going between legal representatives from member authorities. It is important that clear terms of reference are drawn up to restrict the function of the Joint Committee to act as the decision making body for the sole purpose of producing the two SPDs listed above.
- 1.15 Draft terms of reference were circulated at the beginning of February 2005 and are the subject of discussions between the Councils involved. Clearly, Carlisle's input is on the basis that we had not obtained Member approval at this stage.

Member Representation on the Joint Committee

- 1.16 It is important that the Joint Committee has credibility as a planning authority and therefore high level representation has been requested and is referred to in the terms of reference. The aspiration is that the nominated representative should have responsibility for Town and Country Planning and be a member of the Council's Development Control Committee. The draft agreement also requires two named reserve Members.

Concerns Raised by Infrastructure Overview and Scrutiny Committee

- 1.17 A report on the Joint Committee (P.02/06) was reported to Infrastructure Overview and Scrutiny Committee on the 26th January 2006. The committee raised two areas of concern.

- 1.18 The first was the opportunity for any Overview and Scrutiny of the Joint Committee decisions on the SPD. Currently SPD production within Carlisle City Council allows for consideration of the draft SPD production before being reported to Executive as part of the document development process. In addition, Overview and Scrutiny have the opportunity to “call in” a decision of the Executive. As the Joint Committee is an amalgamation of eight authorities there is no comparable Overview and Scrutiny Committee. It is therefore not clear how this role could be established without additional structures in place.
- 1.19 Supplementary Planning Documents are amplification on already established planning policy. In this instance it is County Council and Lake District National Park Structure Plan Policy. As the policy has been approved by both authorities and had an independent Examination in Public, it could be recognised that scrutiny has already been an integral part of the process and no further role is required.
- 1.20 The second concern was the accountability of the Member representative in order to adequately reflect the views of the City Council. Members across the authority represent the Council on outside bodies and with this role comes the requirement to ensure that the Council as a whole is represented. Officers from the Local Plans and Conservation Section will assist the Member representative and would be able to gather other Members opinions electronically prior to Joint Committee meetings (thus avoiding the need for additional meetings). In order to facilitate this process, Members of Infrastructure Overview and Scrutiny Committee could be the representative group from which views would be sought.

Conclusion

- 1.21 Officers consider that in order to ease preparation and work collaboratively on Cumbria wide issues, a Joint Committee should be established to undertake SPD production and adoption on Wind Energy and Landscape Character.

2.0 CONSULTATION

- 2.1 No consultation has been undertaken or proposed for the establishment of a Joint Committee. Separate consultation processes will be undertaken for any Supplementary Planning Documents produced by the Joint Committee.

3.0 RECOMMENDATIONS

3.1 It is recommended that:

1. The Council participate in the establishment of a Joint Committee.
2. A Member is nominated to represent the Council on the Joint Committee.
3. Two reserve members are nominated as first reserve and second reserve to represent the Council on the Joint Committee when the appointed representative is unable to attend.

4.0 REASONS FOR RECOMMENDATIONS

4.1 The reforms of the planning system brought about by the Planning and Compulsory Purchase Act 2004 are to enable a more efficient and effective planning process. The introduction of Joint Committees to promote inter-authority working is promoted by the Act. In Cumbria, where planning resources are stretched it is an opportunity for partnership working to advance planning policy/guidance production. The SPDs of Wind Energy and Landscape Character are countywide planning issues. Collaboration on a countywide basis is the most advantageous way of achieving the required guidance.

4.2 Alternative options for the preparation and adoption on the two SPDs would be to take the documents through the individual committee cycles of each planning authority. This would require a greater deal of work from each individual authority in relation to public consultation and the sustainability appraisals for the two documents as well as administration of the committee process. This also raises the issue that the documents may not remain consistent between the authorities with a likelihood of the documents being adopted at different times by different districts. This could decrease the value of producing the guidance on a joint countywide basis. Joint Committees are seen as cost-effective way of streamlining this process producing a consistent response from planning authorities within Cumbria.

5.0 IMPLICATIONS

- Staffing/Resources – An officer from the Local Plans and Conservation Section will be responsible for any Supplementary Planning Documents produced by the Joint Committee. The administration of the Joint Committee will be undertaken by the County Council.

- Financial – The only financial costs to the District Council are expenses for travelling to joint meetings, which will be kept to a minimum.
- Legal – The establishment of a Joint Committee is a legal process and terms of reference are required to be agreed in the first instance. In addition a Parliamentary Order is required to assign powers to the Joint Committee. Comments from Legal and Democratic Services have been incorporated at relevant sections of this report.
- Corporate – A Joint Committee is undertaken through planning legislation order to transfer planning authority functions. However, working in partnership with other local authorities will assist the Council in its contribution towards Gershon efficiencies.
- Risk Management – Without a Joint Committee the production of county-wide supplementary planning documents could be delayed. Each district would have to pursue production in accordance with its own committee processes and alterations to the document may result in inconsistent guidance being prepared.
- Equality Issues – None
- Environmental – A Joint Committee will have no direct impact. Indirectly the guidance to be produced by this Committee will ensure a consistent approach to wind energy and landscape character interpretation of Structure Plan Policy, taking account of environmental concerns.
- Crime and Disorder – None
- Impact on Customers – None

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Head of Planning Services

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Joint Committee - Possible Process

Joint Planning Committee - Possible Process

- 1) Each LPA must itself have resolved to establish a Joint Committee (JC).
- 2) A Local Agreement must be established, which must be signed and approved by the Council of each constituent LPA. This local agreement must set out
 - the LPAs who will form the Joint Committee,
 - the matters for which the Joint Committee will be responsible; and
 - the area, set out on an ordnance survey map, for which the Joint Committee must be responsible

It may also set out arrangements for issues such as:

- membership of the Committee (numbers, and provisions for the disqualification of membership from the JC, substitutes);
 - tenure of office (appointment of Chairman and Vice-Chairman and period of time from which the Chair and Vice-Chair will hold office,);
 - time period in which any constituent authority member may be eligible to hold the office of chair and Vice-Chair; casual vacancy of Chair and Vice-Chair;
 - meetings and proceedings (number of members (quorum); who is responsible for presiding over the Joint Committee if Chair and Vice-Chair are absent; who is responsible for calling meetings and minimum period of notice, and adoption of standing orders);
 - staffing (secondment and appointment of staff, if applicable);
 - financial matters (operational costs and expenses; if staff are appointed directly the financing of such costs; accommodation costs of the JC; procurement of specialist advice); and
 - termination of the Local Agreement.
- 3) Once the constituent LPAs to the local agreement have each resolved to establish a Joint Committee, a request should be sent to the 1st Secretary of State, and GONW.
 - 4) When sending this request to GONW, the Authority should include a copy of the local agreement, the respective constituent authorities' approvals (i.e. the minute of the Council resolution) and any supporting information which the LPAs consider necessary.
 - 5) GONW will check the local agreement to ensure that it is satisfactory.
 - 6) GONW should forward details to the Plans, International Compensation and Assessment (PICA) Division, and should prepare a draft instruction to legal setting out the requirements of the Order. PICA will then check the necessary information and forward the request to Legal Division, who will then be responsible for preparing a project plan for the preparation of the Order. Copies of the Order will be circulated in accordance with the agreed project plan and sent to the constituent LPAs.
 - 7) GONW then prepares a draft submission to Ministers requesting for the order to be signed and the reason behind the need for the Order. It also prepares a press notice. Once GONW has prepared the draft submission and press notice, it should be sent to PICA who will liaise with Press Office to agree a date when the Order should be signed and subsequently laid before Parliament. An explanatory memorandum to accompany the Order will need to be prepared and GONW should provide PICA with an initial draft.
 - 8) The order is signed and laid before parliament and the Joint Committee is formed.