



Meeting: **POLICY REVIEW COMMITTEE**
Date: **15 OCTOBER 2013**
Time: **5.00PM**
Venue: **COMMITTEE ROOM**
To: **Councillors Mrs M Davis, K Ellis, M Jordan (Chair),
Mrs E Metcalfe, R Musgrave, I Nutt, R Packham, I Reynolds
(Vice Chair), Mrs A Spetch.**

Agenda

- 1. Apologies for absence**
- 2. Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

- 3. Minutes**

1. To confirm as a correct record the minutes of the proceedings of the meeting of the Policy Review Committee held on 16 July 2013.

Pages 3 to 5 attached

2. To confirm as a correct record the minutes of the proceedings of the meeting of the Policy Review Committee held on 12 September 2013.

Pages 6 to 8 attached

4. Chair's Address to the Policy Review Committee

5. PR/13/6 – New Local Plan for the District & Revised Local Development Scheme

To consider the report from the Director of Community Services, (pages 9 to 16 attached).

6. PR/13/7 – Planning Conditions

To consider the report from the Lead Policy Officer, (pages 17 to 21 attached).

7. PR/13/8 – Renewable Energy Strategy

To consider the report from the Director of Community Services, (pages 22 to 34 attached).

8. PR/13/9 – Welfare Reform (Scoping)

To consider the verbal report from the Lead Policy Officer.

9. PR/13/10 – Work Programme 2013/14

To consider the Work Programme, (pages 35 to 37 attached).

Jonathan Lund
Deputy Chief Executive

Dates of next meetings
17 December 2013 (Provisional)
14 January 2014
15 April 2014

Enquiries relating to this agenda, please contact Richard Besley on:
Tel: 01757 292227
Email: rbesley@selby.gov.uk



Minutes

Policy Review Committee

Venue: Committee Room

Date: 16 July 2013

Present: Councillors M Jordan (Chair), K Ellis, R Packham and I Reynolds.

Apologies for Absence: Councillors E Metcalfe, R Musgrave and A Spetch.

Also Present: Councillor M Crane, Mrs G Ivey and J Mackman.

Officers Present: Karen Iveson, Executive Director (S151), Julia Jennison – Policy Officer, and Palbinder Mann, Democratic Services

1. DISCLOSURES OF INTEREST

Councillors Packham and Reynolds declared a personal non pecuniary interest in respect of item 7 'Selby District Council Housing Development Strategy' as they were members of the Housing Trust.

2. MINUTES

RESOLVED:

To APPROVE the minutes of the Policy Review Committee meeting held on 16 April 2013 and that they are signed by the Chair.

3. CHAIR'S ADDRESS

The Chair informed the Committee that he had attended the Carbon Capture Scheme event at the Town Hall concerning the new Power Station at Drax.

It was agreed to amend the running order of the agenda.

4. PR/13/2 - SELBY AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT

Julia Jennison – Policy Officer and Councillor Mrs G Ivey – Executive Lead Member for External Relations and Partnerships presented a report outlining the Selby Affordable Housing Supplementary Planning Document.

Discussion took place on the report and the Committee was of the view that they should consider the report when the consultation was complete allowing more detailed analysis of responses from both sides. It was agreed to schedule an extra meeting in September to discuss the report.

RESOLVED:

To DEFER the consideration of this report and to arrange an extra meeting in September to consider the report.

5. PR/13/1 - STATE OF THE AREA ADDRESS

Councillor M Crane, Leader of the Council presented the State of the Area Address.

A query was raised concerning the backlog of planning applications and the current performance of the Planning Department. The Leader of the Council explained that consultants had been employed by the Council to assist in the removal of the backlog of planning applications and this had helped to significantly reduce the backlog. It was explained that the planning department were now hitting the majority of their targets and there was an upturn in performance. Further discussion took place concerning the planning service and member involvement in planning applications. Concern was raised at some of the services offered to Members by the Planning Department.

It was requested that Sherburn be considered for development. The Leader of the Council stated that it was important to get the Abbey Leisure Centre development correct and following that some form of leisure development for Sherburn could be considered. Comments were made that there was an opportunity to work within the existing buildings and schools in Sherburn

RESOLVED:

To note the State of the Area Address.

5. PR/13/3 – SELBY DISTRICT COUNCIL HOUSING DEVELOPMENT STRATEGY

The Executive Director (s151) presented a report outlining the Selby District Council Housing Development Strategy. The Executive Director (s151) explained that the report set out the Council's approach to deliver

affordable housing along with the framework. It was also explained that there would be a separate report produced for potential sites.

The Committee endorsed the report and provided their support to the proposals.

RESOLVED:

To endorse the proposed Housing Development Strategy.

6. WORK PROGRAMME 2013/14

The Chair stated that he would be speaking with officers concerning the welfare reform motion from June's Council meeting and possibly bringing this forward on the work programme.

RESOLVED:

To note the Policy Review Committee Work Programme for 2013/14.

The meeting closed at 5.05pm.



Minutes

Policy Review Committee

Venue: Committee Room

Date: 12 September 2013

Present: Councillors M Jordan (Chair), K Ellis, R Musgrave (Vice Chair) and Mrs A Spetch.

Apologies for Absence: Councillors R Packham and I Reynolds

Also Present: Councillors Mrs G Ivey and C Lunn

Officers Present: Karen Iveson, Executive Director (S151), Gillian Marshall (Solicitor to the Council), Helen Drye (Lead Officer – Policy & Strategy) and Richard Besley, Democratic Services

7. DISCLOSURES OF INTEREST

Councillor Musgrave declared a non registerable interest in respect of item 4 'Selby District Council Housing Development Strategy'.

8. CHAIR'S ADDRESS

The Chair welcomed the opportunity to scrutinise the Affordable Housing SPD and introduced the Solicitor to Council, Gillian Marshall and the Lead Officer, Helen Drye, who would also be working with the Committee on the Renewable Energy Strategy at the October meeting.

9. PR/13/2 - SELBY AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT

The Lead Officer for Policy and Strategy and Councillor Mrs G Ivey – Executive Lead Member for External Relations and Partnerships presented the report outlining the Council's approach to Affordable Housing with the SPD offering guidance to the policy and looked forward to the Committee's views and comments, with the item due to go back to the Executive shortly.

The Chair reminded the Committee that the item was deferred from the July meeting so that it could take place after the consultation period had closed, so that the Committee could study and discuss all submitted comments.

Questions were raised about the Affordable Housing requirement within the Policy, being set to achieve up to 40% and the Committee were concerned to ensure that this was not a barrier to development.

Both Councillor Mrs G Ivey and the Lead Officer pointed out that seven comments from the consultation questioned the 40% level and they reminded the Committee that the SPD states "up to" 40% with the approved amount open to negotiation during the Planning Application stage if it could be demonstrated that a 40% requirement was not a financially viable proposition.

The Lead Officer identified that developers do consult with Planners and applications are approved that are below 40%.

The Lead Officer also stressed that the 40% figure is evidence based and not just an arbitrary level. The Council will continue to consider and review the evidence and monitor Affordable Housing stock.

The Committee also questioned the impact on small developers and the Lead Officer highlighted that the proposed start level was a 10% contribution for developments of 10 units of accommodation or less.

RESOLVED:

No amendments were agreed.

10. PR/13/5 – Medium Term Financial Strategy

The Executive Director (S151) presented the report that offered an update on the revised medium term Financial Strategy (MTFS) - the aim being to set the framework for the 2014/15 budget round.

The Director confirmed the provisional settlement for 2014/15 assuming an additional 1% cut announced by the Chancellor. Further funding cuts are expected for 2015/16 and the mid case scenario models a 12.26% reduction, although further detail is awaited.

The strategy assumes a 1% rise in Council Tax over the next 2 years although the Government have again offered Council Tax Freeze Grant. The impact of a tax freeze in 2014/15 and 2015/16 would mean £1m less resources for the Council over a 10 year period.

There remains potential growth from the localisation of Business Rates although the risk of appeals means that at this stage it would not be prudent to count on it to support the Revenue Budget.

The Director reported that the Council's Reserve Strategy was robust and it provided crucial financial resilience and capacity in these challenging financial times.

RESOLVED:

To support the Strategy.

The meeting closed at 6.18pm.

To: Policy Review
Date: 15 October 2013
Author: Helen Gregory, Policy Officer
Lead Officer: Keith Dawson, Director of Community Services

Title: New Local Plan for the District and Revised Local Development Scheme

Summary: This report provides an update to Policy Review Committee on the preparation of a new Local Plan document encompassing both Site Allocations and Development Management policies. Policy Review is recommended to note the timetable and the proposed approach to development of new planning policy. This will enable Policy Review to prepare for involvement in plan preparation process in order to progress the statutory development plan for the District.

Recommendation:

Note the content of the report.

Reasons for recommendations:

To progress the new Local Plan in a timely but robust fashion to meet statutory requirements and to deliver sustainable growth in the District in line with the Council's key priorities.

1. Introduction

- 1.1 The Core Strategy provides the strategic planning policy in the District (it also provides a framework for supporting much of the Council's 'Programme for Growth'). The Core Strategy EIP closed on 27 February 2013 and the Council published the Inspector's Report on 27 June 2013.
- 1.2 The Executive considered the report on 3 October 2013 and resolved to recommend to Council to approve the 'modifications' to the Core Strategy and formally adopt the Selby District Core Strategy Local

Plan at an Extraordinary Council on 22 October 2013.

- 1.3 In summary, the Council has previously proposed and approved the Main Modifications and asked the Inspector to recommend these in order to make the Core Strategy sound - therefore the plan is already satisfactory to the Council and there are no surprises in the Inspector's report. The Main Modifications have been subject to consultation and examined at the EIP hearing sessions. The majority of the Additional Modifications (that the Council propose and which do not go to soundness) have also been agreed by the Council (some of the Additional Modifications were agreed under appropriate delegated authority) and also subject to consultation through the examination process. For further details please refer to the Executive report, 3 October 2013 (reference E/13/22). The relevant reports and minutes to previous meetings of councillors are listed in the Background Documents to that report.
- 1.4 As the Council is now in a position to consider adopting the Core Strategy, work has resumed on the next supporting documents.
- 1.5 The Executive also agreed to recommend to Council a way forward to develop the remainder of the new Local Plan - to implement the Core Strategy - as a combined Sites and Policies Local Plan (also referred to as the sites and policies plan or 'SAPP'). A report to Executive on 3 October 2013 (reference E/13/23) included the draft proposed Local Development Scheme (LDS) which is the project timetable for future planning documents. It set out the format, scope, broad content and the proposed timetable for the new Local Plan document encompassing both the site allocations and development management policies, and the steps needed to complete it.
- 1.6 Subject to approval of the Local Development Scheme by Council, a further report will go to the Executive to recommend Council to approve a draft document for the Issues and Options stage of public participation on the SAPP.
- 1.7 This report outlines for Policy Review Committee's information at this stage, the potential scope of the SAPP and the draft timetable for statutory stages.
- 1.8 This report also outlines how it is proposed to involve Policy Review Committee in contributing to developing the SAPP whilst ensuring the challenging timetable is met, in order to bring forward the homes and jobs for the District as quickly as possible. It proposes that a further report comes back to Policy Review early in 2014, as part of the public participation of the 'Issues and Options' stage of the Sites and Policies Plan, for Policy Review to contribute to policy development.

2. Background

- 2.1 Work was previously undertaken on a Site Allocations Development Plan Document (SADPD) that reached the Preferred Options public participation stage in December 2011. The SADPD was not further progressed beyond that stage as resources were redirected to the Core Strategy, particularly in light of new central government legislation (Localism Act and revocation of Regional Strategies) and policy guidance (NPPF).
- 2.2 It should also be noted that the Council's approved Local Development Scheme (LDS) 2010 set out that the Core Strategy and SADPD would be followed by a Development Management Development Plan Document (DMDPD) that would update other general development policies. No work has started on the DMDPD.
- 2.3 It is now considered more appropriate to move forward with a combined Local Plan document which encompasses both the SADPD and the DMDPD, instead of progressing two separate documents.
- 2.4 There is clear preference in the new planning system for moving towards a single Local Plan approach. However, because the Selby District Core Strategy is at Adoption stage it is not practical to achieve a single Local Plan document. Instead, the new 'Local Plan' for Selby District would comprise two documents – the Core Strategy and the 'SAPP'.
- 2.5 The new Local Plan's scope is pre-determined by the Core Strategy. All the strategic decisions have already been made and the new Local Plan will consider the detailed options of delivering that first strategic part of the Plan.
- 2.6 The SAPP will incorporate site allocations, site specific designations and proposals and policies, and the development management policies which are necessary and appropriate for Selby District to deliver the Core Strategy within national policy.

3. Scope of new Sites and Policies Plan (SAPP) and Timetable

- 3.1 Upon approval of the Local Development Scheme, Officers will prepare a SAPP 'Issues and Options' paper, and present it to the Executive later this year for approval and referral to Council for public consultation in early 2014.
- 3.2 The intention is to focus on matters that are critical to delivering the Core Strategy rather than produce a plan that could cover every eventuality. This is in pursuit of an efficient and effective plan making process seeking the earliest possible submission. Therefore the SAPP preparation process can be undertaken in stages.

3.3 The first stage is for evidence from the paused work on the SADPD to be reviewed as well as the relevant components of the Core Strategy evidence base. The second, more detailed stage will be undertaken following the Issues and Options public participation which will inform the scope of further evidence required in order to focus resources on the key elements of the plan.

3.4 The Executive has therefore agreed to recommend to Council to progress to a first public participation as early as possible on Issues and Options for the SAPP. The agreed timetable (for approval by Council) is as follows:

Stage	Broad timescale
Background work and 1 st stage evidence	April – Dec 2013
Council Approval Process	Oct – Dec 2013
Issues and Options Consultation	Jan – Feb 2014
Analyses of reps and 2 nd stage evidence base	Jan – Oct 2014
Developing sites and policies	July – Oct 2014
Council Approval Process	Sept – Nov 2014
Preferred Options / Draft Plan Consultation	Dec 2014 - Jan 2015
Reps analysis, further evidence Final version of sites and policies	Jan – May 2015
Council Approval Process of Publication Version for Submission	June – July 2015
Publication	Aug – Sept 2015
Submission	Dec 2015
EIP Aug	2016
Adoption	Nov 2016

3.5 Although the actual content of the SAPP will be developed through the Issues and Options stage, in general terms the broad scope of the SAPP may be (for illustration, not exhaustive):

<p>Aims – to deliver the Core Strategy consistent with NPPF.</p> <p>Objectives -</p> <ul style="list-style-type: none"> ▪ To meet housing and employment needs ▪ To provide other identified needs (for example town centres) ▪ To deliver new development sites (allocations) ▪ To translate strategy into place specific policies and proposals for example: <ul style="list-style-type: none"> – Designations to promote growth – Designations to protect assets – Special Policy Areas (consider approach to former mine
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- sites, Established Employment Areas, power stations)
 - Consider Exceptional Circumstances to alter Green Belt boundaries and designate Safeguarded Land
 - Development Limits review / Strategic Countryside Gaps review
- To provide further policy / designations on specific topics e.g.
 - Climate change and Renewable Energy
 - Rural Exceptions Sites
 - Travellers
 - To provide supporting detailed Development Management criteria based policies only where necessary in order to avoid overly detailed policies and providing too many policies with little relevance.

3.6 The Executive has agreed (and recommended to Council to approve) the timetable in Appendix 1 for the plan preparation stages.

3.7 The Executive has also agreed (and recommended to Council to approve) the revised Local Development Scheme which includes the SAPP and two other planning documents (the Community Infrastructure Levy and the Appleton Roebuck and Acaster Selby Neighbourhood Development Plan) which are programmed to go to Examination in Public in the next three years (see Executive Report E/13/23).

4. Policy Review Input

4.1 Executive will receive a further report asking them to agree the content of the Issues and Options document for publication. All stakeholders will be invited to comment during a proposed 6-week public participation period in January - February 2014.

4.2 The purpose of the document will essentially be two-fold – firstly a stock take of where we are and secondly what we need to do to get to where we want to be to deliver the Core Strategy in line with national guidance in the NPPF.

4.3 The Issues and Options document will not be developing any new policy at this stage. Instead, it will bring together all the background work undertaken so far and set out in broad terms the scope of the SAPP including:

- Establishing the scope and evidence base requirements within the context of the Core Strategy and National Planning Policy Framework.
- Outlining the expected content as outlined in Paragraph 3.5 above.
- A review the SADPD technical evidence base to determine what is still relevant and what must be updated / take stock of

all the previous representations to the SADPD / assess the consistency of the SADPD proposals with the new NPPF and against the revised Core Strategy.

- The range of the development management policies necessary to deliver the Core Strategy.

4.4 The Issues and Options stage is essentially a scoping exercise, which will inform the way forward in terms of the new evidence required to allow the Council to focus resources on the key tasks to deliver a sound plan, based on a proportionate evidence base.

4.5 With this in mind it is proposed that a report comes back to Policy Review Committee as part of the public participation process in January / February in order that Policy Review Committee may contribute to the policy development process.

4.6 Policy Review Committee would be given the opportunity to provide comments on the emerging Sites and Policies Local Plan contributing to emerging Council policy at an early stage in the process. Policy Review Committee will have further opportunities to contribute to policies as the SAPP moves through the various stages towards adoption.

4.7 The timetable that has been set to deliver a sound plan as soon as practicable is very challenging and it is important at this stage to set out the key steps and ensure those milestones are met.

5. Legal/Financial Controls and other Policy matters

Legal Issues

5.1 The Council as Local Planning Authority has a statutory duty to provide an up-to-date local plan. The plan must be legally compliant and meet the soundness tests as laid down by the relevant Acts and Regulations and the NPPF. The plan must be consistent with the strategic policies in the Selby District Core Strategy and national policy in the NPPF, having regard to relevant guidance.

5.2 This report sets out the format, scope and broad content of the proposed new SAPP Local Plan and the timetable to achieve this.

Financial Issues

5.3 It is anticipated that there will be sufficient funds allocated for the SAPP costs from the existing LDF budget. However there is a shortfall of approximately £70,000 for the SAPP Examination in Public which will be subject to a bid during 2013/14 for the 2014/15 financial year.

5.4 The programme depends on the use of all qualified planning staff in the Policy Team plus the support of generic policy staff for some

aspects of the work, as well as Business Support. The timetable also envisages that key elements are supported by the use of external expertise as required.

- 5.5 The progression of the SAPP will aim to deliver both the housing and employment needs in the Core Strategy bringing jobs to the District, and New Homes Bonus.

6. Conclusions

- 6.1 The progression of the new Local Plan will concentrate on the key issues for Selby District while meeting the statutory requirements including proportionate evidence base, positively prepared and the increased emphasis on deliverability. The plan will promote development and increase prosperity for the District. It is important that it is progressed in a timely manner, and Policy Review Committee will have the opportunity to contribute to the policy development as part of the Issues and Options stage.

7. Background Documents

Executive Report 3 October 2013 'Core Strategy Adoption' (reference E/13/22) and Minutes.

Executive Report 3 October 2013 'SAPP and LDS' (reference E/13/23) and Minutes

Contact Details

Helen Gregory, Policy Officer, hgregory@selby.gov.uk, 01757 292091

Appendices:

- Appendix 1 SAPP Timeline as approved by Executive (3 October 2013) and recommended to Extraordinary Council (22 October 2013)

Appendix 1 Timetable for SAPP (as set out in the revised LDS 2013-2016)

SAPP Timetable

2013												2014												2015												2016																																																					
J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D																																															
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- Key:**
- Preparation / Research / Analysis
 - I Issues and Options Consultation
 - D Draft Consultation / Preferred Options
 - P Publication
 - S Submission to SoS
 - PH Pre-Hearing Meeting
 - E Examination
 - R Inspector's Report
 - A Adoption



Report Reference Number PR/13/7

Agenda Item No: 6

To: Policy Review Committee
Date: 15 October 2013
Author: Richard Sunter
Lead Officer: Richard Sunter

Title: **Consideration of Planning Conditions to Require the Provision and Use of Contractors Car Parking Compounds and Wheel Washing Facilities**

Summary: At the Council meeting held on 26 February, the Labour Group tabled the motion set out below: -

1. The Labour Group is concerned that building sites within the District make no allowance for contractors and sub-contractors' vehicles to be parked off- road by ensuring areas are set aside for these vehicles within the site.

We request that SDC adopts a practice of placing conditions on planning permissions that

- a) All contractors and sub-contractor vehicles must be parked within the site boundary and not on public roads
- b) A regular programme of road washing during the winter months is guaranteed to keep roads clean of mud and debris

Council resolved that the matter be referred to Policy Review committee for consideration. This paper reviews the proposals in the light of the requirements of legislation and national guidance.

Recommendations:

1. That the issue is addressed, where appropriate, through the use of informatives on decision notices and by raising awareness through the Agents' Forum.
2. That Officers are requested to draft an advisory note for developers.

3. That Officers are requested to consider if the concerns raised can be incorporated in the Selby Area Local Plan.
4. Officers requested to look at ways of working with the Civil Parking Enforcement Team, where appropriate.
5. That a policy of attaching the conditions to planning permissions is not adopted.

Reasons for recommendations

1. Introduction and background

- 1.1 The implementation of planning permissions has the potential to cause short-term dis-amenity to the communities in which they are located. This is particularly the case for large development such as the construction of housing estates, which are often immediately adjacent to other residential areas and which have the potential to generate nuisance through smoke, noise, mud being brought onto the road and traffic.
- 1.2 Notwithstanding the above the use of planning conditions is subject to the requirements of circular 11/95 Use of Conditions in planning Permissions. This requires that planning conditions should be: -
1. Necessary
 2. Relevant to planning
 3. Relevant to the development to be permitted
 4. Enforceable
 5. Precise; and
 6. Reasonable in all respects

In respect of the test of being “necessary” paragraph 22 of Circular 11/95 states: -

Other matters are subject to control under separate legislation, yet also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary, and one whose requirements conflict with those of other controls will be *ultra vires* because it is unreasonable.

- 1.3 In respect of the issue of areas not subject to control under separate legislation being “necessary” paragraph 15 of Circular 11/95 states: -

In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. The argument that a condition will do no harm is no justification for its imposition:

1.4 Hence any proposal for the introduction of a policy in respect to the use of planning conditions will need to meet the tests set out above.

2. The Report

2.1 It has been proposed that the Council adopts a policy to ensure that

- a) all contractors and sub-contractor vehicles must be parked within the site boundary and not on public roads
- b) a regular programme of road washing during the winter months is guaranteed to keep roads clean of mud and debris

2.2 Contractors Site Compounds

2.2.1 In respect to the adoption of a condition to ensure that all contractors and sub-contractor vehicles must be parked within the site boundary and not on public roads regard must be had to the guidance for the use of conditions in 11/95. In this respect regard must be had to whether in a particular case it is necessary and reasonable to ensure that a developer provides a site compound or on site parking. This would be a matter of fact and degree depending on the size of the development site and the nature of the works. On a large residential scheme it may be both necessary and reasonable for a condition to require the provision of a site compound.

2.2.2 However development sites can include a wide range of scenarios including the building of single houses and even household extensions, as well as conversions which may require internal refurbishments. In the latter cases the provision of a dedicated compound may be technically impossible (due to space constraints on a site-particularly in town centre locations) and, or, unnecessary/ unreasonable given the scale of the development and its limited impact.

2.2.3 In practice officers use their discretion as to when a particular scheme, by virtue of its size, scale, location and nature would cause such disamenity that a proportionate response would be to attach a condition for the requirement of an on-site parking compound. Where a condition to provide a compound is considered to be inappropriate there may be some merit in providing developers with a guidance note in respect of good practice and neighbourliness during construction

2.3 Wheel Washing Facilities

2.3.1 In respect to the use of conditions to ensure the installation of wheel washing facilities it is noted that under the Highway Acts it is an offence to bring mud onto the road. Hence the issue is controlled under Highway legislation and its further control under planning powers would

duplicate those controls and hence fail the tests in Circular 11/95 that conditions should be necessary.

2.3.2 Notwithstanding this it is noted that many local planning authorities do attach such conditions to permissions and the highway authority in the past has requested such conditions to be attached to planning permissions. The issues of such conditions being *ultra vires* has been raised by the Officers with the Highway Authority. The Highway Authority has confirmed that it is illegal to bring mud onto the road and has accepted that a condition for wheel washing would be *ultra vires*. As such the Highway Authority will now only ask for an informative to be added to any permission granted. Such an informative makes it clear that the bringing of mud onto the highway is an offence under the Highway Acts.

2.3.3 In addition it is proposed that the Community officers and Councilors are provided with contact details of the local highways office for them to take action under the relevant legislation.

Enforcement

2.3.4 The main issue in respect of the suggested condition is that although a site compound may be provided a local planning authority has no powers to ensure that it is used. If vehicles are lawfully entitled to park on the street then there is nothing to prevent them from doing so. Furthermore any use of a planning condition to remove this right would not be reasonable and the condition would also be unenforceable. Hence such a condition would be *ultra vires*.

2.3.5 It is therefore suggested that the Council uses the new Civil Parking Enforcement procedures which may allow more proactive management where parking is taking place on yellow lines, officers are exploring with our partners NYCC and Harrogate on how to add locations for on-street enforcement.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

The adoption and use of *ultra vires* conditions would mean that the Council would have erred in law and open itself to challenge by judicial review and planning appeal.

3.2 Financial Issues

The use of *ultra vires* condition would increase the risk of legal challenge and hence costs awarded against the Council.

4. Conclusion

As the use of the two proposed conditions on all applications would not meet the strict tests for the use of planning conditions set out in Circular 11/95 and hence in certain circumstances would be *ultra vires*.

Officers recommend councillors consider issuing an advisory note and ask officers to add these conditions where they meet Circular 11/95 and add an informative in all other cases.

5. Background Documents

Contact Officer: *Richard Sunter*

Appendices: None



Report Reference Number PR/13/8

Agenda Item No: 7

To: Policy Review
Date: 15th October 2013
Author: Helen Drye - Lead Officer Policy and Strategy
Lead Officer: Keith Dawson – Director

Title: Renewable Energy Task and Finish Group

Summary: The report outlines the work of the Task and Finish Group for Renewable Energy, its findings and makes recommendations to take forward guidance on the development of wind farms in the district.

Recommendations:

- i. Develop a Guidance Note on wind farm development consistent with the Selby District Core Strategy and compliant with National Planning Policy Framework and associated guidance be developed.**
- ii. The guidance note should cover the issues identified in paragraph 2.33.**
- iii. Review the AECOM Renewable Energy Capacity Plan (Appendix 3) to ensure that it provides a current evidence base.**
- iv. Map all built and approved wind turbines on the Selby District to the AECOM Renewable Energy Capacity Plan (Appendix 3).**
- v. Include Solar Energy into the Scope of the Task and Finish Group and meet to research this area of activity.**
- vi. Full fees and charges for planning applications be charged, including pre and post application advice.**

Reasons for recommendation

The recommendations seek to take forward the research of the Renewable Energy Task and Finish Group and seek to implement their recommendations.

1. Introduction and background

- 1.1 The Renewable Energy Task and Finish Group was set up by Policy Review in 2012.
- To receive background information on national and local policies relating to Renewable Energy.
 - To consider how Selby District Council ensure all reasonable options have been considered
 - Recommend criteria to be included as part of the Sites Allocation DPD
 - To consider identifying areas of search to be included in the Site allocations DPD.

The scope of the Task and Finish Group

- To receive policy documents
- To look at delivery mechanisms to identify suitable areas for Renewable Energy and Low Carbon development in a future DPD (Core Strategy CP14)
- Consider evidence required to enable robust methodology for areas of search to be identified if required
- Invite experts to assist in understanding the subject
- Assessing the advantages and disadvantages against Council Priorities (5 Big Things) and the impact on the District Economy.

The outcome

- Recommendation of evidence required and ways to identify suitable areas for renewable and low carbon energy sources in the Sites Allocations DPD
- Identify the cost/benefits of renewable energy

- 1.2 The Task and Finish group has met on a number of occasions and having considered the issues for the district agreed to focus its resources on the potential impact of wind technology in the district, rather than the diverse range of renewable and low carbon energy.
- 1.3 In May 2013 the group invited two specialists to brief them about their experience of wind farms;
Staffordshire County Council – which has developed its own guidance note for developers in relation to wind technology.
Rob Shaw – a consultant in renewable energy who had been involved in a number of evidence based schemes including the research for Local Government Yorkshire and the Humber.
- 1.4 In addition, during the process the government has made a number of announcements and guidance regarding renewable energy and wind farm policy. Most importantly the Planning Practice Guidance for Renewable and Low Carbon Energy was published on the 29th July 2013.

1.5 In addition, the Council's Core Strategy has been found 'Sound' by the planning inspector and is recommended for adoption by Council. This gives a steer on how renewable energy should be dealt with within the district.

2.1 Policy context

2.2 As part of its remit the Task and Finish Group sought the views of experts in renewable energy. The group reviewed the Selby District Core Strategy, National Planning Policy Framework (NPPF) including the new guidance (July 2013), planning applications and the AECOM regional research into renewable energy capacity.

2.3 National Planning Policy Guidance

In March 2012 the government issued new National Planning Policy Framework (NPPF). The NPPF explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy overrides environmental protections and the planning concerns of local communities.

2.4 On the 29th July 2013 the government issued 'Planning Practice Guidance for Renewable and Low Carbon Energy'. This forms part of the NPPF.

2.5 This guidance was expected to give communities a greater say in the determination of planning applications for renewable energy. In many ways it restates previous guidance. The guidance covers the considerations that any criteria based policy should consider.

2.6 These include:

- The need for renewable or low carbon energy does not automatically override environmental protections
- Cumulative impacts require particular attention
- Local topography and damage to landscape
- Heritage assets – including the impact on views and setting
- Protection of local amenity

2.7 In terms of buffer zones or separation distances paragraph 16 states:

'Local planning authorities should not rule out otherwise acceptable renewable energy developments through inflexible rules on buffer zones or separation distances. It is important to think about in what circumstances proposals are likely to be acceptable and plan on this basis.'

2.8 It cites particular planning considerations in relation to wind turbines;

- Noise impacts in line with the 'Good Practice guidance on noise

- assessments of wind farms by the Institute of Acoustics
- Safety – buildings, power lines and air traffic safety, defence, radar and the strategic road network.
- Impact on ecology
- Impact on heritage assets
- Shadow flicker from specific angles
- Cumulative landscape and visual impacts

2.9 **The Core Strategy Policy SP17 (Previously CP14) sets out the Council’s policy towards renewable energy. See Appendix 1**

2.10 National Planning Guidance in the NPPF establishes the requirement to; reduce energy use; promote water efficiency; reduce emissions, promote renewable energy use and increase development of renewable energy.

2.11 The Core Strategy states that each application ‘will be considered on its individual merits subject to national and local policies with careful consideration given to cumulative impacts where a number of proposals come forward’. For example, schemes such as wind farms which have the potential to impact on international nature conservation sites will need careful consideration.

2.12 Submitting good quality information with planning applications on energy demand and savings is a means of demonstrating that development proposals meet policy objectives for incorporating a proportion of energy from low-carbon, renewable and decentralised sources. The Council will expect developers to submit such energy statements and any necessary viability assessments in order to assess compliance with the Core Strategy policies, including whether schemes are demonstrably unviable or impractical.’

2.13 The Core Strategy also states that any future Local Plan documents will consider setting local targets and requirements and tackle detailed issues such as siting and design, landscape and cumulative visual impact, noise/odour, habitat or species disturbance. The Site Allocations Local Plan will consider whether it is appropriate, based on further evidence, to identify suitable areas for renewable and low carbon sources. Proposals for conversion of historic buildings and developments in conservation areas will require special consideration to assess the practicality of incorporating on-site renewables against the objectives of the designation to ensure they will not be compromised.

The Core Strategy Policy SP17 (Previously CP14) included in Appendix 1.

2.14 Particularly relevant for the purposes of this report are:

***A. In future local plan documents, the council will:
Seek to identify opportunities where development can draw its energy from renewable, low carbon or decentralised energy supply***

**systems and for co-locating potential heat customers and suppliers; and
Consider identifying 'suitable areas' for renewable and low carbon energy sources and supporting infrastructure.**

C. All development proposals for new sources of renewable energy and low carbon energy generation and supporting infrastructure must meet the following criteria:

i. are designed and located to protect the environment and local amenity, and

ii. can demonstrate that the wider environmental, economic and social benefits outweigh any harm caused to the environment and local amenity, and

iii. impacts on local communities are minimised

D. In areas designated as Green Belt, elements of many renewable energy projects comprise inappropriate development and in such cases applicants must demonstrate very special circumstances if projects are to proceed and proposals must meet the requirements of policy SP3 and national Green Belt policies.

SP17A

2.15 'Consider identifying 'suitable areas' for renewable and low carbon energy sources' means that we have to examine the evidence and decide if we need to identify suitable specific areas. It does not mean that the end result is specific areas being identified.

2.16 The Core Strategy provides the strategic policy to support renewable energy and low carbon development and the framework within which to undertake any further work and provide further detailed policy or guidance in line with the NPPF.

2.17 Sites And Policies Plan (SAPP)

The new local plan is being developed as a Sites And Policies Plan (SAPP). Consideration will be given to what further climate change and renewable energy studies will need to be undertaken. The first stage Issues and Options for the SAPP are being developed for agreement by Council in December and consultation in January 2014. Climate change and renewable energy will be considered as part of this process.

2.18 As part of the Task and Finish Group it was agreed to proceed with guidance for developers on wind farm development in the district. In taking forward guidance on wind turbines, Councillors need to be mindful that any plans and policies developed should be consistent with national and local policies and add real value to the planning process locally. They must 'positively promote' the delivery of renewable and low carbon energy.

2.19 Policy guidance can be developed and implemented quickly and should

be flexible enough to allow a case by case assessment of applications, taking into account the policy framework and the local circumstance. Whilst it would have limited weight, it sets out what the Council expect from wind turbine applications.

2.20 **Expert Presentations to the Task and Finish Group**

The Renewable Energy Task and Finish Group invited experts to provide information on their approach to wind turbines.

2.21 **Staffordshire County Council**

'Wind Energy In Staffordshire' provides a Statement of the County Councils position relating to wind energy developments. Whilst the County Council has no planning powers in relation to wind energy, the Statement provides the standard position in respect of any wind energy. It focuses on

- Landscape and Visual Impact
- Impact on the Historic and Natural Environment
- Residential Amenity
- Related Infrastructure
- Construction Vehicles
- Local Economy
- Benefits
- Large Scale development

In planning terms this document has no weight; it provides an overview of the County Councils position in relation to Wind Farms.

2.22 **Rob Shaw – a renewable energy consultant**

Rob Shaw, one of the consultants who worked on the AECOM region wide research advised the Task and Finish group on wind capacity, separation distances and the likelihood of appeals being upheld.

2.23 **Evidence Base Regional information AECOM research**

In 2010 Local Government Yorkshire and Humber commissioned AECOM to assess the renewable energy opportunities for the Region. This project was designed to assess the capacity of each area to deliver Renewable Energy. The work demonstrated further requirements for renewable energy provision in the region and that much of the district has capacity to accommodate renewable energy – including wind energy. See attached map in Appendix 3 prepared for the region by AECOM in 2010. Councillors may consider reviewing the evidence base and adding the approved wind turbine developments and applications and to help in considering the cumulative impact of wind turbines.

2.24 **Additional issues**

2.25 **Cumulative Impact**

The number and range of planning applications for wind farm

development is included in Appendix 2.

- 2.26 An area which was considered by the Task and Finish Group was the cumulative impact of wind farms on the landscape, environment and local amenity. The approach by Development Management in determining applications takes this into account, together with the Inspector Lavender appeal decision for Carland Cross (APP/D0840/A/09/2103026). This recommends that the potential impact of wind turbines on the living conditions and amenity of occupiers of nearby properties must be based on an assessment of site specific characteristics taking into account a range of factors including distance from the wind turbines, orientation of the property in relation to the site, layout of turbines, outlook from main and secondary windows and degree of screening from the property. *'Ultimately each case should be determined on its own merits.'*
- 2.27 This may be an approach Policy Review wish to support as part of the guidance.
- 2.28 **Charges for planning applications**
An issue was raised about the planning fees that were charged for wind farm applications; that full fees should be charged throughout the planning process, including pre applications and post application discussions. Discussions with Development Management have confirmed that this has since been rectified.
- 2.29 **Infrastructure**
As part of the planning application process for wind turbines it is unusual for infrastructure and construction requirements to be submitted for consideration. They are usually a 'reserved matters' issue. These may have the most impact on the landscape and local amenity in the short term.
- 2.30 **Solar Energy**
The Task and Finish Group did not consider solar energy as part of its work, having agreed to focus on the issues of wind energy. Given that there are increasing numbers of solar applications which may also be considered to have an impact on the landscape and environment this is something that Policy Review may wish to re-visit. The task and finish group could convene an additional meeting to consider this topic.
- 2.31 **Moving forward with renewable energy and wind farm guidance in Selby District**
- 2.32 Any guidance is required to positively promote the delivery of renewable energy and low carbon energy; it must be Core Strategy compliant and consistent with NPPF, guidance and appeal decisions.
- 2.33 Given the current policy background the guidance should include the following areas;

1. National policy support for renewable energy infrastructure.
2. Regional targets and consented capacity.
3. Local policy support for renewable energy infrastructure.
4. The wider environmental, economic and social benefits of renewable energy schemes.
5. Landscape and visual impact including cumulative landscape and visual impact
6. Noise impacts in line with the good practice guidance for noise assessments of wind farms by the Institute of Acoustics
7. Shadow flicker
8. Impact on neighbouring residential amenity
9. Impact on nature conservation and protected species (ecology)
10. Flood risk implications
11. Safety considerations
12. Highway implications
13. Archaeology and Cultural Heritage

It is clear from the DCLG Planning practice guidance from renewable and low carbon energy July 2013 that separation distances cannot be a determining factor on their own;

'Local planning authorities should not rule out otherwise acceptable renewable energy developments through inflexible rules on buffer zones or separation distances...It is important to think about in what circumstances proposals are likely to be acceptable and plan on this basis.'

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

Any guidance must positively promote the delivery of renewable energy and low carbon energy, be Core Strategy compliant and NPPF consistent and take into account appeal decisions.

3.2 Financial Issues

The AECOM research work provides the Council with a broad understanding of the capacity of the district to deliver renewable energy. However we may need to update this information given that it was undertaken 3 years ago, and the addition of mapping in relation to existing planning approvals and development of wind farms would help the council review the cumulative impact of applications. We propose to use consultants from the previous project who may be able to undertake the work in a cost effective way.

- 3.3 A budget of £5,000 is allocated to the research from the Task and Finish Group. It is proposed to use this to review and update the AECOM evidence base if necessary. Any work on renewable energy which is

outside the scope of the Task and Finish Groups remit but required to support policy SP17 of the Core Strategy will come from the LDF budget. It may be that we can achieve cost efficiencies by combining this work.

4. Conclusion

- 4.1 The Task and Finish Group looked a range of information nationally, regionally and locally in regard to renewable energy in particular relating to wind energy. Experts were invited in to share their experience and views.
- 4.2 In making recommendations the Task and Finish Group are mindful that any recommendations should be compliant with the Core Strategy and National Planning Policy Framework. They should be based on evidence of renewable energy capacity and current planning decisions and appeals decisions.
- 4.3 The Task and Finish Group consider that a guidance note, stating the policy objectives of the Council should be developed; covering the issues identified in paragraph 2.33.

5. Background Documents

DCLG - Planning practice guidance for renewable and low carbon energy July 2013

Contact Officer:

Helen Drye – Lead Officer Policy and Strategy 01757 292228
hdrye@selby.gov.uk

Appendices:

1. *Core strategy Policy SP17*
2. *Wind farm planning applications in the district*
3. *AECOM Renewable Energy Capacity Plan*

Policy SP17 Low-Carbon and Renewable Energy

A. In future Local Plan documents, the Council will:

- seek to identify opportunities where development can draw its energy from renewable, low carbon or decentralised energy supply systems and for co-locating potential heat customers and suppliers; and
- consider identifying 'suitable areas' for renewable and low carbon energy sources and supporting infrastructure.

B. The Council will support community-led initiatives for renewable and low carbon energy developments being taken forward through neighbourhood plans including those outside any identified suitable areas.

C. All development proposals for new sources of renewable energy and low-carbon energy generation and supporting infrastructure must meet the following criteria:

- i. are designed and located to protect the environment and local amenity or
- ii. can demonstrate that the wider environmental, economic and social benefits outweigh any harm caused to the environment and local amenity, and
- iii. impacts on local communities are minimised.

Schemes may utilise the full range of available technology including;

- a) Renewable energy schemes, which contribute to meeting or exceeding current local targets of 32 megawatts by 2021 or prevailing sub-regional or local targets;
- b) Micro-generation schemes, which are not necessarily grid-connected but which nevertheless, reduce reliance on scarce, non-renewable energy resources;
- c) Clean Coal Bed Methane extraction, clean coal energy generation and Carbon Capture and Storage technologies (in accordance with County Minerals Policies); and
- d) Improvements at existing fossil fuel energy generating plants to reduce carbon emissions, within the national energy strategy for a balanced mix of energy sources to meet demands.

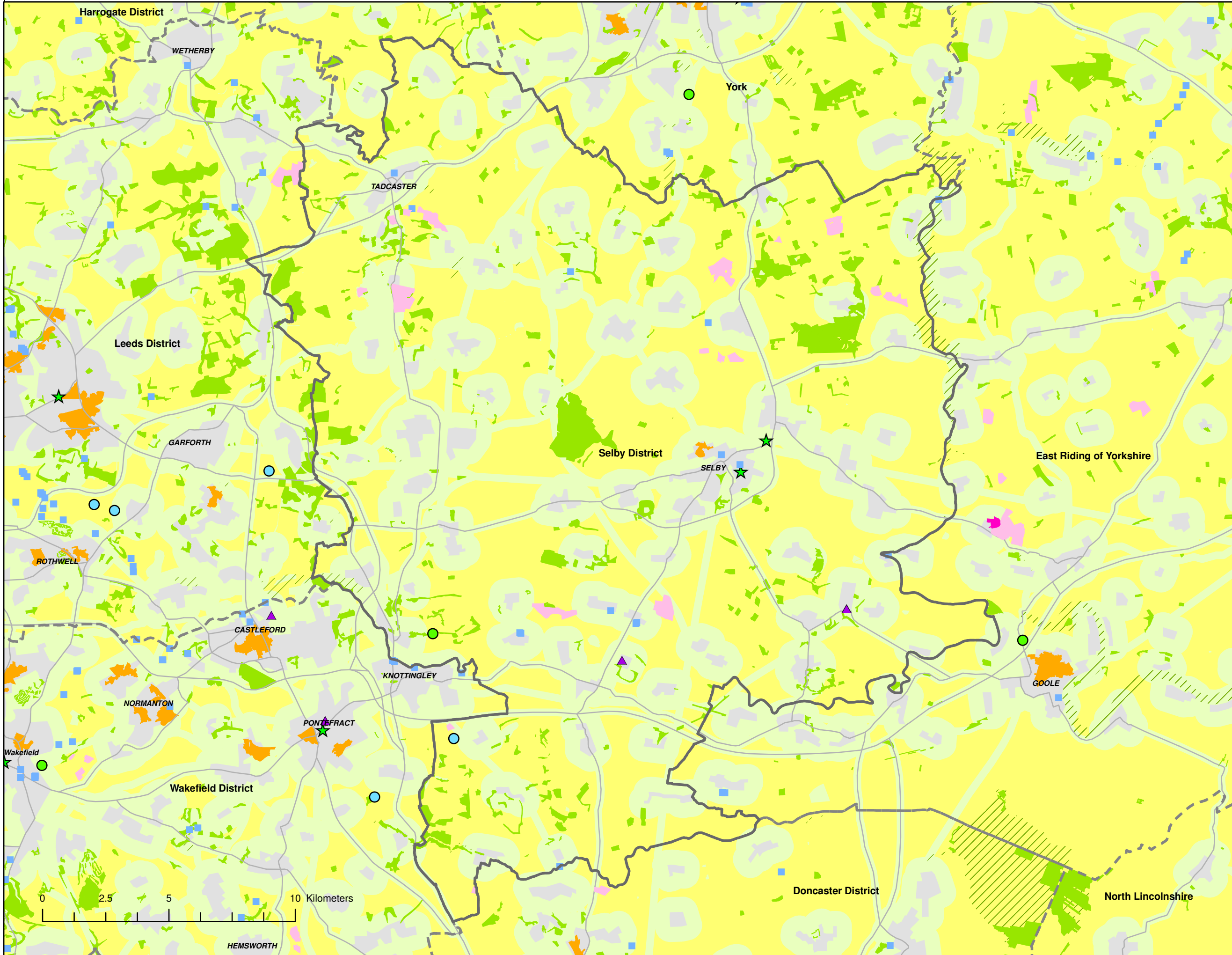
D. In areas designated as Green Belt, elements of many renewable energy projects will comprise inappropriate development and in such cases applicants must demonstrate very special circumstances if projects are to proceed and proposals must meet the requirements of Policy SP3 and national Green Belt policies.

Appendix 2

Windfarm Applications to 2013

Wind Farm	Number of Turbines	Maximum Height (m)
Rusholme 12		100
Loftsome Bridge	2	90
Marr 4		125
Tween Bridge	15	125
Goole Fields	16	125
Twin Rivers	14	110
Keadby 34		124.5
Hook Moor	5	125
Cleek Hall	5	127
Sixpenny 10		127
Rusholme Lane, Newland	1 100	
Manor Farm, Sherburn in Elmet	1 24	
Wheldrake Lane, Escrick	1 34	
Mount Pleasant, Kelfield	1 24	
Whitemoor Farm, Cliffe Common	1 47.1	
Whitemoor Farm, Cliffe Common	1 46	
Commonside Farm, Barlow	1 71	
Grange Farm, Womersley	1 45.5	
Northfield Farm, Birkin	1 66.7	
Manor Farm, Beal	1	66.7
Apple Blosson Farm, Camblesforth	1 25	
Lockgate Farm, Baine	1 39	
Westfield Lane	6	125
Hampole 5		125
Woodlane 7		125
Byram Park	-	-
Stubbs Bridge	-	-
Carlton Mill Lane	-	-
West Grange Farm, Thorganby	1 47	
Weeland Road, Kellingley	1 46	

Blackwood Hall, Duffield	1 46	
Dutch Pig Frm, Barlby	1 46	
Balne Hall, Baine	1	54
Lara Bridge, Duffield	1	46



Legend

- Local Authority Boundary
- Wind Energy Site [Operational]
- Wind Energy Site [Consented]
- Wind Energy Site [In Planning]
- Potential for Wind Energy
- Existing Sewage Biogas Site
- Existing Landfill Gas Site
- Existing EfW Site
- Existing Hydro Power Site
- Potential Hydro Power Site
- Existing CHP Site
- Potential for CHP
- Fossil Fuel Power Station
- Energy Crop Scheme 1
- Energy Crop Scheme 2
- Nature Conservation Areas
- Landscape Conservation Areas
- Road Network
- Urban Areas
- Woodland

**Selby District
Energy Opportunity
Plan**

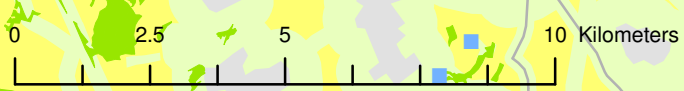
Version: 2

Date: 11-06-2010

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GIS: Mark Morant

QA: Helen Pearce



Policy Review Committee Work Programme 2013/14

Date of Meeting	Topic	Action Required
4 June 2013 (Cancelled)	Time of Meetings	To agree a start time for meetings for 2012/13
	Work Programme	To agree the Committee's Work Programme for 2012/13

16 July 2013 (4pm start Mtg Rm 2)	<u>Budget and Policy Framework</u> The State of Area Address (Council 25 June)	To consider the Leader's State of the Area Address.
	<u>Executive Requested items</u> Affordable Housing SPD	To consider the Executive's policy decision from 6 June and offer amendments to the Executive Deferred *Will be considered at a separate meeting*
	<u>Executive Requested items</u> SDC Development Strategy for Increasing Affordable Housing Stock	To consider the Executive's policy decision from 4 July and offer amendments to the Executive
	<u>Committee Requested items</u> Section 106 Policy	To consider the Council's existing policy and offer amendments to the Executive (this is being considered under the Affordable Housing SPD item)

12 September 2013	<u>Executive Requested items</u> Affordable Housing SPD	To consider the Affordable Housing SPD following the consultation
	<u>Budget and Policy Framework</u> Financial Strategy	To consider the Executive's proposals for the Council's long term (10 year), resource and spending framework in which the budget strategy and three year financial plan will be developed.

15 October 2013	<u>Executive Requested items</u> Planning Conditions	To consider on behalf of the Executive motions put to Council from the Labour Group
	<u>Committee Requested items</u> Renewable Energy Strategy	To consider the Council's existing policy and offer amendments to the Executive
	<u>Executive Requested items</u> Welfare Reform – Scoping	To consider what information is requested when the item will be considered at the December 2013 meeting.

17 December 2013	<u>Executive Requested items</u> Welfare Reform	To consider the motion by the Labour Group and any further information requested at the last meeting
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14 January 2014	<u>Budget and Policy Framework</u> Draft Budget and Medium Term Financial Plan	To consider the Executive's proposals for revenue budgets and the capital programme for 2014/2015.
15 April 2014	<u>Constitutional Requirement</u> Policy Review Annual Report 2013/14 and Work Programme 2014/15	To review the Policy Review Annual Report and approve the Draft Work Programme for 2014/15