

# Portfolio Holder (Leisure, Culture and Housing) Decision Making Session Agenda

16 October 2009

A Portfolio Holder (Leisure, Culture and Housing) Decision Making Session will be held at Shire Hall, Warwick on **Friday 16 October at 12.02 pm or on the rising of the Leader Decision Making Session if that is later.**

The agenda will be:

## 1. General

### (1) **Members' Disclosures of Personal and Prejudicial Interests.**

Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the item (or as soon as the interest becomes apparent). If that interest is a prejudicial interest the Member must withdraw from the room unless one of the exceptions applies.

Membership of a district or borough council is classed as a personal interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.

### (2) **Minutes of meeting held on 7 August**

## 2. **Government Consultation – Regional Strategies and Leadership Boards**

The enclosed report of the Strategic Director Environment and Economy seeks approval to a response to this consultation on a policy for new 'Single Integrated Regional Strategies' (SIRS) and guidance on the preparation of schemes to establish Regional Leaders Boards.

For further information please contact: Andy Cowan, County Planner. Tel. 01926 412126 or e-mail [andycowan@warwickshire.gov.uk](mailto:andycowan@warwickshire.gov.uk)

**3. Government Consultation on Detailed Proposals and Draft Regulations for the Introduction of the Community Infrastructure Levy (CIL)**

The enclosed report of the Strategic Director Environment and Economy sets out a proposed response to the Government's Consultation on the detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy (CIL) published on 31 July 2009.

For further information please contact: Andy Cowan, County Planner. Tel. 01926 412126 or e-mail [andycowan@warwickshire.gov.uk](mailto:andycowan@warwickshire.gov.uk)

**4. Government Consultation on a New Planning Policy Statement 15 Planning for the Historic Environment**

The enclosed report of the Strategic Director Environment and Economy proposes a response to consultation on the new planning policy statement on Planning for the Historic Environment (PPS 15). This new statement takes account of the 2007 white paper 'Planning for a Sustainable Future' which aims to streamline policy by integrating the existing national planning policy on the historic environment.

For further information please contact: Andy Cowan, County Planner. Tel. 01926 412126 or e-mail [andycowan@warwickshire.gov.uk](mailto:andycowan@warwickshire.gov.uk)

**5. Any Other Urgent Business**

**JIM GRAHAM**  
**Chief Executive**  
**Warwickshire County Council**  
**October 2009**

Cabinet Portfolio Holder for Leisure, Culture and Housing: Councillor Chris Saint  
[CllrSaint@warwickshire.gov.uk](mailto:CllrSaint@warwickshire.gov.uk)

General Enquiries: Please contact Janet Purcell, Executive & Member Support Manager  
Tel 01926 413716 or email: [janetpurcell@warwickshire.gov.uk](mailto:janetpurcell@warwickshire.gov.uk)

## **Minutes of Portfolio Holder (Leisure, Culture and Housing) Decision Making Session held on 7 August 2009**

### **Present:**

Councillor Chris Saint (Cabinet portfolio holder for Leisure, Culture and Housing)

### **Others in attendance:**

#### Other Cabinet members:

Councillor Bob Stevens (Deputy Leader) and Councillor Alan Cockburn (Cabinet portfolio holder for Environment).

#### Officers:

Andy Cowan (County Planner), Jane Pollard (Democratic Services Manager) and Janet Purcell (Executive and Member Support Manager).

## **1. General**

### **(1) Members Declarations of Personal and Prejudicial Interests**

None.

## **2. Government Consultation on Draft Planning Policy Statement 4 – ‘Planning for Prosperous Economies.’**

Councillor Chris Saint (Portfolio holder for Leisure, Culture and Housing) presented a report prepared by the Strategic Director of Environment and Economy setting out a proposed response to the Government consultation on the draft Planning Policy Statement 4 – ‘Planning for Prosperous Economies.’

Councillor Saint advised that he had considered the full consultation document , and the assessment provided in the Strategic Director’s report, and had concluded that it presented a balanced policy statement. He added that there were some areas that would benefit from improvement (as referred to in paragraphs 3.1-3.6 of the report) and that in particular the views set out in section 4 of the report. These views would be forwarded as the response to the consultation.

### **Resolved**

That the conclusions set out in section 4 of the Strategic Director’s report be agreed as the Council’s response to the government’s Consultation on Draft Planning Policy Statement 4 – ‘Planning for Prosperous Economies’ (May 2009).

**3. Regional Assembly Consultation on Options for Phase 3 Revision of Regional Spatial Strategy**

Councillor Chris Saint presented a report setting out the response to the West Midlands Regional Assembly consultation on options for the revision of the Regional Spatial Strategy. Councillor Saint explained that this consultation concerned five areas that had not been considered during earlier consultation on the revision of the strategy.

A revised response (Appendix A) was tabled. This had been updated and agreed by all eight authorities in the sub-region at a meeting of the Coventry, Solihull and Warwickshire Sub Regional Forum on 31 July 2009.

**Resolved**

That the views of the Coventry, Solihull and Warwickshire Sub-Regional Forum, as set out in the appendix to these minutes, be agreed as the basis for the Council's response to the West Midlands Regional Assembly consultation on the options for the Phase 3 Revision of the Regional Spatial Strategy.

**4. Any other items**

There were no other items of business.

.....  
Portfolio holder for Leisure, Culture and Housing

The session concluded at 10.06 a.m.

**Councillor Saint – Portfolio Holder for  
Tourism, Housing, Leisure and Planning**

**Regional Assembly Consultation on Options for Phase 3  
Revision of the Regional Spatial Strategy**

**Report of the Coventry Solihull Warwickshire Sub-regional  
Forum of Local Authority members – 31 July 2009**

- 1.1 The West Midlands Regional Spatial Strategy (WMRSS) was approved by the Secretary of State in June 2004. Whilst the principles of the strategy were supported, the Secretary of State identified a number of issues, which needed to be developed further. This work has been carried out in three phases. Phase 1 dealt with the Black Country Sub-region and is now complete. Phase 2 deals with selected issues on housing, employment land, centres, transport and waste and has recently undergone examination in public. The Panel's report is expected to be submitted to the Secretary of State in September 09.
- 1.2 This report deals with the options stage of the Phase 3 revision. It is concerned with the review of the following five policy areas:
- **Rural Services** – to identify and prioritize the services that are critical to the sustainability of rural communities, and to identify mechanisms for promoting their provision.
  - **Housing** – to identify the number of pitches required for Gypsies, Travellers and Travelling Showpeople.
  - **Culture** - to identify and address gaps in the provision of international, national and sub-regionally significant cultural assets.
  - **Environment** – to develop further the environment policies in the RSS, including flood risk, air quality, renewable energy, and Green Belt.
  - **Minerals** – to develop policies on safeguarding mineral resources and the future supplies of construction aggregates and brick clay.
- 1.3 On 1 May 2008, the Regional Assembly issued a brief seeking advice from Strategic Authorities to help shape the options relating to each of the policy areas being addressed by the Phase 3 Revision. Your officers contributed to a joint response on behalf of the Coventry Solihull Warwickshire Sub-region agreed in July 2008. That response was very detailed and contributed to the Assembly's development of the Options. The main points from that response were:

**Critical Rural Services** : to assess the existence of shortfalls in critical services and seek to maintain existing viable critical services by monitoring their availability and controlling their loss through changes of use where appropriate.

**Gypsies, Travellers and Travelling Showpeople** : to acknowledge the difficulty of providing further advice on gypsy and traveller needs than those included in the sub-regional assessments without a consistent basis of re-distribution being agreed throughout the region. It also noted that the Gypsy and Traveller Assessment (GTAA) had recommended the identification of temporary stopping places for Coventry, but had not been able to provide an estimate. In relation to Travelling Showpeople, it had noted a nil requirement for Coventry.

**Culture Sport and Tourism** : noted the value of identifying particular sub-regional characteristics and strengths, as well as identifying particular gaps, and that RSS cultural policy should be based around sub-regionally identified strategic gaps. The particular strengths of CSW sub-region were seen as: heritage tourism; business tourism; performing arts; and creative industries.

**Quality of the Environment** : noted that

- the value of having a regional target for reducing energy usage;
- that RSS should promote innovative local approaches to enhancing sub-regional and local distinctiveness and biodiversity so that local ownership by people and agencies ensure ongoing success;
- that protection, conservation, enhancement and management of the natural and historic environment should take place on a rational basis locally against clearly established criteria; and
- that the Green Belt should be used more positively to reflect the varying needs of people and wildlife.

**Minerals** : noted that the main challenges include the need to ensure that the minerals required to support the planned level of growth are available at the right time and that worked land can be restored to a beneficial after-use.

- 1.4 Having considered the advice received from Strategic Authorities in 2008 there has been delay in moving towards the options stage because of the Assembly and the Region's local authorities' commitments to preparing for the Examination in Public of the Phase Two Revision. However the timetable is also being dictated by the desire to complete this stage before the abolition of the Assembly. As a consequence the Phase Three Options Consultation was launched on 29 June and the period for responses ends on 14 August 2009. As part of that process the Assembly held a half day session at the University of Warwick involving a presentation and question and answer session. Copies of that presentation have already been supplied to those residents groups that attended the quarterly residents' group liaison meeting and they have been advised of the timetable.
- 1.5 For each topic, the Options Document sets out the national and regional policy context, advice received from strategic planning authorities, key issues, policy options, consultation questions and the evidence base. Objectives are defined and Options identified together with their key implications. Appendix 1 to this report provides further detail.
- 1.6 In responding to the consultation, it is considered appropriate to consider the options against the earlier sub-regional. Considering the topic areas:

**Rural services** : Option 2 is considered to most likely to reflect the needs of individual communities by enabling the development of locally based solutions to the delivery of rural services which reflect the needs of individual communities. Whilst some of the measures set out in Option 1 may be relevant it runs the risk of delivering a rigid 'one size fits' all solution.

**Gypsies and Travellers** : The CSW Forum recommends the following principles to WMRA in the formulation of this policy area:

- Revised sub-regional GTAAs should be undertaken at the earliest opportunity using a methodology for assessment that moves away from past trends
- Each authority should be required to maintain a minimum provision of pitches though the extent of this provision should be determined through the revised GTAA process; criteria based policy should be provided to assess the most appropriate locations
- The methodology for allocation of pitch numbers to district level should seek some extent of redistribution taking account of the views of the gypsy and traveller community, land availability, planning constraints and existing provision.

In respect of provision for showpeople the GTAAs provide a historical guide and reflect the tradition of fairs and therefore Option 1 is favoured.

**Culture Sport and Tourism:** the issue of identification of assets raises the prospect of inflexibility. Clearly there are assets like the NEC that will always retain their function. However there are developing facilities that may over the plan period develop into a regional asset. The absence of this within the list could prove problematical. It may therefore be appropriate for the policy to amend to provide a clearer definition and then leave development plan documents to define.

What is perhaps more important is the identification of gaps and in that respect it is considered as proposed by option 3 that a new policy should be developed.

**Quality of the Environment** – This topic area deals with a review of a number of environmental policies. The Green Belt topic considers whether a policy on the positive use and function of the Green Belt should be developed. It is not reviewing green belt boundaries, which forms part of the Phase Two revision. The issue in relation to Positive Uses of the Green Belt is that, whilst the relevant national guidance (PPG2) clearly defines the roles of the Green Belt, there is also a wider debate about the role and purpose of areas on the fringes of urban areas and the perceived negative nature of policy. The presumption against development can result in Green Belt becoming poorly managed and under-used whereas it could provide, particularly close to urban areas, a valuable recreational and ecological resource. A more positive approach, encouraging appropriate uses, management and enhancement, would provide wider benefits. The consultation presents the options of continuing to use only PPG 2 or developing a regionally specific policy, identifying where positive

improvement should take place. The recommendation is to support the latter option

In respect of this policy area and minerals, the Table below sets out the recommended responses. In general, options look to redraft existing policies to provide a clear regional steer.

#### Management of Environmental Resources – Policy QE 1

Options are

1 : Environment-led

- promoting a landscape-scale approach, protecting key assets and improving poor environments

2 : Development-led

- targeting areas affected by significant growth

3 : Spatial strategy led

- priority in and around major urban areas and regenerations zones

**Recommendation** to agree with the list of issues for inclusion in Policy QE 1 and to state a preference for Option 3 on the basis that the objectives should be to continually seek improvements in environmental quality and to minimise any negative effects of development and that a balance must be struck to meet development needs.

#### Managing and Creating High Quality New Environments – Policy QE 2

Options are

1 : Targeting communities in need

2 : Concentration in growth areas

3 : Prioritise brownfield sites so as to enhance the image and attractiveness of the Region

**Recommendation** that both Options 1 and 2 should be taken into consideration, thus allowing for approaches which recognise the needs of disadvantaged areas and recognise the need to facilitate the re-use and redevelopment of brownfield sites in areas of growth.

#### Greenery, Urban Space and Public Spaces

##### – Policy QE 4

Revised policy (placing greater emphasis on green infrastructure and sustainability benefits) and supporting text proposed

**Recommendation** to support proposed change



### Protection and Enhancement of the Historic Environment – Policy QE 5

Revised policy (which places greater emphasis on the historic environment as a resource with particular benefits) and supporting text proposed

***Recommendation to support proposed change***

### Conservation, Enhancement and Restoration of the Region's Landscape – Policy QE 6

Revised policy (emphasising the importance of positive management and pressures on the landscape) and supporting text proposed

***Recommendation to support proposed change***

### Biodiversity and Nature Conservation Resources – Policy QE 7

1 : Update targets for improving priority habitats.

2 : Focus enhancement on specific geographical areas

***Recommendation to support proposed change and, in particular, the suggested list of issues for inclusion in the new policy.***

### Forestry and Woodlands – Policy QE 8

Revised policy (emphasising positive management, importance for climate change and protection/enhancement) and supporting text proposed

***Recommendation to support proposed change with additional reference to the need to protect woodland edge habitats***

### The Water Environment – Policy QE 9

Revised policy (emphasising the context of River Basin Management Plans and addressing the implications of growth) and supporting text proposed

***Recommendation to support proposed change and emphasise the need for accurate high quality data and regular monitoring***

### Flood Risk

New policy and supporting text proposed, requirements for up-to-date Strategic Flood Risk Assessments, supporting infrastructure to avoid areas at risk of flooding and incorporation of sustainable drainage systems in all new development and having regard to Catchment Flood Management Plans

***Recommendation agree with the list of issues for a new Flood Risk policy, with the addition of encouraging cross-boundary collaboration.***

### Renewable Energy Generation – Policy EN 1

Options are

1: Retain existing policy to meet national target

2 : Adopt Regional Energy Targets

3 : Include sub-regional targets

**Recommendation** is to state a preference for Option 2 on the basis that sub-regional targets are not suitable because of the difficulties of measurement and potential competition between sub-regions. An additional recommendation is to agree to the revision of policy to encourage energy improvements to existing buildings as increased energy efficiency can reduce energy generation and contribute to mitigating climate change.

#### Location of Renewable Energy – Policy EN 1

Options are

1 : Retain existing policy of local authorities identifying criteria

2 : Set out criteria in the RSS

**Recommendation** is to state a preference for Option 2 on the basis of the usefulness of having clear and consistent criteria and, in relation to the stated criteria, to suggest the inclusion of "health".

#### Positive Uses of the Green Belt

Options are

1 : Apply PPG 2 alone

2 : Develop a regionally specific policy identifying where positive improvement should take place

**Recommendation** is to state a preference for Option 2. This would particularly allow for the identification of more positive uses through green infrastructure studies, such as improved access and recreation; to reflect the varying needs of people and wildlife; and to provide the opportunity for the recognition of world-class institutions located in Green Belt (for example the University of Warwick and the National Agricultural Centre) to be treated as special cases. It would also enable policy to reflect the different characteristics of green belt in the city particularly the role of wedges

#### Safeguarding Minerals Infrastructure

Options are

1 : Safeguard key resources

2 : Safeguard all resources

**Recommendation** is to support the safeguarding of key mineral resources that are nationally or regionally acknowledged as such. NB. At this stage, national policy on coal (e.g. re. clean coal, gasification) is being reviewed and it would therefore be premature to identify specific regional policy. The priority for safeguarding of other mineral resources should be a matter for local mineral development frameworks.

#### Future Supplies of Aggregates

Options are

1 : Apportion future supplies by existing methods

2 : Apportion using different sub-regions and existing methods

3 : Apportion using different sub-regions and methods

**Recommendation** is to emphasise the need to update the current aggregate demand forecasting methodology, particularly in relation to Government review of the carbon performance of building construction. In the interim, preference can be expressed for Option 1. Option 2 - using the CSW sub-region as a basis - should only be entertained, as potentially reflecting functional sub-regions, just so long as all constituent parts of the Region and sub-regions are making a contribution to aggregate supply reflecting the distribution of resources, including secondary aggregates. Option 3 should be rejected at this stage as being a wholly untried and untested system

#### Future Brick Clay Provision

Options propose alternative ways of meeting requirement.

**Recommendation** is that this may be a matter more appropriately addressed in local development frameworks.

## Appendix 1

### Rural Services - Objectives

- Identify role of service provision in enhancing sustainability of rural communities
- Identify whether particular services are critical to rural areas

### Rural Services – Key Issues

- Defining “critical rural services” notoriously difficult
- Rural service provision not static - moves over time and place
- Would allowing development in some rural locations conflict with other RSS policies?
- Should development be allowed in settlements lacking a service base to reverse a cycle of decline?
- Should policies be driven by the needs and expectations of local people or by climate change consideration?

Options	Implications
<p><b>Option 1: SUSTAINABLE – CLIMATE CHANGE DRIVEN</b></p> <p>Provide for and encourage service provision in a manner that offers the opportunity to reduce the need to travel</p>	<p>There would be a concentration of services, not just higher-order services, in the larger towns.</p>
<p><b>Option 2: COMMUNITY BASED</b></p> <p>Adopt a “bottom-up” approach by facilitating local people, together with voluntary and community groups, to identify service needs, scale and locations.</p>	<p>Would foster service development and protection of existing services throughout the rural settlement hierarchy.</p>
<p><b>Option 3: STATUS QUO</b></p> <p>Accept that the existing RSS policies on Rural Renaissance and related topics are adequate.</p>	<p>The current policy RR4 is very general about the location of services and there are major questions over its implementation. Therefore if the status quo is chosen as the option to take forward, it will need to be accompanied by details on how the policy can be made to work more effectively.</p>

### Provision for Gypsies, Travellers and Traveller Showpeople (GT&TS) - Objectives

- Increase the number of pitches to address under-provision identified in GT Accommodation Assessments (GTTA's)
- Ensure sufficient plots for the accommodation of Travelling Showpeople

- Recognise, protect and ensure the traditional travelling way of life of GT&TS, also respecting the interests of settled communities
- Include fair, realistic and inclusive policies for the accommodation needs of GT&TS

### Provision for Gypsies, Travellers and Travelling Showpeople (GT&TS) – Key Issues

GTAA's suggest a regional need for:

- **660** additional Residential G&T pitches (2007-2012)
- **279** additional Residential G&T pitches (2012-2017)
- **244** additional Transit G&T pitches between (2007-2017)
- **118** additional Travelling Showpeople pitches (2007-2012)
- Current pattern of provision in Region is uneven
- Views sought on number of pitches and plots to accommodate the needs of GT&TS across the Region
- Views sought on broad distribution of GT&TS pitches and plots across the Region

### Permanent Pitches for Gypsies and Travellers:

Option	Comment
<p><b><u>OPTION 1: Need Where it Arises:</u></b> Option 1 would see additional pitch requirements being distributed largely on the basis of the findings from the sub-regional Gypsy and Traveller Accommodation Assessments.</p>	<ul style="list-style-type: none"> <li>▪ Would meet the need for new pitches identified by the GTAA's</li> <li>▪ Would reinforce existing patterns of residential Gypsy and Traveller provision.</li> <li>▪ Will not significantly expand Gypsies and Travellers choices as to where they can legally reside in the West Midlands Region</li> </ul>
<p><b><u>OPTION 2: Planning Criteria:</u></b> Would see additional pitch requirements being distributed on the basis of both 'need where it arises' and the potential land supply within each District for new sites. Three-quarters of requirements are distributed on a 'need where it arises' basis as in Option 1. The remaining 25% of requirements are distributed in relation to the footprint (area in hectares) of opportunities on unconstrained land within each District.</p>	<ul style="list-style-type: none"> <li>▪ Would see additional pitch requirements being largely distributed in line with existing patterns of provision but would also deliver a limited re-distribution and thereby increase the areas where Travellers can legally reside in the West Midlands Region</li> <li>▪ Would re-distribute some pitch requirements towards those areas which have unconstrained areas of land, together with areas of opportunity, with the balance</li> </ul>

	of opportunity areas being in Shropshire and Herefordshire
<b>OPTION 3: Re-distribution:</b> The underlying rationale is that there should be no District in the Region where Gypsies and Travellers cannot live on authorised sites.	<ul style="list-style-type: none"> <li>Allocates a minimum of 14 pitches to all Districts</li> </ul>

The document includes a table that indicates the District Allocation of Pitch Requirements under Options 1, 2 and 3.:

Local authority	Additional Residential Pitch Requirements		
	Option 1	Option 2	Option 3
<b>Warwickshire</b>			
North Warwickshire	18	16	17
Nuneaton & Bedworth	29	27	27
Rugby	66	55	61
Stratford-on-Avon	45	43	41
Warwick	13	15	14
Coventry	3	5	14
Solihull	26	23	24
West Midlands Region	939	939	939

In respect of Transient provision identified by sub-regional Gypsy & Traveller Accommodation Assessments for the 2007-2017

<b>Warwickshire:</b>	
North Warwickshire DC	5 pitches
Nuneaton & Bedworth BC	5 pitches
Rugby BC	5 pitches
Stratford-on-Avon DC	10 pitches
Warwick DC	15 pitches
	<b>40 pitches TOTAL</b>
Coventry CC	5 pitches
Solihull MBC	5 pitches

**WM REGIONAL TOTAL: 244 pitches**

In respect of Provision of Plots for Travelling Showpeople Need the Distribution of Additional Plots Requirements for Travelling Showpeople 2007 – 2012:

	Option 1	Option 2
Warwickshire	1 plot	12 plots
West Midlands Conurbation	63 plots	42 plots

Options	Potential Implications

<p><b>Option 1:</b> Requirements as largely identified in the Gypsy and Traveller Accommodation Assessments</p>	<ul style="list-style-type: none"> <li>▪ Would meet the level of need identified in the sub-regional GTAAs</li> <li>▪ Would maintain the existing pattern of provision for Travelling Showpeople</li> </ul>
<p><b>Option 2:</b> Aims to create a wider spread of opportunities for site development for Travelling Showpeople.</p>	<ul style="list-style-type: none"> <li>▪ Would reduce the current concentration of Travelling Showpeople sites in the West Midlands Conurbation</li> <li>▪ Could potentially lead to the development of a site in each County area, thereby increasing the areas in which Travelling Showpeople can legally reside in the West Midlands Region</li> </ul>

**Culture, Sport and Tourism - Objectives**

- Strengthen the current RSS policy (PA10) to support sustainable economic growth
- Meet the strategic cultural, sporting and tourism needs of the Region
- Improve physical and mental well-being of communities by encouraging healthier, more active lifestyles and greater and more inclusive access to, and participation in, cultural activities
- Make the Region more attractive to residents, in-movers and businesses

**Culture, Sport and Tourism – Key Issues**

- RSS current policy on tourism and culture (Policy PA10) primarily focused on the benefits for economic growth
- Views sought on portfolio of regional culture, sport and tourism assets
- Views sought on “strategic gaps” in provision
- Revision of Policy PA10 and/or develop new policy

**Spatial Options for Updating PA10A - the Culture, Sports and Tourism Assets Portfolio:**

	Implications
<p><b>Option 1 - Remove the Portfolio</b> of strategic cultural assets Means that all assets listed in Part A of the policy would</p>	<ul style="list-style-type: none"> <li>• A shorter policy giving rise to no diversionary debate on what assets should/should not be included in the policy</li> </ul>

be deleted.	
<p><b>Option 2 - Update the Portfolio</b> of strategic cultural assets to reflect the most up to date information on the Region's most important cultural assets Means that the policy would include all assets of regional, national and international importance.</p>	<ul style="list-style-type: none"> <li>• The portfolio of assets would be longer than the current policy but not unduly long.</li> <li>• Some agreement would be needed by key partners.</li> <li>• It might exclude those assets of sub-regional importance</li> </ul>

### Spatial Options for Updating P10B and C - Addressing Strategic Gaps in Culture Sport and Tourism Assets Provision

Options 1 and 2 explore whether the existing policy is adequate, or could be made better through revisions to the existing text. Option 3 explores the need for a new policy, in addition to PA10, to reflect the social benefits delivered through culture and the need to address specific gaps in provision.

	Implications
<p><b>Option 1 – Retain existing Policy PA10</b> parts B and C</p>	<ul style="list-style-type: none"> <li>• The focus of the policy would remain on the economy</li> <li>• Might be difficult to give weight to/support proposals for major new facilities which primarily provide social benefits in areas which are not priority places</li> </ul>
<p><b>Option 2 – Amend Policy PA10</b> parts B and C Means that the criteria could be updated to reflect current issues</p>	<ul style="list-style-type: none"> <li>• Criteria could be amended to include social outcomes</li> </ul>
<p><b>Option 3 - Develop a new policy</b> Means that the scope of the policy could be broadened and detailed criteria developed.</p>	<ul style="list-style-type: none"> <li>• The focus of the policy would be broadened to complement the economic drivers and recognise the social benefits</li> </ul>

### Quality of the Environment

#### Environment - Objectives

- Update existing Quality of the Environment policies to ensure consistency with national guidance and other regional plans
- Protect, preserve, enhance and manage the environmental assets and resources
- Consider flood risk and set out a strategy to manage that risk
- Promote development of renewable and low carbon energy
- Consider roles and specific uses of Green Belt

#### Environment – Key Issues

- Restoration of degraded areas



- Urban Greenspace
- Historic Environment
- Landscape
- Biodiversity and Nature Conservation Resources
- Forestry and Woodlands
- Managing environmental resources
- Water Environment
- Flood Risk
- Renewable and Low Carbon Energy
- Role and Uses of the Green Belt

## Update of the Environmental Policies in the WMRSS

### Policy QE2 – Restoring Degraded Areas and Managing and Creating High Quality New Environments

	<b>Implications</b>
<p><b>Option 1: Needs led Approach</b></p> <p>Involves targeting communities in need when developing strategies and programmes of action.</p>	<p>Would lead to an improvement in the attractiveness of disadvantaged areas with significant amounts of brownfield land and meet social and economic needs</p>
<p><b>Option 2: Growth led Approach</b></p> <p>Would mean that resources devoted to facilitating the redevelopment and re-use of brownfield land would be concentrated in those areas identified for significant growth</p>	<p>Would recognise the pattern of new development/redevelopment in the RSS phase 2 revision</p>
<p><b>Option 3: Competitiveness led Approach</b></p> <p>Would prioritise redevelopment and re-use of those brownfield sites that would enhance the image and attractiveness of the region</p>	<p>Best fit with the principles of the WMRSS</p> <p>Would place lower priority on brownfield land in Settlements of Significant Development and other non MUA growth areas</p>

### Policy QE7 – Protecting, Managing and Enhancing the Region’s Biodiversity and Nature Conservation Resources

	<b>Implications</b>
<p><b>Option 1: Regional Habitat Targets</b></p> <p>Involves updating the targets for improving priority habitats, as set out in Annex B of the RSS.</p>	<p>Would ensure that the policy reflects up to date national and regional priorities</p>
<p><b>Option 2: Focus Enhancement on Specific Areas or Zones</b></p>	<p>Focus on BEA would develop the policy approach in the adopted RSS</p>

Focus for enhancement would be mainly on specific geographical areas, either the existing Biodiversity Enhancement Areas (BEA) in the adopted RSS, or the areas shown in the Regional Opportunities map.	
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### Integrated Approach to the Management of Environmental Resources

	Implications
<p><b>Option 1: Environment led Approach</b></p> <p>Means promoting a landscape scale approach, the protection and enhancement of key assets and the improvement of poor quality environments across the region.</p>	<p>Would address environmental concerns</p> <p>May not address wider sustainability issues or contribute to the spatial strategy urban and rural renaissance priorities</p>
<p><b>Option 2: Development led Approach</b></p> <p>Involves targeting areas affected by significant growth.</p>	<p>May not address poorest quality areas or communities with greatest social need</p>
<p><b>Option 3: Spatial Strategy led</b></p> <p>Would enhance the image and attractiveness of the region, with priority given to the protection of key assets and addressing areas of poor environmental quality in and around the major urban areas and regeneration zones.</p>	<p>Would contribute to the spatial strategy urban and rural renaissance priorities</p> <p>Would not address issues relating to Settlements of Significant Development and other growth areas outside the major urban areas and regeneration zones</p>

### Energy

#### Targets for Renewable Energy Generation

	Implications
<p><b>Option 1: Retain existing RSS Policy EN1 with the aspiration that the region meet the national target for generating electricity from renewable sources</b></p> <p>Means setting targets to generate 10% of electricity from renewable sources by 2010, with a further target of 15.5%</p>	<p>This Option does not include a target for renewable energy to contribute to heat consumption or transport.</p>

by 2015 and 20% by 2020.	
<p><b>Option 2: Adopt Regional Energy Strategy targets for renewable energy</b></p> <p>Requires 5% of electricity consumption by 2010 rising to 10% by 2020; 0.3% of heat consumption by 2010 rising to 1% by 2020; and for at least 460 GWh of liquid biofuels to be produced for transport use in the region</p>	<p>Fails to meet Government targets for renewable energy</p>
<p><b>Option 3: Sub-Regional targets for renewable energy</b></p> <p>Means the RSS including targets for the sub-regions in the West Midlands which reflect renewable energy opportunities and constraints in those areas.</p>	<p>Sub-regional targets which reflect renewable energy opportunities and constraints</p> <p>Different targets in different parts of the region</p>

### Location of Renewable Energy and Low Carbon Technologies

	Implications
<p><b>Option 1: Retain existing Policy EN1 in RSS</b></p> <p>which states that local authorities in their Local Development Documents should identify the environmental and other criteria that will be applied to determine the acceptability of renewable energy proposals</p>	<p>No clear criteria for assessing appropriate locations for renewable energy and low carbon technology development</p> <p>Inconsistent approach to assessing applications in the region</p>
<p><b>Option 2: Criteria-based policies for renewable energy and low carbon technology</b></p> <p>Means that the RSS would set out consistent criteria against which planning applications for renewable energy and low carbon technologies would be assessed.</p>	<p>Clear and consistent approach across region</p>

### Positive Uses of the Green Belt

	Implications
<p><b>Option 1: Apply PPG2 Alone</b></p> <p>Reflects the current situation where PPG2 provides the policy for decisions in Green Belts within the region.</p>	<p>Would comply with national Green Belt policy</p> <p>May not deliver positive use or enhancement of Green Belts</p>

<p><b>Option 2: Develop a Regionally Specific Policy</b></p> <p>Would identify where positive improvement should take place during the plan period and call on LPAs to work together across boundaries to develop Action Area Plans.</p>	<p>Would provide a regional priority for positive use and enhancement of Green Belts</p>
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## Minerals

### Minerals - Objectives

- Develop a policy for safeguarding brick clays, natural building and roofing stone and aggregates
- Produce new sub-regional apportionments for aggregates for the period to 2026
- Examine supply and demand for brick clays

### Minerals – Key Issues

- West Midlands contains mineral deposits of national, regional and local significance
- Adequate supply of minerals necessary to meet society’s needs (construction and maintenance of infrastructure)
- Attention must be given to environmental issues
- “Safeguarding” required to ensure mineral resources not sterilised
- Sub-regional apportionment needed to 2026 (current RSS to 2016 only)
- How to meet the need for future supplies of brick clay in the Region

## Safeguarding Mineral Resources

	Implications
<p><b>Option 1: Safeguard <u>Key</u> Minerals and Infrastructure.</b></p> <p>Means only safeguard those minerals and infrastructure in the region which are essential to the delivery of future housing and employment growth.</p>	
<p><b>Option 2: Safeguard All Minerals and Key Infrastructure.</b></p> <p>Means that all minerals and key infrastructure in the region are safeguarded.</p>	<p>Ensures that the changing values and importance of mineral throughout the plan period is provided for at the regional level.</p> <p>Not all minerals require regional policy support where there is adequate national or local safeguarding policies in place.</p>

## Future Supplies of Construction Aggregates

**Table x: Apportionment of the Regional Guidelines 2005-2026 (million tonnes) by existing sub-regions**

	Annual Apportionment	Annual Apportionment
	Sand & Gravel	Crushed Rock
Herefordshire	0.308	0.398
Worcestershire	0.946	0.153
Shropshire (1)	0.891	2.77
Staffordshire (2)	7.172	1.31
Warwickshire	1.133	0.827
West Midlands County	0.55	0
<b>Regional Total</b>	<b>11</b>	<b>5.46</b>
<b>Regional Total 2005-2020</b>	<b>165</b>	<b>82</b>
Additional Requirement 2020-2026	+66	+32.76
Regional Total 2005-2026	231	114.76

Table xx: Sub-Regions: Sub-Regional Apportionment

Existing	As proposed by S.4(4) Authorities
<ul style="list-style-type: none"> <li>• Herefordshire</li> <li>• Worcestershire</li> <li>• Shropshire (and Telford)</li> <li>• Staffordshire (and Stoke)</li> <li>• Warwickshire</li> <li>• West Midlands County</li> </ul>	<ul style="list-style-type: none"> <li>• Staffordshire/Stoke and Walsall</li> <li>• Coventry, Solihull and Warwickshire</li> <li>• Worcestershire</li> <li>• Herefordshire</li> <li>• Shropshire</li> <li>• Telford and Wrekin</li> </ul>

### Options

	Implications
<p><b>Option 1: Apportion final regional guidelines up to 2026 using existing sub-regions and existing apportionment methods.</b></p> <p>Means that future supplies of materials will come from the same areas and in the same proportions as in the past.</p>	Does not reflect the changing sub-regional position on production and consumption for minerals.
<p><b>Option 2: Apportion future supplies using different sub regions.</b></p> <p>Means that future supplies of materials will come from either a mixture of existing and potentially new areas or increased production from existing areas.</p>	<p>Would better reflect the changing position on functional sub regions for mineral production and consumption.</p> <p>The impacts may increase or decrease in certain parts of the region.</p>
<p><b>Option 3 Apportion future supplies using different sub regions and methods.</b> Apportion final regional guidelines up to 2026</p>	Resource utilisation will be locally based and directly linked to local demand and use for future supplies.

using different sub-regions and a methodology based on linking local supplies to future patterns of growth and infrastructure requirements and environmental constraints.

Does not reflect the geographical imbalances between the supply of, and demand for aggregates at the national level.

**AGENDA MANAGEMENT SHEET**

**Name of Decision-maker** Portfolio Holder (Leisure, Culture and Housing) Decision Making Session

**Date of Decision** 16 October 2009

**Report Title** Government Consultation - Regional Strategies and Leadership Boards

**Summary** Government has published its consultation document which sets out draft policy for the process of preparing the new 'Single Integrated Regional Strategies' (SIRS) and guidance on the preparation of schemes to establish Regional Leaders Boards. The deadline for comments is 30 October 2009. The Director's report recommends an appropriate response to the consultation.

**For further information please contact** Andy Cowan  
County Planner  
Tel. 01926 412126  
andycowan@warwickshire.gov.uk

**Would the recommended decision be contrary to the Budget and Policy Framework?** No

**Background Papers** None (i.e. The 61 page consultation document can be found at  
<http://www.communities.gov.uk/publications/planningandbuilding/regionalstrategiesconsultation>

**CONSULTATION ALREADY UNDERTAKEN:-** *Details to be specified*

Other Committees  .....

Local Member(s)  .....  
(With brief comments, if appropriate)

Other Elected Members

- Councillor D Bryden
- Councillor M Doody
- Councillor A Farnell
- Councillor R Sweet
- Councillor J Whitehouse

} for information

Cabinet Member

(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

- Councillor C Saint – comments included.

Chief Executive

- J Graham – Comments included.

Legal

- I Marriott – agreed.

Finance

- .....

Other Chief Officers

- .....

District Councils

- .....

Health Authority

- .....

Police

- .....

Other Bodies/Individuals

- .....

**FINAL DECISION**

**YES**

(If 'No' complete Suggested Next Steps)

**SUGGESTED NEXT STEPS :**

*Details to be specified*

Further consideration by Portfolio Holder

- .....

To Council

- .....

To Cabinet

- .....

To an O & S Committee

- .....

To an Area Committee

- .....

Further Consultation

- .....



**Portfolio Holder (Leisure, Culture and Housing)  
Decision Making Session - 16 October 2009**

**Government Consultation - Regional Strategies and  
Leadership Boards**

**Report of the Strategic Director for  
Environment and Economy**

**Recommendation**

That the assessment and conclusions set out in sections 3 and 4 of the Director's report be agreed as the Council's response to the Government's Consultation on the 'Draft Policy Statement on Regional Strategies and Guidance on the Establishment of Leaders' Boards' published on 6 August 2009.

**1. Introduction**

- 1.1 Government has just published its consultation document which sets out draft policy for the process of preparing the new 'Single Integrated Regional Strategies' (SIRS) and guidance on the preparation of schemes to establish Regional Leaders Boards. After the abolition of regional assemblies, Regional Strategies will be developed jointly by the Leaders' Boards and the Regional Development Agencies (RDAs). The deadline for comments is 30 October 2009.
- 1.2 This consultation document seeks comments on a number of documents, the most important of which are the Draft Planning Policy Statement on Regional Strategies which sets out key expectations for the form and content, monitoring, and implementation of regional strategies, and the Draft Guidance on the "Preparation of Schemes for the Establishment and Operation of Leaders' Boards" which sets out the broad range of considerations that the Secretary of State will take into account when considering schemes for the establishment and operation of a Leaders' Board.
- 1.3 The new integrated regional strategies (SIRS) are intended to be single long term strategic visions for each region to guide local authority leaders and regional development agencies in making public investment decisions that secure regional prosperity. The idea of combining current regional economic and spatial strategies was first announced by Government in the Sub National Review (SNR) of economy and regeneration in July 2007. It was subsequently carried forward into the Local Democracy, Economic Development and Construction Bill which is in the final stages of going through Parliament.

- 1.4 Government is using the system of national 'Planning Policy Statements' (PPSs) to progress the implementation of this aspect of the SNR. In particular, these proposals are aimed at producing a replacement of PPS 11 which dealt with Government policy on regional spatial strategies (RSSs). A final replacement PPS 11 is expected to be published in early 2010. The 61 page consultation document can be found at :-  
<http://www.communities.gov.uk/publications/planningandbuilding/regionalstrategi/esconsultation>.

## 2. Summary of Key Features

- 2.1 The broad aim of this consultation is to elicit views on the principles to be applied in relation to the preparation of Regional Strategies. More specifically, its purpose is to obtain views on: the scope and approach taken in the policy statement (separating out policy from advice), and the principles which responsible regional authorities and other bodies will need to adhere to in reviewing, revising, implementing and monitoring regional strategy. In addition, responses are invited on:-
- (i) Draft regulations to support the implementation of Part 5 of the Local Democracy, Economic Development and Construction Bill
  - (ii) Draft guidance on the preparation of Schemes for the establishment of Leaders' Boards, and
  - (iii) Draft supplementary guidance on undertaking sustainability appraisal of Regional Strategies. (NB. It is not proposed to respond to this highly technical and legally prescribed document but a summary is attached as **Appendix C**).
- 2.2 The three appendices to this report set out useful summaries of the three consultation documents (produced by the Local Government Information Unit): **Appendix A** - Draft Policy Statement on Regional Strategies (PPS 11); **Appendix B** - Establishment of Leaders' Boards: Draft Guidance on the Preparation of Schemes; **Appendix C** - Sustainability Appraisal of Regional Strategies. The key features of the first two of these consultation documents of particular relevance to the County Council and its partners in the Coventry Solihull Warwickshire Sub-region, are outlined below.
- 2.3 **Regional Strategy Preparation:** Regional Strategies will be developed jointly by the Leaders' Boards and the RDAs acting as the 'Responsible Regional Authorities'. Updated planning policy guidance on preparing regional strategies is proposed to replace the guidance limited to regional spatial strategies in the current PPS11. The consultation also sets out draft guidance and regulations that will establish the process that responsible regional authorities will have to follow when they revise their regional strategies; which organisations will have to be consulted when regional strategies are prepared, what project plans should contain, when monitoring must be carried out, sustainability appraisal of regional strategies and access to information requirements. The process outlined no longer affords the upper-tier authorities the opportunity of putting forward early draft proposals for sub-regions (which they currently have under S. 4.4(4) of the 2004 Planning and Compensation Act).

- 2.4 **Other Documents:** The new Regional Strategies will be integrated plans for spatial and economic development. They will inform development planning at local levels, and will form part of the relevant documentation in Local Development Frameworks (LDFs). In turn, the evidence base for the strategies will be informed by local economic assessments (LEAs), the production of which, by next year, will be a statutory requirement for upper-tier local authorities (i.e. inc. the County Council). Implementation of the Regional Strategy will in large part depend on it being translated into Local Development Documents (LDDs), Local Transport Plans, and other plans and programmes prepared by local authorities.
- 2.5 **Conformity:** The Regional Authorities should therefore actively engage with local authorities to promote the implementation of the Strategy at local levels. LDDs must be in 'general conformity' with a Regional Strategy, which means that inconsistencies are not allowed if they could cause significant harm to the implementation of a Regional Strategy. The general conformity test will be applied by inspectors appointed by the Secretary of State – not, as at present, by the regional assemblies. In the West Midlands, such 'conformity decisions' are advised by 'upper-tier 'regional conformity advisers' (i.e. inc. County Council officers).
- 2.6 **Sub-regions:** The consultation document proposes that, in consultation with stakeholders, sub-regions need to be identified and regional strategies should have regard to sub-regional partnerships, city regions, growth areas, Multi-area Agreements (MAAs), and Economic Prosperity Boards. It argues that this process should take into account journey-to-work patterns, housing markets, supply chains, or other features that cross over administrative boundaries. Where sub-regional functional economies cross regional boundaries appropriate cross-regional collaboration will be necessary.
- 2.7 **Regional Leaders Boards:** In this document, the Government sets out what it expects to see in proposals to establish Leaders' Boards. Details are put forward on how to establish and run the local authority leaders' boards that will decide the regional strategy in partnership with the regional development agency. The Draft Guidance proposes that schemes should provide for leaders boards comprising local authority leaders who act on behalf of all local government in the region. It goes on to argue that these boards should be streamlined and manageable, able to make strategic, long term decisions; able to engage effectively with their region's RDA; and include representatives from key sub-regions, upper and lower tier authorities, and the main political groupings.

### 3. Assessment

- 3.1 The assessment below focuses on the key areas of particular relevance to the County Council and its partners in the Coventry Solihull Warwickshire Sub-region, as identified above.
- 3.2 **A Leaders Board** has already been established in the West Midlands Region, albeit in advance of the Regulations, by the local authorities and the WM Local Government Association. It comprises all 33 local authority leaders in the Region. It has identified a core group of 6 leaders who will represent the Board

in a Joint Board with AWM representatives to oversee the SIRS process. The Regional Assembly continues in existence until 31 March 2010 at the latest. The current working premise in the West Midlands is that the Leaders Board should be actively promoted and developed. On 28 October at its next meeting, work is being done on how it will operate. We are seeking a leaner, more business like approach than previously prevailed in regional bodies. There is a particular challenge for the West Midlands in that it is the region faring least well in the current economic climate and we need a step change. The Leaders Board is seen as a positive vehicle to achieve that step change. There are many unanswered questions not least the potential impact of an impending general election but the views currently debated at region clearly suggest that the Leaders Board is an opportunity and we have put considerable energy into getting it off the ground.

- 3.3 **The Guidance** proposed for schemes to establish Leaders' Boards (Annex 3 – A3.12) emphasises the importance of the members of the Board having sufficient authority to act on behalf of all local government. This would seem to be the overriding priority in the Board exercising its functions in relation to the Regional Strategy. However, it should be acknowledged that a possible outcome of the other criteria proposed to achieve desired efficiency, representation and leadership, may well be to set up tensions between the collective corps of leaders on the one hand and the aggregate political balance within the Region. Any inconsistencies in this respect, between the proposed regulations and other legislation relating to local authorities, should be ironed out before they are finalised. In addition, the list of consultees should include the authorities responsible for Areas of Outstanding Natural Beauty.
- 3.4 **Sub-regions:** The general local authority role in the preparation of the new Regional Strategy is proposed to be identified as that of information providers, consultees and implementers, either through local development documents or infrastructure provision. There was a welcome expectation in the earlier SNR process that it would lead to a greater emphasis on sub-regional structures. However, the current proposals indicate that the extent to which local authorities in general and county councils in particular will be able to influence the emerging regional policy framework for their sub-regions is going to depend on the final regulations and the Regional Leaders Board schemes. Nonetheless, there are opportunities for local government in these changes, providing they are able to negotiate effective sub-regional partnerships across administrative boundaries and can build sufficient capacity to deliver development programmes.
- 3.5 **CSW:** Joint partnership working in the Coventry Solihull Warwickshire Sub-region has already demonstrated capacity to produce sub-regional spatial planning policy; work has started on housing strategy and is now moving towards economic strategy and infrastructure delivery. Such progress reflects a greater synergy amongst partners for such matters at Sub-regional level and should encourage Government towards delegating more responsibilities to sub-regions in the first instance and confining the Regional Strategy to major issues of genuinely regional significance. In our experience, sub-regional strategies are far more likely to demonstrate the demographic, geographic and economic differences that inform distinctiveness for policy purposes and are less likely to lead to duplication of national policy than regional strategies. It is

intended that new Sub-regional structures will emerge reflecting regional changes consequent upon the Sub National Review.

3.6 **Scope:** In this context, the purpose and scope of Regional Strategies needs to take account of the following considerations:

- (i) Whilst the general approach set out in paragraph 3.4 of the consultation document is reasonable, locational specificity should be tempered with flexibility in the nature and timing of sub-regional actions - in a manner consistent with the principles of subsidiarity reflected in paragraph 3.5. In short, the Secretary of State should not seek to be over-prescriptive about issues best solved locally.
- (ii) The proposed broad scope of Regional Strategies is acknowledged as is the importance of evidence to support strategy (paragraph 3.3 on). However, there should also be an obligation for Regional Strategies to identify new employment types in areas where staple industries are in decline.
- (iii) Processes for review of the Project Plan (paragraph 5.10) should not be so rigid as to preclude unforeseeable changes in circumstances due to demographic or economic factors.
- (iv) Stakeholder engagement (paragraph 5.15 on) should not diminish or circumvent the special role of elected members of local authorities role in representing their communities. This role has been emphasised by the Secretary of State in responding to the recent 'National Place Survey' results which he interprets as reinforcing." the need for councillors - as democratically elected representatives - to act on behalf of local people and make sure services are delivered to the standards residents expect" (CLG, 24 Sept 09).

3.7 **Economic Assessments:** The role of the Local Economic Assessments, prepared by the upper-tier authorities, should be elevated to the status of advice – not merely 'information' – and the Relevant Regional authorities should be required to take it into account in the preparation of Regional Strategies. This requirement should be reflected in the final Regulations either in relation to direct advice from individual authorities or collectively from sub-regional authorities. In either case the purpose should be to lay firm economic foundations for the generation of policy options – a foundation that is not otherwise provided for in the proposals for the Regional Strategy.

3.8 **Early Inputs:** The Local Government Association, nationally and regionally (amongst others) have argued for provision to be made for early inputs to shape regional and sub-regional policy. A prime example of such an early input is the Coventry Solihull Warwickshire Sub-regional Development Strategy which was taken on board in the recent RSS Phase 2 Revision process, and subsequently carried through the process to Public Examination, gaining weight through being subject to testing through regional Sustainability Appraisal, Environmental Impact Assessment and Habitat Diversity Impact Assessments. However, in Government's consultation proposals the policy influencing role of local

authorities is postponed to later stages in the Regional Strategy preparation process and has the same status as any other consultee. This is likely to expose such late inputs to successful legal challenge on the grounds that they have not been subject to mandatory testing within the regional strategy process. (e.g. Late Government introductions of higher housing numbers to the South East Regional Plan have met this fate).

- 3.9 **Last Chance:** Despite such arguments for retaining a statutory opportunity for upper-tier local authorities to make an early input to regional policy formation, Government has declined to concede a specific enabling clause on the face of the Local Democracy, Economic Development and Construction Bill, preferring to delegate the issue to the Regulations and Regional Leaders Board schemes. Consequently, this would appear to be the last opportunity nationally to secure the appropriate level and timing of input in the Regional Strategy preparation process. As it stands, the Government's consultation proposals in theory leave a wide scope for local authority policy influence – from incidental to decisive. This scope needs to be narrowed down in the interests of a degree of certainty on which local authorities can plan their engagement in the Regional Strategy process. In particular, the Regulations should specify that early draft proposals from sub-regions should be based on a brief provided by the Responsible Regional Authorities and the Regulations should require that they be taken into consideration in the preparation of Regional Strategy options for consultation.

## 4. Conclusions

- 4.1 The assessment set out in paragraphs 3.2-3.9 above highlights the main concerns about the potential effectiveness of the Consultation proposals for engagement of the County Council and its CSW Sub-regional partners in the process of preparing the Regional Strategy - in brief: the need for Leaders Boards to be put on a more business-like footing and for sub-regional engagement and representation in the process of preparing the Regional strategy; the weight attached to Local Economic Assessments in that process and need for an early opportunity for sub-regions to shape the emerging Regional Strategy.
- 4.2 The final Regulations to be published by Government should address these concerns in the manner indicated in the assessment.

PAUL GALLAND  
Strategic Director for Environment and Economy  
Shire Hall  
Warwick

30 September 2009

**Portfolio Holder (Leisure, Culture and Housing)  
Decision Making Session**

**16 October 2009**

**Government Consultation - Regional Strategies and  
Leadership Boards**

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**LGA's Summary of Draft Policy Statement on Regional Strategies**

The Policy Statement sets out the Government's framework for the preparation of Regional Strategies prepared under the Local Democracy, Economic Development and Construction Bill. It provides guidance on the preparation and revision of strategies and sets out the main expectations on their form, content, implementation, and monitoring. It applies throughout England apart from London and will replace *PPS11: Regional Spatial Strategies* (and technical amendments) and *Guidance to RDAs on Regional Strategies* (2005).

The main principles of the proposed new arrangements are to:

- Put in place an integrated strategic framework for each English region, aimed at delivering sustainable economic growth and tackling climate change.
- Secure an integrated approach to strategy-making based on partnership and stakeholder involvement.
- Align public and private investment in enterprise, skills, infrastructure, regeneration, and communities around the delivery of a common set of agreed objectives.
- Drive the development of low carbon and sustainable regional, sub-regional and local economies.
- To set out regionally and sub-regionally specific policies and translate national policies to the local level.
- Streamline previous approaches to regional strategy.

The *UK Sustainable Development Strategy* and *Planning Policy Statement 1: Delivering Sustainable Development* will be key considerations when preparing the strategy.

Each Regional Strategy should:

- Set out a clear vision for all parts of the region for the next 15-20 years.
- Be based on a sound evidence base, supported by a sustainability appraisal and a Habitats Regulation Assessment.

- Set out the policies needed to deliver the vision, in particular bringing together: policies for sustainable economic growth, the development and use of land and policies for the mitigation of, and adaptation to, climate change and policies for business, the environment, and the social, health, and well-being of the region.
- Set out the long, medium, and short-term actions required to implement the policies and vision in a separate Implementation Plan.
- Set out expected outcomes and indicators used to monitor progress, where possible in the form of quantified targets.
- Be concise and easily accessible.

Sub-regions, in consultation with stakeholders, need to be identified and strategies should have regard to sub-regional partnerships, city regions, growth areas, MAAs, and Economic Prosperity Boards. Consideration needs to be given to journey-to-work patterns, housing markets, supply chains, or other features that cross over administrative boundaries. Where sub-regional functional economies cross regional boundaries appropriate cross-regional collaboration will be necessary.

Regional Strategies must have regard to national policies and guidance issued by the Secretary of State. They should be consistent with national policy but they may include policies that depart from, or provide a regional interpretation of, national policy, subject to the approval of the Secretary of State.

Regional strategies should broadly cover:

- The key regional and sub-regional opportunities and challenges over the period of the strategy, both urban and rural.
- How sustainable economic growth can be delivered, taking into account employment and the key drivers of productivity (innovation, skills, enterprise, investment, and competition).
- How the region will meet its housing needs.
- Proactive and innovative actions on climate change and energy, including climate change mitigation and adaptation.
- Areas or communities prioritized for regeneration and growth, identified on the basis of relative deprivation, worklessness, economic or environmental inequalities, health and social inequalities, social exclusion, skills levels, housing stock, and adequacy of infrastructure provision.
- The infrastructure required to support development, including transport, water, waste, minerals, and provisions for flooding, coastal erosion, and green infrastructure and habitats which help deliver ecosystem services.
- Priorities for the protection, enhancement, and access to the built and natural environment.
- Priorities for widening access to culture, media, and sport.

There is a lengthy section on the process to follow in revising regional strategies. Regional authorities are required to keep the strategies under review. The general expectation is that revision will take place every five years, although it is likely that revisions, in whole or in part, will be required more frequently in response to the



monitoring process or to changes in national policy. Regional Authorities should agree a project plan with Government Offices to guide the timing and sequencing of revisions.

The evidence base for the Regional Strategies must be informed by, among other things, local area economic assessments produced by local authorities.

Legislation will require regional authorities to prepare a Statement of Policies on Community Involvement to ensure the engagement of stakeholders in the region when preparing regional strategies. These statements should cover both formal consultation with the general public and informal engagement with stakeholders. They should ensure that consultation is cross-sectoral, ensuring the representation of social, health, economic, and environmental interests, and should set out the processes and methods that will be applied in involving stakeholders during different stages of the consultation process.

The Draft Regulations set out the bodies that regional authorities must involve in preparing the Regional Strategy, but this should be regarded as the statutory minimum.

Regional Authorities can arrange for an Examination in Public (EIP) into a draft revision of the Strategy to be held by a panel appointed by the Secretary of State. However, an EIP is likely to be required in all but the most exceptional of circumstances. The Secretary of State can overturn a decision not to have an EIP made by the Regional Authority.

Once a final draft of the Regional Strategy has been submitted to the Government, the Secretary of State will consider whether any further changes are required before publishing the final version of the draft strategy for public consultation.

Legislation will require regional authorities to set out an Implementation Plan for the Regional Strategy. Amongst other things, the Implementation Plan will allocate specific actions to key organisations. It will be prepared in close co-operation with regional, sub-regional and local partners, government and government agencies.

Implementation of the Regional Strategy will in large part depend on it being translated into Local Development Documents (LDDs), Local Transport Plans, and other plans and programmes prepared by local authorities. Responsible Regional Authorities should therefore actively engage with local authorities to promote the implementation of the Strategy at local levels.

LDDs must be in 'general conformity' with a Regional Strategy, which means that inconsistencies are not allowed if they could cause significant harm to the implementation of a Regional Strategy. The general conformity test will be applied by inspectors appointed by the Secretary of State.

Regional Authorities will be required by legislation to publish an Annual Monitoring Report.

**Portfolio Holder Decisions – 16 October 2009  
Councillor C Saint – Portfolio Holder for Leisure,  
Culture and Housing**

**Government Consultation - Regional Strategies and  
Leadership Boards**

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**LGA's Summary - Establishment of Leaders' Boards:  
Draft Guidance on the Preparation of Schemes**

Under Clause 68 of the Local Democracy, Economic Development, and Construction Bill, participating authorities in each regional are required to prepare a scheme (or proposal) for the establishment and operation of a Leaders' Board from the region (except London).

This guidance sets out the broad range of considerations that the Secretary of State will take into account when considering schemes for the establishment and operation of a Leaders' Board.

Participating authorities (which will include district, unitary, and county councils and National Parks Authorities and the Broads Authority) will be responsible for drawing up the scheme and agreeing it among themselves. This will include how seats will be allocated on the Board. The Scheme must be subject to consultation among the participating authorities before it is submitted to the Secretary of State. Where a Leaders' Board has been operating, and can show that it has attracted sufficient support, a reduced consultation process shall apply.

The earlier consultation produced endorsement for three broad criteria for the establishment of a Leaders' Board:-

- It should be streamlined and manageable, and able to engage effectively with the RDA.
- It should be representative of local government across the region, in terms of geography, type of council and political grouping.
- It should be made up of local authority leaders.

Among the items that should be included in the proposals are:

- The voting rights of Board members.
- How joint decisions will be made with the RDA.
- How disagreements between the Board and the RDA will be dealt with.

- How each type of authority, political parties, and sub-regions will be represented on the board (at least one of the different types of authorities, where they are present, must be offered a seat on the Board).
- How the Leaders' board will be held to account by participating authorities.

Schemes cannot be finalized until the Bill receives Royal Assent and Clause 68 comes into force, although it is intended that the clause will commence early. Schemes should be discussed with the Government Office during their preparation.

**Portfolio Holder Decisions – 16 October 2009  
Councillor C Saint – Portfolio Holder for Leisure,  
Culture and Housing**

**Government Consultation - Regional Strategies and  
Leadership Boards**

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**LGA's Summary - Sustainability Appraisal of Regional Strategies:  
Draft Supplement to a Practical Guide to the Strategic  
Environmental Assessment Directive**

In 2005 the former ODPM and the devolved administrations published a *Practical Guide to the Strategic Environmental Assessment Directive (the SEA Practical Guide)* applicable to all plans and programmes which are subject to the European Directive on SEA. Also published was separate guidance for regional planning bodies and local authorities on the sustainability appraisal (SA) of Regional Spatial Strategies and Local Development Documents, known as the SA Guidance. The SEA Practical Guide and this Supplement replace the Regional Spatial Strategy section of the SA Guidance.

The Sustainability Appraisal required by Clause 74(2) of the Local Democracy, Economic Development and Construction Bill is meant to establish a process for reporting on the social, environmental effects of the Regional Strategy. It will assist in the consideration of environmental limits when formulating the Strategy.

The Sustainability appraisal of Regional Strategies incorporates the requirements of the European Strategic Environmental Assessment Directive and Regulations, but adds social and economic effects to the predominantly environmental concerns of the European Directive. The intention is to integrate all social, economic, and environmental concerns in order to promote sustainable development.

Sustainability Appraisal (SA) can also complement or incorporate other required assessments, including a Habitats Regulations Assessment and Equalities Impacts Assessment.

This Supplement provides an elaborate template for integrating the SA into the the Regional Strategy-making process. Responsible regional authorities should include key SA stages and milestones in their project plan. The various stages include identifying other relevant plans, programmes, and sustainability objectives, collecting baseline information, developing objectives and options, and consultation. The SA can help predicts predict adverse effects but can also help identify mitigation actions or enhancements.

**AGENDA MANAGEMENT SHEET**

**Name of Decision-maker** Portfolio Holder (Leisure, Culture and Housing) Decision Making Session

**Date of Decision** 16 October 2009

**Report Title** Government Consultation on Detailed Proposals and Draft Regulations for the Introduction of the Community Infrastructure Levy (CIL)

**Summary** Government has published (31 July) for consultation its detailed proposals for the introduction of the Community Infrastructure Levy (CIL). This will be a new charge that local authorities in England and Wales will be empowered, but not required, to charge on most types of new development in their area. This is the consultation that had been promised for publication last January. The deadline for comments is 23 October 2009.

The Director's report recommends an appropriate response to the consultation.

**For further information please contact** Andy Cowan  
County Planner  
Tel. 01926 412126  
andycowan@warwickshire.gov.uk

**Would the recommended decision be contrary to the Budget and Policy Framework?** No

**Background Papers** None (i.e. The 161 page consultation document can be found by following this link:  
<http://www.communities.gov.uk/publications/planningandbuilding/communitylevyconsultation>).

**CONSULTATION ALREADY UNDERTAKEN:-** *Details to be specified*

Other Committees  .....

Local Member(s)  .....  
(With brief comments, if appropriate)

Other Elected Members  Councillor D Bryden  
Councillor M Doody } for information  
Councillor P Fowler  
Councillor R Sweet  
Councillor J Whitehouse

Cabinet Member  Councillor C Saint - comments incorporated  
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

Chief Executive  .....

Legal  I Marriott – agreed.

Finance  .....

Other Chief Officers  D Clarke, Strategic Director of Resources –  
Comments included.

District Councils  .....

Health Authority  .....

Police  .....

Other Bodies/Individuals  .....

**FINAL DECISION** **YES** (If 'No' complete Suggested Next Steps)

**SUGGESTED NEXT STEPS :**

*Details to be specified*

Further consideration by Portfolio Holder  .....

To Council  .....

To Cabinet  .....

To an O & S Committee  .....

To an Area Committee  .....

Further Consultation  .....

**Portfolio Holder (Leisure, Culture and Housing)  
Decision Making Session - 16 October 2009**

**Government Consultation on Detailed Proposals and Draft  
Regulations for the Introduction of the Community  
Infrastructure Levy (CIL)**

**Report of the Strategic Director for  
Environment and Economy**

**Recommendation**

That the conclusions set out in section 4 and the completed questionnaire set out in **Appendix A** of the Director's report be agreed as the Council's response to the Government's Consultation on the detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy (CIL) published on 31 July 2009.

**1. Introduction**

- 1.1 The Department for Communities and Local Government (DCLG) published (on 31 July) for consultation the Government's detailed proposals for the introduction of the Community Infrastructure Levy (CIL). The CIL will be a levy that local authorities in England and Wales will be empowered, but not required, to charge on most types of new development in their area. (NB. This consultation had been promised for publication in January 2009). The deadline for comments is 23 October 2009.
- 1.2 The CIL has been almost universally regarded as a major potential source of 'new money' to fund public infrastructure services - not least in this Sub-region with its growth agenda for at least 82,000 new houses to be built over the 20 year period 2006-26. (A pilot scheme in Milton Keynes levied £18,000 per house). Whilst the extent to which developers can be expected to fund infrastructure has been seriously dented in the short-term by the impact of the credit crunch on the house building industry, CIL remains an important longer term prospect for funding infrastructure. The 2008 Planning Act only introduced the principle of the CIL and left the important detail to be made in Regulations. This is what the Government is now consulting upon.
- 1.3 The 161 page Consultation document – "Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy (CIL)", published on 31 July 2009, can be found on the DCLG website following this link:-  
<http://www.communities.gov.uk/publications/planningandbuilding/communitylevyconsultation>

## 2. Summary of Key Features

- 2.1 **CIL Expenditure:** The 2008 Planning Act ring-fences expenditure of CIL income to infrastructure, though Government favours a wide definition of what constitutes 'infrastructure'. In addition to the more obvious items such as transport, schools and flood defences, it is supporting the inclusion of play areas, parks and green spaces, health and social care facilities, police stations, other community safety facilities (e.g. fire and rescue stations), traffic demand management and local renewables (e.g. district heating projects), in the definition. Government is also thinking about allowing CIL income to be spent on carbon reduction schemes.
- 2.2 **Funding Streams:** CIL will be a new charge that local authorities in England and Wales will be empowered, but not required, to charge on most types of new development in their area. The Government believes that CIL should be used to fund the infrastructure needs of development contemplated by the development plan for the area, not to remedy existing deficiencies. CIL charges will be based on simple formulae which relate the size of the charge to the size and character of the development paying it. The proceeds of the levy will be spent on local and sub-regional infrastructure to support the development of the area. While CIL will make a significant contribution to infrastructure provision, the Government stresses that core public funding will continue to bear the main burden, and local authorities will need to utilise CIL alongside other funding streams to deliver infrastructure plans locally. The long-standing system for securing developer contributions using Section 106 of the Planning Acts will be retained largely intact but its scope confined to direct mitigation of the planning impacts of a development and to the provision of affordable housing (CIL will not be available to fund affordable housing).
- 2.2 **Sub-regional:** Government sees a key advantage of CIL is that it can more easily fund sub-regional infrastructure i.e. larger pieces of infrastructure typically benefiting more than one local authority area. It proposes that local authorities should have the freedom to work together to pool contributions from CIL within the context of delivering their local development plans – although this will depend on voluntary arrangements between the affected districts and unitaries on how to manage cross-boundary services. Timely delivery of infrastructure is also assisted by the introduction of CIL – not simply because it is a new source of income, but because it is a more predictable one. The Government considers that public sector bodies such as the Regional Development Agencies could provide forward-funding for infrastructure and be reimbursed from a CIL income stream by the benefiting local authorities thereafter.
- 2.3 **Development Plan:** The process of setting CIL is inextricably tied up with the development plan process. Only those authorities who prepare development plans are proposed to be CIL 'charging authorities' - district and unitary councils for most development types, county councils only for minerals and waste developments. But development plans have to be up-to-date before CIL can be charged and the development plan has to be supported by an infrastructure delivery plan that identifies what infrastructure will be needed, when it is needed and at what cost. Taking other funding sources into account, the charging authority should identify gaps in funding to arrive at a proposed amount to be



raised from CIL, subject to an assessment of local development viability at the plan level. Estimating these 'gaps' and 'viability' will be a significant challenge to authorities. (John Healy MP, Minister for Housing and Planning has made it clear that the level at which the CIL is set should not deter housing development).

- 2.4 **Charging Schedules:** Government is proposing that the local authority's charging schedule of CIL rates for different locations and types of development should go through similar testing to that applied to local development documents – although the schedule would not be formally part of the statutory development plan. It is proposed that they should go through public consultation and a public inquiry held by an independent planning inspector - whose report will be binding on the local authority. Each schedule will have to say how much money is to be raised by each main class of development, expressed as a cost per m<sup>2</sup> of building floorspace and indexed to inflation. To ensure that the charges levied do not risk delivery of the development plan, Government proposes that the processes of infrastructure planning and setting the CIL charges are normally contemporaneous.
- 2.5 **Application:** Government is minded to set national definitions, exemptions and indices to ensure consistency in these areas but also to enable local flexibility in tailoring charging schedules to local circumstances. For example, national exemptions would exclude householder development by home owners whilst local flexibility would allow lower charges in regeneration areas. Exemption or a lower CIL rate is proposed for affordable housing (albeit with a 'claw back' if the house is sold on). Charges would be set on the grant of planning permission but payment would not be due until the development commenced. Liability for the charge will 'run with (the owner of) the land' in default of the developer failing to pay within 28 days. Charges would only apply to buildings to which people go and not to open uses such as quarrying and landfill or to structures such as wind turbines or to facilities which people do not visit such as electricity sub-stations.

### 3. Assessment

- 3.1 The assessment below focuses on the key areas of interest for the County Council as a major infrastructure service provider and as the planning authority for minerals and waste development and as a partner to the other seven authorities in the CSW Sub-region. It has benefited from contributions from colleagues across all directorates of the County Council and the Police Authority. **Appendix A** to the Director's report includes a completed version of the consultation questionnaire, consistent with this report - its assessment and recommendations.
- 3.2 **Operating Costs:** There is no reference in the consultation document to the ability or otherwise to charge administrative costs incurred in establishing and operating the CIL against CIL income (e.g. the costs of preparing charging schedules, supporting their examination, billing, enforcement, debt recovery etc.) In addition, borrowing to forward fund infrastructure implies the need to use CIL income to pay the interest charges on this borrowing as well as the capital repayments. Since the most expensive items of infrastructure are likely to be those transport and other 'hard infrastructure' items that need to be in place

before development commences (i.e. when CIL liability is triggered), the need to be able to fund interest payments from CIL revenue will be paramount. Moreover, the complexity of the proposed system is exacerbated in two-tier areas where one tier sets the charging schedule (districts) and the other tier is responsible for large elements of the infrastructure (counties). These issues must be addressed, possibly with joint arrangements providing transparency and accountability, in further Government guidance and the regulations. On a related matter, there is a question of whether local government has the staff with sufficient skills in development economics to address the viability issues in producing differential CIL charges. Government needs to recognise this likely skill shortage and identify ways to address this – including the use of CIL income e.g. to fund training/recruitment/hiring consultants.

**3.3 The Boundary:** It is in the interests of public authorities and private developers that a clear and transparent boundary is drawn between the purposes and operation of S106 and CIL i.e.

- (i) CIL is a levy to recycle the development value built up by existing community infrastructure back into extending and improving that infrastructure and does not depend on any link between a specific development and a specific item of infrastructure and
- (ii) S106 obligations enable a specific planning application to resolve its impacts beyond the normal scope of planning conditions, largely within the confines of the application site.

The Government should reflect this distinction, particularly the difference between linked and non-linked infrastructure, and not only in the CIL regulations but more widely to all sources of capital infrastructure funding (since the principles of recycling development value and mitigating local impacts equate to the wider principles of individual and broader community benefit of public service investments).

**3.4 Developer Contributions:** Although local authorities will not be required to charge CIL, the use of planning obligations will be cut back for all authorities and this income stream will reduce. CIL is expected to increase overall income for the public sector from development by a substantial amount, so authorities will be under pressure to adopt CIL. In reality, the option not to avail themselves of CIL revenue would be a very hard, if not impossible, choice to make. Depending on exactly how far the Government decides to cut back the scope of planning obligations, major elements of infrastructure such as the new Warwick bus station and Rugby Western Relief Road might not be fundable without CIL in the future. That said, there are obvious advantages to major infrastructure providers (such as the County Council) in streamlining the use of S106 developer contributions to enable the much wider scope of CIL to secure contributions to address the accumulated impacts of a wider range of developments on public services.

**3.5 Sub-regional:** This key advantage of CIL (see 3.4 above) extends to the funding of the larger elements of infrastructure that are needed to service communities in several local authority areas. Therefore, the proposed option for local authorities to work together to pool contributions from CIL on a sub-regional basis is to be

welcomed. However, since this needs to be within the context of delivering local development plans, a Sub-regional CIL presumes joint infrastructure planning and therefore movement towards joint sub-regional development plan-making also becomes an inevitable consequence. Government needs to address this implication. It also makes the dubious assumption that areas will have sufficient resource for their local needs in the first instance, and this is rarely, if ever, the case. This is clearly an area where the funding need should be met largely from national and regional allocations rather than CIL which is, in essence, a locally derived levy recycling benefit in land values accrued largely from local infrastructure laid down in the past. No doubt there will be claims that major motorway and rail investments have contributed (albeit, unintentionally) to the benefits of local infrastructure but, as always, these can only be realised with substantial local infrastructure connections being made.

- 3.6 **Minerals and Waste:** In two-tier authority areas, county councils will collect CIL from minerals and waste development although the districts and boroughs will set the charges. Special difficulties are posed in relation to CIL being applied to these developments. Both often give rise to significant off-site impacts, usually transport impacts and therefore, in principle should be subject to the CIL along with other classes of development. However, both minerals and waste developments present problems of measuring their impacts using building floor space. For example, whilst a cement plant may present little difficulty in this respect, quarries have very few and typically small buildings. On the other hand, whilst some waste operations will have larger covered areas many others tend to have much larger operational site areas in relation to their building coverage.
- 3.7 **Exemptions:** There is an intuitive unfairness when, for example, a new runway at Birmingham Airport is free from CIL whilst a new hospital is taxed at the maximum rate. This issue clearly requires further research and subsequent guidance from Government. In addition, there is a further complication in relation to waste-to-energy projects and may well benefit from one or other of the national public funding streams to encourage renewable energy, waste minimisation and carbon reduction. It appears sensible that such projects should, in principle, benefit from the proposed CIL exemption or lower rate being canvassed in the consultation document for affordable housing – to avoid the situation where particular developments are encouraged with public subsidies only to then to have them nullified by CIL. However, this opens the door to using CIL to engineer socially desirable outcomes and the Government is resistant to allowing different treatment except for (a) charities and (b) on grounds of economic viability. The application of EU funding rules adds another dimension. If local authorities use public money to gap fund a development, would they be permitted to use that money to pay CIL? These issues need to be addressed by Government prior to issuing the final regulations.
- 3.8 **'Infrastructure':** The consultation document does not propose to define 'infrastructure' beyond quoting current examples such as transport, schools, flood alleviation etc, preferring to give local authorities the flexibility to embrace other local issues or features not yet universally acknowledged as 'infrastructure' (e.g. broadband/optic telecommunications). However, whilst this proposed approach is both welcome and well-intentioned, without a clear definition of what constitutes 'infrastructure', the CIL process is likely to be overloaded with

challenges and rivalry from all sides that could threaten the efficacy of the related development plan process. A tighter specification of criteria for the eligibility of 'infrastructure expenditure items' in the regulations, at least in the early days, should reduce the risk of this happening without unduly restricting scope for local interpretation. NB. Clearly, the County Council will wish to secure the scope for development contributions to its transport, regeneration, education, services for older people and fire and rescue services.

**3.9 Forward Funding:** The consultation document has, however, one significant omission. It does not address the vital question of forward funding of infrastructure financed by future CIL revenues from developments. A passing reference to Regional Development Agencies providing such funding hardly touches this issue. Whilst the wholesale investment banking sector continues to be disengaged from investing in development (i.e. since the credit crunch started last year), the burden is likely to fall on existing public funding sources – themselves likely to come under increasing pressure. Without the ability to forward fund (usually the most expensive items of infrastructure) developments will be unable to proceed – in some cases because local planning authorities and inspectors would not be inclined to grant planning consent without some certainty that major roads, rail stations, schools, flood relief schemes etc. could be provided in a timely fashion. This would be a reversion to the embargoes imposed by inadequate infrastructure that prevailed several decades ago. (When, for example, some housing schemes had to be refused planning permission because the necessary improvements to the sewage pumping station were not in the water utility company's current capital investment programme). Government needs to provide guidance on the scope of sources for forward funding predicated on CIL revenues before issuing the final regulations - otherwise the advantages of the new system over current arrangements will be seriously, if not fatally, undermined. Indeed, the current arrangements (relying largely on S106 contributions) have the merit of being adjustable to suit economic conditions. Given the uncertainties identified in this assessment, a 'no-risk' strategy can be (and often is) adopted whereby expenditure on infrastructure is restricted to the developer contributions in-hand. Inevitably, this means that some critical infrastructure 'arrives late' (e.g. well after new houses have been built and occupied) – an issue that has in the past created serious local controversy.

**3.10 Funding Environment:** Despite its potential advantages, the introduction of CIL creates a very complex funding environment, with development met from CIL receipts, S106 monies, RDA (and possibly HCA) funding, and a whole multiplicity of Government capital allocations for schools, LTP, etc. With the pressure on the public purse currently, the Government will be seeking opportunities to reduce public expenditure – opportunities that will be increased with the growing complexity of the infrastructure funding equation. There has to be a serious concern about whether the public purse will have the capacity to continue to bear the main burden of infrastructure development and, in particular, the extent to which withdrawal of public funding would take account of the fact that infrastructure development yields benefits well beyond the immediate impact area. Moreover, CIL would be essentially 'gap funding', (i.e. what is required for development infrastructure after taking account of other sources of funding). The flaw in the logic of the Government's proposals is that

we rarely know the level of other available mainstream capital funding well in advance. For example, education capital allocations are often not known until we are into the year in which they are expected to be spent. Consequently, the use of CIL to bridge the gap - between the cost of the public infrastructure required and the mainstream funding available - needs a significant change in Government capital allocation processes, especially much earlier notifications.

## **4. Conclusions**

- 4.1 Insofar as it goes, this is a thorough document on the subject reflecting the importance of this substantial change in the way development contributes to funding infrastructure. The 54 questions in the questionnaire included with the consultation fairly sets out the options for proceeding to implement CIL.
- 4.2 However, the omission of any real attempt to address the vexed issue of forward funding is a serious weakness that threatens to undermine the advantages of the CIL. This gap in national guidance should be remedied in further Government advice prior to issuing the final regulations.
- 4.3 That said, from a general perspective, the remaining shortcomings identified in paragraphs above should be capable of resolution in the manner indicated.
- 4.4 From its particular operational perspective, the County Council will need to have further guidance from Government on the definition of 'infrastructure' measurement of minerals and waste development for CIL charging purposes; the applicability of CIL to developments already in receipt of public subsidy; and the programming of mainstream capital funding.

PAUL GALLAND  
Strategic Director for Environment and Economy  
Shire Hall  
Warwick

30 September 2009

**Portfolio Holder (Leisure, Culture and Housing)  
Decision Making Session - 16 October 2009**

**Government Consultation on Detailed Proposals and Draft  
Regulations for the Introduction of the Community  
Infrastructure Levy (CIL)**

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**Questionnaire Response – Warwickshire County Council**

**Authorised by: Councillor C J Saint, Portfolio Holder for Leisure,  
Culture and Housing**

**NB. WCC answers/comments appear in blue on the website.**

**Contact:**

**(i) Your details:-**

Name: [Andy Cowan](#)  
Position: [County Planner](#)  
Name of organisation: [Warwickshire County Council](#)  
(if applicable):  
Address: [Shire Hall, Warwick CV34 4SX](#)  
Email: [andycowan@warwickshire.gov.uk](mailto:andycowan@warwickshire.gov.uk)  
Telephone number: [01926 412126](#)

**(ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?**

**Organisational Response**

**(iii) Please tick the box which best describes you or your organisation:**

[Warwickshire County Council](#)

**(iv) What is your main area of expertise or interest in this work (please tick one box)?** [N/A – County Council response authorised by Portfolio Holder and based on advice from various disciplines.](#)

**Do your views/experiences mainly relate to one or more v) specific regions within England and Wales, to one or both countries?**

[West Midlands](#)

**Would you be happy for us to contact you again in relation to this questionnaire?**

[Yes](#)

Please refer to the relevant parts of the consultation document for narrative relating to each question.

## Chapter 2. Delivering infrastructure with CIL

1. **Do you agree with the proposal that the draft CIL regulations do not define 'infrastructure' further?**

**No. Comments** – The proposed approach is well-intentioned in relation to providing the scope to engage local issues but, without a clear definition of what constitutes 'infrastructure', the CIL process is likely to be overloaded with challenges and bids that could threaten the efficacy of the related development plan process. Perhaps a tighter specification of criteria for the eligibility of expenditure items would reduce the risk of this happening whilst retaining latitude to include as yet unforeseen items as 'infrastructure'. Lack of definition may also impose an unreasonable burden on bodies across the country to repeatedly make the case for inclusion of a specific type or class of infrastructure being eligible in the case of every separate charging schedule (e.g. policing, fire and rescue).

2. **Is any further reporting required for CIL? Yes. Comments** – In the context of comment under 1 above, it will be important for CIL expenditure report to be accompanied by reporting on relief given and to identify tactics used to avoid CIL – an important source of feedback for the charging authority and the public in general. The charging authority should set out the proportions of income to be dedicated to particular types of infrastructure so that there can be no dispute as to whether an agency has received a fair share in any given year and so that agencies like counties with multiple infrastructure responsibilities know how to split the income.

### Format of Reports

3. (a) **Is the 1 October deadline for reporting on the previous year's activity sufficient for local planning authorities? Insufficient information to base comment.**  
(b) **Will this timescale enable developers and local communities to understand how CIL revenue has been applied? Insufficient information to base comment.**

### General

4. **Do you have any comments on any other matters raised in chapter 2 which are not covered by the questions above? Yes – see below:-**
  - The benefits of predictability arising through codification of the processes of securing developer contributions has to be balanced against the unpredictability of economic conditions that will cause the viability of development schemes to vary up and down within the timescale of a development plan document and its associated charging schedule.
  - The consultation document does not address the vital question of forward funding of infrastructure predicated on future CIL revenues from developments. The reference to RDAs providing such funding hardly touches this issue. Since the wholesale investment banking sector continues to be unengaged in this area

(i.e. since the credit crunch started last year), the burden would seem to fall on funding from existing public resources. Without the ability to forward fund (usually the most expensive items of infrastructure) developments will be unable to proceed – in some cases because local planning authorities and inspectors would not be inclined to grant planning consent without some certainty that major roads, rail stations, schools, flood relief schemes etc. could be provided in a timely fashion.

## Chapter 3. Setting the CIL Charge

### Charging Authorities

5. **Are there any circumstances where a CIL charging authority would not be able to fulfil its charging authority functions effectively?** Insufficient information to base comment – however, in the circumstance where a lower tier authority is venal, incompetent or parochial, Counties should have step in powers.
6. (a) **In deciding whether to use the power at section 207 of the Act, should the Government apply different criteria?** No
- (b) **Which functions should a joint committee perform?** Depends on individual circumstances.

### Differential Rates

7. **Do you agree that differential rates should be based only upon the economic viability of development?** Yes **Comments:** However, this implies higher as well as lower than ‘average’ rates e.g. in areas where growth threatens to overheat the economy and generate labour shortages, high commuting levels and house price inflation. That said, the costs of some infrastructure provision (such as school buildings) does not vary to any great extent with geography and some sites may be more costly to develop than others or make less demands on infrastructure. It also needs to be made clear whether the charging schedule must apply to all development that are buildings to which people go or whether types of building, e.g. schools, can be omitted.

### Metrics

8. **Do you agree that CIL charges should be based on a metric of pounds per square metre?** Yes **Comments:** But attention needs to be paid to minerals and waste developments where building floorspace is not necessarily a good guide to the infrastructure impact of the development. The capacity/turnover in tonnes might be a practical alternative and lend itself to payment by annual instalments.
9. **Would you prefer to have a choice of charging metrics, and if so, can you suggest what and how the system could accommodate this choice without undue complexity and unfair distortions?** No **Comments:** Subject to the last question, variable metrics will lead to confusion and loopholes for avoidance of the levy where it is justified in principle.



10. **Do you agree with the Government's proposal to apply the charging metric to the gross internal area of development or do you think there are advantages to levying CIL on the gross external area?** No Comments: We prefer measurement on a gross external area basis since there is less planning control over internal areas which would lead to more tactics for levy avoidance.
11. **Do you agree that CIL should be levied on the gross development, rather than the net additional increase in development?** Yes Comments: It is the whole gross development that produces the infrastructure impact. The replacement of a factory building constructed 70 years ago when most people walked to work with a slightly bigger area of B1 or residential use which generates mostly car traffic is like subtracting apples from pears.

**NB.** In 2009, the factory places a certain demand on infrastructure according to modern usage and the redevelopment may not result in any net increase. Applying the levy to a replacement will encourage make do and mend rather than new-build. However, net calculations become very complex if you are going to get them right and arguably modification is better than new-build in terms of sustainability.

## Indexation

12. **Should authorities be required to index CIL charges?** Yes Comments: But different indices should be used to reflect the different rates of cost inflation experienced by different forms/ mixes of development e.g. highway construction costs have increased significantly more than general housing building costs in recent years. We might use a basket of indices reflecting the proportions of infrastructure types to be paid for in order to fix an average rate of inflation for charges.
13. (a) **Should indexation be based on a national index to provide simplicity, consistency and a readily understood index.** Yes, but subject to the qualification above.
- (b) **Alternatively, should charging authorities be allowed to choose different indices in different places?** Yes, but subject to the qualification above. Comments: It would be best to have nationally acknowledged indices with a regional and development type breakdown.
14. **Do you agree with the Government's proposed choice of an index of construction costs?** N/A Comments: See comment above.
15. **Are you content with indexation taking place to the point of the grant of planning permission or would you prefer charges to be indexed to the point when development commences?** No. Comments: Development might commence five years after permission is granted and that is when the infrastructure need emerges. The charge is collectable upon commencement, so that is when inflation should be calculated.
16. **Do you think it is right to apply the index on an annual basis or do you see advantages in applying it monthly?** Comments: Application on an annual or monthly or other time scale will depend on the nature of the development.

17. **Do you agree that charging authorities should be able to index their charges from 1 January each year (taking the November index)?** See comments above.

## Charging Schedule Procedures

18. **Do you agree with the Government's proposal to allow joint charging schedule/development plan examinations?** Yes - but see comments below  
Comments: The proposals have the potential to create a highly bureaucratic process, with a cumbersome collection regime and penal levies, and needs clarity and simplicity. For example, the Inspector is looking at the soundness of infrastructure planning as part of the examination of the plan. His/her recommendations on the plan and the schedule are binding, so there is certainty (unless the authority decides to start again). However, as a matter of principle, the charging schedule should always be examined after the development plan has been examined so that it is based on a greater certainty of what the development plan is proposing. Joint examinations should avoid the appearance of development being led by the prospect of CIL income rather than the need for development. It would help simplify the process if the system could bring together (as close as possible) the time of the CIL being charged with the time that the development produces an income. This should reduce the scope and need for argument at the LDF Core Strategy Examination.
19. **Do regulations or guidance need to cover any additional matters relating to joint examinations?** See comments above.
20. **Should the CIL examiner be able to modify a draft charging schedule to increase the proposed CIL rate?** Yes. Comments: If the decision-making on the charging schedule is to be objectively based on viability, then the examiner must have the option to increase as well as decrease.

## General

21. **Do you have comments on any other matters raised in chapter 3 which are not covered by the questions above?** No.

**Has anyone thought about the impact on the farming industry?**

## Chapter 4 Paying CIL

22. (a) **Do you agree with the chosen definitions of building, planning permission and 'first permits'?** No comment: The Consultation Paper says that a "building" is defined in the 2008 Act in a different way to the 1990 Act. However, the 2008 Act adopts the definition of "building" in the 1990 Act (see section 235(1)). Therefore, it is not clear that "structures" like wind turbines are in fact excluded. As the definition stands, it would include polytunnels which are classed as "buildings" and this could have disproportionate impacts on the agricultural industry as a whole as well as particular individual farming businesses.
- (b) **If not, what changes would you wish to see that strike the right balance between simplicity, fairness and minimising distortions?**

Comments: The 100m<sup>2</sup> threshold may have perverse consequences – as the history of property taxation demonstrates (e.g. ‘window taxes’). Some specific building types should be excluded from CIL in the final regulations to avoid perverse consequences but it may be that this has to be ad hoc because of the difficulty of identifying a general principle which does not set too many other hares running.

23. (a) **Do you agree with our approach to when CIL is chargeable on outline and reserved planning permissions.** Yes – but this should be confined to cases when infrastructure needs to be forward-funded – otherwise the time of the CIL being charged should be geared to when the development produces an income.
- (b) **If not, what changes would you wish to see that deal fairly with these types of permissions?** N/A.

## Exemptions and Discounts

24. (a) **What are your views on the principle of providing a reduced rate of CIL for affordable housing development?** Agreed – There seems no point in giving a public subsidy for affordable housing with one hand and taking it away in CIL with the other. But this is precisely what will happen with many other forms of socially desirable development. Really, the logic has to be that affordable housing will so frequently raise viability issues that it is simpler to exempt it generally. However, authorities might be given the power to “re-include” affordable housing where they are confident that viability arguments do not apply’ this might be a safeguard against manipulation by developers and reflect those public service infrastructure needs that may be particularly in demand in relation to affordable housing e.g. elderly care, policing, pre-school provision. In particular, account needs to be taken of the fact that the educational infrastructure demands of affordable housing are at least equal to those needs expressed by general market housing.
- (b) **What do you think the likely consequences of providing such a discount might be?** Hopefully make affordable housing more attractive a proposition to house builders and landowners than it currently is.
25. **If the Government were to provide a reduced rate of CIL for affordable housing development, do you think that the proposed definition of affordable housing is workable in practice?** Yes Comments: It must be made to work by closing the loop-holes and anticipating the perverse effects of avoidance tactics on the provision of affordable housing.
26. **If the proposed definition provides a workable basis for any reduced rate of CIL for affordable housing, should CIL relief for charities building affordable housing be applied according to this definition or according to whether it fulfils the charity’s charitable purposes?** Yes Comments: According to such a definition and with each case signed off by the HCA.

27. **Should LCHO properties where receipts from staircasing are recycled for additional affordable housing, not be subject to any clawback?** [No Comment.](#)
- (b) **if LCHO properties where receipts are not recycled are subject to clawback of the CIL discount, should there be a time limit up till when staircasing to full ownership would invoke clawback?** [No Comment.](#)
- (c) **How should such a clawback operate?**
28. **Is seven years an acceptable time period for clawback to operate over?** [No Comment: Whilst the principle of claw-back is realistic a seven year limit is to arbitrary. Basic criteria should be established to take account of the circumstances prevailing at the time e.g. current need for the infrastructure; state of the economy.](#)
29. **Is it reasonable to ask a claimant to submit an apportionment of liability in this way?** [No Comments](#)
30. **Do you agree that it is best not to have a special procedure for developments that have difficulty in paying the advertised rate of CIL?** [Yes.](#)

## The Liable Party

31. **Do you agree with the Government's proposals for liable parties and assumption of liability?** [Yes No Comments.](#)

## Collecting CIL

32. **Are these timescales for the transfer of CIL revenue from the collecting authority to the charging authority the right ones?** [No Comments](#)

## Payment of CIL In Kind

33. **Do you think that the final regulations should provide for the payment of CIL in-kind?** [No Comments: Valuation complexities and uncertainties are associated with payments in kind – though in some cases payment in kind may be the most sensible form of payment e.g. the site for a school.](#)
34. **If you think they should, can you suggest how CIL could be paid in-kind without incurring the difficulties outlined above?** [Only on the District Valuer's Valuation.](#)

## Payment by Instalments

35. (a) **Should payment by instalments be provided for in the final CIL regulations in addition to the ability to pay CIL by phases of development?** [Yes – if it helps to enable the development's cash flow.](#)
- (b) **How should the instalments be structured?** [Yes - to meet projected programmes of expenditure that will be a consequence of the development, phased to reflect income generated by the development.](#)

36. Do you agree that payment on account should not be provided for in the final CIL regulations? **Yes** Comments: To reduce complexity and the scope for avoidance or the perverse consequences of avoidance.

### Duty on The Authority to Remove the Local Land Charge Upon Request

37. Should the collecting authority be under a duty to remove the charge automatically on payment of the full CIL liability? **Yes** Comments: Once paid, the CIL should no longer be a charge on the land.

### Enforcement Of CIL Liabilities

38. Should the draft regulations be amended to require collecting authorities to have to issue a warning to liable parties (in writing and possibly by posting a warning on the site in question) before being able to impose a late payment surcharge? **Provision to enable additional interest charges on late payments may be a useful enforcement tool.**
39. Are the means of recovering CIL debts sufficient or would further methods, such as the ability to impose attachment of earnings orders, be helpful? **Yes No** Comments.
40. Should the Government provide for specific enforcement measures in regulations to allow collecting authorities to penalise and deter breaches of the conditions for relief? **Yes** Comments: Lack of sanctions of sufficient deterrence would encourage breaches.

### Compensation

41. Is a bespoke compensation regime required for CIL where enforcement action is inappropriately taken or would the Ombudsman route suffice? **Comments: A bespoke regime is unnecessary - the Ombudsman route should be sufficient.**

### General

42. Do you have any comments on any other matters raised in chapter 4 which are not covered by the questions above? **Yes – There is no reference to the ability or otherwise for charging administrative costs incurred in establishing and operating the CIL against CIL income e.g. the costs of preparing charging schedules, supporting their examination, billing, enforcement, debt recovery etc. In addition, borrowing to forward fund infrastructure implies the need to use CIL income to pay the interest charges of this borrowing as well as the capital repayment.**

### Chapter 5. Planning Obligations and Other Powers

43. What do you think about the Government's proposal as set out in draft regulation 94 to scale back the use of planning obligations? **This is to be welcomed from many points of view, especially to avoid the appearance of planning permissions being bought for unrelated financial gain and to focus on**

the purposes for which planning permission is either granted or refused. It would also save time in terms of negotiations on S106 agreements.

44. **Do you think the wording of the five tests as set out in draft regulation 94 is appropriate? Is each of the five tests meaningful and workable in practice, or could any be expressed in a better way?** Yes – the five tests of Circular 5/05 are the appropriate tests in relation to the operation of S106. however, it is not necessary to state tests (i) and (v) in the final regulations and tests (ii), (iii) and (iv) can be rolled up into a single test for these purposes. Comments: It is essential that a clear boundary is drawn between the purposes and operation of S106 and CIL – the latter being a tax to recycle the development value built up by the community back into the community and the former to enable a specific planning application to resolve its impacts beyond the normal scope of planning conditions.
45. **Do you think that a transitional period, beyond the commencement of CIL regulations in April 2010, would be required to restrict use of planning obligations to the Circular 5/05 tests.** No – the transition should be geared to the coming into effective operation of CIL across the country
46. **Do you agree that a scale back of planning obligations as set out in draft regulation 94 should apply universally across England and Wales regardless of whether a local authority has a CIL or not?** Yes - CIL is the more appropriate tool for recycling the values accrued by community infrastructure beyond the scope of the 5 tests.
47. **Should a scale back of the use of planning obligations go further and prevent the future use of planning obligations for pooled contributions and tariffs?** Not necessarily. Comments: Confusion and inconsistency need to be avoided if both CIL and S106 schemes doing a similar job were being run alongside each other but pooled contributions and even tariffs imposed via planning obligations can still make sense in a CIL world where there is a direct relationship between the development and the infrastructure and there is no duplication with infrastructure intended to be funded by CIL. This means a high level of clarity in infrastructure planning and charging schedules about just what is going to be covered by CIL. The Government also needs to consider whether it will allow charging in respect of general types of development, such as traffic calming anywhere, or only in respect of distinct projects.
48. **Do you think the Government’s proposal to provide an additional legal criterion to restrict the use of planning obligations to address planning impacts ‘solely’ caused by a CIL chargeable development is workable in practice?** No - For example, the housing estate that tips the balance of congestion at an adjacent roundabout. Developments that are exempt from CIL will nevertheless have impacts that need to be mitigated through planning obligations.

**If not, please state why not. Can you think of an alternative which would have the same or similar effect?** There is no need to limit the scope of planning obligations in this way – just so long as it is limited to the 5 tests on the scope of mitigation.



49. **What transitional period, beyond the commencement of CIL regulations in April 2010, would be required to restrict use of planning obligations to mitigate impacts ‘solely’ caused by CIL chargeable developments? Not necessary.**

For reasons given above, we need to preserve our ability to use planning obligations for as long as possible. Implementation of CIL is outside the control of many infrastructure providers including counties.

50. **Do you agree that a restriction of planning obligations to prevent their use for pooled contributions or tariffs should apply universally across England and Wales regardless of whether a local authority has a CIL or not? No**  
**Comments:** It is essential that a clear boundary is drawn between the purposes and operation of S106 and CIL – the latter being a tax to recycle the development value built up by the community back into the community and the former to enable a specific planning application to resolve its impacts beyond the normal scope of planning conditions. Authorities would have a choice – but it should not be ‘Hobson’s Choice’. The Government’s proposals acknowledge that planning obligations can be used for pooled contributions and tariffs consistently with the five tests and, within these limitations, they should be available where CIL is not.
51. **What transitional period in London do you think would be required before a scale back of the use of planning obligations which prevented the use of pooled contributions and tariffs could take effect, to ensure a smooth transition from the existing to the new planning obligations regime, taking account for the need to use planning obligations for Crossrail purposes? N/A.**
52. **In revising Circular 5/05 in light of the introduction of CIL what further policy or areas of clarification do you think might be required with regards to the use of planning obligations? None.**
53. **Do you think any additional further guidance (additional to a revised Circular 5/05) is required to support the use of planning obligations or CIL, and if so who would be best to provide it? Yes**  
**Comments:** Provide additional guidance through a separate PPS following Government’s decision after this consultation exercise.

## General

54. **Do you have comments on any other matters raised in chapter 5 which are not covered by the questions above? No.**

**AGENDA MANAGEMENT SHEET**

**Name of Committee** Portfolio Holder (Leisure, Culture and Housing)  
Decision Making Session

**Date of Committee** 16 October 2009

**Report Title** Government Consultation on Draft Planning  
Policy Statement 15 - 'Planning for the Historic  
Environment'

**Summary** Government's Department for Communities and Local  
Government (DCLG) has published the long awaited  
replacement for the existing Planning Policy Guidance notes  
15 (Planning and the Historic Environment) and 16  
(Archaeology and Planning), for a three month consultation  
period. The new Draft PPS15 takes account of the 2007  
white paper 'Planning for a Sustainable Future' which aims  
to streamline policy by integrating the existing national  
planning policy on the historic environment, and to separate  
policy from guidance. The PPS is supported by draft  
guidance prepared by English Heritage, also under  
consultation.

This report recommends an appropriate response to the  
consultation.

**For further information  
please contact** Andy Cowan County Planner  
Tel. 01926 412126  
andycowan@warwickshire.gov.uk  
Jonathan Parkhouse  
County Archaeologist  
Tel. 01926 412276  
jonathanparkhouse@warwickshire.gov.uk

**Would the recommended  
decision be contrary to the  
Budget and Policy  
Framework?** No

**Background Papers** None (i.e. The consultation document can be found by  
following this link:  
<http://www.communities.gov.uk/publications/planningandbuilding/consultationhistoricpps>; the supporting guidance from  
English Heritage is at <http://www.english-heritage.org.uk/server/show/nav.21136>).

**CONSULTATION ALREADY UNDERTAKEN:-** Details to be specified

Other Committees  .....





**Portfolio Holder (Leisure, Culture and Housing)  
Decision Making Session - 16 October 2009**

**Government Consultation on Draft Planning Policy  
Statement 15 - 'Planning for the Historic Environment'**

**Joint Report of the Strategic Directors of Adult, Health and  
Community Services and Environment and Economy**

**Recommendation**

That the assessment and conclusions set out in sections 3 and 4 and the detailed responses set out in **Appendix A** of the Director's report be agreed as the Council's response to the Government's Consultation on Draft Planning Policy Statement 15 – 'Planning for the Historic Environment' (July 2009).

**1. Introduction**

- 1.1 Government's Department for Communities and Local Government (DCLG) has published the long awaited replacement for the existing Planning Policy Guidance notes 15 (Planning and the Historic Environment – covering Listed Buildings and Historic Landscapes) and 16 (Archaeology and Planning) for a three month consultation period. The new Draft Planning Policy Statement 15 (PPS 15) takes account of the 2007 White Paper 'Planning for a Sustainable Future' which aims to streamline policy by integrating the existing national planning policy on the historic environment, and to separate policy from guidance. The PPS is supported by draft guidance prepared by English Heritage.

**2. Draft PPS15**

- 2.1 The draft PPS15 is an element of the Government's ongoing Heritage Protection Review programme. It aims to move beyond an outdated distinction between buildings and archaeology, previously dealt with through largely separate legislation and guidance, in order to embrace the whole of the Historic Environment.
- 2.2 It defines the Historic Environment in terms of heritage aspects to be conserved and where appropriate enhanced, in accordance with a set of common principles in proportion to an asset's significance (defined in terms of historical, archaeological, architectural or artistic interest). It envisages a proportionate response to change, focussing on the significance of each asset, and establishing those aspects of an asset which it is most important to conserve.

- 2.3 The Draft PPS also emphasises the importance of ensuring the availability of adequate information and evidence bases to facilitate plan-making (including development plans and spatial strategies) and decision-making, and makes clear the need for Local Planning Authorities to have access to expert advice concerning Historic Environment. It highlights the importance of integrating conservation of heritage assets into the wider planning context and introduces an increased focus on the positive contribution that heritage can make to regeneration, tourism, the quality of the environment and sense of place.

### **3. Assessment**

- 3.1 Overall the draft is a logical progression from the existing PPGs. It addresses the confusion amongst many owners and managers of historic assets arising from the varied treatment of different elements of the Historic Environment. The policies recognise the positive contribution which the Historic Environment makes to place-making and sustainable development, and emphasises the public benefit of a greater understanding of significance of historic assets and the creation of new understanding.
- 3.2 The emphasis on seeking the views of local communities during consultation (policy HE9) is to be welcomed, especially where an asset's significance to the community may not be understood from records or statutory consultation alone. In addition, the significance of the requirement to use appropriate expert advice to inform decision-making should not be overlooked, especially where there is a need to understand the value of a heritage asset in a range of contexts, from local to global.
- 3.3 The definition of 'heritage asset' is useful, with the recognition that absence of designation does not necessarily indicate lower significance and that all assets should be treated according to the same principles. However there are places where there is over-conflation of the approaches between archaeology, buildings and landscapes; the intrinsic differences between these categories need to be recognised.
- 3.4 The recognition of the importance of Historic Environment Records (HERs) and the need for Local Planning Authorities and applicants to use them goes a long way towards compensation for the delayed introduction of the Heritage Protection Bill published in draft in 2008. The recognition that HERs are dynamic information services with specialised expert staff able to mediate, interpret and analyse the varied and complex data held therein is also welcome. However, there needs to be recognition that local authority historic environment services go beyond maintenance of HERs; the expertise to make effective use of HERs will be key to successful implementation of these policies.

- 3.5 There are a number of areas where the draft PPS would benefit from further clarity.
- (i) Deposition of the 'archival records' arising from archaeological investigations, which may include large quantities of artefacts as well as written records, drawings and electronic databases, is a major issue in many local authorities who may have no, or inadequate, resources for storage and curation.
  - (ii) There is no reference to the need for conservation or display of artefacts, yet it is through museums and their displays that the public benefits of historic environment related work are often delivered.
  - (iii) Community engagement needs to be more strongly advocated. A Planning Authority can require opportunities for public participation and access as a public benefit, where development may lead to overall loss of historic environment significance. If local communities are not empowered through direct access and appreciation of the historic environment of their locality they will be far less likely to have an informed view when consulted over development, or to be good informal stewards and custodians of it,
- 3.6 Very careful attention needs to be paid to language, especially around the terms 'archaeological interest' 'national importance', and 'significance' – and the relationship between these. 'National importance' is used in both the current PPG16 and in the 1979 Ancient Monuments and Archaeological Areas Act. Care needs to be taken to avoid creating confusion and providing the opportunity for tendentious arguments around definitions at, for example, Public Inquiries. There also needs to be a clearer articulation of the principle that landscape is an important component of the Historic Environment and may therefore be significant as a heritage asset in its own right.
- 3.7 There are gaps in the identified costs of implementation of the PPS for Local Authorities; these are the costs of :-
- (i) Preparing core strategies for local development frameworks, since collation of evidence bases is now a requirement.
  - (ii) Additional pre-application discussion.
  - (iii) Implementing additional casework-related investigations (identifying the need, scoping the work, monitoring its implementation and validating the results) over and above those related to creating additional HER entries curation of additional museum deposits resulting from such work.

## 4. Conclusions

- 4.1 The Draft PPS 15 - 'Planning for the Historic Environment' is, overall, to be welcomed. It is a considered and balanced policy document but one that would benefit from improvement in terms of the matters identified in paragraphs 3.1 – 3.7 above, and in **Appendix A**.

- 4.2 In particular, the Draft PPS needs to give further thought to terminological definitions such as 'archaeological interest', national importance' and 'significance'; avoiding ambiguity here is crucial to the successful implementation of the PPS.

PAUL GALLAND  
Strategic Director for  
Environment and Economy  
Shire Hall  
Warwick

GRAEME BETTS  
Strategic Director of  
Adult, Health and Community Services  
Shire Hall  
Warwick

30 September 2009

## Appendix A of Agenda No 4

### Portfolio Holder (Leisure, Culture and Housing) Decision Making Session - 16 October 2009

#### Government Consultation on Draft Planning Policy Statement 15 - 'Planning for the Historic Environment' Questions on which Views have been Particularly Solicited:

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1. Does the PPS strike the right balance between advocating the conservation of what is important and enabling change?

In general there is a good balance between the requirements of conservation and development. However, the language needs to be carefully defined (see below; question 8) to enable those making planning decisions to be guided by proportionality in those circumstances where the adverse impacts upon the significance of the heritage assets are not matched by the advantages of the development.

2. By adopting a single spectrum approach to historic assets, does the PPS take proper account of any differences between types of asset (eg. are archaeological assets adequately covered)?

The integration of archaeology and buildings is one of the primary benefits of the new PPS. This convergence of approach will address many of the misunderstandings - in the minds of the public if not the heritage specialists - which have previously surrounded the parallel legislations, guidance and management frameworks. It is also good to see principles behind PPG16, including the potential importance of non-designated assets (which are often amongst those most valued by local communities), being explicitly applied across the historic environment; this principle is not new but its clear articulation here will make it easier for developers to understand their obligations. However, care needs to be taken that there is not over conflation; the needs of archaeology (where the asset is likely to be buried, incompletely understood or completely unknown, and unlikely to be re-usable) and upstanding structures (visible, known, and potentially economically viable) are not always identical. Thus the references in HE9.8 and 10.3 to the retention of an asset in its original use would not be relevant to buried archaeological assets. However, it is in the underlying guidance that one would expect to see the different approaches to different categories of heritage asset articulated.

3. In doing so, does the PPS take appropriate account of the implications of the European Landscape Convention, and of the cultural dimensions of landscapes designated as National Parks and Areas of Outstanding Natural Beauty?

Whilst the definition of 'Historic Asset' in Annexe 1 makes it clear that the term may refer to landscapes, the draft PPS would benefit from a clearer articulation of the principle that landscape forms an important component of the Historic Environment and can therefore be significant in its own right. This is of particular relevance when determining the position of major urban expansions and other strategic developments, where significance of the landscape needs to be assessed against its sensitivity and capacity to absorb change. Determining the significance of landscapes and the manner in which new development can contribute to or detract from local distinctiveness is an area where perceptions of local people are of especial importance. Although the importance of landscape is acknowledged in HE2.1, which refers to regional spatial planning, this is equally relevant to local planning. We therefore suggest inclusion of reference to historic landscapes in HE 3.1., in order to ensure its consideration in planning at local level. The policy principles in HE 11 are also relevant to historic landscape and this should be made explicit.

4. Are the policies and principles set out in the PPS the key ones that underpin planning policy on the historic environment, or should others be included?

There were several areas where PPGs 15 and 16 did not deliver public benefit effectively. These included:-

- The definition of the historic environment, which did not adequately account for artefact scatters and palaeoenvironmental deposits,
- Provision for facilitating public engagement,
- Guidance on publication and dissemination of results of archaeological work and the long-term curation of material and records arising from archaeological investigation,
- Guidance on the standards and accreditation of those undertaking professional historic environment work such as archaeology or building recording and analysis.

The draft PPS goes some way towards addressing these deficiencies by providing a framework for underlying guidance which articulates recognised good practice.

Nevertheless, there remain areas of concern. In particular, the policy and guidance both fail to address the variable provision of museums able to accept archaeological archives; not only are there areas which are not covered by the collection policy of an accredited museum, but there are also many museums which only have limited capacity for accepting new material. Indeed, there is no reference whatsoever to conservation or display of artefacts, which are an important means by which the public benefit is realised.

Another area which needs to be addressed is that of public engagement. Whilst the draft PPS contains a welcome requirement that the views of local communities be sought in assessing the significance to them of heritage assets, policy should permit the facilitation, where appropriate, of public access, both physical and intellectual, to the processes of investigation and analysis which may be required where the loss of significance to an asset is being mitigated.

Public benefit will only be fully realised when local people are able to make informed decisions about what is significant; this involves enabling them to engage with their historic environment directly, through participation, where appropriate, with research and discovery.

We also believe that policy principles in respect of recording information about heritage assets in HE13 need to make explicit reference to the important stage of analysis which needs to take place between recording data and disseminating it in a manner which actually furthers understanding.

5. Do you agree that it is the “significance” of a historic asset that we are trying to conserve?

The focus upon significance represents an advance in understanding of the way in which the historic environment influences people’s lives; it is not merely the physical remains which are important but the values people attach to them. The new PPS focuses upon the retention and enhancement of value and understanding rather than solely recording physical fabric, important though that is.

Nevertheless, ‘significance’ may be a disputed term. Advocates for a development may seek to diminish the significance of the assets affected by it whilst heritage champions and professionals may take a contrary position. Focus on significance may therefore increase the potential for controversy.

The shift in conservation aims towards preserving significance, as opposed to preserving assets, is also a move away from the principle of a presumption in favour of preservation of archaeological remains in situ, for which the existing 1979 Ancient Monuments and Archaeological Areas Act provides a firm justification. The statement – which we fully support – in HE13.1 that recording an asset is not as valuable as its retention does not offer the robustness of the very clear statement about physical preservation in PPG16 paragraph 8.

6. Does the PPS comply with devolutionary principles with regard to what is expected at regional and local levels?

Yes; the acknowledgement of the importance of local consultation (HE 9.3), the need for strategic plans to focus upon local distinctiveness (HE3.1) as well as regional identity (HE2.1) indicate conformity with devolutionary principles.

7. Does the PPS strike the right balance between the objectives of conserving what is significant in the historic environment and mitigating the effects of climate change?

There is a danger that climate change – which we acknowledge as being of great significance – dominates perceptions of what is important on the environmental agenda to the exclusion of other issues. Proportionality needs to be applied to ensure the correct balance between retaining historic environment significance and ensuring that development addresses climate change issues. We welcome the support that policies HE4 and HE 9.5 give to keeping historic assets in use and encouraging solutions that deliver climate change mitigation whilst minimising adverse impact upon historic assets. In those cases where the



case for a particular development mitigating climate change outweighs the material harm or removal of significance to an asset (as described in HE9.8 (iii)) the arguments must be made with clarity and transparency; good practice and guidance such as that identified in English Heritage's Climate Change and the Historic Environment (2008) and the advice available through their dedicated website ([www.climatechangeandyourhome.org.uk](http://www.climatechangeandyourhome.org.uk)) should be developed further.

8. Does the PPS make it clear to decision-makers what they should do, and where they have more flexibility? Are there any risks or benefits you would like to highlight for the historic environment sector?

There are serious issues around some of the terminology used in the draft PPS which may cause confusion and ambiguity. 'Archaeological Interest' is a new term but not one which sits comfortably with the concept of 'National Importance', which is the criterion used in the 1979 Ancient Monuments and Archaeological Areas Act to identify assets which may be Scheduled, and one which is also followed by PPG16. It could indeed be argued that by qualifying important assets as being those worthy of some unspecified future expert investigation the principle of a presumption of preservation in situ in respect of significant assets is undermined, notwithstanding the principle articulated in HE13.1 that retention of an asset is preferable to merely recording it prior to its destruction. Since the 1979 Act remains in force, it would be useful to explain the relationship between the language of the PPS and that of the Act in the definition of 'Archaeological interest' in Annex 1 'Terminology'.

Some clarity is also required as to how the term 'significance' relates to 'National Importance' as the statutory criterion for Scheduling, particularly as 'National Importance' is also used as a basis for assessing the importance of non-designated assets within the planning process (eg PPG16 para 8 'where nationally important archaeological remains, whether scheduled or not, are affected by proposed development there should be a presumption in favour of their physical preservation').

We anticipate that other consultees will have noted the potential ambiguities around these terms and suggest that this is an area requiring careful consideration in the light of comments received from across the Historic Environment sector, and additional explanation of terminology where required.

We note that Policy HE 10.2, which refers to assets of the highest significance, does not refer to Grade II Listed Buildings; it is unclear whether this is an oversight or a deliberate diminution in the status of these designated assets. If the latter, which we believe would be a retrograde development, this should be made explicit. HE10.2 also refers to 'Scheduled Ancient Monuments' (sic); the term should be 'Scheduled Monument', as per the 1979 Act.

9. The draft PPS highlights the importance of ensuring that adequate information and evidence bases are available, so that the historic environment and the significance of heritage assets are fully taken into account in plan-making and decision-taking. At the same time we are concerned to ensure that information requirements are proportionate and do not cause unnecessary delays. Are you content we have the balance right? If not how would you like to see our policy adjusted? (Policies HE8 and HE9 are particularly relevant to this question).

The acknowledgement within the draft PPS of the importance of Historic Environment Records (policy HE1) is warmly welcomed; HERs, and the specialist staff who curate the record and provide advice on the basis of its content, are crucial to the delivery of the objectives identified in para 5 and elsewhere within the document. We believe that the requirements for the information necessary to determine applications are appropriate and fully support this aspect of the document.

Consideration of the historic environment in the preparation of Core Strategies of Local Development Frameworks is, in our experience, very variable; we therefore support policies HE1 – HE3 which will help to ensure greater consistency in the use of evidence bases in strategic planning.

There is a lack of clarity over the validation procedures (HE8) in respect of those applications where either undesignated assets or areas of unproven potential are involved. HE1.3 follows PPG16 para 12 in requiring planning bodies to consider those areas where there is a potential for heritage assets to be discovered, but this requirement is not picked up later in the document. Validation of applications, usually undertaken by administrative rather than professional staff, needs to identify such circumstances. We would therefore recommend that the first sentence of HE8.1 be reworded as follows: 'Local planning authorities should require the applicant to provide a description of the significance of the heritage assets affected, an assessment of the potential for heritage assets to be discovered, and the contribution of their setting to that significance.'

10. In your opinion is the PPS a document that will remain relevant for at least the next 20 years? Do you see other developments on the horizon that have implications for the policies set out in the PPS?

PPGs 15 and 16, which the new PPS replaces, have on the whole stood the test of time in providing what has generally been a reasonably robust basis for decision making. The adoption of new technologies, the pressure on existing settlement, the need to reduce and mitigate climate change and changing social priorities are all factors that will influence the future management of the Historic Environment and no policy can reasonably be expected to be entirely future proof. Economic circumstances are also crucial; poor planning decisions made for the sake of short-term expediency will leave a legacy of a depletion in the quantity and quality of historic assets for generations to come. This document, with its emphasis on the contribution which the Historic Environment makes to place-shaping and community identity, aspires to a long-term view. We believe that the principles underlying the policies within the document provide a good long-term basis for the protection of our Historic Environment, provided that the issues noted elsewhere in this response are addressed, and that the document has the potential to endure.

Nevertheless, whilst the policy principles themselves may have some longevity, the regional and local government structures on which the PPS is predicated may not endure. It may be prudent to consider whether the principles and content of Policies HE2 (Regional Planning Approach) and HE3 (Local Planning

Approach) would be better served by restructuring, placing into a more generic planning approach section those elements of policy presently in 2.3 and 3.1 which are concerned with the positive contributions of the historic environment for regeneration, tourism and local distinctiveness/sense of place, together with the requirement for positive proactive strategies for conservation, enhancement and enjoyment of historic environment. We believe that these policy principles, together with consideration of landscape as an element of historic landscape (see our response to question 3, above) are as applicable to a regional as a local approach.

We also note the absence of any mechanism to monitor the efficacy and outcomes of the new regime.

11. Do you agree with the conclusions of the consultation stage impact assessment. In particular, have we correctly identified and resourced any additional burdens for local planning authorities? Is the impact on owners/developers correctly identified and proportionate to their responsibilities?

The 'beneficiary pays' principle is retained. The assumption that streamlined policy and a reduction in complexity is likely to lead to overall cost savings in the long term is probably correct. The requirement (HE1.1) that planning authorities have access to Historic Environment Records will not in itself increase overall costs in Warwickshire. However, resources identified as being required to bring many HERs up to an appropriate standard in respect of historic buildings may have been under-estimated; there may be transitional costs involved in ensuring that all HERs conform to the standards outlined in *Informing the Future of the Past: Guidelines for Historic Environment Records (2007)* and the *Draft Guidance for Historic Environment Records in England (DCMS, May 2008)*.

Effective implementation will depend on all planning authorities having access to appropriate numbers of suitably qualified Historic Environment professionals, for which local arrangements will continue to vary; the impact of this will vary from authority to authority. In the current economic climate there may well have been significant reductions nationally in resources allocated to this since the baseline study was undertaken, and such reductions may be continuing - in which case the burden may prove to have been under-assessed.

There may be additional costs, not yet fully quantified, for local planning authorities in the preparation of core strategies for local development frameworks, as the PPS now requires use to be made of evidence bases. The costs will arise from the need to analyse the content of existing records, including HERs and Historic Landscape Characterisation appraisals, in order to assess the impact of individual LDF policies upon the historic environment. In the longer term this will be offset by better understood and sustainable policies, and decision-making that is less vulnerable to challenge.

There may also be cost implications in terms of the increased emphasis on pre-application discussion. Such discussion is of course voluntary, but is likely to add pressure on the time (and thus costs) of Conservation Officers (who will generally be based at District level where there are two tiers of local authority) and archaeological staff (generally at County level). Again, these will be offset by a probable reduction in the number of unsustainable planning applications,

but the savings will in many cases not go back to the section, or even the authority, which bears the cost of providing the initial advice. There may also need to be an increase in resourcing of HERs to take account of the more stringent requirements for consultation of HERs pre-application (as acknowledged in the impact assessment, p 57) although the bulk of these costs will be recoverable from individual developers. The assumption (impact assessment, p57) that developers will not be charged in instances where an HER holds no information about historic buildings needs to be challenged; even 'negative' HER searches take staff time; and it is probably in respect of such requests that the additional resource burden will fall.

Policy HE13 (recording of information relating to the historic environment) anticipates dissemination of such information via HERs. This aspiration is one we support as leading to considerable and welcome gains in public benefit; we note that the additional pressure and costs falling on HERs has been noted in the impact assessment.

The monetised costs for policies HE8/HE14 in annexe B (p64) calculate the costs to developers of an estimated 600 additional pre-application/ pre-development investigations per annum, particularly in relation to historic buildings, necessitated by the proposed new policies. The calculated figure (c£3.35m) makes no provision for the time and resources required to facilitate this process by Historic Environment professionals within the Local Authorities, who will be involved in identifying the requirements for such work, defining its scope through the writing of detailed asset-specific briefs, monitoring their implementation whilst investigative works are in progress, and validating the ensuing reports. The figure of c£80 – 90,000 pa for the costs to local authorities quoted in Annexe B on p65 is only in respect of the costs of creating and maintaining new HER records. Whilst the figure for this work will be very much lower than the costs borne by the developer, even a small increase in resourcing can have a critical impact on the capacity of Local Authority Historic Environment Services. Costs of curation of archives, which will fall on local authority museum services, have also not been assessed. If it is intended that such costs should be recovered from developers, it would be much more efficient to establish such procedures nationally than to leave this to individual local authorities.

We would also question the wisdom of publishing (annexe B) average costs for desk-based archaeological assessments, evaluations, and excavations. Even if these figures are correct (and, since the surveys of casework undertaken by the Association of Local Government Archaeological Officers referred to in Annexe B as the source of this information do not include information about costs it is entirely unclear whether these figures bear any relation to reality), not only will the figures become out of date very quickly during the lifetime of the document but they will be prone to mis-understanding by developers who may choose to interpret the figures as benchmark prices.

12. Do you think that the policy draft PPS will have a differential impact, either positive or negative, on people, because of their gender, race or disability? If so how in your view should we respond? We particularly welcome the views of organisations and individuals with specific expertise in these areas.

We have not identified any issues in these areas.