

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
Cabinet	10/09/14

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<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
Site Allocations and Development Management Policies Development Plan Document (DPD)- Proposed Further Modifications	Strategic Planning and Housing	Helen Hockenhull	10

## Introduction

This report aims to provide Cabinet with an update on the adoption of the Site Allocations Development Plan Document, the new Local Plan, and in addition to raise awareness to recent correspondence we have received which suggests the potential for a legal challenge in relation to Policy C4 concerning the Cuerden site.

The Site Allocations DPD is linked to the Council's corporate priorities of Delivering a Strong South Ribble in the heart of a prosperous Central Lancashire; Creating Strong and Healthy Communities; together with a Clean, Green and Safe Environment.

## RECOMMENDATIONS

That Cabinet:

- a) endorses the Further Main Modification relating to Policy C4 - the Cuerden Strategic site, for a 6 week consultation period and subsequent submission to the Planning Inspectorate.

## DETAILS AND REASONING

Members will be aware that the Partial Version of the Site Allocations DPD is well advanced, nearing adoption. Modifications to the document to deal with the issue of Gypsy and Traveller Accommodation in the Borough have been the subject of consultation during May 2014 and responses received have been submitted to the Planning Inspector for consideration. Her final report is awaited.

In the meantime, the Council has received correspondence from Solicitors representing a development company involved in a retail led regeneration project in Lancaster. The Solicitors assert that Policy C4 allows unrestricted retail development; that no quantum or type of retail floor space is defined which could have significant implications for the vitality and viability of other town centres in the region. They further assert that any retail development proposed should be subject to the sequential and impact tests set out in national policy which would assess the implications of the amount and type of retail development proposed on these other town centres.

In terms of Core Strategy Policy 1, the site is defined as a strategic location for employment uses. It is argued that any significant retail use on the site would be at odds with this policy.

If the Council proceeds to adoption without any alteration to this policy, it is suggested that a legal challenge would be made.

It is clearly frustrating that this issue is raised now when there have been opportunities to comment in previous consultations and through the examination process.

That said if the Council takes no action and proceeds to the adoption of the Development Plan Document then it is highly likely that a challenge will be brought.

It is therefore considered that the best approach to take to reduce the risk of any challenge being made (and also to strengthen our position if any such challenge is still made) is to modify the policy wording.

It is therefore proposed to modify Policy C4 as follows, (the new text is underlined)

*Planning permission will be granted for development of the Cuerden Strategic Site subject to the submission of:*

- a) *an agreed Masterplan for the comprehensive development of the site, to include retail, employment, commercial, industrial and Green Infrastructure uses;*
- b) *a phasing and infrastructure delivery schedule;*
- c) *an agreed programme of implementation in accordance with the Masterplan and agreed design code.*

*Alternative uses may be appropriate where it can be demonstrated that they may help deliver the strategic employment aspirations for this site. Any proposed main town centre uses must satisfy the sequential and impact tests set out in the National Planning Policy Framework (NPPF), relevant policies of the Core Strategy and this Local Plan.*

The proposed Modification will need to be the subject of consultation for a 6 week period. Any responses received will then be submitted to the Planning Inspector for her consideration.

This approach is transparent and allows all parties concerned to make further representations. The Inspector will then consider any such representations received and issue her final report. By going through this process, should a legal challenge still be made the risk of it being successful is greatly reduced. However, as a consequence of this approach the adoption of the Site Allocations DPD will be delayed. It is uncertain whether a further Examination Hearing would be required to discuss the matter. This would depend on the strength of any objections and the Inspector's view. The potential delay could in the best case scenario mean adoption in January 2015.

We have made the Planning Inspector aware of the situation.

## **Conclusion**

Subject to Cabinet endorsement it is proposed to modify Policy C4 and undertake a further period of consultation from 16 September to 28 October 2014. When this has been completed any responses received will be submitted to the Planning Inspector for her consideration.

## **WIDER IMPLICATIONS**

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

<b>FINANCIAL</b>	The cost of document preparation is included in local plan revenue estimates. The potential cost of any Legal Challenge to the document in the High Court could be significant.		
<b>LEGAL</b>	The preparation of the DPD complies with the relevant legislation. Once endorsed it will become a material planning consideration.		
<b>RISK</b>	<p>The preparation of the LDF including the Site Allocations DPD has been risk assessed as part of the local development scheme and is subject to annual review.</p> <p>In recommending a further amendment to Policy C4, the risk associated with this approach and alternative courses of action have been considered.</p>		
<b>THE IMPACT ON EQUALITY</b>	An Equality Impact Assessment has been undertaken as part of document preparation.		
<b>SUSTAINABILITY</b>	A Sustainability Appraisal has been undertaken as part of the document preparation		
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

## BACKGROUND DOCUMENTS