

Protocol for handling proposals to save adopted Local Plan, Unitary Development Plan and Structure Plan policies beyond the 3 year saved period

Background

This protocol explains how requests to save policies in old style plans will be handled and sets out how decisions will be made on whether or not to save policies.

Under the Planning and Compulsory Purchase Act 2004, unless expressly replaced by a “new” policy, “old” policies (adopted local plan, unitary development plan and structure plan policies) are saved for 3 years from whichever is the later of:

- the date of commencement of Section 38 of the Planning & Compulsory Purchase Act 2004 on 28th September 2004 or
- the date the plan was adopted or approved.¹

The Secretary of State may make a direction to save specified policies beyond the 3 year period.²

It is expected that LPAs and RPBs will be asking the Secretary of State to save a number of old policies beyond the three year period. This protocol sets out how to make these requests and how the government will respond to them.

Broad Principles

If they wish to retain specified policies beyond the expiry of the 3 year period, LPAs will need to seek the Secretary of State’s agreement to issue a direction to save them.

LPAs will need to demonstrate that the policies they wish to be saved reflect the principles of local development frameworks; are consistent with current national policy; and that it is not feasible or desirable to replace them by 27th September 2007.³

Similar principles apply to the extension of saved Structure Plan policies. See note at the end of this protocol.

Procedure for reviewing and agreeing extension to 'saved' Local Plan & UDP policies

Step 1

The Government will take the following issues into account in considering extensions to local plan and UDP saved policies.

¹ Planning and Compulsory Purchase Act 2004, Schedule 8(1)-(10) & PPS12: Local Development Frameworks, para. 5.3

² Planning & Compulsory Purchase Act 2004; Schedule 8(1(3))

³ PPS12: Local Development Frameworks; para. 5.5

PPS12 paragraph 5.15 says that policies to be extended should comply with the following criteria:

- (i) where appropriate, there is a clear central strategy;
- (ii) policies have regard to the Community Strategy for the area;
- (iii) policies are in general conformity with the regional spatial strategy or spatial development strategy;
- (iv) policies are in conformity with the core strategy development plan document (where the core strategy has been adopted);
- (v) there are effective policies for any parts of the authority's area where significant change in the use or development of land or conservation of the area is envisaged; and
- (vi) policies are necessary and do not merely repeat national or regional policy.

In addition, the government will also have particular regard to:

- Policies that support the delivery of housing, including unimplemented site allocations, up to date affordable housing policies, policies relating to the infrastructure necessary to support housing;
- Policies on Green Belt general extent in structure plans and detailed boundaries in local plans/UDPs
- Policies that support economic development and regeneration, including policies for retailing and town centres;
- Policies for waste management, including unimplemented site allocations;
- Policies that promote renewable energy; reduce impact on climate change; and safeguard water resources.

Step 2

Local Planning Authorities are to submit a list of saved policies and their intentions for them to Government Offices by 1 April 2007. In preparing this list consideration should be taken of the timing of adoption of any DPDs which will replace saved policies. The list should be in two distinct parts:

- Those saved policies the LPA wishes to extend beyond the 3 years saved period, with reasons and
- Those saved policies the LPA does not wish to see saved beyond the 3 years saved period, with reasons.

NB. Through their annual monitoring reports (AMRs) LPAs must monitor the performance of policies that are still in use together with progress made so far on replacing them. The submission of the list can be made either with the

AMR submitted before end December 2006 or separately before or after the AMR, provided it is by 1 April 2007.

NB. PPS12 para 5.5 speaks of the extension of saved policies in the context of review of LDS. LPAs will wish to ensure that any revisions to LDS which take place following the AMR of December 2006 take account of their approach to the question of saved policies, and of the government's response to it.

Step 3

Government Offices will assess requests to save policies beyond 3 years in the light of the criteria (i) to (vi) from PPS12 and consistency with national policy as set out in **Step 1**.

NB. The Secretary of State may extend a policy which has *not* been in a list of policies the LPA wishes to save, where she considers that a policy is compliant with the criteria in PPS12 and the extension of the policy is necessary in order to secure the delivery of national planning policy. Step 1 gives guidance on the kind of matters which she will take into account in deciding to make such an extension.

NB. If by 1 April 2007 an LPA has not submitted a statement requesting the extension of any saved policies, and the Secretary of State considers that a policy of that LPA is compliant with the criteria in PPS12 and the extension of that policy is necessary in order to secure the delivery of national planning policy, she may direct that the policy is extended. Step 1 gives guidance on the kind of matters which she will take into account in deciding to make such a direction.

Plans Adopted since September 2004

Some local plans, structure plans and UDPs have been adopted since the commencement date of the Planning and Compulsory Purchase Act 2004 on 28 September 2004. Policies in those plans are automatically saved for 3 years from the date of adoption. This protocol will also apply to those policies. LPAs should write to Government Offices **6 months before** the expiration of the relevant 3 year period (Step 2).

NB. It should be noted that it is not the plan that is saved but the policies in the plan. Where policies in a plan are reviewed, only those reviewed policies are saved for the relevant 3 year period.

Procedure for saving Structure Plan policies

Following discussions with the structure plan authority, the RPB may make a request to the Secretary of State to extend the life of structure plan policies. These requests should be received by the Government Office by 1 April 2007. Such requests will be considered in the light of the following criteria set out in PPS11 paragraph 2.57:

- i. the saved policies are consistent with national planning policies appearing in

White Papers and Planning Policy Statements that have been published since the policies were adopted and are in general conformity with the regional spatial strategy;

ii. the saved policies address an existing strategic policy deficit and do not duplicate national or local policy;

iii. the operation of policies to be saved for longer than three years is not materially changed by virtue of other policies in the old plan not being saved; and

iv. even where policies are non-compliant with one or more of the above, the Secretary of State considers that it is appropriate for the policies to be saved for longer than three years. This would be on the basis that the regional planning body must provide reasons why these policies should be retained.

NB. If by 1 April 2007 the RPB has not submitted a statement requesting the extension of a saved structure plan policy, and the Secretary of State considers that the policy is compliant with the criteria in PPS11 and the extension of that policy is necessary in order to secure the delivery of national planning policy, she may direct that the policy is extended.

DCLG
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