

29 November 2012**Agenda Item: 6****REPORT OF GROUP MANAGER, PLANNING****ENVIRONMENTAL REPORT ON THE PROPOSED REVOCATION OF THE
EAST MIDLANDS REGIONAL PLAN****Purpose of the Report**

1. To set out the County Council's response to the Environmental Report on the Revocation of the East Midlands Regional Plan (RSS8) to the Department for Communities and Local Government (CLG).

Information and Advice

2. On the 23rd October 2012 CLG published its Environmental Report on the Proposed Revocation of the East Midlands Regional Plan. Responses to CLG are due by the 19th December 2012.
3. All Regional Plans will be revoked through the Localism Act (2011). The revocation, or abolition, is subject to the outcome of the environmental assessment and will not happen until the Secretary of State (SoS) and Parliament have had the opportunity to consider the findings in the assessment.
4. The Environmental Report is a consultation document on the likely significant effects of the revocation of the East Midlands Regional Plan and the Regional Economic Strategy (which together form the Regional Strategy for the East Midlands). The assessment has taken as a starting point the environmental assessments carried out when the Plan was being prepared. A broad assessment has then been made as to how the Plan's predicted environmental effects might be changed if the Plan was revoked.
5. The report indicated that the environmental effects of revoking the plan affects future decisions and thus cannot be predicted because they depend on decisions made by local authorities, individually and collectively. Emphasis is given to the removal of regional strategies and their top-down targets (principally for house building) that will provide opportunities for securing environmental benefits, the example of the review of Green Belts being given.
6. In addition the report notes that the revocation of regional strategies should be seen in the context of other relevant Government policies and associated legislation aimed at protecting the natural and built environment. Further to that a

provisional view is that the revocation of the regional strategies will have no effects requiring assessment under the Habitats Directive.

7. The report does not consider that addressing existing environmental problems which were relevant to the Plan could have been done solely through the Plan, thus it is not expected that the revocation of the Plan will result in their inevitable occurrence or that no action may be put in place locally to mitigate them. These would include:
 - a. A decline in biodiversity, habitat loss and fragmentation,
 - b. Pressure in the availability of water resources; ongoing action was flagged up for future reviews of the Plan to ensure that the amount of housing proposed was sustainable with regards to water consumption and sewage treatment,
 - c. The achievement of air quality and greenhouse emissions targets, especially with respect to transport,
 - d. Threats to the historic environment from development, in particular, concerns over the capacity of historic settlements to accommodate further development.
8. The report indicates that revocation would not mean that relevant national and international environmental objectives would be ignored. Following its revocation, responsibility for ensuring the Planning system properly contributes to environmental protection objectives would largely fall to local authorities, working alongside the Environment Agency, Natural England and English Heritage. New or revised development plan documents will be subject to sustainability appraisal.
9. Revocation of the Plan would leave in place saved local plan policies and adopted development plan documents. Also there is the expectation is that local authorities will continue to work together on cross boundary strategic issues, supported by the 'duty-to-cooperate' in the Localism Bill. Local authorities will continue to be required to prepare their local plans with the objective of contributing to the achievement of sustainable development, supported by strategic environmental assessment.
10. The National Planning Policy Framework (NPPF) was published on 27 March 2012. This followed extensive consultation during 2011 and replaces government planning policy and mineral policy guidance for England. It provides '*a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.*' Accordingly, local planning authorities and communities will continue to determine the quantum and location of development, albeit without the additional tier of regional direction. It does not contain waste planning policy and nationally significant infrastructure and Gypsy and Traveller policies, all of which are in separate policy documents but to be read in conjunction with the NPPF.
11. In the absence of the East Midlands Regional Strategy, strategic and cross-authority working will be delivered in the East Midlands Region through a variety of legislative and non-legislative means. This includes: the preparation of joint plans under the powers set out in the Planning and Compulsory Purchase Act

2004; through the new Duty to Co-operate under the powers set out in section 33A of the PCPA 2004 (as inserted by section 110 of the Localism Act); and through the establishment of non-legislative Local Enterprise Partnerships. This combination of measures aims to ensure that strategic planning operates effectively in the absence of the Regional Strategies.

12. The assessment's conclusion is that revocation of the Plan is unlikely to have any significant environment effects in all the aspects considered. In reaching this conclusion the assessment has taken into account likely significant effects from (inter alia) interrelationships or environmental effects, secondary, cumulative and long-term permanent factors.

Issues for the County Council

13. The revocation of the Regional Plan is of interest to the County Council in their role as an upper tier authority with a strategic perspective. The County Council previously had a role in the preparation of the Regional Plan. There are several areas where it is noted that the report may fall short of a full and proper assessment.
14. It is unreasonable for the report to conclude that the loss of Regional Plan policies, particularly environmental ones that were generally accepted to have positive outcomes, would not lead to some significant environmental effects without substantial alternatives being identified. For example, the Government has replaced the Regional Plan, alongside Planning Policy Statements that underpinned and enhanced it, with the National Planning Policy Framework. Such a narrow and limited approach is considered insufficient to replace the thrust of positive regional environmental policies, with targets and monitoring, that existed, as acknowledged by the report, in the Regional Plan.
15. The report appears to be one sided in presenting future impacts. For example, while emphasising the removal of top-down housing targets, it does not mention the Government's stated intention to increase housing building, thus maintaining the pressure on development. Similarly, future changes to environmental regulations and control are suggested to be positive when this may not be the case, depending on Government decision, especially in relation to supporting the economy.
16. The Regional Plan put in place work, to ensure the provision and protection of Green Infrastructure assets, especially in the Derby/Nottingham/Leicester (Three Cities Area). The loss of such policies in a development plan will threaten the maintenance of production and enhancement of assets not just seen as locally important, but of greater value in connection with others; the essence of a strategic perspective. In addition, resources would not be directed to such matters as Green Infrastructure, water quality, transport impact, and the distribution of development in a sustainable way.
17. Thus the Report does raise concerns that some significant negative environmental impacts have been understated and the value to the environment of planning at a strategic level has not been sufficiently identified. With the loss of

Regional Planning policies there will be a policy vacuum that will eventually be replaced through local plans coming forward under the new planning system. This leaves the County Council open to challenge in terms of the need for minerals and waste development based on RS apportionment figures.

18. Generally with regard to the revocation of the Regional Plan the County Council makes a significant contribution to the improvement of the environment, in cooperation with district councils and other partners, through their various roles in plan-making, transport planning and infrastructure provision.
19. The County Council, as a minerals and waste planning authority is conscious of the need to address the implications of proposals for neighbours in the wider area where, with the operation of market forces, their minerals could be used or their waste treated. Conversely, the opportunities to provide solutions to meet local demands could well fall outside their areas. Such issues will emphasise the significance of continuing working relationships to deal with demands for minerals and waste treatment, including what successor arrangements evolve to take on the management of aggregates supply and fulfil the role of the former Regional Technical Advisory Boards (RTABs).
20. From a waste planning policy perspective, the Environmental Report underestimates the significance of removing the underlying policy framework on which local policy documents have been based. Policy 38 of the adopted Regional Plan sets out clear guidelines for Waste Planning Authorities (WPAs) on the amount and distribution of waste management facilities required. This forms a substantial part of the evidence base for existing and emerging Local Development Framework (LDF) and Local Plan documents and reflects an agreed baseline developed in conjunction with all of the East Midlands WPAs. There is no equivalent policy within NPPF or Planning Policy Statement 10 'Planning for Sustainable Waste Management' (PPS10) to replace what is contained within the East Midlands Regional Plan and revocation would therefore create a policy vacuum at the sub-national level. Given the limitations of waste data at the local level, it is very unlikely that efforts from individual WPAs under the duty to co-operate will be able to replace effectively what is set out within Policy 38.
21. The County Council disagrees strongly with the report's finding that revocation of this policy is unlikely to affect local authorities' planning policy for waste management. On the contrary, individual local authorities are likely to face a greater level of local challenge to the data and reasoning behind their plans in the absence of the clear spatial policy and indicative apportionment figures set out in the Regional Plan. Local level data for waste is very limited and the relationship between WPA areas and facilities is complex. Revocation of Policy 38 would significantly undermine the existing policy position for all East Midlands WPAs and would force WPAs to rely on local estimates in place of a comprehensive analysis. This is likely to result in lengthier examinations and further delays in achieving the full national coverage of Waste Local Plans needed to fulfil EU requirements.
22. Although data within the Regional Plan is becoming out of date, it provides an agreed baseline to work to. If this is removed entirely, the work needed to replace

it cannot be afforded by individual WPAs in the current economic climate and will not be available in time to inform the current round of waste plans. It is considered that this is not adequately reflected within the Environmental Report.

Other Options Considered

23. As the consultation requires representations to be made on the proposed Revocation of the East Midlands Regional Plan the only other option was not to make representations.

Reason for Recommendation

24. To provide a considered response to DCLG.

Statutory and Policy Implications

25. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

26. There are no direct financial implications arising from this report.

Implications for Sustainability and the Environment

27. The failure to consider the representations of the County Council on strategic planning and transport matters could lead to unsustainable development taking place, possibly without the adequate context of a Regional Plan. The minerals and waste interests of the County Council could also be compromised by the lack of a suitable Regional Plan for the East Midlands.

RECOMMENDATION

- 1) That Committee approve the above comments that will form the basis of Nottinghamshire County Council's response to Department of Communities and Local Government on the Environmental Report on the Proposed Revocation of the East Midlands Regional Plan.

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For any enquiries about this report please contact: Nina Wilson (Principal Planner), Planning Policy Team, ext 73793

Constitutional Comments (SHB.05.11.12)

28. Committee have power to decide the Recommendation.

Financial Comments (MA 05.11.12)

29. There are no direct financial implications.

Background Papers

<http://www.communities.gov.uk/planningandbuilding/planningenvironment/strategicenvironmentassess/>

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Electoral Division(s) and Member(s) Affected

All.