

**CONSULTATION RESPONSE TO THE ENVIRONMENTAL REPORT ON THE REVOCATION OF THE NORTH EAST OF ENGLAND PLAN.****REPORT BY THE DEPUTY CHIEF EXECUTIVE.****1.0 Purpose of the Report**

- 1.1 The Department for Communities and Local Government (DCLG) is seeking views to the "Environmental Report" prepared into the revocation of the North East of England Plan (the Regional Spatial Strategy).
- 1.2 A proposed response to the Environmental Report is attached at Annex 1. It has been prepared jointly by Sunderland City Council, Durham County Council, Gateshead Council and South Tyneside Council. Committee approval is sought to agree the observations so that they may be submitted to DCLG in reply to this consultation.

**2.0 BACKGROUND**

- 2.1 Under the Planning and Compulsory Purchase Act 2004 the preparation and adoption of Regional Spatial Strategies (RSSs) and Local Development Frameworks (LDFs) became a statutory requirement. Together, they comprise the 'development plan' for each local authority and act as the starting point to determine planning applications. Emerging LDFs are also required to be in general conformity with the RSS.
- 2.2 In July 2010, the Government attempted to meet its pre-election pledge by announcing, with immediate effect, the abolition of the suite of Regional Spatial Strategies (RSSs) adopted across the country. This decision was subsequently overturned through a series of High Court rulings. In December 2010, the Localism Bill was published containing provisions to repeal the relevant clauses of the Local Democracy, Economic Development and Construction Act 2009 (which provides the legal requirement for RSSs). Whilst the Localism Bill received Royal Assent on 15 December, RSSs still remain legally in place, pending resolution of this latest consultation exercise.
- 2.3 Upon revocation of the RSSs, local authorities would be free to establish their own growth requirements (based upon clear evidence and through working with their communities) and are to be required through the Localism Act to co-operate with other local authorities and public bodies to address strategic cross-boundary issues.

**3.0 STRATEGIC ENVIRONMENTAL ASSESSMENT AND SUSTAINABILITY APPRAISAL ~ THE ENVIRONMENTAL REPORT.**

- 3.1 Since 2004, European and domestic regulations require that Strategic Environmental Assessments (SEA) and Sustainability Appraisals (SA) are undertaken on all plans and programmes that have a significant environmental affect. These assessments ensure that during the preparation and adoption of plans, socio-economic and environmental considerations are fully taken on board to ensure that plans promote sustainable development. SEA and SA are undertaken jointly where the responsible body must: -

- Prepare an 'Environmental Report' evaluating the likely environmental affects of implementing the plan and evaluates all reasonable alternatives
  - Consult designated environmental bodies and the public
  - Take into account the results of the consultation during the preparation process and before the plan is adopted
  - Make information available on the plan as adopted and how the environmental considerations have been taken into account.
- 3.2 As part of the final move towards the revocation of RSSs across the country, DCLG are consulting on separate Environmental Reports prepared for the eight adopted RSSs.
- 3.3 Preparing Environmental Reports (through the SEA and SA process) has become an essential part of bringing forward RSSs and LDFs. Some plans have been struck down in the absence of robust assessments. Within this particular suite of consultations, the Government has indicated that process is being completed voluntarily, given the regulations only require such reports when plans are being prepared, modified or adopted and not revoked. However, given the level of litigation following the first announcement to abolish RSSs, it is assumed that DCLG is taking a precautionary approach to avoid further delays in their abolition. Consultation on the eight separate RSS Environmental Reports closes on 20 January 2012.
- 3.4 The structure of the Environment Report for the North East RSS follows the necessary stages when completing the Environmental Report. This includes an assessment of the likely implications of revoking the individual RSS policies. The overall conclusions reached by DCLG within this Environmental Report are that : -
- The full environmental effects of revoking the RSS can only really be understood once the local authorities have set out their own land use requirements (on individually or collectively)
  - Revoking top-down RSS targets provides opportunities for securing environmental benefits by removing the threat of development pressures on local environments such as on Green Belts.
  - Decisions taken locally must look to maximise positive environmental outcomes for the local area (based on the legal principle that the planning system must promote sustainable development)
  - Notwithstanding any local decisions there remains the suite of higher tier safeguards to protect the environment such as the draft National Planning Policy Framework and in some cases national and European legislation. This means that its highly unlikely that there would be any significant adverse environmental effects resulting from the RSS revocation.

#### **4.0 MAIN OBSERVATIONS TO THE ENVIRONMENTAL REPORT.**

- 4.1 In short, the following observations are proposed : -
- Given significant objections to the recent draft National Planning Policy Framework (NPPF) consultation, there is concern that the Environmental Report relies too heavily upon the NPPF as the means to safeguard environmental assets rather than referring to the extant suite of adopted national planning policy statements and guidance

- In the short term there will be a policy vacuum until the full suite of local plans are adopted. This necessitates the need for transitional arrangements that allow for key RSS policies to be saved
- The Environmental Report oversimplifies the fact that that environmental assets will be protected as authorities will set lower growth requirements than those set within the RSS (these assumptions are not justified by any robust evidence)
- Whilst the Localism Act imposes a “duty to co-operate” on cross boundary issues, there is no duty to agree. There are concerns on a number of issues that without an overarching regional ‘co-ordinator’ that there will be greater difficulties in reaching an agreed pan-regional policy approach.

## **5.0 NEXT STEPS**

- 5.1 Upon conclusion of the consultations of into the eight Environmental Reports, in January 2012, all responses will be evaluated and reported. It is understood that the individual RSSs will be revoked by separate orders in early 2012.

## **6.0 RECOMMENDATIONS**

- 6.1 Committee is recommended to note agree the response to the Environmental Report on the Revocation of the North East of England Plan at Annex 1 as the basis for this Council’s formal response to DCLG.

## **BACKGROUND PAPERS**

Environmental Report on the Revocation of the North East of England Plan.

**Response of Durham County Council, Gateshead Council, South Tyneside Council and Sunderland City Council to Communities and Local Government's Consultation on the Environmental Report on the Revocation of the North East of England Plan**

1. This response has been prepared jointly by Durham County Council, Gateshead Council, South Tyneside Council and Sunderland City Council, reflecting our wider efforts aimed at cooperation on strategic planning and cross-boundary issues.
2. The environmental report makes clear that the revocation of Regional Spatial Strategies (RSS) is part of the Government's reform of land-use policy, including the preparation of a National Planning Policy Framework. In this respect, many of the report's findings are subject to the successful adoption of the NPPF. We note however, that the NPPF is currently in draft format, with consultation on the draft framework having ended in October 2011. At the time of writing, a report summarising consultation responses has yet to be published, and it is not clear which elements of the NPPF will be revised in the final draft – nor is it clear when the NPPF is likely to be adopted. While we recognise that the broad objectives of the NPPF (as set out in paragraphs 1.3 to 1.5 of the report) are likely to be retained following consultation, the precise content of the NPPF may be subject to substantial and significant change through the consultation process. We would therefore argue that the environmental report should not attach significant weight to the content of the NPPF. It is further noted that the Environment Report makes no reference to the raft of extant national planning policies which remain in force as material planning considerations.
3. Current guidance in PPS12 clearly states that local authorities should not repeat national or regional policy within their Development Plan Documents. Revocation of RSS will inevitably leave a strategic gap in many authorities' statutory development plans pending the review of adopted and emerging local development documents. Whilst some authorities may have scope to address the loss of regional, (and national) policy through preparation of local development documents, or 'new-style' local plans, for many areas this process is likely to take several years. We therefore urge the Government to consider introducing transitional arrangements which would provide local authorities with the option to save key elements of the RSS that are fundamental to their statutory development plan, pending their replacement and incorporation as necessary into new plans.
4. The assertion that the removal of "top-down pressure on local authorities to review the extent of their Green Belt" through the revocation of RSS is identified in the report as being likely to contribute to the protection of the Green Belt. However, with the impending revocation of RSS it is likely to be population increase, in combination with decreasing average household sizes (as represented in official projections) which will, in many authorities, cause increased pressures on land resources, and in many instances necessitate a review of Green Belt boundaries to accommodate future development needs. Indeed, revocation of RSS, and the abolition of agencies which coordinated strategic planning at the regional level, leaves local authorities with the potential to plan for higher levels of growth than would have been acceptable under previous arrangements. It is therefore questionable as to how far the Environment Report can justify making such sweeping assumptions that Green

Belts and other features will in future be protected as a result of setting locally derived development requirements.

5. The report identifies the 'duty to cooperate' as providing a potential solution to areas of disagreement on cross-boundary issues. It should be noted, however, that the duty includes no mechanism for resolving disagreements, nor does it insist on a 'duty to agree'. The revocation of regional strategies, combined with the abolition of regional bodies removes a level of strategic planning which was able to offer direction on cross-boundary issues, and provide clarity on strategic priorities at a regional, and sub-regional level.
6. Annex A of the report provides an evaluation of the key environmental issues associated with RSS revocation, and assesses almost all of the policies as having potential to be "delivered by other means than through a regional strategy". Whilst this assessment may be appropriate in some cases, it too frequently fails to explore the full implications of revoking RSS policies which establish regional positions and targets, and address cross-boundary issues, which individual plans – even prepared within the context of the duty to cooperate would struggle to emulate. Specific examples include:
  - **Planning for strategic infrastructure, including transport.** The document states that "local authorities will need to work cooperatively with transport providers and operators to deliver sustainable transport and accessibility objectives". This may be the case, but strategic transport necessarily involves strategic planning across whole networks and it is far more difficult to achieve this without any regional framework. To imply that this can be achieved as effectively through individual local authorities working in some form of loose co-operation is disingenuous.
  - **Planning for renewable energy.** RSS includes regional targets as a framework for local contributions to the national targets for renewable energy generation and carbon reduction. The absence of regional targets will make local progress in contributing to national targets less clear and more difficult to monitor.
  - **Planning for minerals.** RSS sets out a regional minerals strategy and sub-regional aggregates apportionment. The report, as justification for Policy 43, states that Mineral Planning Authorities should continue to plan for "an adequate and steady supply of aggregate minerals to support economic growth". They should do this within the longstanding arrangements for minerals planning including receiving technical advice from Aggregate Working Parties. Crucially, however, the arrangements for aggregate minerals planning and continued funding for RAWPs has yet to be agreed, and the justification for the statement under Policy 43 will remain uncertain for as long as this remains the case. Similarly, RSS also sets out an overarching policy approach to opencast coal working and fireclay extraction, thereby ensuring a consistent approach across all coal bearing MPAs in the North East. As justification for Policy 44, the report states that these policy objectives could be delivered by other means than through a regional strategy and that MPAs will continue to be responsible for mineral development frameworks, including policies on opencast coal, having regard to national policy. Given the high profile and controversial nature of continued opencast coal extraction in many areas of the North east, it is unlikely that a regionally consistent approach will be effectively delivered by other means than through an RSS.
  - **Planning for waste management and new waste capacity.** RSS established regional apportionments, co-ordinated by Regional Technical

Advisory Bodies. The entire RTAB network has now been effectively dismantled through removal of funding, making any cross boundary collaboration more difficult to achieve.

7. Lastly, we note that the list of the current status of local plan preparation provided in Annex C of the report neglects to include South Tyneside Council's Development Management Policies DPD (declared 'sound in August 2011, and scheduled for adoption in December 2011), and Site Specific Allocations DPD (examination hearings held in October 2011, with the inspector's report expected in December 2011). Both DPDs should be acknowledged in the appropriate column depending on when the environmental report into RSS revocation is finalised.