

MATTER 1

Submitted 5 September 2022

Matter 1: Procedural and Legal Compliance

Issue: Have all statutory and regulatory requirements been met?

1.1 Have the Plans been prepared and publicised in accordance with the statutory procedures of the Planning and Compulsory Purchase Act 2004 (as amended) and the consultation requirements in the Town and Country Planning (Local Planning) (England) Regulations 2012?

Lancaster City Council Response

Yes. The council considers that in preparing and publicising the Climate Emergency Review of the Local Plan (CELPR), (Part One Strategic Policies and Land Allocation DPD and Part Two Development Management DPD) it has complied with all the statutory procedures of the Planning and Compulsory Purchase Act 2004 (as amended) and the consultation requirements in the Town and Country Planning (Local Planning) (England) Regulations 2012. The Statement of Consultation **[P_07]** sets out at section 3 who has been consulted, and section 4 sets out what was consulted upon and how the Council has followed the necessary steps for consultation and publicity and explains the changes to previous planning policy consultation practices which arose because part of the plan preparation took place during the Covid 19 pandemic. Appendix B of **[P_07]** sets out the dates and evidence base and the key consultation and engagement dates are presented in Appendix C.

Documents **[SD_07]** (Representations Statement), **[SD_27]** (Representations 'Made' at Regulation 19 Stage), **P_09** (Statement of Representations Procedure), **[P_11]** (Guide to Making a Representation), **[SD_28.1]** (Summary of representations received through the Regulation 19 consultation-in Respondent order) and **[SD_28.2]** (Summary of representations received through the Regulation 19 consultation in Development Plan Document order), also sets out the representations procedure, a guide to making a representation and a summary of the representations received setting out how the consultation requirements have been met.

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The CELPR has also been subject to a robust Sustainability Appraisal (**P_03**) and a Habitat Regulations Assessment (**P_04**).

1.2 Have the Plans been produced in compliance with the Council's Statement of Community Involvement?

Lancaster City Council Response

Yes, the CELPR has been produced in compliance with the council's Statement of Community Involvement [**P_SCI**] with paragraph 3.2 of the council's Statement of Consultation [**P_07**] providing further details.

1.3 To what extent has the Plans' production been consistent with the Council's Local Development Scheme?

Lancaster City Council Response

The CELPR's production has been in line with the council's Local Development Scheme [**P_LDS**]. The 'version table' on page 1 of P_LDS shows the dates of the previous iterations of the LDS. The CELPR has kept to the timescales set out in the LDS, with work having begun in September 2020 and the plan submitted to PINS on 31 March 2022.

1.4 How has the Sustainability Appraisal (SA) informed the Plans' preparation at each stage of their development and how were options considered?

Lancaster City Council Response

In order to provide a thorough and impartial assessment of the CELPR the council commissioned external consultants AECOM to oversee and undertake its SA.

The SA was initiated through the preparation of an SA Scoping Report in January 2021 [**PP003**]. This was prepared in consultation with key stakeholders, including the three statutory consultees of Natural England, Historic England and the Environment Agency.

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Using the framework established in the SA Scoping Report, SA was undertaken at all relevant stages of document preparation. This included an SA Scoping Report **[SC019]** in October 2020, and the assessment of alternative policy options under the Regulation 18 consultation **[PP003]**. Through this work the council considered what options were available for each policy under review and set out the decision-making rationale within a series of Topic Papers:

- **[TP_01]** Topic Paper 1 Water Management: Consideration of Alternative Policy Approaches & SA/HRA
- **[TP_02]** Topic Paper 2 Green Blue Infrastructure: Consideration of Alternative Policy Approaches & SA/HRA
- **[TP_03]** Topic Paper 3 Strategic Transport: Consideration of Alternative Policy Approaches & SA/HRA
- **[TP_04]** Topic Paper 4 Heritage and Climate Change: Consideration of Alternative Policy Approaches & SA/HRA
- **[TP_05]** Topic Paper 5 Sustainable Design, Energy Efficiency & Renewable Energy: Consideration of Alternative Policy Approaches & SA/HRA
- **[TP_05]** Topic Paper 6 Miscellaneous Policies Consideration of Alternative Policy Approaches & SA/HRA

AECOM assisted the council in the preparation of the Topic Papers providing a high-level appraisal of the options presented. The SA was used to help identify the broad nature of effects that proposed changes would be likely to generate, to identify potential conflicts between policies and delivery issues, and to make recommendations as to how the policies could be improved to mitigate negative effects and promote positive effects. This was an iterative process between the SA and Policy team. The Topic Papers document this process and note where changes to the policies were made as a result of consideration of the SA.

SA was also undertaken on the draft CELPR, with this documented in the November 2021 SA Report **[P_04]**. The report provides an appraisal of the

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Plan under each SA topic area identifying whether the changes proposed are likely to have a positive, negative, or limited implication. Each policy option was considered on an individual basis. The combined effects of policy changes were also appraised. The results of this assessment informed the content of the Plan which was consulted on.

1.5 Does the SA adequately and accurately assess the likely effects of the Plans' policies and proposals? Does the SA test against reasonable alternatives? Is the SA's methodology appropriate?

Lancaster City Council Response

Yes. Reasonable alternatives were assessed through the Regulation 18 consultation [PP003]. Through this process reasonable alternative policy approaches were explored by the council and assessed by the SA team. This process is documented in the Regulation 18 Topic Papers, see list above in 1.4. Following the conclusions of this work, the council considered the consultation responses received and reviewed the options presented to determine the most appropriate response to take forward to Regulation 19 draft.

The Regulation 19 draft CELPR was also subject to SA with the likely effects of the draft document appraised [P_03]. Further revisions to the draft Plan were made as a result of this assessment. The submitted Plan reflects these revisions.

The three SA bodies have been engaged throughout the process: Historic England, Natural England and the Environment Agency.

The council is satisfied that through a robust and thorough appraisal the environmental, social and economic effect of the Plan Review have been adequately assessed, and where necessary, additional wording and amendments have been included within the plan to mitigate against potential impacts.

1.6 Does the SA meet the requirements of the relevant Regulations?

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Lancaster City Council Response

Yes. The SA fulfils the requirements for SA and Strategic Environmental Assessment (SEA). It has been undertaken in accordance with the Environmental Assessment of Plans and Programmes Regulations (2004) (the 'SEA Regulations') and in line with extant guidance (National Planning Practice Guidance).

The SA has been carried out iteratively during the preparation of the CELPR and has informed the development of the Development Plan Documents (DPDs) at each key stage. This includes the development and appraisal of reasonable alternatives, in particular key policy options, as well as through the appraisal of the emerging draft plan (proposed policies). The SA process has informed each stage of the DPD's development, with SA commentary accompanying each round of consultation, from Regulation 18 consultation to submission.

1.7 How was the Habitats Regulations Assessment (HRA) carried out and was the methodology appropriate? Does the HRA meet the requirements of the relevant Regulations?

Lancaster City Council Response

The Habitats Regulations Assessment (HRA) of the DPD has been undertaken in full compliance with the Conservation of Habitats and Species Regulations 2017 (as amended), as well as relevant case law. The assessment was undertaken by AECOM on behalf of the council.

Policy options presented under the Regulation 18 consultation were screened to determine whether any aspects of the amended policies and new policies presented, would potentially cause a significant adverse effect on the integrity of European Sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs), candidate Special Areas of Conservation (cSACs), potential Special Protection Areas (pSPAs) and, as a matter of Government policy, Ramsar sites), either in isolation or in combination with other plans and projects, and to advise on whether further assessment in

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the form of an appropriate assessment was required. In assessing whether a significant adverse effect might arise the precautionary principle is applied -i.e. can a risk of adverse effects be excluded within the limits of scientific knowledge.

The conclusions of this appraisal were included in the Topic Papers (see 1.4) and within a separate HRA Screening Report, May 2021 [PP004].

Using comments obtained from both the HRA and SA process, together with feedback from the Regulation 18 scoping consultation, the council prepared the draft Plan: Part One: Climate Emergency Review of Part One Strategic Policies & Land Allocations Development Plan Document [P_01.1] and Part Two: Climate Emergency Review of Development Management Development Plan Document [P_02.1]. Further HRA screening was undertaken on the draft Plan with this reported in the December 2021: 'HRA Screening of the Climate Emergency Review of the Lancaster Local Plan Development Plan Documents' Report [P_04].

The HRA concluded that proposed changes to the documents will not themselves lead to Likely Significant Effects either alone or in combination with other plans and projects.

Natural England concurs with the conclusions of the HRA Screening Report and have raised no concerns regarding the methodology followed or the conclusions reached.

1.8 Has the Duty to Co-operate been fulfilled? Are there any strategic matters to be addressed through co-operation and what are the resulting outcomes?

Lancaster City Council Response

Yes. The council have, through the preparation of the CELPR, committed to continue discussions with neighbouring authorities to discuss the aspects relating to the Plan Review. It has been clearly recognised from the outset by all DtC partners that the implications of Climate Change are a strategic

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matter which is not simply confined to specific authority or geographical boundaries. Parties recognised the importance of the plan making process in seeking adaption to and mitigation of Climate Change.

To reflect discussions with all DtC parties through the Partial Review process, the council have prepared a Statement of Common Ground (SoCG) which sets out the key issues and actions arising from discussions [P_10]. The SoCG has been signed by all DtC parties reflecting their support for the council's approach and recognition of all roles in addressing the Climate Agenda.

1.9 In what way do the Plans seek to ensure that due regard is had to the three aims expressed in s149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?

Lancaster City Council Response

Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty. This states that:

(1) A public authority must, in the exercise of its functions, have due regard to the need to [the three aims]—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

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(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and

(b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

(8) A reference to conduct that is prohibited by or under this Act includes a reference to—

(a) a breach of an equality clause or rule;

(b) a breach of a non-discrimination rule.

(9) Schedule 18 (exceptions) has effect [Pregnancy and maternity discrimination].

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The principal way in which the council addresses these equality matters is by undertaking a detailed Equalities Impact Assessment (P_05), which has taken full regard to the three aims expressed in s149 of the Equality Act 2010, in relation to those who have a relevant protected characteristic. The EqIA summarises the work of producing a plan, in compliance with the law, and gives proper consideration to the equality implications involved in plan-making.

An Equality Impact Assessment was completed in December 2021 [P_05] to consider the partial review of the Local Plan and included a number of questions for consideration which reflect the relevant obligations under the relevant equalities legislation.

The focus of the council's EqIA begins by stating the aims and objectives of the plans, followed by a statement to explain who the plans are intended to benefit or who might suffer a detrimental effect. The EqIA explains how the council has consulted on the plan at its various stages, and then assesses the potential impacts of the plan on the groups identified in the Act. The EIA concludes that for each group the plans will result in a positive or neutral impact.

In addition, all Cabinet and council reports on the CELPR include an impact assessment section (including health and safety, equality and diversity, human rights, community safety, HR, sustainability and rural proofing).

1.10 How do the Plans meet the requirements of paragraph 11 a) of the National Planning Policy Framework (the Framework) and contribute to the mitigation of, and adaptation to, climate change in accordance with s19(1A) of the Planning and Compulsory Purchase Act 2004?

Lancaster City Council Response

As requested by paragraph 11 of The Framework, the CELPR does not alter the existing adopted local plan in terms of patterns of sustainable

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development and continues to meet the development needs of the District aligning growth and infrastructure, and meeting identified housing needs.

Rather, in addition to the content of the adopted Local Plan, the CELPR now places greater focus on seeking to ensure that development contributes to mitigation of climate change through addressing such areas as net zero homes, positive support for renewable energy, and sustainable travel. In terms of climate adaptation, policies have been strengthened on a range of adaption areas including GBI connectivity and functionality, improved space for food growing, and flood management.

1.11 Is the geographical illustration of all relevant policies shown on the Council's Policies Map?

Lancaster City Council Response

Yes, the only amendments which have been made to the council's Policies Map as part of the Climate Emergency Review are minor changes relating to policy DM53 and the 'areas suitable for wind energy', and policy SC4 to identify the revised green and blue corridors (as lines) and chains (as points): [P _01.1.1, P _01.1.2 and P _01.1.3]

1.12 Are the submitted Plans sufficiently clear on which development plan policies would be superseded or amended on adoption of the Plans, with reference to 4 the requirements of Regulation 8(5) of the Town and Country Planning (Local Planning) (England) Regulations 2012?

Lancaster City Council Response

Yes. Paragraph (4) of Regulation 8 states that '*Subject to paragraph (5), the policies contained in a local plan must be consistent with the adopted development plan*'. Paragraph (5) reads, '*where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy*'.

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The changes proposed in the CELPR represent a partial update to the adopted plan and, for the purposes of clarity, are set out as a single colour track changes document for both the Part One DPD and Part Two DPD: **[SD_01.1 & SD_02.1]**. This approach makes clear which text is to be removed (strikethrough) and where it is to be superseded or new text added. The submitted Plans are sufficiently clear on which development plan policies would be superseded or amended on adoption of the Plans.

1.13 Are the Plans consistent with other existing DPDs? Is it evident which Plan will have primacy in the event of conflict between policies?

Lancaster City Council Response

Yes. The CELPR is only a partial review and as a result the overall development strategy and direction has not changed. The CELPR continues to be in conformity with the adopted Morecambe Bay Area Action Plan (MAAP) and the adopted Arnside & Silverdale Area of Outstanding Natural Beauty DPD (ASAONB). As per the existing situation, the MAAP and the ASAONB will continue to be in conformity with the adopted Local Plan, which will be superseded by the CELPR on adoption, and so the CELPR will therefore have primacy in the event of any conflict.

1.14 Is the Plans' relationship to existing and emerging Neighbourhood Plans justified and reasonable, including the identification of strategic policies which Neighbourhood Plans would be required to be in general conformity with?

Lancaster City Council Response

Yes. The Plan sets out, in Appendix C of the Part One Strategic Policies & Land Allocations DPD, the Strategic Policies which Neighbourhood Plans are required to adhere to. The Strategic Policies identified remain unaltered and essential for the purposes of general conformity.

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The council recognise that whilst the existing list of Strategic Policies for Neighbourhood Plans, as set out in Appendix C of the Strategic Policies and Land Allocations document, remains valid in the context for the purposes of general conformity, there is benefit of including Policy CC1 which reflects the council's strategic ambitions towards Climate Change. Should this policy advance, the council would recommend that reference to Policy CC1 is included within Appendix 3 of Part One: Strategic Policies & Land Allocations DPD.