

**WEST MIDLANDS REGIONAL ASSEMBLY
Regional Planning Partnership**

15th March 2007

**Regional Planning Body – Request to extend Saved Structure Plan Policies
beyond September 2007**

1. Purpose of the Report

- 1.1 To inform the Regional Planning Partnership of the opportunity for the Regional Assembly to make representations to the Secretary of State to extend the duration of saved Structure Plan Policies in the Region beyond September 2007 in order to avoid a Policy deficit prior to the publication of Revisions to the Regional Spatial Strategy.

2. Recommendation

- 2.1 That the Regional Planning Partnership notes the report before them and approves the submission to the Secretary of State as detailed in paragraphs 5.1, 5.5, 5.8, and 5.9 of the Paper.

3. Background

- 3.1 The Planning and Compulsory Purchase Act 2004 (the Act) put in place a new system of Regional Spatial Strategies and Local Development Documents as the Development Plan for a particular area. This superseded the existing system of Regional Planning Guidance, Structure, Local, Waste, Minerals and Unitary Development Plans. To maintain continuity in the Development Plans system as a framework for Development Control and to minimise costs the Government put in place transitional arrangements.
- 3.2 Part of these transitional arrangements involved Structure, Local and Unitary Development Plans retaining their Development Plan status by automatically becoming 'saved' for a period of three years from commencement of Parts 1 and 2 of the Act or the adoption of such Plan's (whichever is the later). Parts 1 and 2 of the Act commenced on the 28th September 2004, and given that the four Structure Plans in the West Midlands Region were all adopted before that date they are saved until 28th September 2007. The Structure Plans in the West Midlands Region and their date of adoption is given below:

- Shropshire and Telford and Wrekin Joint Structure Plan 1996-2011, adopted November 2002;
 - Staffordshire and Stoke-on-Trent Structure Plan 1996-2011, adopted February 2002;
 - Warwickshire Structure Plan 1996-2011, adopted August 2002;
 - Worcestershire County Structure Plan 1996-2011, adopted June 2001.
- 3.3 The saved Structure Plan's remain in place unless before the 27th September 2007 there are revisions to the Regional Spatial Strategy that are published by the Secretary of State which replace the Structure Plan Policies in whole or in part. No such revisions to the West Midlands RSS will be published before the 28th September 2007.
- 3.4 The Structure Plan's in the Region will therefore cease to have effect as a Development Plan unless the Secretary of State directs that the three year period should be extended. In advance of this end date the Regional Assembly can consider whether any Policies in the saved Structure Plan's should be saved for a longer period to avoid a Policy void before the Revisions to the Regional Spatial Strategy are published. Where the Regional Assembly considers any Structure Plan Policies should be saved for a longer period a case should be made to the Secretary of State who will consider whether to direct that the Policies in question should be saved for a longer period.
- 3.5 Communities and Local Government (CLG) has stipulated that Regional Assembly's should make any request to extend the life of Structure Plan Policies by the 1st April 2007; the requests should be received by the regional Government Office. It is because of this timescale that this Paper is being presented to this particular meeting of the Regional Planning Partnership.
- 3.6 The Secretary of State in considering a request from the Regional Assembly to continue to save Structure Plan Policies will make a judgment in light of the following criteria:
- (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.

- 3.7 CLG has stated that if by 1 April 2007 a Regional Assembly 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 above 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.
- 3.8 When considering whether any Policies in the saved Structure Plan's should be saved for a longer period Government guidance contained within Planning Policy Statement 12: Local Development Frameworks recommends that discussions are held with the relevant Structure Plan Authorities.
- 3.9 The Secretariat has liaised with the six Structure Plan Authorities and has requested their advice as to whether they consider any of the Policies within their Structure Plans should be extended in light of the criteria that the Secretary of State will judge such requests. In turn it is understood that the County Council's have liaised with their District and Borough Planning Authorities through existing networks. This has been undertaken as these Authorities will be using the saved Structure Plan Policies as part of the Development Plan for their area.
- 3.10 Prior to the Assembly making a request to the Structure Plan Authorities for advice a pro forma table for each Authority to complete was produced in agreement with Government Office for the West Midlands. As well as justification against the criteria above, the Authorities were asked to explain why they considered that a particular Policy could lapse in order to that there is an audit trail for each Policy.
- 3.11 Although this Paper focuses on the process with regard to saved Structure Plans a similar exercise is also taking place with regard to Local and Unitary Plans across the Region that were adopted prior to September 2004. However, in this regard it is for the Local Planning Authorities who have produced these Plans to consider and make a submission to the Secretary of State as to whether any of the Policies contained within should be extended for a longer period.
- 4.0 The advice received from the Structure Plan Authorities
- 4.1 Advice was sought from six Authorities in relation to the four Structure Plans currently saved in the Region. The detail of the advice provided varied, but all Authorities gave an indication of the Policies which they

wished to be saved for a longer period. Details of the advice provided is below:

4.2 Shropshire and Telford and Wrekin Joint Structure Plan 1996-2011, adopted November 2002.

The number of Policies contained within this Plan is 69. Both Shropshire County Council and Telford and Wrekin completed the Table sent to them in respect of each Policy as to whether they should be saved or should lapse at September 2007. Telford and Wrekin stated that no Policies should be saved for longer period whilst Shropshire advised that 19 of these should be saved.

4.3 Staffordshire and Stoke-on-Trent Structure Plan 1996-2011, adopted February 2002:

The number of Policies contained within this Plan is 103. Staffordshire County Council completed the Table sent to them in respect of each Policy as to whether they should be saved or should lapse at September 2007. Staffordshire advised that 79 Policies should be saved for longer period. In a covering letter accompanying the advice they consider that there is a grey area with respect to the status of the Development Plan for development control purposes as compared with national planning policy statements and guidance. In light of this Staffordshire advise that a number of development control policies should be saved and these have distinguished from those other policies relating to the criteria in paragraph 3.6 above. The County Council also state that some as Policies can only saved in their entirety some Policies are requested to be retained even though parts are acknowledged as being superseded.

4.4 The City of Stoke advice only provided detailed explanation in respect of the three Policies they considered should continued to be saved. The City Council is also seeking to save selected local policies as set out the adopted City Local Plan of 2001. The City Council also stated that it had considered the issue with the County Council and has no objections to the saving of additional policies as requested by the County.

4.5 Warwickshire Structure Plan 1996-2011, adopted August 2002:

The number of Policies contained within this Plan is 51. Warwickshire County Council completed the Table sent to them in respect of each Policy as to whether they should be saved or should lapse at September 2007, but only advised that 6 should be saved for a longer period. The County Council has taken the view that the majority of Policies have either been superseded by RSS or carried out through Local Plan Policies.

4.6 Worcestershire County Structure Plan 1996-2011, adopted June 2001:

The number of Policies contained within this Plan is 120. The County Council did not provide their advice by filling in the Table sent to them in

respect of each Policy as to whether they should be saved or should lapse at September 2007. Worcestershire's advice is that 106 Policies should be saved for longer period. Written advice was provided to reflect the particular circumstances that pertain in Worcestershire. With regard to a large number of Policies their Districts have confirmed that they rely heavily on the Structure Plans strategic policies to provide a sub regional context for the development control policies in their recently reviewed and adopted Local Plans. In respect of Bromsgrove District there is no other statutory plan in operation for the 2001- 2011 period as the Local Plan that was adopted in 2003 had an end date of 2001. In relation to Waste Policies the County has never had a statutory Waste Local Plan. Pending the adoption of a Waste Core Strategy DPD the Council argue that is particularly important that the Structure Plan's Waste Policies remain in effect.

- 5.0 Approach to be considered in making a submission to the Secretary of State
- 5.1 There a total of 343 Structure Plan Policies contained in the four Structure Plans that are adopted in the Region. Given the thorough exercise undertaken by the Structure Plan Authorities in assessing all these Policies in conjunction with their District and Borough colleagues against the Governments own criteria, the approach that it is being recommended is that in the main the advice of the Structure Plan Authorities should be used as the basis of a submission to the Secretary of State.
- 5.2 It is acknowledged that there appears to be a large difference between the number of Policies recommended to be saved between Warwickshire and both Staffordshire and Worcestershire. However, it has not been feasible for the Secretariat to assess, in the same amount of detail, each of the Policies in the way the Structure Plan Authorities have been able to in light of the total number of Policies. Given that the Policies between the Structure Plans are worded in different ways it is difficult to cross reference one against another. This has only been attempted with regard to the two key Policies in relation to Housing and Employment Provision (see paragraph 5.6 below).
- 5.3 Furthermore, many of the Policies recommended to be saved by Staffordshire and Worcestershire are those relating Development Control, which are seen as being of benefit to their District and Borough Council's. The issue of whether these types of Policies should be extended is a matter which it is felt is more appropriately to be considered by Secretary of State rather than the Regional Assembly.

- 5.4 It is not considered that accepting the advice of the Structure Plan Authorities would compromise the implementation of the RSS should a Structure Plan Policy be saved for a longer period. One of the criteria against which the Structure Plan Authorities will have considered each Policy is that it should be in general conformity with the RSS. In any case Planning Policy Guidance Note 12 advises if there is any conflict between a RSS and a Structure Plan then whichever was adopted, approved or published most recently must take precedence (paragraph 5.12). As detailed in paragraph 3.2, all the four Structure Plans were adopted prior to the publication of the RSS in June 2004; the RSS therefore takes precedence if there is any conflict between Policies of a Structure Plan or the RSS.
- 5.5 A Protocol regarding the process of considering saved Policies was circulated by CLG in August 2006. However, this did not stipulate the duration of time a saved Policy would be extended for if it was subject to a direction by the Secretary of State that it should be extended. The Government Office for the West Midlands have indicated that once extended a Structure Plan Policy would remain in place until superseded by either new RSS Policy or relevant Policy contained within a Local Development Framework. Nevertheless, it is recommended that the Regional Assembly should advise that if the Secretary of State does have the power to extend the Policies for a further fixed period of time then the Assembly's advice would be that they should be extended by 2 years to September 2009. By such time the Phase 2 Revision to the RSS should be published.
- 5.6 As mentioned in paragraph 5.2 above, the Assembly has looked at the advice it has received in relation to two key policies within Structure Plans; these being Policies defining Housing and Employment land provision. The following table highlights that there appears to be differences in the advice prepared between the Structure Plan Authorities in respect of these two Policies.

AUTHORITY	HOUSING/EMPLOYMENT PROVISION POLICIES	RECOMMENDATION TO SAVE YES/NO
Shropshire	Housing development in Shropshire – P8	No
	Employment land in Shropshire – P9	No
Staffordshire	Housing Provision – H1	No
	Employment land provision and distribution – E1	Yes
Stoke	Housing Provision – H1	No

	Employment land provision and distribution – E1	Yes
Telford and Wrekin	Housing Development in Telford and Wrekin – P6	No
	Employment Land in Telford and Wrekin – P7	No
Warwickshire	Provision of Housing Land – H1	Yes
	Industrial land provision – I1	Yes
Worcestershire	Distribution of Housing Provision D4	Yes
	Employment land requirements – D19	Yes

- 5.7 Given the differences it was decided to put this matter back to the Structure Plan Authorities for their reconsideration. In relation to the Housing Provision Policies, the Secretariat considered that recent advice from the Government Office for the West Midlands was a factor that might result in such Policies not requiring to be saved for an extended period. The Government Office advice was that the distribution of current County level housing allocations to Districts within Option 1 of the Spatial Options to the Phase 2 RSS Revision represents better information than the Structure Plan proportions. Indeed, the letter formed part of Shropshire County Council's response as to why they felt their Policy on Housing Provision should not be extended.
- 5.8 In responding to the request to reconsider their advice in respect of their Housing Provision Policies both Worcestershire and Warwickshire have restated their opinion that for their own reasons their Structure Plan's Housing Provisions Policy should be saved for an extended period. In light of the differences that exist between the Authorities it is recommended that the Regional Assembly repeats the advice provided by each Structure Plan Authority and explains that this reflects the different circumstances across the Region.
- 5.9 With respect to employment land provision, there is a consensus that it would be appropriate to save such Policies beyond 2007 to avoid a Policy deficit in the short term pending the outcome of the RSS Phase 2 Revision process. Therefore, in this regard it is being recommended that the Regional Assembly submit a recommendation to the Secretary of State that the employment provision policies in all of the Structure Plans be saved for a longer period.

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