RYEDALE DISTRICT COUNCIL

PART B:	**RECOMMENDATIONS TO COUNCIL**
REPORT TO:	**PLANNING COMMITTEE**
DATE:	**13 AUGUST 2019**
REPORT OF THE:	**HEAD OF PLANNING AND REGULATORY SERVICES GARY HOUSDEN**
TITLE OF REPORT:	**NOTICE OF MOTION – THE RYEDALE PLAN**
WARDS AFFECTED:	**ALL**

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 For members to consider the Motion and to recommend a response to Council.

2.0 RECOMMENDATION

2.1 It is recommended to Council that:

(i) The Motion is rejected for the reasons outlined in this report.

(ii) The policies proposed in the Motion are considered and tested through the development plan review process.

3.0 REASON FOR RECOMMENDATION

3.1 As written the motion is considered to be unlawful and presents a number of significant risks to the Council. The motion would pre-empt and pre-determine the Local Plan review process. It also proposes an unlawful delegation.

4.0 SIGNIFICANT RISKS

4.1 The Council would be unable to demonstrate that the proper plan making process had been followed. This would give rise to a serious risk of revisions to the plan being found unsound by a planning inspector, resulting in significant costs and delay to the lawful review and adoption of the development plan. It could also result in reputational damage to the Council as a whole.

5.0 POLICY CONTEXT AND CONSULTATION

5.1 The Motion has been considered within the context of the legislation and national policy covering the plan-making process and the Council's constitution.

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6.0 REPORT DETAILS

6.1 The Notice of Motion was submitted to Full Council on 27 June 2019. The Motion relates to the review of the Local Plan and was automatically referred to this Committee by Council.

6.2 The details of the Motion are included in Appendix 1 to this report. The Motion seeks the appointment of a planning consultant whose instruction would be to do all necessary work to advise on and to secure so as far as is practicable, ten policy revisions to the Ryedale Plan. The motion raises issues relating to the:

- Development Plan process
- Council's appointment procedure

Development Plan process

6.3 Any review of the Ryedale Plan needs to follow the statutory process which is in place to ensure that plans are prepared on an objective and transparent basis. This demands that technical evidence, sustainability appraisal and consultation with stakeholders are used to identify and test policy options and, to inform and justify policy choices.

6.4 As written, the Motion pre-empts the plan review process. An instruction that seeks to revise the plan to include ten changes to policy appears to pre-determine the approach to the identification and assessment of future policies. Review of the development plan is a statutory process that begins with using evidence to inform future policy choices. It is not about identifying policies and then finding the evidence to support the policies and to justify retrospectively why those policies are proposed.

6.5 If the Council fails to follow the statutory process for reviewing a development plan, it would be acting unlawfully. Moreover, the process by which these policies in the Motion have been selected could not be justified or rigorously defended. Failure to follow the proper plan making process would mean that a revised plan would fail to meet the tests of 'soundness' applied as part of the examination process. The Council would not be in a position to adopt the new policies and time and resources would have been wasted.

Council's appointment procedure

6.6 The text of the motion includes the following proposal:

"An independent planning consultant be appointed by the Council Chair in consultation with the Deputy Chief Executive"

6.7 The proposal is unlawful because a single Councillor does not have legal authority under Section 101 of the Local Government Act 1972 (as amended) to take action under the Council's powers. The Council's Contract Procedure Rules also prohibit a single member from entering into a contract (Rule 27.1.1) The District Council may delegate to a committee, a sub-committee or an Officer and relies on Officers to instruct planning consultants having followed appropriate procedures. An unlawful delegation has the potential to render void any action taken in pursuance of it.

6.8 Members are also reminded that where a consultant's fee is likely to be above the

threshold of £50,000, this would trigger procurement process.

7.0 IMPLICATIONS

7.1 The following implications have been identified:

a) Financial
There is a limited existing budget for plan-making work. A budget for a review of the Local Plan is not yet agreed.

b) Legal
The motion is considered to be unlawful for the reasons outlined in the report. The Council's solicitors have provided advice in response to the Motion and external legal advice has also been sought. Legal advice has informed the recommendations of the report.

c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)
The motion has direct implications for planning and the Council's ability to maintain an up to date development plan.

8.0 NEXT STEPS

8.1 The forthcoming review of the plan will ensure that a range of future policy options are identified and tested through the statutory process. A timetable for the forthcoming review of the plan will be brought to members in the autumn. There is no reason why the process cannot be used to consider and test the policies proposed in the Motion.

Gary Housden
Head of Planning and Regulatory Services

Author: **Jill Thompson, Planning and Development Manager**
Telephone No: 01653 600666 ext: 43327
E-Mail Address: jill.thompson@ryedale.gov.uk

Background Papers:
National Planning Policy Framework
The Town and Country Planning (Local Planning) (England) Regulations 2012
Ryedale District Council. Council Constitution.

Background Papers are available for inspection at:
https://www.gov.uk/government/publications/national-planning-policy-framework--2
http://www.legislation.gov.uk/uksi/2012/767/made
https://www.ryedale.gov.uk/your-council/strategies-plans-policies/constitution.html