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<b>PART A:</b>	<b>MATTERS DEALT WITH UNDER DELEGATED POWERS</b>
<b>REPORT TO:</b>	<b>POLICY AND RESOURCES</b>
<b>DATE:</b>	<b>30 SEPTEMBER 2010</b>
<b>REPORT OF THE:</b>	<b>HEAD OF PLANNING GARY HOUSDEN</b>
<b>TITLE OF REPORT:</b>	<b>THE IMPLICATIONS OF THE REVOCATION OF THE REGIONAL SPATIAL STRATEGY</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

1.1 To outline the implications of the revocation of the Yorkshire and Humber Plan, the Regional Spatial Strategy (RSS) and to consider a motion moved at Council on the 28 July 2010 which has been referred to this Committee. It is important to note that this report has been prepared to consider the practical implications of the revocation of the Yorkshire and Humber Plan. It is not the intention of the report to consider or make decisions on wider matters of policy which will be considered as the Core Strategy progresses through the statutory process.

### **2.0 RECOMMENDATIONS**

2.1 It is recommended that:

- (i) Members note the implications of the revocation of the RSS as they are known and interpreted by officers at this stage.
- (ii) Members do not agree to the use of an interim policy in the determination of planning applications and in advance of the adoption of the Core Strategy.
- (iii) Members agree to use the former RSS housing provision rates as a basis for managing housing supply in the decision making process prior to the adoption of the Core Strategy

### **3.0 REASON FOR RECOMMENDATIONS**

3.1 The former Regional Spatial Strategy, the Yorkshire and Humber Plan formed part of the Development Plan covering Ryedale and it is important that members are aware of the implications of the revocation of the document for the Local Development Framework and the Development Management process, as they are currently known.

- 3.2 It is important that matters of policy are agreed by this Council in the appropriate way. The plan making process is the transparent and accountable way in which local authorities are able to introduce planning policies.

#### **4.0 SIGNIFICANT RISKS**

- 4.1 Following the revocation of the RSS, the main risk is considered to relate to the timely production of the document as the implications of the revocation are considered and debated by the full range of interested parties and as further, relevant policy changes are announced by Government.
- 4.2 The introduction and use of policy that has not been established in the appropriate way would place the authority at risk in an appeal situation and it is considered that the Authority would be considered to have acted unreasonably and this would represent a serious risk of costs to be awarded against the Authority.

### **REPORT**

#### **5.0 BACKGROUND AND INTRODUCTION**

- 5.1 On the 6 July 2010, the Secretary of State for Communities and Local Government announced the revocation of Regional Spatial Strategies with immediate effect. An advice note which was produced by the Government as part of the announcement was circulated to Members at the meeting of Council on the 2 August. It is understood that no further information or clarification has been issued by the Government to date although a Communities and Local Government Select Committee Inquiry into the move was announced at the end of July. It is anticipated that this will be held in the Autumn. The Secretary of State's decision is also the subject of three legal challenges by house builders. The date of the hearing at the High Court has been set for the 22 October 2010. It should be noted that whilst Regional Spatial Strategies are revoked, it will be the Decentralisation and Localism Bill announced in the 2010 that will formally abolish the plans once it is enacted.

- 5.2 At the meeting of Council on the 28 July, a motion was moved by Councillor Woodward and seconded by Councillor Clark as a response to the revocation of the Regional Spatial Strategy and the renewable energy policy that was embedded within it. The motion stated that:

*"This Council had a proposed Renewable Energy policy in its previous LDF submission.*

*All domestic developments and large commercial developments were to have a minimum of 10% renewable energy.*

*The RSS policy until recently was similar.*

*So as to provide continuity, this Council resolves that: 'All domestic developments and commercial developments of greater than 1,000 sq feet will provide 10% on site Renewable Energy.'*

- 5.3 The Chairman announced that the motion would be referred to a meeting of this Committee, as under Council Procedure Rule 11.4, the motion fell within the purview of the Policy and Resources Committee.

## **6.0 POLICY CONTEXT**

- 6.1 Following the revocation of the Regional Spatial Strategy and prior to the adoption of new Local Development Framework documents, the Development Plan for Ryedale consists of saved policies of the Ryedale Local Plan. National Planning Policy Statements remain in force, although they are under review and will be replaced by a National Planning Framework. The timing of this is to be confirmed by Government.
- 6.2 Under current legislation, planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations are, essentially, any consideration which relates to the development and use of land. National Planning Policy Statements are considered to be material considerations. In the absence of an up to date Development Plan and following the revocation of the Regional Spatial Strategy, the suite of national policy statements will have significant weight in the LDF and planning application decision making processes. Emerging national and local policy can be considered material considerations. In the case of the latter, the weight that can be applied to, for example, an emerging LDF policy will be a function of the stage in the plan process coupled with the level and nature of representations that have been made on the particular issue or policy.
- 6.3 It is also important to note that the current planning system is a plan led system and that the introduction of local planning policy and importantly, the ability to defend this on appeal must be through the plan making process.
- 6.4 Formal transitional arrangements are not in place following the revocation of the RSS. The advice note circulated to all Chief Planning Officers forms the basis of the current position.

## **7.0 CONSULTATION**

- 7.1 The decision to revoke the RSS has been made by Central Government. It is not for Local Authorities to consult on the issue.

## **8.0 REPORT DETAILS**

- 8.1 Following the revocation of the Yorkshire and Humber Plan, the strategic policies embedded within it essentially no longer exist. Members are aware that the policy framework of the former RSS included the core approach, sub- area policies and topic specific policies which covered key policy targets including housing numbers, affordable housing targets and renewable energy targets. Whilst the entire RSS was of particular relevance to the LDF process on the basis that the latter had to be in general conformity with the Regional Strategy, policies within the document were also used in the determination of planning applications. Target based policies were of particular relevance, mainly due to the fact that they represented the most up to date element of the Development Plan for most authorities.

### **Implications for the Local Development Framework**

- 8.2 The revocation of the RSS places greater emphasis upon the compilation of the local policy framework. Whilst the details of the Governments localism agenda will emerge over time, it has made it clear that Local Planning Authorities should continue to develop Local Development Framework Core Strategies and other Development Plan Documents which reflect local aspirations and decisions on key issues such as

climate change, housing and economic development.

- 8.3 The broad policy approach of the emerging Ryedale Plan has been developed with considerable on-going public consultation and involvement over a series of years and key policy choices have been informed by locally specific technical evidence. Key elements of the emerging Core Strategy including the spatial strategy and settlement hierarchy for example, whilst broadly consistent with the former core approach of the RSS were not imposed in detail by the document. It is considered that these choices remain a locally relevant interpretation of national planning policy, informed by local evidence. For these reasons and in this respect the revocation and subsequent abolition of the RSS should have relatively limited implications for the emerging Core Strategy.
- 8.4 It is considered that in terms of the Plan making process, the most significant implications of the revocation of the RSS relate to the policy targets that fell within the remit or role of the RSS to establish. For District Authorities, these specifically included targets relating to the delivery of new homes and renewable energy. The RSS also included specific detail in relation to minerals extraction and waste management that is of particular relevance to the unitary authorities, National Parks and North Yorkshire County Council.
- 8.5 The Government has made it clear that it is now for local authorities to establish the level of local housing provision for their area and has suggested that authorities may decide to retain the 'existing' RSS targets or to review these targets. In any event, it has made it clear that authorities will need to evidence housing targets and that the data and research held by the Regional Leaders Board/ Regional Assembly is to be made available to local authorities.
- 8.6 At a meeting of extraordinary Council held on the 2 August 2010 to consider a consultation draft of the Core Strategy, officers advised that within the context of available evidence in terms of housing need and demand, infrastructure requirements and the need to ensure a deliverable and sustainable strategy that there is merit in retaining the RSS figures. This would also enable continued progress with the Core Strategy.
- 8.7 Officers will prepare a detailed report that gathers the range of existing evidence relating to future housing numbers.
- 8.8 The other key area where the RSS established policy targets for local authorities was in relation to Renewable Energy. The RSS set indicative targets for grid connected renewable energy for Ryedale of 10 MW to 2010 and 19 MW by 2021. This target was the lowest in the region, due in part to the environmental designations that exist across the District. The draft Core Strategy includes references to these targets, however, it is not explicitly clear as to whether a quantitative target for large scale grid connected schemes will need to be incorporated into the future local policy framework.
- 8.9 Under the existing Planning Policy Statement on Planning and Climate Change and a draft Planning Policy Statement – Planning for a low carbon future, references to specific targets for large scale electricity generation are made with reference this being a role of the RSS. In the absence of this, the generic thrust of both of these documents is that local authorities should compile a policy framework that looks to facilitate and not restrict renewable energy production. Clearly, this is an area where the Council will need to take further advice before it finalises the draft Core Strategy.

It is anticipated that representatives of the industry will comment on the draft Core Strategy and this will help to inform the final version of the document and the extent to which it is appropriate to include a quantitative target for large scale generation schemes.

- 8.10 Members are aware that the RSS also required that as an interim measure, in advance of local authorities establishing their own targets that *“new developments of more than 10 dwellings or 1000 m<sup>2</sup> of non-residential floor space should secure at least 10% of their energy from decentralised and renewable or low carbon sources, unless, having regard to the type of development involved and its design, this is not feasible or viable”*.
- 8.11 Prior to the revocation of the RSS, it was agreed that this Council would not set a District-Wide on site/ decentralised renewable energy or low carbon target but to use the RSS policy as the interim policy that it was intended to be whilst establishing site specific targets as part of the Sites Document. This is consistent with draft Planning Policy Statement Planning for a Low Carbon Future in a Changing Climate.
- 8.12 As a response to the revocation of the RSS, the Draft Core Strategy included a target for carbon emission reduction through the use of on-site/ decentralised renewable or low carbon sources. This reflects the requirement that was previously incorporated in the previous Core Strategy and is designed to act as an interim policy position between the adoption of the Core Strategy and the adoption of the Sites Document.
- 8.13 The RSS also embodied the Regional Transport Strategy which formed a basis for the distribution of regional transport funding. Ryedale is not an area that featured highly within the Regional Transport Strategy and the emerging Core Strategy is not based around the delivery of major projects of regional significance and dependant on regional transport funding. The Local Transport Plan produced by North Yorkshire County Council will remain an important influence on this Council’s Local Development Framework.

**Implications for the Planning Application Process and the Motion to Council on the 28 July 2010.**

- 8.14 In common with many Authorities, this Council used RSS policies to support the refusal or granting of planning permission. Those policies that updated older saved local plan policies such as affordable housing targets or which reflected priority issues such as climate change were of use to the development management process although the extent to which they were fully used was largely a reflection of the economic downturn and the tailing off of applications which would have triggered the use of these policies.
- 8.15 Given that the RSS affordable housing target/policy no longer exists this Council will need to rely on the saved affordable housing policy to inform the decision making process until the emerging Core Strategy policy has advance through the process. Given that the latter is likely to be the subject of objection and scrutiny at the examination, it is unlikely that the emerging policy would have significant weight in the decision making process in advance of its adoption.
- 8.16 It is understood that the intention behind Councillor Woodward’s motion to Council on the 28 July is to provide continuity and fill the void left by the revocation of the RSS with regards to renewable energy. Although the precise wording of the motion differs from both the former RSS policy and the earlier version of the Core Strategy, it is considered that it is the principle of using or introducing a policy that has not followed

the plan/policy making process that is problematic. The Council would be introducing policy outside of the correct procedures and this would place the authority in a difficult position in an appeal situation. Members are advised that if passed, the motion could not be considered lawful policy for the purposes of making planning decisions.

- 8.17 Officers are very aware of the importance that members across the Council attach to the issue of climate change. Clearly in the negotiation of major development proposals which may come forward in advance of the new Plan, officers will encourage developers to include on-site/ decentralised technologies as part of their schemes. However given the current position, the Council is limited in the extent to which it can insist that this provision is made in the absence of a development plan policy.
- 8.18 One key area of uncertainty for the decision making process is in relation to the consideration of proposals for new housing development. This Authority has experienced a recent increase in the applications for major housing development. Clearly these sites have been submitted in advance of the Sites Document and the Council has a duty to determine the applications.
- 8.19 One of the key ways in which Councils could manage such a situation is in relation to the retention of a five year supply of housing land. Members are aware that under national policy (Planning Policy Statement 3) Local Planning Authorities are required to demonstrate / maintain a five year deliverable supply of land for housing. Where this is not the case, they are requested to “consider favourably planning applications for housing...” This is consistent with a key objective of national policy to maintain a flexible and responsive supply of housing land. Against this context, the five year supply calculation provides authorities with an important way in which to manage proposals running in advance of the development plan.
- 8.20 The coalition Government has reaffirmed the need for Authorities to have a five year supply of housing land. The issue at this point in time however is that the 5 year supply calculation is a function of annual housing targets which, for most authorities no longer have a basis as statutory policy. The potential dilemma that this creates is the subject of much debate amongst the planning and legal professions at the current time. However, the delivery of a flexible and responsive supply of land for housing is a key objective of national planning policy and it is considered that this principle will, at this time of uncertainty, have significant weight as a material consideration. Given that the Council will always need to provide a level of housing each year a pragmatic response in the current uncertainty would be to use the RSS rates as a basis for calculating the five year supply and for managing and determining applications that are received in advance of the Core Strategy and Sites Documents being adopted. However, it should be noted that this position may also be challenged by house builders arguing that the five year supply has no basis in an adopted policy target and that the authority should be providing higher rates of housing per annum.
- 8.21 Officers will update Members on this issue if further clarification is received from central government or in the light of emerging practice or legal commentary.

## **9.0 IMPLICATIONS**

- 9.1 The following implications have been identified:
- a) Financial  
No Direct Implications other than those referred to within the report.

- b) Legal  
The legal implications of the revocation of the RSS are the subject of this report.
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)  
No Direct Implications

## **10.0 NEXT STEPS**

- 10.1 The current situation – the revocation of a statutory plan without formal transitional arrangements is unprecedented. This report aims to outline the implications as they are currently known and interpreted by officers at this stage. This is a period of uncertainty and the Council may need to seek legal advice to support the planning application decision making process in the short – medium term.

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### **Background Papers:**

Council Agenda 28<sup>th</sup> July 2010

Chief Planning Officer Letter: Revocation of Regional Spatial Strategies. 6<sup>th</sup> July 2010

**Background Papers are available for inspection at:**

Ryedale House