

From: [REDACTED]
Subject: RE: LDP
Date: 26 April 2023 16:00:09
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Hello [REDACTED]

I think the position in planning terms is quite clear. The UDP remains (part of) the development plan, therefore this is the starting point for decision making. The LDP, which has not been adopted, is a material consideration. However, in my view, the LDP is a material consideration which should be afforded very significant weight in the determination of planning applications given that it has recently been found to be sound by Inspectors following Examination.

As you will appreciate, each planning application must be determined on its merits. Notwithstanding this, given the age of the UDP (1996-2011), combined with the fact that the LDP has very recently been found to be sound, the advice to Members in most circumstances I can think of will be that where the UDP and the LDP differ, the LDP, as a very significant material consideration, should outweigh any policy conflict with the UDP.

As you know, Officers sought Counsel advice predominantly in connection with the implications of the Roads Review. However, some questions about the legality of not adopting the Plan and the implications for decision making were also asked. The most relevant question and answer is below.

Q5. What impact would a refusal to adopt have on the determination of Planning applications – i.e. how much weight would it be afforded, particularly if the Council were to refuse applications that departed from the extant UDP but accorded with the LDP, for example a site outside of a UDP settlement and within a designated UDP Green Wedge, but a site that is allocated for development in the LDP?

There is no single answer to this question. Although the LDP could be given very significant weight in such a scenario (and, all else being equal, probably would by an inspector), in the end it would turn on the particular circumstances of the case (and not necessarily only those relating to the LDP's non-adoption) as well as the planning judgement of the person/body concerned

Regards



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