

## **Appendix 2 – Legal Services advice on status of Inspector’s Report**

### Adoption of Development Plan Documents – Council’s power to deviate from Inspector’s Report following examination

#### Pre 15 January 2012

If the Inspector recommended adoption of a development plan document (DPD) as originally prepared the Council could adopt the document as originally prepared (as submitted for examination by that Inspector).

If the Inspector recommended adoption of the DPD with modifications the Council could adopt that document subject to those modifications.

The Council could not otherwise adopt a DPD.

Once a DPD had been submitted for examination it could not be withdrawn unless the Inspector recommended that happened or the Secretary of State directed that it be withdrawn.

#### 15 January 2012 onwards

The Localism Act 2011 made a number of changes to the rules concerning adoption of DPDs including what was stated to be a change from binding Inspector’s Reports to non-binding Inspector’s Reports.

If the Inspector recommends adoption of a development plan document the Council can adopt it as it is or together with modifications that cumulatively do not materially affect the DPD’s policies.

If the Inspector concludes that the DPD should not be adopted but could be made satisfactory by modifications (the Council must ask the Inspector to recommend modifications for this purpose) the Council can adopt that document subject to those recommended modifications. Those modifications are known as “main modifications”. Again the Council can adopt with additional modifications that cumulatively do not materially affect the DPD’s policies (as altered by the main modifications).

The Council can not otherwise adopt a DPD.

The Council can withdraw a DPD at any time.

In substance the changes made by the Localism Act were

- to allow additional non-material modifications
- to allow the Council to withdraw a DPD after submission for examination

The Council remains unable to adopt a DPD other than in a form that is recommended by the Inspector in all material respects.

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