

ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE

11th November 2004

PRESENT:-

Labour Group

Councillor Southerd (Chair), Councillor Taylor (Vice-Chair) and Councillors Carroll, Dunn (substitute for Councillor Bell), Isham, Shepherd, Stone and Whyman, M.B.E.

Conservative Group

Councillors Atkin, Bladen, Ford and Mrs. Hall.

Independent Member

Councillor Mrs. Walton.

In Attendance

Councillor Jones (Labour Group) and Councillors Lemmon and Mrs. Wheeler (Conservative Group).

APOLOGY

An apology for absence from the Meeting was received from Councillor Bell (Labour Group).

EDS/37. **MINUTES**

The Open Minutes of the Meeting held on 30th September 2004 were taken as read, approved as a true record and signed by the Chair.

EDS/38. **DECLARATIONS OF INTEREST**

Councillor Atkin declared a prejudicial interest in respect of Item 12 – South Derbyshire Local Plan – Inspector's Report and Proposed Modifications. Councillor Whyman M.B.E. also declared a prejudicial interest in this item and would provide further clarification at the commencement of the item.

EDS/39. **MEMBERS' QUESTIONS AND REPORTS**

(a) **Refuse Collection and Recycling Service – Compost Scheme**

The Chair announced plans for a new facility to process household waste to compost. This would utilise an "in vessel" system that met new European Regulations and Health and Safety Requirements. The contract was scheduled to start in March 2005 and would help the Council to continue to meet its recycling targets.

(b) **Refuse Collection and Recycling Service – "Green Boxes" Scheme**

The Chair reported on the expansion of this scheme to a further 12,000 households, which would now receive a fortnightly collection of bottles,

cans, foil, textiles and paper. Over 8 tonnes of material had been collected and recycled each day and the Chair thanked residents for their support of this initiative.

MATTERS DELEGATED TO COMMITTEE

EDS/40. HIGH HEDGES LEGISLATION

The Committee received a report from the Member Working Panel established to consider the High Hedges legislation, associated regulations and the implications for the Council. Part 8 of the Anti-Social Behaviour Act 2003 provided legislation to deal with high hedges. The Working Panel took the views of the Head of Planning and the Director of Community Services on:-

- where the most appropriate place for implementing the legislation should lie within the Council;
- whether a fee should be charged for investigating alleged nuisance from high hedges; and
- the resource implications of implementing this legislation.

The responses of each Officer were set out within the report. The Panel decided that the high hedges legislation and associated regulations should be implemented by the Environmental Health Department. A further Panel Meeting could be arranged to review the recommendations when the full impact of this legislation was known.

RESOLVED:-

- (1) That the High Hedges legislation and associated regulations be implemented by the Environmental Health Department.***
- (2) That no fee be charged for investigating complaints under this legislation.***
- (3) That staffing resources be kept under review until the full impact of the legislation is known.***

EDS/41. 2004/2007 SERVICE PLANS – HALF YEAR MONITORING REPORTS

It was reported that Service Plans were an important part of the Council's performance management framework. In the autumn/winter of 2003, the Committee approved Service Plans for the Planning Services, Economic Development, Technical Services and Environmental Health Divisions. These plans were intended to provide a basis for service delivery during the current financial year and over the next two years. Reports were provided to review progress from 1st April to 30th September 2004. Members were reminded of the form and content of each Service Plan.

The Chair noted that the majority of performance targets were being achieved and he asked that the Committee's compliments be passed on to the relevant staff. Councillor Ford asked about the proposed transfer of responsibility to local authorities to regulate gambling establishments.

This transfer seemed probable, but the guidance was still at an early stage.

RESOLVED:-

That the half year Service Plan Monitoring Reports for Planning Services, Economic Development, Technical Services and Environmental Health be received and that Members' comments be noted.

EDS/42. **DRAFT SOUTH DERBYSHIRE COMMUNITY STRATEGY**

It was reported that the South Derbyshire Local Strategic Partnership (SDLSP) had formally invited the Council to comment on the Draft South Derbyshire Community Strategy. The Committee received a report, as part of a wider programme of consultation. This sought to encourage local people and groups, business and other interested organisations to come forward with their own ideas about what needed to be done to improve the quality of life in South Derbyshire over the next five years. Feedback from consultees would be used to shape the final version of the strategy, which would be submitted to the SDLSP Forum in January 2005. Potentially, the strategy could have an impact on the planning and delivery of many Council services. It was important for all policy committees to have the opportunity of commenting on the proposals. Comments would be collated by the Community Scrutiny Committee, which would draft a composite response for consideration by the Council in early December.

The report outlined the role and purpose of the Community Strategy, together with its content. The draft Strategy was made up of a number of "building blocks", comprising:-

- An overall Vision
- Six broad themes
- Priorities for Action
- Examples of the types of action that could be taken

The vision of the strategy was "Working Together for a Better South Derbyshire". To deliver this vision, six broad themes had been identified and these were reported. There was a need for the SDLSP to set priorities and these had been identified for each theme, together with examples of possible actions. Appended to the report were copies of slides used at the Members' Workshop. These summarised the challenges to be faced over the next five years, the vision, suggested priorities and possible actions for the SDLSP. A number of questions were posed to assist the Committee in making comments on this consultation.

The Leader of the Council felt it was vital for Members to give consideration to the Draft Community Strategy. He explained the composition of the LSP and the different sectors that were working together, aligning their priorities and funding strategies, to give maximum benefit to the people of South Derbyshire. He urged Members' comments either through this forum or separately. The Chair thanked Officers for the work undertaken to date.

RESOLVED:-

That Members be invited to comment on the Draft South Derbyshire Community Strategy.

EDS/43. **HISTORIC ENVIRONMENT CHAMPIONS**

The Committee was asked to consider the appointment of design and heritage champions. There was a strong inter-relationship between the historic environment and the quality of design of new buildings and public spaces. Delivering these qualities required strong local leadership. English Heritage and the Council for Architecture and the Built Environment (CABE) were looking for elected Members, ideally policy committee Chairs to take up these roles.

It was widely accepted that good design in buildings and public spaces enhanced existing high quality built environments and contributed to the regeneration of areas. Local authorities played a fundamental role in caring for and managing England's historic environment, as well as delivering quality design within the built environment. The appointment of elected Members as Historic Environment and Design Champions could focus minds and ensure that design and historic environment issues, in both urban and rural areas, were placed firmly on the agenda of the local authority. A key point in delivering this project was to establish integrated corporate thinking and to ensure that the historic environment was taken into account fully in the development of plans and strategies of the Council and its partner bodies.

The Chair considered it was vital to nominate both design and historic environment champions. The Leader of the Council proposed that the appointments be considered in a wider forum and that nominations be submitted to the next Council Meeting.

RESOLVED:-

- (1) That the Council appoints a Design Champion, to promote good design in South Derbyshire in line with the aims of the Council for Architecture and the Built Environment.***
- (2) That Council appoints a Historic Environment Champion, to promote the protection of the historic built environment of South Derbyshire in line with the aims of English Heritage.***
- (3) That nominations for each Champion be submitted to the next Council Meeting.***

EDS/44. **LOCAL DEVELOPMENT SCHEME**

The Committee received a report, which informed of changes to the planning system. Over time, it would result in new documents to replace the Local Plan and in particular, the need to produce a Local Development Scheme (LDS).

A LDS would set out how the Council would progress towards adopting a Local Development Framework (LDF), in accordance with the requirements of

the Planning and Compulsory Purchase Act 2004. The LDF and Local Development Documents (LDD's) referred to within it would ultimately replace the South Derbyshire Local Plan. The first LDS had to focus on milestones to be met during the first three years following the Act, with a provisional indication of what would be done in subsequent years. During the transition period, policies contained in the Local Plan currently under preparation could be saved for three years from their adoption.

The Local Plan was prepared to cover the period up to 2011 and policies contained within it were therefore likely to remain relevant. Such policies could be saved for longer than three years, subject to the approval of the Secretary of State. Supplementary Planning Guidance, associated with the same policies would also be saved.

The LDF would comprise a suite of documents, so that they could be updated more easily. The documents that would comprise the development plan were:-

- The Core Strategy
- Site Specific Allocations and Policies
- Generic Development Control Policies
- Area Action Plans (for key areas of change or conservation)
- Proposals Map

One of the first documents to be prepared under the new system was a Statement of Community Involvement (SCI). Its purpose was to inform the community about the preparation of LDD's. The content of the SCI would be subjected to consultation and, if necessary, independent examination. The most controversial aspect of the plan preparation was the number and location of new houses. In future, district housing requirements would be set out in the Regional Spatial Strategy (RSS), the document that would replace the current Regional Planning Guidance. This currently ran until 2021, but a review to transform it into a full RSS was set to commence in 2005, with anticipated adoption by 2008. The new document would contain district targets and was likely to cover the period up to 2026. The core strategy of the new LDF had to set out objectives and strategic policies to cover a longer time period than local plans.

At every decision stage of the new plan's preparation, a Strategic Environmental Assessment (SEA) had to be undertaken and published in line with the relevant European Directive. This was to demonstrate that the environmental impacts were fully understood and taken into account. A Sustainability Appraisal (SA) also had to be carried out to demonstrate that the interaction of environmental, social and economic impacts were also taken into account in the policies and proposals being put forward. Government guidance to assist Councils was still at the draft consultation stage. The Chair commented on the implications for all planning authorities, resulting from the revised arrangements.

RESOLVED:-

That the Committee notes the changes to the planning system resulting from the Planning and Compulsory Purchase Act 2004 and that a report be submitted to the Committee Meeting on 27th January 2005, setting out a work programme to meet the new requirements.

EDS/45. SOUTH DERBYSHIRE LOCAL PLAN – PUBLIC INQUIRY INSPECTOR’S REPORT

Note: At 6.20 p.m. Councillor Atkin left the Meeting. Councillor Whyman M.B.E. confirmed that he had a prejudicial interest in aspects of this report. He sought guidance from Officers and stated that he would leave the Meeting during the consideration of certain elements of the report.

The Committee was informed of the recommendations contained in the Inspector’s report and approval was sought for appropriate modifications to the revised Deposit Draft Local Plan. The report followed the Public Inquiry into the Local Plan and Members were asked to read it in conjunction with the Inspector’s report itself and the Revised Deposit Draft Local Plan. The report comprised over 300 pages and set out the Inspector’s consideration of all objections to the Plan and his recommendations regarding amendments. The report was not binding, but if the Council did not agree to any of the recommendations, it must give appropriate reasons for not doing so.

Changes recommended by the Inspector ranged from the substitution of a single word to the rewording or deletion of a whole policy. The Local Plan was a comprehensive document covering a range of topics and when making changes, it was necessary to ensure consistency. The majority of recommendations had no significant implications for the strategy or intentions of the Local Plan. In some cases they actually tightened the policy to make it stronger. Those changes of significance or of a controversial nature were set out within the report.

The Committee gave consideration to the housing related elements of the Inspector’s report. Initially, this focused on the calculation of residential land availability and how much land actually needed to be allocated. The Inspector was satisfied and recommended no changes in this regard. He did consider that if all allocated sites were developed, there would be an element of over-allocation. He recommended an adjustment be made to the figures, which was reported.

In terms of allocations, the Inspector recommended that the allocation at Boulton Moor should revert to the area of land shown on the proposals map for the first deposit draft Local Plan. The reasons for this were set out within the report and there were no persuasive reasons to disagree with this recommendation. The only major housing site that the Inspector recommended deleting was the Willington Power Station site. This recommendation was not made lightly as demonstrated by the lengthy text in the report. Every piece of evidence had been considered, including objections to the search sequence that led to the identification of the site. The Inspector found that the search sequence was firmly based on advice in Planning Policy Guidance Note 3 and was soundly based. The Inspector then went on to consider all of the criteria set out in that Planning Policy Guidance Note. On some issues he agreed with the Council and on others, with the objectors, but on balance he considered that the site failed the “so poorly” test set out within the guidance. The site owners had continued to address the areas of concern. Officers felt that there was insufficient justification at this time not to accept the Inspector’s recommendations. Plans had to be rolled forward and should material changes in circumstances occur in the future, then the site would be reassessed.

Having recommended the deletion of this site, the Inspector considered all sites put forward by objectors as potential alternatives. The majority were dismissed, for a variety of reasons, but the Council was recommended to consider the following six sites:-

- Land to south of Hilton Road, Etwall
- Land at Egginton Road, Hilton
- Land at Station Road, Melbourne
- Land at Highfields Farm, Littleover
- Land at Stenson Fields
- Land at Stenson Meadows

The particulars for each site and the findings of the Inspector were reported.

With regard to serviced villages, the Inspector agreed that a settlement hierarchy was an appropriate means of identifying the most sustainable settlements. He considered that identifying serviced villages would be better based upon the presence of a minimum of services and examples were provided. The Council was recommended to consider that Newton Solney and Egginton be reclassified as serviced villages and be provided with the development boundaries. There was no justification for not reviewing the two villages in question and current Local Plan boundaries were still relevant, subject to a minor amendment at Egginton. A resultant effect was the identification of land that was important to protect from development under Policy ENV8. The Inspector was however, satisfied that the division between settlements subject to parts of Policy H1 was more defensible, on the basis of the lower levels of facilities involved. The Inspector recommended the deletion of Part B of Policy H1, because reference to “green field” windfall sites was contrary to PPG3.

The Inspector recommended that new residential development be at a density of 30 dwellings per hectare. This was consistent with PPG3 and the report explained the application of this guidance in greater detail. Reference was also made to affordable housing and this issue was subject to an outstanding query with the Inspector. The appropriate sections of the Inspector’s Report had therefore been held back from publication in order to avoid confusion. Texts for the relevant paragraphs would be made available as soon as possible and would be the subject of a further report to a Special Council Meeting.

It was confirmed that the modifications would be subject to a consultation period of six weeks. A further report would be submitted in due course to the Environmental and Development Services Committee and ultimately to the Council Meeting. This would be to consider objections and determine the need for a further Public Inquiry into new resulting issues.

Members considered in some detail the recommended deletion of the Willington Power Station site. Reference was made to the correspondence circulated to all Members and the contentions made regarding the site. The Head of Planning Services gave a detailed response, which covered highway issues and flooding risks. He explained the Inspector’s views regarding PPG3, access to this site and its geographical location. There were concerns regarding the distance of the development from the Willington Station and the access to that station. Comment was made about the lack of suitable bus

provision, constricted roadways in the area and problems at the Village centre. The ability to build a community had also been addressed by the Inspector, as this site was remote from the rest of the Village and would promote more than one nucleus. The Officer then reported the response of the site owner, including evidence that the site would not be liable to flooding. It was proposed to provide a free bus link to the centre of the Village and negotiations had taken place with the Parish Council to provide services and facilities on the site, to build a community. The Officer read a further letter received that day, which sought a delay of the decision and alleged a possible legal challenge, that would delay the Local Plan process. Officers considered that the Local Plan solution proposed was more credible and commented that the Willington proposal only provided for the development of a small proportion of that site. There was of course the potential for legal challenges from other sources. The Deputy Chief Executive felt that Members' consideration of this item should not be unduly influenced by the threat of a legal challenge, as this issue could be considered further in time for the Council Meeting.

Councillor Ford spoke as a local Ward Member about the Planning Policy Guidance issues and resistance to the development of housing on this site. He felt the Council had a robust case to defend its position and there were many other options for the future use of this site. Councillor Bladen endorsed this view, referring particularly to traffic problems in the Village. It was questioned whether the alternate allocations would impact on the sites at Elvaston Castle or Aston Hall and Officers provided clarification. Councillor Mrs. Walton recounted the problems experienced in the Hilton Ward and she supported the alternate proposals submitted. Councillor Shepherd voiced his support for the proposals that did not include allocations in the Stenson Fields area. The Leader of the Council commented that the potential threat of legal action could be considered in time for the Special Council Meeting. There would be a six week consultation period on the revised proposals and this matter would be revisited by the policy committee and ultimately the Council. He referred to the Inspector's comments and the preference for sites to the south of Derby. He suggested a cautious approach as the position might change by the time of the Special Council Meeting. He recognised the reality of future applications for the re-use of this 150 acre brown field site. The Chair commented on the potential to re-visit consideration of this site if constraints and concerns could be satisfied. However, at this time there appeared little choice but to take forward the Inspector's recommendations.

Note: At 7.10 p.m. Councillor Whyman M.B.E. left the Meeting.

Consideration was given to the employment aspects of the Inspector's Report. He supported the Council's reasoning for making an employment allocation at the Willington Power Station site, but felt it no longer necessary if the housing site was deleted. In the Derby sub-area he concluded that sufficient land was allocated. In the Swadlincote sub-area he concluded that the allocation at Drakelow Power Station should be deleted, as it did not satisfy the various criteria for sustainable development. In particular, he was sceptical that the solutions to the highway constraints would be in place before the end of the Plan period. He agreed that reference should be made in the explanatory text to the longer-term potential for this site. The Inspector disagreed with the County Council's approach and he viewed power station sites as employment land. This meant that the redevelopment of such sites for employment uses would fall outside the control totals of the plan.

Consideration of proposals for these sites would therefore depend on sustainability considerations, which were matters for development control.

The solution to the shortfall to meet the structure plan requirement for new employment land was to recommend that at least 14.24 hectares be identified, which could include re-allocating the green field land at Cadley Hill. There were no large brown field sites within Swadlincote suitable for employment use. However, there was a piece of poorly reclaimed land to the east of the proposed regeneration route, opposite the employment allocation, to the rear of Dysons at Woodville. This site was marginally closer to the Town Centre than the Cadley Hill development and could help to secure funding, via a Section 106 Agreement, for part of the regeneration route. The site was 12.26 hectares and would virtually take the total of employment land allocated back to the Structure Plan control requirement. Detailed development proposals for this site could be prepared in consultation with the local community, as part of an action area plan.

The Chair considered this proposition exciting and the most viable if sequential tests could be satisfied. Councillor Taylor spoke as a Woodville Ward Member about the size of this site and its close proximity to Woodville. Through its development, there was the opportunity to drive forward the regeneration route and he spoke also about the Action Area Plan. There was the opportunity to provide feedback through the consultation process and he referred also to the future need for land for community use.

The Inspector recommended deleting Policy EMP2 and replacing it with a policy that was more positive and proactive.

Note: At 7.25 p.m. Councillor Whyman rejoined the Meeting.

Consideration was given to the environment section of the Inspector's Report. With regard to Policy ENV3, he considered it to relate primarily to the countryside and reference to urban areas was inappropriate. Alternative wording was proposed to amend this policy in a way that would not leave a policy void with regard to landscaping proposals in urban areas. Recommendations for Policy ENV7 relating to the countryside were similar to those for Policy EMP2. It was considered, given the changes to that policy that ENV7 became redundant and should therefore be deleted. The Inspector considered that Part A of Policy ENV16 should be more proactive but the Council does not have the expertise or resources to deal with this and so it was proposed not to amend the policy as the Inspector recommended but to provide further details as supplementary guidance in the future. In relation to areas of local archaeological importance, covered by Policy ENV18, the Inspector recommended that such sites should be shown on the proposals map. However, there were some 1,070 entries and it was considered that this recommendation was impractical. Proposals were put forward by officers to amend Policy ENV21, to give direct reference to protecting the amenities of occupiers of neighbouring properties where new development occurred.

Under the community heading, consideration was given to developer contributions towards new health and educational facilities. The Inspector considered that there should be a consistency of approach and recommended a threshold of ten or more dwellings be applicable to both policies. Members recalled the policy to require a contribution towards education facilities in developments of five or more dwellings. Officers suggested that the

Inspector's recommendations be accepted. Members proposed that a consistent threshold of five dwellings be used for developer contributions towards health and education facilities. Officers explained that this modification would be subject to consultation and possible challenge.

The Committee considered the Inspector's findings regarding leisure, recreation and tourism. Councillor Ford commented that the former Willington Power Station site could be used for leisure purposes. In response to a question from Councillor Bladen, it was confirmed that no specific allocation was made for burial grounds provision. On behalf of the Committee, the Chair recorded thanks to the Local Plans Team.

RECOMMENDED TO COUNCIL:-

- (1) That the Council be recommended to approve the changes to the South Derbyshire Local Plan, as set out within the appendix to the report.**
- (2) That the general vicinity for housing development at Highfields Farm be accepted and that authority be delegated to the Deputy Chief Executive in consultation with Officers from Derby City Council, to define the exact area of land to be allocated.**
- (3) That the Council be recommended to change Policies C3 and C5 to provide for developer contributions towards new health and educational facilities in developments of five or more dwellings.**

Note: Councillor Whyman M.B.E. wished it to be recorded that he had abstained from voting on this matter.

EDS/46. **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT [ACCESS TO INFORMATION] ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

MINUTES

The Exempt Minutes of the Meeting held on 30th September 2004 were received.

SWADLINCOTE MARKET (Paragraph 9)

The Committee approved an extension to the existing market contract.

**STATEMENT OF COMMUNITY INVOLVEMENT/CORPORATE
CONSULTATION STRATEGY – APPOINTMENT OF CONSULTANTS
(Paragraph 8)**

***A recommendation was made to the Finance and Management
Committee on the appointment of a consultant for this contract.***

T. SOUTHERD

CHAIR