

---

<b>REPORT TO:</b>	<b>Environmental &amp; Development Services Committee</b>	<b>AGENDA ITEM:</b> 8
<b>DATE OF MEETING:</b>	<b>2 June 2005</b>	<b>CATEGORY:</b> <b>RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>Deputy Chief Executive</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Gill Hague</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Revised Local Development Scheme (LDS)</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>All</b>	<b>TERMS OF REFERENCE:EDS03</b>

---

## **1.0 Recommendations**

Members of this Committee recommend

- 1.1 That Council at its special meeting on 16<sup>th</sup> June 2005 agrees the revised Local Development Scheme (LDS) attached as Appendix 1 and resolves that the scheme shall have effect from 18<sup>th</sup> July 2005 subject to any amendments directed by the Secretary of State; and
- 1.2 Urges Finance & Management Committee at its meeting on 16<sup>th</sup> June 2005 to approve the creation of a new post to deal with Strategic Environmental Assessment and Sustainability Appraisal

## **2.0 Purpose of Report**

- 2.1 To inform Members about, and seek approval of, necessary changes to the LDS following withdrawal of the emerging Local Plan and to seek Members support for the creation of a new post to deal with Strategic Environmental Assessment and Sustainability Appraisals.

## **3.00 Executive Summary**

- |               |  |
|---------------|--|
| Paras 4.1-4.3 | Explain why changes to the original programme of work are necessary.   |
| Para 4.4      | Explains that there is no change to the programme for the Statement of Community Involvement.  |
| Paras 4.5-4.9 | Explain the requirements for, and importance of, Strategic Environmental Assessment and Sustainability Appraisal and the need for additional |

resources to ensure that this aspect is undertaken thoroughly in order to avoid future legal challenge.

- Para 4.10 Sets out an informal but practical approach to deal with documents on the Location of Mobile Phone Masts, Provision of Affordable Housing, the review of Historic South Derbyshire and Local Distinctiveness.
- Paras 4.11-4.12 Explains an interim approach regarding the preparation of guidance on the Provision of Outdoor Playing Space in New Developments.
- Para 4.13 Explains how the Repton & Milton Village Design Statement cannot now conform with the new formal procedures and suggests an alternative approach.
- Para 4.14 Confirms that the programme for producing guidance on the development of land at Highfields Farm adjacent to the City boundary remains as originally programmed
- Para 4.15 Proposes setting back formal consultation on the Woodville/Swadlincote Area Action Plan to enable sufficient time to undertake an SEA/SA and take account of a study relating to the suitability of employment land.
- Para 4.16 Explains why there is a need to bring forward the programme for preparing the Core Strategy.
- Para 4.17 Proposes that the Suite of Development Control Policies should be prepared in parallel with the Core Strategy.
- Para 4.18 Confirms that preparation on the allocation of housing and employment land for the period post 2011 should remain as originally programmed.

#### **4.0 Detail**

- 4.1 The first LDS, agreed by Council at its meeting on 28<sup>th</sup> February (minute CL/135 refers) was submitted to the Secretary of State in accordance with the requirements of the regulations pertaining to the Planning & Compulsory Purchase Act 2004 and came into effect on the 20<sup>th</sup> April. The purpose of the original LDS was to set out the milestones relating to the move towards adopting a Local Development Framework (LDF). BVPIs and subsequent Planning Delivery Grant award will be dependent upon meeting the milestones set out in such a document.

- 4.2 The first LDS was written on the assumption that the emerging Local Plan would proceed to adoption this year. Preparation of core policies and allocations post 2011 were therefore programmed towards the end of the three year period, so as to follow the review of the Regional Spatial Strategy that would provide new targets. Work during the early years of the LDS would concentrate on preparing supplementary planning documents (SPD) to support policies in the new local plan.
- 4.3 Work on the emerging local plan was subsequently suspended due to the legal challenge and Council at its meeting on 19<sup>th</sup> May resolved to withdraw the document and abandon the process. This has meant that a review of the LDS is necessary in order to progress towards the production of the new style documents as soon as possible. Subject to legal advice how to proceed in the interim will be the subject of a subsequent report to Members in due course.
- 4.4 Production of the Statement of Community Involvement is the only activity not affected and it is the subject of a separate report to this committee.
- 4.5 One of the new procedural requirements is for each new document to be subjected in varying degrees to a Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA). Both are likely to be required for major documents such as the core strategy, allocations, area action plans and suite of development control policies, with lower order supplementary documents probably requiring only an SA.
- 4.6 This new element of work requires the systematic identification and evaluation of the environmental, social and economic impacts of proposed plans and strategies. Work on SEA/SA needs to be undertaken at the start of the preparation of each document and is an ongoing process.
- 4.7 Some of those authorities not progressing through the transitional arrangements and therefore further advanced in the process have now issued Scoping Reports for SEA/SA. The documents seen so far are considerable in terms of content. Given that consultees should have 5 weeks to respond to the scoping report, which is only the first stage of such work, this will add to the time taken to produce not only the SEA/SA but the documents with which they are associated. When reporting the original LDS it was pointed out that this aspect was an unknown quantity and may well affect timescales.
- 4.8 Existing officers do not have the experience or time to undertake such work so a sum was set aside from the Planning Delivery Grant for the appointment of consultants to undertake the SEA/SA on a fixed term 3 year contract. This was not pursued for several reasons. Firstly the brief for the work could not be specific enough given that the first LDS had not been approved and at the time was based upon draft Government Guidance for preparing LDFs. This resulted in a diverse range of tender figures ranging up to £110,000. Secondly, the starting point for the work

involves baseline data gathering and it was apparent that consultants would expect the Council to provide much of this information and that would involve considerable officer time. Thirdly Derbyshire County Council wishes to work with the Districts to ensure that data sets are consistent.

4.9 Given that SEA/SA is an ongoing process it would be more appropriate to appoint a Sustainability Officer to undertake the work in house. The officer could also work on environmental policies and other sustainability issues such as production of guidance on sustainable building techniques and alternative energy production (the preparation of such documents being approved by Council in the first LDS and which it was anticipated would also have to be undertaken by consultants) and assess the sustainability implications of planning applications. A separate report regarding such a new post will be presented to the meeting of Finance & Management Committee on 16<sup>th</sup> June.

4.10 In order to optimise the work already undertaken on those SPDs programmed for consultation this year but for which we do not have the knowledge or resources to undertake an SEA/SA it is suggested that the following are deleted from the LDS. It is however, proposed that the work is completed and the documents published under other titles to avoid confusion.

- Location of Mobile Phone Masts

The bulk of the document will be based upon fact and has already had input from Members and the industry. The intention is that the respective operators are encouraged to sign up to the document so it could be published as the 'South Derbyshire Mobile Phone Mast Agreement'.

- Provision of Affordable Housing

Discussions are taking place with RSLs and the document will be based upon fact and provide examples of how such housing can be delivered, including when and how developers should involve RSLs. It could be published as 'Affordable Housing in South Derbyshire – A Good Practice Guide'.

- Historic South Derbyshire

This is an update of the existing document on which the Design & Conservation Officer has already undertaken a considerable amount of work. It will form part of a suite of documents including Conservation Area Character Statements currently being prepared by a consultant and the Conservation Area Histories. It would be published as Historic South Derbyshire – A Good Practice Guide. Work on local distinctiveness will be underpinned by these documents and can therefore it too can be prepared on a less formal basis.

- 4.11 The situation is slightly different regarding preparation of an SPD on the Provision of Outdoor Playing Space in New Development. It was intended that the SPD be produced following completion of the PPG17 Study and that it would replace the existing Supplementary Planning Guidance (SPG). The study would identify areas of over and under provision, quality of provision and usage and with the South Derbyshire Leisure Facilities Strategy will support the updating of the Council's Leisure Strategy. That in turn will inform where and how developer contributions should be spent when it would be impractical, as is normally the case in urban areas, to make provision on site. Due to other commitments on officer's time and sickness absence at the consultants the final report of the study has been delayed and work has therefore not started on the SPD.
- 4.12 In the meantime it has since emerged through the Community Strategy Draft Action Plan for the Sustainable Environment Theme that a much wider open space strategy, including areas of National Forest planting with public access, is now what is required. Given the potential delay caused by the need to resource this wider study and the inability at this point in time to undertake an SEA/SA in order to meet the new planning legislation, it would be sensible to delete this project from the LDS. In the interim, there does exist Supplementary Planning Guidance relating to the adopted local plan that can be saved and the PPG17 study when available will be useful for development control purposes. Formal production of an SPD can be reintroduced to the LDS on a future review.
- 4.13 With regard to the Repton & Milton Village Design Statement the preparation of this document by villagers has unfortunately fallen foul of the procedures that now requires an SA. The group has worked very hard on this project and Council officers have provided comments at various stages. Unfortunately the document that is materialising is much more broad ranging than would normally be the case for a document that deals with design. In fact it is more akin to a Parish Plan. It is suggested that this document is not formally included in the LDS but that in due course the Council recognises in some appropriate way the value of the work undertaken
- 4.14 It was originally intended to work jointly with Derby City Council to ensure that development within the District at Highfields Farm is consistent with the City allocation Heatherton Village Phase II. Unfortunately with no formal policy hook to associate with this work it can no longer be produced as SPD. However, officers will continue to liaise with Derby City and a condition attached to a planning permission requiring the production of and conformity with a comprehensive masterplan will serve the same purpose.
- 4.15 The Woodville – Swadlincote Area Action Plan will be the first of the proposed higher order plans to be produced. Under normal circumstances the production of an Area Action Plan must be in conformity with either a Local Plan policy or the Core Strategy of the new

LDF. Unfortunately the former does not exist and the latter has not yet been prepared. However, there policy hooks in RSS8 and the Structure Plan. With the requirement for an SA and possibly an SEA it is necessary to set back the dates for public consultation on this project. Doing so will also provide time to take into account a wider employment land study for which funding is currently being pursued from the Derby & Derbyshire Economic Partnership and the outcome of the feasibility study into phase 2 of the regeneration route. It is therefore suggested that the date for considering options for the redevelopment of the area be revised to June 2006 with subsequent knock on effects for other milestones.

- 4.16 Whilst it would now be desirable to commence work much earlier than first anticipated on the Core Strategy document, given the need for SEA/SA, which for this document is likely to be the most in depth, this is unlikely to be practical even with the creation of a new post. It is therefore suggested that the programme be brought forward slightly but that it still shadows the review of the RSS that will provide housing requirements post 2011. It is therefore suggested that work commences in June 2005 with subsequent adjustment of other milestones.
- 4.17 It is proposed to bring forward work on the Suite of Development Control Policies to coincide with preparation of the Core Strategy.
- 4.18 Whether or not work on the identification of allocations for residential and employment land should be brought forward will depend upon monitoring and whether or not the early release of sites is necessary. Ideally allocations should follow the review programme for the RSS and conform to the Core Strategy. It is therefore proposed to leave this item as originally programmed i.e. commencement post 2007.

#### **4.0 Financial Implications**

- 4.1 Funding for specialist surveys/reports to be undertaken by consultants to underpin policy formulation was identified and approved as part of the implementation plan for spending the 2004/2005 Planning Delivery Grant.
- 4.2 The regulations require each document to be available on the web and allocation has been made from the Planning Delivery Grant to cover web site improvements.
- 4.3 Printing costs will be incurred for hard copies of the documents although some of this is normally recouped via a purchase charge. The ability to print documents from the web will reduce the number of printed versions needed.
- 4.4 It is difficult to anticipate the cost in advance of the most costly part of the process. Much depends upon the length of the independent examination and that in turn depends on the number and complexity of objections.

Government expects that front-loading consultation should reduce the issues that progress to the examination stage.

- 4.5 Government guidance sets out the tests to be applied at examination to establish whether or not the document is sound. Unfortunately irrespective of front loading public consultation, it is very likely that land owners and developers will submit volumes of evidence similar to the last Inquiry in order to challenge proposals in documents that don't look favourably on their site. Examinations are programmed as follows:
- SCI – January 2006 (likely to be written representations only and therefore short)
  - Woodville-Swadlincote Area Action Plan - September 2007 (localised issues with the likelihood of only a few potential significant objectors)
  - Core Strategy and Suite of Development Control Policies - March 2008. (will contain controversial elements and therefore may last some time)
  - Allocations – not yet programmed as will be post 2007

Depending on the voracity of such objections and their technical nature the Council may well have to engage external legal representation and specialists.

- 4.6 In 2004 the daily rate for an Inspector was £679. Four reporting days should be allowed for each sitting day. In addition time must be added on for preparing for the Inquiry and site visits. If more than 80% of the objections are written representations then further days must be added on for preparing the report. Subsistence and travel costs must also be paid. The last Local Plan Inquiry sat for 32 days. A Programme Officer is also required.
- 4.7 The financial implications of appointing a Sustainability Officer are set out in the report to Finance & Management Committee.
- 4.8 The costs of undertaking public consultation are set out in the report on the Statement of Community Involvement.
- 4.9 If sufficient resources are not allocated to produce the necessary documents in accordance with the timescales set out in the LDS future Planning Delivery Grant will be reduced.
- 4.10 The bulk of the expenditure highlighted above will be made in the financial year 2007/8. Detailed submissions for funding will be made during the appropriate budget cycle.

## **5.0 Corporate Implications**

- 5.1 The LDS should be based upon a three year rolling cycle and must take account of committee dates to ensure that milestones are realistic. However, Committee dates are currently only set for a year at a time so it is likely that special meetings will be necessary to ensure that the milestones are met.

5.2 Government guidance places great emphasis on adopting an integrated approach towards preparing planning documents that has regard to the timetable for preparation and content of other Council strategies. The review of the Council's Consultation Strategy currently being undertaken may assist the integration of external and internal consultation.

## **6.0 Community Implications**

6.1 Government guidance places great emphasis on the need to adopt an integrated approach that will join up community planning. The LDS should be prepared on a clear understanding of community needs and the community should recognise that the documents set out within it can be delivery mechanisms for the community strategy.

## **7.0 Conclusions**

7.1 Given the unfortunate situation the Council has found itself in with regard to the Local Plan the methods set out in this report for dealing with the preparation of new documents necessary to ensure a move towards the establishment of a LDF is considered to be the most pragmatic approach.

## **8.0 Background Papers**

Planning & Compulsory Purchase Act 2004

The Town & Country Planning (Local Development) (England) Regulations 2004

Planning Policy Statement 12 – Local Development Frameworks

Creating Local Development Frameworks – A Companion Guide to PPS12

Sustainability Appraisal of Regional Spatial Strategies and Local Development Frameworks – Consultation Paper