

CABINET

27 July 2004

WINCHESTER DISTRICT LOCAL PLAN – OFFICER DELEGATION

REPORT OF DIRECTOR OF DEVELOPMENT SERVICES

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RECENT REFERENCES:

WDLP47 – Housing Requirements and Issues (Winchester District Local Plan Committee - 8 April 2004 and Cabinet – 21 April 2004)

EXECUTIVE SUMMARY:

The Public Local Inquiry into objections to the Winchester District Local Plan started on 8<sup>th</sup> June 2004 and is programmed to be completed by the end of November 2004, with a recess during August. Most of the Inquiry sessions to date have been 'informal', whereby the Inspector(s) lead a discussion of the main issues, although more of the hearings after the recess will be 'formal', with presentation of evidence and cross-examination. The Inspectors would find it helpful for the Council's witnesses to have some delegated authority to respond on behalf of the Council to possible solutions and compromises on various issues.

Cabinet recently agreed to give officers delegated authority to offer guidance to the Inspector, should he conclude that additional housing sites were needed (WDLP47 refers). This report seeks similar limited delegated powers for the Council's witnesses to agree to minor changes to the Local Plan's proposals or explanatory text.

RECOMMENDATIONS:

- 1 That the Director of Development Services be given delegated authority to agree to minor changes to the Local Plan's proposals or explanatory text, provided they do not alter the general policy intention or meaning.
- 2 That any changes that the officers recommend should be supported, but which would result in a change to the meaning of the policy, should be brought to Cabinet for consideration.
- 3 That the changes recommended in Appendix 1, which have already been promoted to the Inquiry as 'officer changes' be endorsed as Further Proposed Changes.

CABINET27 July 2004WINCHESTER DISTRICT LOCAL PLAN – OFFICER DELEGATIONREPORT OF DIRECTOR OF DEVELOPMENT SERVICESDETAIL:1 Background

1.1 The Public Local Inquiry into objections to the Winchester District Local Plan started on 8<sup>th</sup> June 2004 and is ongoing. The Inquiry is being held in the Chapter order of the Local Plan, with objections to Chapters 1-5 (Introduction to Historic Environment) having been heard. The bulk of appearances relate to housing 'omission' sites (where the objectors are promoting the inclusion of sites within settlement boundaries) and these are currently being heard, with some continuing to the end of the Inquiry in November. Objections to the Major Development Areas will be heard from late September onwards. The latest version of the Inquiry Programme can be found on the Council's web site.

1.2 Most of the Inquiry sessions to date have been 'informal', whereby the Inspector(s) lead a discussion of the main issues, although more of the hearings after the August recess will be 'formal', with presentation of evidence and cross-examination. The Inspectors are quite proactive in leading the discussion of issues and testing possible solutions and compromises on various issues. However, as the Council's officers have no delegated authority to agree any changes to the Plan (as proposed to be changed), they have only been able to give an officer view and undertake to seek Cabinet /Council approval of any suggested changes.

1.3 The Inspectors have found this frustrating as they are unable to complete their consideration of an issue at the hearing and would welcome the officers having some delegated authority to agree changes on behalf of the Council. This report therefore recommends that officers be given delegated authority to agree to minor changes on behalf of the Council, and that other more significant changes which officers would support should be brought to Cabinet for consideration.

2 Proposed Delegation

2.1 It is proposed that the delegation sought would be limited to minor changes to the Local Plan's proposals or explanatory text, provided they do not alter the policy intention or meaning. Therefore, such changes would tend to be limited to clarification of the meaning of a proposal or re-ordering of the Plan to make it more easily understood. Any changes that the officers would be inclined to support, but which would result in a change to the meaning of the policy, would be brought to Cabinet for consideration.

2.2 There have already been a few instances where officers have indicated that they feel a change would be acceptable but have not been able to confirm this on behalf of the Council due to a lack of delegated authority. Also, in

some cases advice has been received from the Counsel representing the City Council at the Inquiry and advising on its case, that the Council's case could be strengthened by making certain changes. These are listed in Appendix 1 and it is recommended that Cabinet support these and that the Inspectors are notified accordingly. Most of the changes in the Appendix are minor and of the type for which delegated authority is now sought.

### 3 Conclusion

- 3.1 There have been occasions during the Inquiry so far when the lack of delegated authority for the officers has prevented the discussion of certain issues being fully resolved at the particular Inquiry session. It is, therefore, recommended that officers be given delegated powers to agree limited changes to the Plan on behalf of the Council and that other, more significant, changes are brought back for consideration by Cabinet.

### OTHER CONSIDERATIONS:

#### 4 CORPORATE STRATEGY (RELEVANCE TO):

- 4.1 The Local Plan is a key document in delivering the Council's corporate aims and any minor amendments in line with this delegated power would seek to work towards those aims.

#### 5 RESOURCE IMPLICATIONS:

- 5.1 The ability of officers to respond on behalf of the Council may help to speed up the Inquiry slightly, with some limited cost savings as a result.

### BACKGROUND DOCUMENTS:

None.

### APPENDICES:

Appendix 1 – List of Recommended Further Proposed Changes (following Counsel's advice/ discussion at the Inquiry)

**CAB912: APPENDIX 1****List of Recommended Further Proposed Changes****(following Counsel's advice/ discussion at the Inquiry)****Proposal DP.1**

This Proposal deals with the requirement to submit a planning statement with planning applications. When this proposal was discussed at the Inquiry informal session there was debate about how its requirements could be made clearer and officers accepted that the following change, which it is not considered affects the meaning of the policy, would be helpful:

DP.1

The Local Planning Authority will only permit development where planning applications are supported by a design statement. **Plans, sketches and other explanatory information should be included, as appropriate to the site and the scale of development, to set the proposal in its full context, indicating where important existing features are to be retained and enhanced where appropriate, justifying the removal of any such features and explaining how the site and its context have influenced the design of the proposal.**

Particularly in the case of more sensitive sites, those exceeding 0.5 hectare in size, or development proposals which will have a significant impact on the local area, design statements should include a full site analysis identifying, as appropriate, the following:

- (i) ....);
- (ii) ....;
- (iii) ....;
- (iv) ....;
- (v) ....;
- (vi) .....

~~Plans, sketches and other explanatory information should be included, as appropriate to the site and the scale of development, to set the proposal in its full context, indicating where important existing features are to be retained and enhanced where appropriate, justifying the removal of any such features and explaining how the site analysis has influenced the design of the proposal.~~

**Proposals DP.10 and DP.11**

Counsel advised officers during the production of evidence that he was concerned that Proposals DP.10 and DP.11 did not fully reflect the requirement in PPG25 for policies to adopt a 'sequential approach' to development in relation to flooding. This would require development to be directed to areas of lowest flood risk. The Council's Response Note (evidence) therefore indicates that revised proposals will be drafted, in consultation with the Environment Agency and the main objector (GOSE), for consideration by the Council. If formally approved, these will be promoted as Further

Proposed Changes. The revisions have not yet been drafted but will be presented to Cabinet following the necessary consultation.

### **New Paragraph RD03.17**

A new proposal and accompanying text and maps was introduced at the Revised Deposit Plan stage to put forward a policy on airport safeguarding, as required by Circular 01/03. In producing the Response Note on this issue it has become apparent that the wording proposed could be misinterpreted and that the Plan fails to show one of the required safeguarding areas on a map base. Officers have, therefore, suggested some changes, which do not change the meaning of the proposal, subject to Member approval:

RD03.17            *The regulations require Local Planning Authorities to consult with the relevant aerodrome operator before giving planning permission for certain prescribed forms of development within the safeguarded areas. The new Proposal below is included in accordance with the requirements of the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002, but is **the safeguarded areas shown** are neither the responsibility nor the proposal of the Local Planning Authority.*

RDMap 46a        Addition of area within 10km radius of Southampton Airport, within which National Air Traffic Services Ltd will be consulted on planning applications.

### **New Section RD04.37 – RD04.43**

A new proposal and accompanying text were introduced at the Revised Deposit Plan stage to deal with the issue of replacement/extension of employment sites in the countryside. At the informal hearing into one of the objections to the new section, the Inspector made several suggestions, in particular that the section should perhaps relate to 'lawful employment uses' rather than the current wording of 'established businesses'. Officers agreed that these suggestions would be useful, and a series of changes are suggested to reflect the changes, which does not affect the meaning of the relevant proposal.

In producing the Response Note on this issue it has also become apparent that the wording proposed for the new proposal (RD04.43) could be considered inconsistent by seeking no increase in floorspace (criterion ii) whilst at the same time talking about the extension or replacement of existing buildings. Officers have, therefore, suggested limited changes to resolve this apparent conflict and have proposed these, subject to Member approval:

:

RD04.37            *Existing ~~established businesses~~ **lawful employment uses***

RD04.38            *...the Local Planning Authority recognises that a number of ~~established businesses~~ **lawful employment uses** exist outside the settlements.....*

RD04.39            *The reasonable expansion of ~~firms established~~ **lawful employment uses** in the countryside will be considered where it is needed to support the efficient operation of the business, cannot be **satisfactorily** located in a nearby settlement,..."*

- RD04.40 ...and landscape character. ~~Alternative B1, B2 or B8 uses may be appropriate, provided the proposed use is suitable for a countryside location.~~ The replacement building(s)...."
- RD04.41 ~~Not all established firms~~ **lawful employment uses** are, however, appropriately located, and some may cause harm to adjoining occupiers or the local environment ~~if an employment use continued on the site.~~ The replacement or expansion of such businesses will not be permitted."
- RD04.42 In addition to ~~established firms~~ **lawful employment uses**,.....
- RD04.43 Within existing **lawful** employment sites in the countryside,....  
....(ii) there will be no **material** increase in **employment or traffic levels as a result of any increase in** floorspace or built development ~~resulting in increased employment or traffic levels;~~

### **Proposal C.23**

This Proposal deals with the change of use of rural buildings to residential use and was subject to changes at the Revised Deposit Plan stage (RD04.45 – RD04.47). When this proposal was discussed at the Inquiry informal session there was debate about what constitutes a 'building of high quality' (criterion i). Officers accepted that this needed clarification and suggested the following change, which it is not considered affects the meaning of the policy:

- RD04.46 Conversion to residential use will only be accepted where the building is of a ~~high quality and worthy of retention~~ **a design and construction that is suitable for conversion without** ~~Where residential use needs to be considered, the building should not require substantial alteration, rebuilding or extension to achieve the use. and if a residential curtilage is created,...~~
- RD04.47 ....(i) The building is of a ~~high quality and~~ **a design and construction that is** suitable for conversion without substantial works; and... .

### **Paragraph 7.22**

As a consequence of the addition of the new proposal on reuse of lawful business premises in the countryside (RD04.43), changes should have been made to paragraph 7.22 within the Employment Chapter of the Plan. This was not done and the following changes are recommended for consistency with the Countryside Chapter:

- Paragraph 7.22 ~~There are also other businesses in the countryside that are not in converted rural buildings, but are established~~ **lawful** employment **uses** sites, and these firms may from time to time need to replace buildings. ~~Where, in exceptional circumstances, such a need is demonstrated, planning permission may be granted,....~~