

PLANNING DEVELOPMENT CONTROL COMMITTEE

27 March 2014

WEST OF WATERLOOVILLE – JOINT PLANNING COMMITTEE
ARRANGEMENTS

REPORT OF HEAD OF LEGAL AND DEMOCRATIC SERVICES

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RECENT REFERENCES:

NONE

EXECUTIVE SUMMARY:

Members will be aware that two principal outline planning permissions have been granted for the development of the West of Waterlooville Major Development Area (MDA). Although reserved matters approvals have been granted for the majority of the Taylor Wimpey part of the site, further applications for reserved matters approval will have to be considered for the greater part of the Grainger development area. There are likely to be a number of such applications submitted over the next few years and potentially beyond as the development progresses.

As the MDA straddles the boundary between Havant and Winchester, applications have to be considered by both authorities. Until now, applications have been dealt with by organising a joint meeting of the two planning committees, so that Members can receive the same presentations and public participation. This report seeks approval to the establishment, with Havant Borough Council, of a Joint West of Waterlooville MDA Planning Committee to make decisions relating to the Council's development management functions in relation to the development of the West of Waterlooville Major Development Area.

RECOMMENDATIONS:

That it be recommended to Council as follows:-

1. A Joint West of Waterloooville MDA Planning Committee be appointed in accordance with Sections 101(5) and 102 of the Local Government Act 1972.
2. That 5 City Council Members (Chairman of the Planning Development Control Committee and four others) be appointed to the Joint West of Waterloooville MDA Planning Committee at full Council on 2 April 2014, and the membership be reviewed at Annual Council on 4 June 2014.
3. That the Constitution and Terms of Reference of the Joint West of Waterloooville MDA Planning Committee be as set out in Appendix 1 to the Report.
4. That the Chief Operating Officer act as Monitoring Officer, and the Chief Finance Officer act as Section 151 officer, in respect of the City Council's involvement in the Joint Committee.
5. That the development management functions in the West of Waterloooville MDA be delegated to the Joint WWMDA Planning Committee as set out in the Constitution and Terms of Reference.
6. That the Scheme of Delegation to Officers be amended so that where a matter is required to be determined by committee, and it falls within the terms of the Joint WWMDA Planning Committee, the matter shall be determined by the Joint WWMDA Planning Committee rather than the Planning Development Control Committee.

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DETAIL:

1 Introduction

- 1.1 The West of Waterlooville Major Development Area (MDA) is an area for the development of approximately 3,000 houses. The MDA straddles the boundary between the areas of Winchester City Council and Havant Borough Council's districts. Approximately 600 houses are expected to be within Havant Borough Council district, and the remaining 2,400 in Winchester City Council's area.
- 1.2 Ownership of the site is currently divided between two principal developers, Taylor Wimpey and Grainger, although some parts of the Grainger land have been sold off to other developers and this may happen again in future. Approximately 450 of the houses will be within the Taylor Wimpey part of the site, the remaining 2,550 on the Grainger part. There is also the potential in the future for applications to be considered for further residential units.
- 1.3 Outline permissions have been granted to each developer for the development of their respective landholdings in the MDA. Reserved matters approvals have been granted for all of the phases permitted under the Outline application on the Taylor Wimpey Site, and the first reserved matters application on the Grainger site is under consideration.

2 Previous Practice for Consideration of Planning Applications in the MDA.

- 2.1 A local planning authority can only consider applications for development so far as they relate to land in their administrative area. As the MDA straddles the boundary between Havant and Winchester, most of the applications have to be considered and determined by both authorities.
- 2.2 Where a development site lies across the boundary, the developer has previously submitted identical applications to each council, and each authority has issued a planning consent (in the same terms) for that part of the development within its own area. It is expected that this will continue for any further applications for sites straddling the boundary.
- 2.3 Where an application lies wholly within one Council's area, the other Council will be a consultee, given the proximity of the application to the municipal boundary.

- 2.4 For cross-boundary applications, each authority's planning committee has therefore had to separately determine the application. However, in the interests of good administration and ease of process for the public and applicants, officers have to date arranged for the two respective planning committees to meet together, so that Members can hear a single presentation from officers, and a single set of public speaking, to ensure that a unified and coherent set of considerations was applied to any decision, and a consistent set of conditions imposed, if permission was granted.
- 2.5 Technically, these meetings have not been joint meetings – the procedure adopted was for each committee to be formally opened and adjourned, after which an informal “joint” meeting took place, during which time the presentations and public speaking would take place. Members would then ask questions and debate the issues raised. After this informal part of the meeting, each committee then reconvened to formally take the decision on whether to grant or refuse the application (in their area).
- 2.6 These arrangements have worked reasonably well to date, although they are intensive in terms of committee administration (two committees rather than one) and a little cumbersome in terms of public understanding. It was always intended that the arrangements should be an interim solution to deal with the major applications (i.e. the outlines and the design codes).

3 Proposed Joint Committee Arrangements

- 3.1 As noted above, there will be further applications for a considerable number of years to come, including for approval of the details of the remaining phases on the Grainger site. There may also be further applications on the Taylor Wimpey area to be dealt with.
- 3.2 Given the fact that the West of Waterlooville MDA development is intended to be a single, co-ordinated development, and noting that it straddles the boundary between the two authorities, it is considered appropriate for both councils to be involved in the decision-making process for these future applications, even where (as may well be the case) an application lies wholly within one council's area.
- 3.3 It is therefore proposed to create a formal joint committee, to be known as the West of Waterlooville MDA Joint Planning Committee. The Committee would comprise members of both authorities' planning committees, and would have delegated powers from the two authorities to exercise development management functions in the MDA. This would formalise the existing informal arrangements which have been used successfully to date.
- 3.4 The proposed functions of the Joint Committee are as set out in the Constitution and Terms of Reference in Appendix 1 to this Report, and include the principal development management functions of the Council. Matters such as enforcement would remain within the control of the respective authorities and not delegated to the Joint Committee. The Joint Committee would not be

permitted to take any decision which is contrary to or not wholly in accordance with any budget approved by Havant Borough Council or Winchester City Council for the Joint Committee or which is contrary to an approved policy or strategy of either of the authorities.

- 3.5 In order to protect each authority, the Constitution and Terms of Reference provide a safeguarding procedure, whereby any decision made by the Joint Committee can be referred back to the relevant parent authorities, if immediately following the taking of the decision, at least two members of the Joint Committee indicate that the decision should be referred back.
- 3.6 Clearly, any Joint Committee arrangements need to be agreed by both Councils. Havant Borough Council has approved the principle of joint arrangements, subject to the City Council also agreeing.
- 3.7 Power to determine planning applications under the Town and Country Planning Act rests with each local planning authority. Under Section 101(5) of the Local Government Act 1972, local authorities can make arrangements to discharge their functions through a joint committee, and under Section 102, a joint committee may be appointed for this purpose.

4 Practical Issues

Size of Committee

- 4.1 Currently, under the informal arrangements, all Members from both planning committees sit. As the two major outline applications (setting out how the MDA will be developed) have now been determined, it is suggested that a joint committee of 9 Members would be appropriate.

Split of Membership

- 4.2 This will need to be considered in the light of a decision on the size of the committee. 4:3 for a 7 member committee would seem reasonable, or 5:4 for a 9 member committee, with the majority of members coming from Winchester in view of the extent to which the remaining MDA will be located within the respective authorities.

Proportionality

- 4.3 Joint committees with more than three appointments on it from a council means that that council has to appoint in accordance with political balance requirements. For a 9 or 7 member joint committee based on 5:4/4:3, both councils would have to appoint their seats on political balance lines (unless all members agree with no-one dissenting).

Chairman

- 4.4 It is suggested that the chairman always be the Chairman of Winchester's Planning Development Control Committee (on the basis that the majority of

the development will be in Winchester), with the Vice-Chairman being the Chairman of Havant's Development Management Committee.

Quorum

- 4.5 It is suggested that this should be 4 Members, with at least one Member from each Authority.

Venue

- 4.6 As has been the practice of the informal meetings, it is proposed that the Joint Committee meets in at the Public Services Plaza, Havant, given their proximity to the MDA.

Deputy Members

- 4.7 The Constitution and Terms of Reference provide for Deputy Members to be appointed, in common with both Council's existing practices.

Delegation to Officers

- 4.8 Each authority has extensive delegation to officers, and these arrangements should be able to continue, so that minor applications can continue to be determined by officers rather than a joint committee. It is recommended that the Scheme of Delegation be amended to provide that in the MDA area, applications which are to be determined by Committee should be referred to the Joint Committee, rather than the Planning Development Control Committee, but otherwise leaving existing delegated powers for determining applications in place.

Legal and Democratic Officer Provision

- 4.9 The draft Constitution and Terms of Reference provide for a Secretary of the Joint Committee to be appointed, to provide democratic support to the Joint Committee.
- 4.10 Legal support would be provided by an appropriate officer from one of the authorities. It is envisaged that where Havant provides the Secretary, legal support would be provided by Winchester, and vice versa.

Monitoring Officer and Section 151 Officer

- 4.11 The roles of the City Council's Monitoring Officer and Section 151 Officer (the Chief Operating Officer and Chief Finance Officer respectively) will extend to cover the activities of the Joint Committee, given the City Council's involvement.

OTHER CONSIDERATIONS:

- 5 **SUSTAINABLE COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):**

5.1 The proper planning of the West of Waterlooville MDA is essential towards the High Quality Environment objective.

6 RESOURCE IMPLICATIONS:

6.1 There are no significant resource implications arising from this proposal, over and above existing resource provision for development control services.

7 RISK MANAGEMENT ISSUES

7.1 The inclusion of a clause in the Constitution allowing two Members to require a matter to be referred back to the appropriate determining authorities will ensure appropriate control of decisions of the Joint Committee.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 – Constitution and Terms of Reference of Joint Committee.

**CONSTITUTION AND TERMS OF REFERENCE OF WEST OF WATERLOOVILLE
MDA JOINT PLANNING COMMITTEE**

1 Establishment of the Joint Committee

- 1.1 There shall be constituted under the provisions of Section 101(5) and Section 102 of the Local Government Act 1972 a Joint Committee to be known as the “West of Waterlooville Major Development Area Joint Planning Committee”.
- 1.2 The Joint Committee is established by Havant Borough Council and Winchester City Council.
- 1.3 The area within which the Joint Committee is to exercise its authority is the West of Waterlooville Major Development Area, as shown on the plan attached as Appendix A.
- 1.4 This Constitution sets out how the Joint Committee will operate and how decisions are made.

2 Functions Delegated to the Joint Committee

- 2.1 Subject to the remaining provisions of this Clause 2, the following functions shall be delegated to the Joint Committee insofar as they relate to matters within the West of Waterlooville Major Development Area:

Power to determine applications for planning permission (including applications for reserved matters).
Power to determine applications to develop land without compliance with conditions previously attached.
Power to grant planning permission for development already carried out.
Duties relating to the making of determinations of planning applications.
Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
Power to enter into agreement regulating development or use of land.

The delegation includes all the powers necessary to facilitate, or otherwise incidental or conducive to, the discharge of the functions of the Joint Committee.

- 2.2 The following functions shall be reserved to the appointing Authorities and shall not be within the powers of the Joint Committee:-

Power to decline to determine application for planning permission.
Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.

Power to issue a certificate of existing or proposed lawful use or development.
Power to serve a completion notice.
Power to grant consent for the display of advertisements.
Power to authorise entry onto land.
Power to require the discontinuance of a use of land.
Power to serve a planning contravention notice, breach of condition notice or stop notice.
Power to issue a temporary stop notice
Power to issue an enforcement notice.
Power to apply for an injunction restraining a breach of planning control.
Power to determine applications for hazardous substances consent, and related powers.
Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
Power to require proper maintenance of land.
Power to determine application for listed building consent, and related powers.
Duties relating to applications for listed building.
Power to serve a building preservation notice, and related powers.
Power to issue listed building enforcement notices.
Powers to acquire a listed building in need of repair and to serve a repairs notice.
Power to apply for an injunction in relation to a listed building.
Power to execute urgent works.
Power to determine applications to fell or carry out works to trees that are the subject of a Tree Preservation Order

- 2.3 The Joint Committee shall not have authority to take any decision which is contrary to or not wholly in accordance with the budget approved by Havant Borough Council or Winchester City Council for the Joint Committee or is contrary to an approved policy or strategy of either of the authorities.

- 2.4 Save as expressly provided, the functions delegated to the Joint Committee shall not affect the schemes of delegations for officers for determining planning applications adopted by Winchester City Council and Havant Borough Council.

3 Membership and Appointment of the Joint Committee

- 3.1 The Joint Committee shall comprise nine Members, being five Members from Winchester City Council and four from Havant Borough Council. Each appointing Authority shall, unless there are overriding reasons to the contrary, appoint to the Joint Committee the Chairman of their committee responsible for planning matters.
- 3.2 Each Authority may appoint deputies to act for the appointed Members of the Joint Committee. Where the appointed Member is unable to attend a meeting of the Joint Committee, their Deputy may attend and carry out their responsibilities, including voting in their absence.

4 Quorum

- 4.1 The quorum for a meeting of the Joint Committee shall be four Members, with at least one Member from each Authority.

5 Chairman and Vice-Chairman of the Joint Committee

- 5.1 The Chairman of the Joint Committee shall be the Chairman of the Planning Development Control Committee of Winchester City Council.
- 5.2 The Vice-Chairman of the Joint Committee shall be the Chairman of the Development Management Control Committee of Havant Borough Council.

6 Secretary to the Joint Committee

- 6.1 The Joint Committee shall be supported by the Secretary to the Joint Committee.
- 6.2 The Secretary of the Joint Committee shall be an officer of one of the appointing Authorities, appointed by the Joint Committee for this purpose.
- 6.3 The functions of the Secretary of the Joint Committee shall be:
- a) To maintain a record of membership of the Joint Committee;
 - b) To summon meetings of the Joint Committee;
 - c) To prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairman and the Vice Chairman of the Joint Committee;

- d) To keep a record of the proceedings of the Joint Committee;
- e) To take such administrative action as may be necessary to give effect to decisions of the Joint Committee;

7 Convening of Meetings of the Joint Committee

- 7.1 Meetings of the Joint Committee shall be held at such times, dates and places as may be notified to the members of the Joint Committee by the Secretary to the Joint Committee.

8 Procedure at Meetings of the Joint Committee

- 8.1 The Joint Committee shall, unless the member of the Joint Committee presiding at a meeting or the Joint Committee determines otherwise, conduct its business in accordance with the Constitution of Winchester City Council, except in so far as may be specified to the contrary in this Constitution.
- 8.2 The Chairman of the Joint Committee, or in his/her absence the Vice Chairman of the Joint Committee, or in his/her absence the member of the Joint Committee elected for this purpose, shall preside at any meeting of the Joint Committee.
- 8.3 Subject to Clause 8.4, decisions shall be decided by a majority of the votes of the members present and voting.
- 8.4 The chairman shall have a second or casting vote.
- 8.5 Where, immediately following the taking of a decision, at least two members of the Joint Committee indicate that the decision should be referred back and made by the relevant local planning authority(ies) for the application, the matter shall stand referred to the appropriate local planning authorities for determination.

9 Amendment of this Constitution

- 9.1 This constitution can only be amended by resolution of all appointing Authorities.