



APPENDIX 3

Date: 19th May 2005

**Local Plan Proposed Modifications
Gedling Borough Cabinet Report agreed 21st December 2004**

**CABINET MEETING 14TH DECEMBER 2004
REPORT OF THE HEAD OF PLANNING & ENVIRONMENT
GEDLING BOROUGH REPLACEMENT LOCAL PLAN**

Purpose of the report:

To agree the Statement of Decisions and Proposed Modifications for the Local Plan.

PART 1. OPTIONS FOR THE LOCAL PLAN

Introduction

The Local Plan currently accords with the 1996 Adopted Structure Plan (ASP). However, the City and County Councils have proposed a new Joint Structure Plan (JSP), to replace the 1996 Plan. Once adopted the JSP could lead to a reduction in the scale of housing up to 2011 but would require a specific level of increase in employment land post 2011. A number of representations have been submitted which highlight the reduction of the housing figures. This has important implications for our Local Plan and therefore a number of options have been considered before recommending a way forward. The Local Plan Steering Group met on 25th November to consider this paper and agreed (with additions), to make option 2 as set out below, the recommendation to Cabinet. In reaching this view the Steering Group considered the advice from the Structure Plan authorities, Government Office and an independent legal advisor on the question of which Structure Plan our Local Plan should conform with. Given the consistent advice it is clear that of the following options, option 2 is recommended, that is, continue to adopt the Local Plan on the basis of the ASP. The implications of each option are set out below to illustrate the consequences of not following this legal and strategic advice.

Options

1. Revise the Local Plan to take account of the reduced housing, (and a long term increase of employment land), in the JSP.

The Council's legal advisor is of the opinion that this course of action 'would inevitably require a further public inquiry into the probable objections, given that the basis of the plan would be a wholly different structure plan context'. Given the financial implications for landowners, notwithstanding other considerations, my view is that this scenario will most definitely result in objections. The timetable for a second public inquiry would mean at least another 18 to 24 months delay and this may be longer given the Planning Inspectorate's current workload. Therefore the earliest the Plan could be adopted would be January 2007. This might mean by virtue of the new Planning Act that we would be unable to adopt the Plan at such a late date. New Environmental Assessment Regulations would also apply by mid 2006. Furthermore, by that time the Regional Spatial Strategy should be well on with the work of reviewing the Notts Derbys green belt and it is likely by that time the housing requirements will be increased. In the meantime there would remain a degree of uncertainty and the Council could be faced with Section 78 appeals on green belt sites.

One important consequence of adopting this approach is that the green belt boundaries, as stated by the JSP Panel report, would be constantly reviewed which is 'wholly at odds with the concept of belts as permanent features'. In other words we would be condoning more uncertainty about the green belt. Another important matter is the fact that whilst the JSP requires a reduction of housing it also requires an additional 12 hectares of employment land in the period from 2011 to 2021. Whilst this is beyond the Local Plan end date of 2011, it must be recognised that the major developments at Teal Close and Gedling Colliery are dependent upon major new road proposals and both would be revisited at a second inquiry. Should either of these sites be delayed further then alternatives may have to be found. In terms of employment land there is only one alternative to Teal Close as recognised by the Local Plan Inspector.

Essentially this option would undermine the ability of the Council to control the location of major new development in the planning system. Any application to develop green belt sites especially those identified in the Inspector's report would be extremely difficult to resist. This would include those sites and parts of sites recommended by the Inspector, but opposed in the Statement of Decisions and Proposed Modifications. The cost to the Council would be excessive, as we know from last year's public inquiry, (£220,734), but this is no reason to avoid this option if it is the most appropriate.

2. Continue with the Local Plan based on the Adopted Structure Plan.

If we continue with the Local Plan based upon the ASP, the preparation work necessary to move to the next stage is complete and has the benefit of the Steering Group's approval. The pressure group formed by the 5 parish councils (GAG5), are opposed to the release of land in the north west of the Borough. There may be objections from other landowners (Notts CC and Severn Trent Water), as they could pursue the argument that all the land recommended by the Inspector should be allocated on their sites. However, the case in favour of this option is addressed in the

Council's response to the Inspector's report as referred to in the recommendations in this report.

This option is consistent with the legal advice and advice from the Structure Plan authorities and the Government Office, and provides the most efficient way of resolving a very important matter for the Council. The timescale for this approach will include a 6-week consultation on the Modifications to the Plan, after which the responses must be analysed and then it is for the Council to decide whether a Modifications inquiry is necessary, or move to adopt the Plan and undertake an early review through the new development plans system. A significant argument will come from GAG5, who will probably say the Council should take the JSP on board and reduce the housing allocation. They will also argue to reduce the employment allocation, which is less justified if the JSP case succeeds. The consequences of this approach are set out above.

A further point supporting this option is that it will provide long-term policy with scope for review under the new LDF system, which is designed to be more responsive and flexible. It will also put statutory planning policy in place far more quickly than options 1 and 3.

3. Abandon the Local Plan and work towards the new LDF* system.

The third option is to abandon further work on the Plan and start work on the new Local Development Framework (LDF). One difficulty with this is that the Community Strategy is under review and is consequently not ready to inform the LDF. Furthermore the Regional Spatial Strategy is not sufficiently advanced so this could delay effective progress on the LDF. The current proposal is to use the Local Plan, once adopted, as a 'saved' Local Development Document (LDD) and progress the various action area plans such as Arnold Town Centre as more specific LDDs. This will avoid repetition and waste of the work and expense committed to the Local Plan to date. If we decide to abandon the Local Plan it will result in a policy vacuum for the planning authority, which will make decision-making more difficult. Furthermore it will open the Authority to Section 78 appeals in the same way as set out under option 1. There will be a delay in the preparation of the new planning policy and it seems unlikely that a LDD could be adopted under the new LDF system until 2007 at the earliest. This is less likely because the Planning Inspectorate have explained that LDD preparation needs to be co-ordinated with them to ensure Inspectors are available to scrutinise the new policy documents and at the moment most authorities have been over ambitious and optimistic about the timetable for their proposed LDDs.

4. Adopt part of the Local Plan unaffected by the Structure Plan

This may enable the 'general policies', to be adopted and provide day-to-day development control decisions with an up to date policy steer. Currently the Revised Deposit policies are used in decision-making and have been supported on appeal as carrying some weight even though not adopted at this stage. However, it would not resolve the problems of dealing with major planning applications on green belt sites. The concept of partial adoption is made more difficult because it would involve major re-writing of the Plan especially in the transport, environment, recreation and housing

chapters. This would require a further Public Inquiry because it would be out of conformity with the ASP. It will then have the same implications as option 3.

Conclusions

Criticisms will be made whichever option the Council chooses. Therefore the choice must be cogent, well reasoned and in accordance with the law, which is why we have sought independent legal advice, the opinion of the strategic planning authorities and Government Office and sought the views of the Local Plan Steering Group. Of the alternatives set out above only one course of action provides the Council with the ability to maintain control of the development process. Given the contentious nature of this process, the need to maintain a long-term green belt boundary for the future and to comply with the law; option 2 is the most appropriate action. Without this, there is a real prospect of the Council having no effective control over the appearance or location of major development proposals in the short or long term.

* **Local Development Framework** as set out in the Planning and Compulsory Purchase Act

PART 2. THE STATEMENT OF DECISIONS AND PROPOSED MODIFICATIONS TO THE LOCAL PLAN

Following the six-month long Local Plan Public Inquiry held in 2003, the Council received the Inspector's report in two parts, the latter of which arrived 19th May 2004. This was reported to all Members of the Council on 25th May 2004 and made public a day later. After receipt of the Inspector's report and his recommendations the Council are required to consider whether they intend to make any modifications to the Plan in light of the Inspector's recommendations. If modifications are proposed there will be a six-week period for objections to the proposed modifications. The Council is also required to produce a statement of reasons for any decision not to accept an Inspector's recommendation (e.g. a decision not to modify the Plan as recommended by the Inspector). Anyone may also make an objection (in the six-week period) to the fact that the Council have decided not to accept the Inspector's recommendation. Objections cannot relate to the contents of the original (deposit or revised deposit) plan at this stage. Normally, the Council will consider objections made at this stage without holding another inquiry.

The Local Plan Steering Group have met on three occasions since the receipt of Part 1 of the Inspector's report and agreed at the first two meetings the suggested response of the Council to the Inspector's report and in addition the proposed modifications. This information is in one single document entitled 'Statement of Decisions and Proposed Modifications'. The complete document is submitted with

this report for approval by Cabinet and if agreed it should then be referred to the Full Council.

Finally, if the Statement of Decisions and Proposed Modifications document is agreed the public consultation needs to be considered. The Town and Country Planning (Development Plan) (England) Regulations 1999 and the Town and Country Planning (Transitional Arrangements) (England) Regulations 2004, require a statutory consultation period of 6 weeks commencing with the notice given by way of advertisement in a local newspaper. At this stage objections cannot relate to the contents of the original plan and should include new evidence not previously considered. Notice is also served on any person who has retained an objection or representation to the Deposit or Revised Deposit Local Plan.

There is no statutory requirement to hold public meetings at this stage and Ashfield, Broxtowe and the City of Nottingham all proceeded with their Modifications to their Plans without any public meetings. This Council has consistently carried out extensive consultation at every stage of the Plan, which is the main reason for Gedling receiving the highest number of representations in the County. Therefore it is proposed to hold two public meetings in areas where completely new sites are proposed: the safeguarded land at Ravenshead and the new housing allocation at Calverton. If there are calls for additional meetings they can be arranged. However, it is important to explain that comments, which merely repeat those made before, during and after the Local Inquiry (addressed in the Inspector's report), cannot carry any weight at this late stage of the process.

Recommendations

- 1. That Cabinet agrees option 2 as set out in the above report and base the decision upon the reasoning.**
- 2. That Cabinet approves the statutory consultation process for 6 weeks to commence 19th January 2005 with the addition of two public meetings at Ravenshead and Calverton held during the consultation period.**
- 3. That Cabinet resolve to refer the Statement of Decisions and Proposed Modifications (SDPM) for the Replacement Local Plan to the Council for adoption for the purposes of consultation.**