

**RESPONSES OF PORTFOLIO HOLDERS TO SCRUTINY
RECOMMENDATIONS: LOCALISM, PLANNING AND HOUSING REVIEW**

Portfolio Holders:

Strand 1 recommendations: Councillor Darrell Pulk, Leisure and Development Portfolio

Strand 2 recommendations: Councillor Jenny Hollingsworth, Health and Housing Portfolio

The following recommendations of the Localism Planning and Housing Scrutiny Working Group were considered at Cabinet on **14 November 2013**, with a request that the Portfolio Holders for Leisure and Development and Health and Housing respond back to the Overview and Scrutiny Committee within 28 days:

Recommendations

Strand 1 recommendations: Neighbourhood Planning, Site Specific Consultation on the Aligned Core Strategy, risk assessment of new powers for communities, member involvement in the National Planning Policy Framework

1. In the light of provisions in the Localism Act 2011 to free councillors to make their views known and act upon them, specifying that predetermination is no longer a valid charge in Council businesses, Members to be provided with further clarification of the difference between pre determination, pre disposition and bias as well as an explanation of the Impact Survey process (economic survey).

Response of Portfolio Holder: Partially accept

Comments

Planning Committee members have already had training on this, and a working group is to be established to further investigate the implications for Planning Committee.

Response of Council Solicitor and Monitoring Officer: Partially accept

Comments

It is not correct to say that predetermination is no longer a valid charge in Council business. The Localism Act 2011 sought to clarify the rules on “predetermination” but has not removed it as a valid charge completely. What the Act stays is that if there is an issue about the validity of a decision as a result of an allegation of bias, a decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because-

- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
- (b) the matter was relevant to the decision.

This means that the concept of predetermination and bias (actual and apparent) remains, however the Act makes it clear that anyone seeking to challenge a decision on the grounds of bias will have to go further than simply relying on evidence that a decision-maker did something which indicated what decision they might take.

A briefing note was issued to all Members at the end of 2011 advising them of this and that when making decisions they are entitled to have a view and express it. However they must be prepared to reconsider their position after hearing all the evidence and the arguments at the meeting. They must take into account relevant considerations (giving them appropriate weight) and ignore irrelevant considerations. They must not have a closed mind and must not give the impression that their mind is closed. If they do so and take part in the decision, that decision may be challenged.

The briefing note made it clear that if a Member holds a particular view and feels that they are unable to listen to the evidence, take account of all relevant matters and be prepared to change their mind, they should not take part in the decision.

Whilst it is felt that the briefing note was clear about the continued application of the concept of pre-determination, it is apparent from the scrutiny review that all Members may not be clear that it is still a valid charge. It would therefore be appropriate to update and re-issue the previous guidance to Members so that it covers predetermination, pre disposition and bias.

2. Gedling Borough Council to publish some design guidance to mitigate the issue of resident's 'tarmac-ing' and paving over gardens.

Response of Portfolio Holder: Do not accept

Comments

The reason for not accepting this comment is that the Council is already working towards delivering it, as the emerging Local Planning Document and Development Management policies will provide the criteria against which this kind of development will be assessed once applications are made.

3. Identify and progress a route to develop long term and more ambitious aspirations, i.e. road development and Light Rapid Transport systems. There are obvious benefits in working with neighbouring authorities, which enables the Council to maximise transport planning.

Response of Portfolio Holder: Partially accept

Comments

As the progress made on the GAR demonstrates, this kind of cross boundary work is already happening. Officers will however be reminder of the need to maximise the benefits of looking at transport issues in this way.

4. Transport links are going to be crucial to the Council's growth policy – the Council should actively pursue opportunities to extend transport services

along the old railway lines in the Borough.

Response of Portfolio Holder: Partially accept

Comments

Whilst the development of these routes is encouraged, and safeguarded in the Local Plan, the development of these routes is expensive and cannot be funded by the Council alone. The Council will therefore continue to promote these as sustainable transport routes, and identify opportunities to bid for appropriate funding.

5. **National Planning Policy Framework Policy Area: 'Requires good design'**: involves improving/retaining the character of an area. As the Council now has an Urban Design officer in place, there is capacity to do more in this policy area. The site specific consultation on the Aligned Core Strategy will address some issues of characterisation which should be further developed in the long term in a supplementary planning policy statement on characterisation.

Response of Portfolio Holder: Do not accept

Comments

The reason that this comment is not accepted is that the Council is already delivering an appropriate level of character advice. The urban design resource is equivalent to one officer per week, and is expected to cover design and conservation issues as well as commenting on planning applications and providing pre-application advice. In sensitive areas the policies in the emerging Core Strategy, emerging Local Planning Document and Development Management policies will provide an appropriate level of control over development which may compromise local character.

6. **ACS Policy 3 Green belt**: Members observed that the policy must be robust enough to halt 'leapfrog' development if necessary. It is recommended that after the ACS has been to the inspectorate, at the point where the Green Belt Policy has to be reviewed, the Council should take the opportunity at the same time to review the deleted environmental policies that were raised by Scrutiny as an area of concern during formal consultation on the ACS.

Response of Portfolio Holder: Do not accept

Comments

The reason that this comment is not accepted is that the Council has already undertaken this review. The policies deleted from the Local Plan were all assessed against extant national policy and not saved because they duplicated that guidance. The NPPF has since replaced the majority of that national guidance, but emerging Core Strategy, emerging Local Planning Document and Development Management policies will provide an appropriate level of control over inappropriate development

7. **ACS Policy 4 Growth:** Further investigate innovative approaches that could address the need for employment sites, i.e. economic development/sustainability initiatives that engage businesses, landowners and developers and bring in schools and apprenticeship schemes to establish incubation units.

Response of Portfolio Holder: Accept

Comments

This approach is being adopted by the Economic Development service, and the Employment & Skills Group.

8. **ACS Policy 4 Growth / Policy 8 Housing:** The Council should investigate opportunities through the Local Enterprise Partnership to access Structural Funds 2014 - 20 for the provision of affordable housing and the development of rural economic growth.

Response of Portfolio Holder: Partially accept

Comments

LEP funds are not expected to deliver affordable housing. Opportunities to promote rural economic growth are being investigated.

9. **ACS Policy 8 Housing:** Members recommended that an article is placed in Contacts highlighting the rights of tenants and responsibilities of landlords.

Response of Portfolio Holder: Accept

Comments

The Public Protection department is planning on placing an article on the 35 issue of the Contacts magazine to address this. In addition the Housing Needs Team also becomes involved with cases on an individual basis and the Service Manager for Housing & Localities hosts a regular landlords forum which provides information about a wide range of tenancy issues and also promotes good practice in the sector.

10. **ACS Policy 17 Biodiversity:** The policy should include flexibility to encompass new environmental scenarios, backed up by more specific policies around the impact of paved gardens. This would require a generic development policy stating a minimum area of a garden to be left grassed. Through the same policy, encourage developers to include planting schemes in their plans.

Response of Portfolio Holder: Do not accept

Comments

The reason that this comment is not accepted is that the relevant policies have been drafted to comply with statutory guidance about what, and what not, can be controlled. Policy 17 has been discussed at the ACS hearing and the Inspector has not raised any issues relating to it.

Policies requiring a minimum grassed area would conflict with other permitted development rights which allow development of this nature.

Developers are currently required to provide a minimum of 10% space and planting in housing schemes.

11. Continue to strengthen the working links between the Planning and Housing Strategy teams that have developed as a result of Localism Act.

Response of Portfolio Holder: Accept

Comments

These teams are now co-located in the same part of the building.

12. Further progress mechanisms for the Council and other public bodies to work together on planning matters, in line with the duty to cooperate on planning issues introduced by the Localism Act.

Response of Portfolio Holder: Do not accept

Comments

The reason that this comment is not accepted is that extensive work has already been undertaken to achieve this. As part of its ACS submission, the Council feels that it has actively sought to engage with other bodies to meet the Duty to Co-operate, including drafting Protocols with neighbouring authorities about developments with cross boundary implications are approached and how any section 106 payments are distributed to ensure that they meet the identified need. Whether those bodies chose to co-operate is beyond the Council's control.

13. Proactively view land allocation strategically across authority borders, whilst still making determinations at the local level.

Response of Portfolio Holder: Accept

Comments

The Borough Council is already seeking to do this, having drafted a protocol as to how it might be achieved. Some neighbouring authorities have agreed to this.

14. To whatever extent possible, establish individual diversity policies for each of the town centres in order to support their economic renewal. Investigate and if possible replicate approaches taken in other cities on to limit the setting up of loan companies in local town centres.

Response of Portfolio Holder: Do not accept

Comments

Unfortunately we do not have the resources to deliver this.

15. The Council should seek to establish clear mechanisms to encourage the involvement of Ward Members and local interest groups in the development of detailed local plans.

Response of Portfolio Holder: Do not accept

Comments

The comment is not accepted because the Council is already consulting in excess of the levels required under legislation. There have, and continue to be, extensive consultations on all new and amended planning policy documents.

16. Ward Members should be involved in local plans as soon the Council is approached.

Response of Portfolio Holder: Do not accept

Comments

The comment is not accepted because the Council is already consulting in excess of the levels required under legislation. There have, and continue to be, extensive consultations on all new and amended planning policy documents.

17. The Authority should establish a protocol and on-going process by which planning officers will work with Elected Members and the community.

Response of Portfolio Holder: Do not accept

Comments

The comment is not accepted because the Council is already delivering this. The Statement of Community Consultation sets out how the Council will engage with communities, and does so well in excess of that required under legislation. There are already protocols in place which set out how Planning Committee members will be included in the pre-application process, subject to probity issues.

Strand 2 recommendations: Housing Strategy and Welfare Reform

18. Include in the Housing Allocations Policy the proviso that wherever possible, and if preferred, that priority is given to rehousing within their host community those tenants that are required to downsize.

Response of Portfolio Holder: Partially accept

Comments

This recommendation is partially accepted as the revised allocations policy awards a priority to the tenants of social landlords looking to downsize. If they are moving to a property which is two bedrooms smaller then they will be placed

in band 1 (the highest priority banding), if their move will free up one bedroom, they will be placed in band 2. There is not a time restriction, and as applicants select the properties they are interested in, they should have the choice to remain in the same area. This is however dependent upon the availability of suitable properties and the level of need. A further factor which also needs to be considered is the financial impact on those residents with spare bedrooms as if they are claiming housing benefit their entitlement may be reduced and they may therefore have a pressing financial need to move more quickly, in which case they would need to be more flexible about their choice of areas. That said we do urge our social landlords to consider each case on its own merits, and we are aware that many social landlords have put considerable resources into informing their tenants about the impact of the bedroom tax and supporting them to find viable solutions, e.g. budgeting, moving to smaller properties.

19. The Housing Needs Team to investigate, support and promote the 'Homeswap' scheme – a national scheme which provides a standard for providers of housing who assist tenants with mutual exchanges.

Response of Portfolio Holder: Accept

Comments

This recommendation is accepted as our largest social landlord – Gedling Homes is a member of Home Swap and the Council's Choice Based Lettings system promotes National Home Swap Direct. This scheme is available to all council and housing association tenants and is a web based system which matches prospective tenants looking to exchange their homes. The Housing Needs Team also promote this as an option when they are working with people who wish to move.

20. Homelessness Strategy: It is recommended that Framework's Street Sleeping initiative and the Freephone number be promoted in the winter edition of Contacts, and that the wider referral options and services provided by the Housing Needs Team available are also widely publicised.

Response of Portfolio Holder: Accept

Comments

This recommendation is accepted as the current edition, (34) of the Councils' Contacts magazine has an article on 'Helping the Homeless' in the winter, on page 14, which includes both the councils office number, the Council's out of hour's number and the Nottingham Street Outreach team's number. Posters are also to be displayed promoting the Housing Needs Team and providing information on the support services available for those individuals experiencing problems with their housing.