

REGENERATION, COMMUNITY AND CULTURE OVERVIEW & SCRUTINY COMMITTEE

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PLANNING POLICY – URBAN DEVELOPMENT

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Summary

This report addresses concerns raised by Councillor Adrian Gulvin as to whether current planning policy is effective in controlling over-development or 'town cramming'.

1. Budget and Policy Framework

- 1.1 Planning decisions should conform with policies contained in the development plan for Medway unless other "material considerations" indicate otherwise. The development plan forms part of the policy framework. Amended development plan policies therefore require Council approval.
- 1.2 There are no direct budget implications arising from this report.

2. Background

- 2.1 Minute 449 from the meeting of the Committee on 4 October includes:

"A Member asked for an item to be added to the work programme with regard to his, and other Members', concerns about the weakness of the council's present Planning Policy with regard to the urban environment. In particular, he raised the issue of the use of gardens for development and the cumulative effect of this type of development on the density of buildings within the urban area, which was detrimental to the quality of life for residents already living in the urban area. He asked that a report was submitted setting out how this policy could strengthen the council's powers to refuse this type of development."

- 2.2 The decision was to request a report on the matter.

- 2.3 A central principle of the planning system is that decisions on planning applications should be in accordance with the development plan currently in force for the area, unless other material considerations indicate otherwise. The Medway development plan currently comprises 'saved' local plan policies, the South East Plan and the emerging Core Strategy that is currently at examination. Material considerations can take many forms but importantly they include:
- Government policies, now generally, but not exclusively, enshrined in the National Planning Policy Framework or NPPF
 - Guidance issued by relevant bodies such as government agencies and professional and advisory organisations
 - Supplementary guidance issued by the local planning authority that expands on development plan policies. This can take the form of a 'supplementary planning document' that must have been prepared and adopted in a particular way or more general material such as design leaflets and guides.
- 2.4 A decision taker would also normally have due regard to legal precedent and whether, in the case of a refusal, the decision might be overturned on appeal. They must also be guided by the principle that each application should be considered on its own merits.
- 2.5 It follows that there can therefore be a considerable amount of material available to inform the decision taker but ultimately actual decisions involve considerable personal and/or professional judgement.
- 2.6 Against this background an issue that has caused considerable discussion in professional circles over the last fifteen years or so has been to do with 'over development' or 'town cramming' and this would appear to lie at the heart of the member's concerns. That discussion came to a head after the then Deputy Prime Minister John Prescott introduced a minimum density standard for residential development of 40 dwellings per hectare. At the time residential gardens were also classified as 'previously developed land', encouraging speculative development proposals.
- 2.7 The standard and definition were later withdrawn but tensions inevitably remain as local planning authorities across the country seek to balance the need for new development with the conservation of both their urban and rural environments.

3. Advice and analysis

- 3.1 As indicated above the Council, as local planning authority, has not only a range of adopted policies but also a host of other material available to it to assist in the determination of planning applications affecting garden land, the enlargement of existing dwellings (including bungalows) and so on. Although the policies are specific to Medway similar ones are in use by authorities across the country. It also has the benefit of nationally produced guidance such as the well respected 'By Design' document and the 'Building for Life' criteria and more local material produced under the banner of the Kent Design Initiative.

- 3.2 Both the policies and other material have been tested on appeal and no obvious gaps have become apparent.
- 3.3 Despite the concern expressed that existing policies are not strong enough, officers are therefore of the view that they are fit for purpose.
- 3.4 This notwithstanding development plan policies should be regularly reviewed to ensure that they remain fit for purpose. Unfortunately the process that must be followed is both complex and long.
- 3.5 Individual policies can only be reviewed, amended or replaced as part of the preparation or review of a 'Development Plan Document' or DPD. These must go through a number of formal stages, culminating in a public examination conducted by an independent inspector appointed by the Secretary of State. If not found 'sound' they cannot be adopted and in some cases the preparation process must start again virtually from scratch.
- 3.6 To further complicate matters, detailed policies are now generally contained in a DPD that sits below the 'core strategy' and the latter needs to be in place before more detailed documents are prepared.
- 3.7 In Medway's case, and as members are aware, adoption of the core strategy is proving to be extremely difficult due to a longer than normal examination programme and the submission of late evidence.
- 3.8 It has always been the intention, as set out in the Local Development Scheme, that immediately following adoption of the Core Strategy, work would begin on what is currently called a land allocations and development management DPD. This will review, amend or replace all currently 'saved' local plan policies and introduce any new policies that might be considered necessary. It has been estimated that this would take around 18 months to produce and take through to adoption, subject to the details of the process followed.
- 3.9 Assuming that the Core Strategy will be adopted by around the middle of 2013 it should be possible to begin substantive work on the DPD around April. In fact some initial work is already underway but with progress being governed by the demands of the Core Strategy examination. There is every intention to closely involve members in all aspects of preparing the DPD and this will allow the effectiveness of existing policies to be fully considered.
- 3.10 One method by which this might be done would be through workshop sessions that would allow a full exchange of views and consideration of specific examples. This would also allow the member's concerns to be fully considered.
- 3.11 Regrettably it is not yet possible to put forward a detailed project plan for the preparation of the DPD but this will be done as soon as the position on the Core Strategy is clear.

4. Risk Management

- 4.1 As recent experience shows there are various risks associated with the preparation of any DPD, which provides the only available way of updating or replacing policies. It is considered that the Land Allocations and Development Management DPD would be lower risk than the Core Strategy but the latter must be in place before it can proceed beyond the preliminary stage.

Risk	Description	Action to avoid or mitigate risk
Forced withdrawal of Core Strategy	Examining Inspector indicates the nightingale issue cannot be adequately dealt with and the Core Strategy should be withdrawn	Extensive evidence has been produced to counter this possibility and a range of other actions taken to ensure the examination concludes satisfactorily

5. Consultation

- 5.1 All development plan documents have to be subject to full public consultation using methods and processes set out in the Statement of Community Involvement (SCI).

6. Financial and legal implications

- 6.1 The preparation and adoption of all development plan documents is governed by the requirements of the Planning and Compulsory Purchase Act 2004, the Localism Act 2011 and other associated statutes and Regulations. Provisions in the Local Development Scheme and Statement of Community Involvement must also be fully reflected.
- 6.2 The costs of preparing development plan documents are met from existing budgets.

7. Recommendations

- 7.1 That the committee consider and note the report.

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Background papers

None.