

BRECKLAND COUNCIL

Report of the Strategic Director – Transformation to the LDF Task & Finish Group – 1st April 2009 Development Control Committee – 20th April 2009

Use of Submission Development Control Policies

1. Purpose of Report

- 1.1 The purpose of this Report is to inform Members of the weight that can be attributed to the policies contained within the Core Strategy and Development Control Policies DPD in the consideration of planning applications, once the DPD has been submitted to the Secretary of State.

2. Recommendations

- It is recommended that the Committee:
- 2.1 Note the contents of the Report

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3.1 Information, Issues and Options

- 3.1.1 On the 12th March 2009 the Council agreed to submit the Core Strategy and Development Control Policies Development Plan Document. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that “*if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*” Therefore, once adopted the policies contained within the Core Strategy and Development Control Policies document will be the main consideration in the determination of planning applications.
- 3.1.2 Prior to adoption, guidance contained within Planning Policy Statement 1: *The Planning System General Principles* states that the emerging policies in the Core Strategy and Development Control Policies can be treated as ‘material considerations’. The weight that can be attributed to such policies is dependant on their stage of preparation. Planning Policy Statement 1: *The Planning System General Principles* states that limited weight can be applied to policies in an emerging plan, where the plan is at a consultation stage. However, it states that once a plan has been submitted to the Secretary of State, **considerable** weight can be applied to those policies which have not had soundness representations made against them. Additionally the guidance states that where representations have been made against policies, the nature of those representations will need to be considered when determining the weight that can be applied to the policy.
- 3.1.3 Therefore upon submission of the Core Strategy and Development Control Policies to the Secretary of State, some policies within the document will be afforded considerable weight in the determination of planning applications. However, it must be remembered that these policies will not form part of the development plan for the Breckland District until adoption. Until adoption the development plan for the district consists of the saved policies of the Adopted Breckland Local Plan (1999) and the Regional Spatial Strategy for the East of England.
- 3.1.4 As reported to Council on the 12th March 2009, a number of soundness objections were made against the Core Strategy and Development Control Policies. However,

these soundness objections were not made against every policy. The Core Policies and the Spatial Strategy received a large number of soundness objections which fundamentally challenged the principle of policies. It is therefore considered that little weight can be applied to these policies prior to the plan being found sound as a result of Examination in Public. With respect to the Development Control Policies far fewer representations were made that challenged the soundness of the policies. Therefore some of the Development Control Policies can be given weight in the consideration of planning applications following submission. The following parts of this report outline those policies which received either no representations or where the nature of the representations received did not fundamentally challenge the soundness of the policy. For information, the policies in question are reproduced in Appendix A of this report.

Policy DC1 – Amenity

- 3.1.5 The purpose of this policy is to ensure new development does not adversely affect the amenity of residents.
- 3.1.6 Three representations claimed this policy was unsound. However, these representations did not challenge the actual criteria set out in the policy. Therefore regard can be had to the criteria a-f of this policy in the determination of planning applications following submission.

Policy DC3 – Replacement Dwellings and Extensions in the Countryside

- 3.1.7 This Policy aims to control the replacement of dwellings and extensions to dwellings in the countryside to ensure that the availability of smaller properties in the rural areas is protected.
- 3.1.8 The Policy only received one soundness objection from English Heritage. The objection did not challenge the content of the policy but raised concern that the policy failed to identify the criteria for the replacement of historic buildings. However, the purpose of this policy is not to set out wide ranging criteria for the replacement of all buildings. The policy is only intended for the replacement and extension of dwellings. For historic dwellings Policy DC17 which outlines the Council's policy for the replacement of historic buildings will also apply (see paragraphs 3.1.19 and 3.1.20 of this report). Therefore, as the representation does not challenge what the policy seeks to achieve, the policy can be used in the determination of the replacement and extension of non-historic dwellings.

Policy DC9 – Proposals for Town Centre Uses

- 3.1.9 The policy sets out the Council's proposals for dealing with applications for development in town centres.
- 3.1.10 Two representations were made against this policy both of which supported the policy. Therefore considerable weight can be attributed to the Policy as a material consideration in the determination of planning applications following submission.

Policy DC10 – Telecommunications

- 3.1.11 The policy sets out the conditions where new telecommunications apparatus will be permitted.
- 3.1.12 No representations were made against the policy. Therefore considerable weight can be attributed to the Policy as a material consideration in the determination of planning applications for telecommunications apparatus following submission.

Policy DC11 - Open Space

- 3.1.13 The policy seeks to protect publically accessible open space and provide new open space through developer contributions.
- 3.1.14 Although a number of representations raised soundness objections to the policy, none objected to the principle of protecting existing open space and requiring developer contributions for new open space. Additionally, none of the representations argued for a lower standard than the one proposed in the policy. Objections were raised against the proposed management arrangements and the

requirement for mobile homes to contribute to open space. Sport England raised objections based on the lack of evidence that supports the proposed standard. However, they were concerned that the standard was too low, not too high. Your officers are currently in discussions with Sport England with a view to reaching a Statement of Common Ground so that this policy can be given weight in the consideration of planning applications prior to adoption.

Policy DC12 – Trees and Landscape

- 3.1.15 The policy sets out the Council's proposals for the protection and enhancement of the District's natural features.
- 3.1.16 Two representations were received against the Policy. One supported the Policy and the other questioned whether the Policy was flexible enough. Given the nature of the objection it is regarded that weight can be attributed to the policy as a material consideration in the determination of planning applications following submission.

Policy DC15 – Renewable Energy

- 3.1.17 The policy sets out the consideration to be applied in the determination of proposals for commercial scale renewable energy developments.
- 3.1.18 A number of representations were made against the policy, principally regarding the flexibility of the policy. However, as no representations fundamentally challenged the principle of the policy, weight can be given to the policy in the determination of planning applications following submission.

Policy DC17 – Historic Environment

- 3.1.19 The Policy seeks to protect and enhance the historic environment of the District.
- 3.1.20 English Heritage supported the policy, however, two representations claim the policy is unsound. One objection is based on the delineation of the Boudicca site in Thetford which does not relate to the principle of the policy. The other objection is based on the fact that the policy fails to realise that some sites of archaeological interest are more important than others. However, given the nature of the objection it is regarded that weight can be attributed to the policy as a material consideration in the determination of planning applications following submission.

Policy DC19 – Community Facilities , Recreation and Leisure

- 3.1.21 The policy sets out provisions for the protection and enhancement of community, recreation and leisure facilities.
- 3.1.22 All representations made against the policy supported the principle of the policy. Therefore considerable weight can be attributed to the Policy as a material consideration in the determination of planning applications following submission.

Policy DC23 - Conversion of Buildings in the Countryside

- 3.1.23 The policy sets out the criteria which will be applied to the assessment of proposals for the conversion of buildings in the countryside.
- 3.1.24 One representation was made against the Policy which suggested that it was not in conformity with Planning Policy Statement 7. However, the representation did not explain why this was case and related more to considerations of amenity and a site specific concerns relating to a site in Larling. Therefore, given the nature of the objection it is regarded that weight can be attributed to the policy as a material consideration in the determination of planning applications following submission.

3.2 Options

- 3.2.1 There are no options as the report is for information only

3.3 Reasons for Recommendation(s)

3.3.1 To inform members of the committee the weight that can be attributed to some of the submitted policies of the Core Strategy and Development Control Policies in the determination of planning applications.

4. Risk and Financial Implications

4.1 Risk

4.1.1 I have completed the Risk Management questionnaire and can confirm that risk has been given careful consideration, and that there are no significant risks identified associated with the information in this report.

4.2 Financial

4.2.1 This report has no direct financial implications.

5. Legal Implications

5.1 This report has no direct legal implications

6. Other Implications

- a) Equalities: - None
- b) Section 17, Crime & Disorder Act 1998: None
- c) Section 40, Natural Environment & Rural Communities Act 2006: None
- d) Human Resources: None
- e) Human Rights: None
- f) Other: None

7. Alignment to Council Priorities

7.1 The report is relevant to the following Council priorities:

- Building Safer and Stronger Communities
- Environment
- Prosperous Communities

8. Ward/Community Affected

8.1 Entire Breckland District

Background Papers

Breckland Core Strategy and Development Control Policies submission document

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Key Decision Status (Executive Decisions only):

This is not a key decision.

Appendices attached to this report:

Appendix A – List of DC Policies Mentioned in Report