

## Scrutiny Standing Panel Agenda



# SCRUTINY

 Epping Forest District Council

### **Planning Services Scrutiny Standing Panel Tuesday, 13th September, 2011**

**Place:** Council Chamber, Civic Offices, High Street, Epping

**Time:** 7.30 pm

**Democratic Services Officer:** Mark Jenkins - Office of the Chief Executive  
Email [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk) Tel: 01992 564607

**Members:**

Councillors H Ulkun (Chairman), A Watts (Vice-Chairman), A Boyce, C Finn, P Keska, Ms Y Knight, A Lion, J Markham, B Sandler and Mrs J Sutcliffe

**SUBSTITUTE NOMINATION DEADLINE:**

**18:30**

**1. APOLOGIES FOR ABSENCE**

**2. SUBSTITUTE MEMBERS**

(Assistant to the Chief Executive). To report the appointment of any substitute members for the meeting.

**3. DECLARATIONS OF INTEREST**

(Assistant to the Chief Executive). To declare interests in any items of the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview and Scrutiny members are asked to pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an Overview and Scrutiny Committee which relates to a decision of or action by another Committee or Sub-Committee of the Council, a Joint Committee or Joint Sub-Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an Overview and Scrutiny meeting purely for the purpose of answering questions or providing

information on such a matter.

**4. NOTES FROM THE LAST MEETING (Pages 3 - 16)**

To agree the notes of the last Panel meeting held on 14 June 2011 (attached).

**5. TERMS OF REFERENCE (Pages 17 - 18)**

The Terms of Reference are attached.

**6. WORK PROGRAMME**

The Work Programme is undergoing a re-draft and will be submitted to the next Panel meeting in October for Member's approval and recommendation to the Overview and Scrutiny Committee.

**7. ENVIRONMENT AGENCY CONSULTATION - RODING RIVER AREA (Pages 19 - 24)**

(Director of Planning and Economic Development) To consider the attached report.

**8. SUSTAINABLE FRAMEWORK FOR UK AVIATION: SCOPING DOCUMENT (Pages 25 - 32)**

(Director of Planning and Economic Development) To consider the attached report. Attached is the minutes from the Cabinet meeting of 30 June 2011 regarding The Future Development of Air Transport in the South East – Second Edition.

**9. ESSEX COUNTY COUNCIL MINERALS DEVELOPMENT DOCUMENT - FURTHER SITE ALLOCATIONS ISSUES AND OPTIONS PAPER (Pages 33 - 42)**

(Director of Planning and Economic Development) To consider the attached report.

**10. FEE SETTING - DEVELOPMENT CONTROL (Pages 43 - 56)**

(Director of Planning and Economic Development) To consider the attached report.

**11. ANY OTHER BUSINESS**

**12. DATES OF FUTURE MEETINGS**

The next programmed meeting of the Panel is on Monday 3 October 2011 (an extraordinary meeting) and thereafter on:

Tuesday 20 December 2011;  
Tuesday 7 February 2012; and  
Tuesday 24 April

# Agenda Item 4

**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF PLANNING SERVICES SCRUTINY STANDING PANEL  
HELD ON TUESDAY, 14 JUNE 2011  
IN COUNCIL CHAMBER, CIVIC OFFICES, HIGH STREET, EPPING  
AT 7.30 - 10.10 PM**

<b>Members Present:</b>	H Ulkun (Chairman), A Watts (Vice-Chairman), C Finn, Ms Y Knight, A Lion, J Markham, B Sandler, Mrs J Sutcliffe and G Waller
<b>Other members present:</b>	Mrs A Grigg, Mrs S Jones, Mrs J Lea, A Mitchell MBE, J Philip, B Rolfe, Mrs M Sartin, Mrs P Smith, D Stallan, Mrs L Wagland and C Whitbread
<b>Apologies for Absence:</b>	A Boyce and P Keska
<b>Officers Present</b>	J Preston (Director of Planning and Economic Development), N Richardson (Assistant Director (Development Control)), K Polyzoides (Assistant Director (Policy & Conservation)), M Jenkins (Democratic Services Assistant), T Carne (Public Relations and Marketing Officer) and S G Hill (Senior Democratic Services Officer)

## **1. SUBSTITUTE MEMBERS**

It was noted that Councillor G Waller was substituting for Councillor A Boyce.

## **2. DECLARATIONS OF INTEREST**

It was noted that there were no declarations of interest made pursuant to the Members Code of Conduct.

## **3. NOTES FROM THE LAST MEETING**

### **RESOLVED:**

That the notes of the last meeting of the Panel held on 3 March 2011 be agreed.

## **4. TERMS OF REFERENCE**

The Panel's Terms of Reference were noted. It was advised that a proposed draft of the Terms of Reference, from Councillor A Lion, would be considered at a future meeting.

## **5. WORK PROGRAMME**

The following was noted:

### **(1) (a) Regional Plan**

The Regional Plan was being removed from the Localism Bill.

### **(2) (c) Value for Money Provision: Development Control (including Appeals)**

A report was being planned for the September 2011 meeting of the Panel.

**(3) Review of a selection of controversial planning decisions.**

This work was currently uncompleted.

**(6) Liaise with other planning authorities to learn from their work.**

A continuous process of liaising with other Essex local authorities was taking place.

**(8) Community Infrastructure Levy**

Although a report was on the agenda. It was advised that the current situation would change. It was felt that this item should be a Panel standing item.

**6. IMPROVEMENT PLAN**

The Panel received the Draft Planning and Economic Development Improvement Plan 2011 – 2012.

The members were updated as follows:

**1. Continue to improve procedures.**

(a) Confirm a programme of areas where information, primarily held in hard copy versions, can be scanned into I-Plan.

**Fully achieved**

(b) Make more information available by improving the content of the sections of the website concerning Planning.

**Partially achieved.** Due to fewer staff resources, it was important to undertake more transactions electronically.

(c) One particular project is working with local Council's to further improve the I-Plan system and, once completed, to gradually remove duplicate manual systems.

**Partially achieved**

**2. Create a shorter and simpler Business Plan for 2012-13.**

(a) Re-focus Business Plan 2012-13

**Partially achieved**

**3. Green Issues**

(a) Create a revised and improved section on the Council's website to give greater clarity and prominence to these matters.

**Not achieved**

(b) Run training sessions for Members and Officers

**Not achieved**

There had been no progress on this. It was advised that Green Issues encompassed how the authority used its buildings.

**4. On the assumption that the Government introduces legislation to allow planning fees to be set locally.**

- (a) Complete benchmarking exercise

**Partially achieved**

- (b) Compile fee schedule based on existing national schedule and with similar arrangements to adjoining authorities

**Partially achieved**

- (c) Compile a set of charges based on evidence of EFDC costs

**Not achieved**

**7. CLG CONSULTATION - PLANNING FOR TRAVELLER SITES**

The Panel received a report from Mr J Preston, Director of Planning and Economic Development, regarding the Communities and Local Government (CLG) Consultation Planning for Traveller Sites.

The consultation, which ran for 12 weeks, from 13 April to 6 July 2011, was essentially about a draft Planning Policy Statement (PPS) (Planning for Traveller Sites) which was intended to replace Circulars 01/2006 and 04/2007 (Planning for Gypsy and Traveller Caravan Sites, and Planning for Travelling Showpeople). There were 13 questions associated directly with the content of the PPS, and a further 15 specific questions related to the consultation stage impact assessment.

The draft PPS stated that “the Government’s overarching objective is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.”

The Government had made plain its intentions to abolish Regional Spatial Strategies and all associated housing and Gypsy Roma Traveller (GRT) pitch targets. This would take place when the Localism Bill was enacted in early 2012. The Government was also intending to replace all existing planning guidance with a National Planning Policy Framework in April 2012 and this draft PPS had been written with that in mind.

The Panel considered its responses to the following consultation questions:

**PPS Consultation Questions**

**1. Do you agree that the current definitions of “gypsies and travellers” and “travelling showpeople” should be retained in the new policy?**

**Response** – Yes - It was sensible to retain both definitions because of the different land use requirements associated with the lifestyles of the two groups, but by only excluding the recognised ethnic groups from the definition of travelling showpeople this left uncertainty about others who might be included in the definition of “gypsies and travellers.” Members also felt that with a large housing list and a shortage of

affordable housing, it was not possible to make adequate provision for the local community. It was difficult defending the making of provision for one group when the District Council could not make provision for others.

**2. Do you support the proposal to remove specific reference to “Gypsy and Traveller Accommodation Needs Assessments” in the new policy and instead refer to a “robust evidence base?”**

**Response** – No - The lack of reference to the GTAA could lead to the production of needs assessments of widely differing approach and quality. A more consistent nationwide approach should result in fewer successful challenges at EiP or other Planning Inquiries. Members added that the district was diverse in terms of urban and rural settlement, it was difficult to settle Gypsies and Travellers in areas that were very different from them.

**3. Do you think that local planning authorities should plan for “local need in the context of historical demand?”**

**Response** – Undecided - The Council supported the principle, but was concerned about the advice in paragraph 20 (e) of the draft PPS in relation to determining planning applications for traveller sites – “...applications for sites from any travellers and not just those with local connections.” Permission being granted for non-local” travellers, this would not be addressing “local need.” Members felt that historical demand bore no relevance to today’s situation. Officers suggested that historical demand could be relevant to Gypsies and Travellers who had connections with certain district areas.

**4. Do you agree that where need has been identified, local planning authorities should set targets for the provision of sites in their local planning policies?**

**Response** – Undecided - The Council had increased the number of authorised pitches by 36 (from 72 to 108) in the period from January 2008 to the present, exceeding both the East of England Plan target of 34 new pitches by April 2011, and the GTAA figure of 32.4 pitches by 2013. This suggested that targets could work, and that the answer was yes. However setting targets here had other implications because of the answers to other consultation questions, therefore the answer could be no. It was felt that there was no immediate need to make further provision in this district. The issue would be addressed through the Local Development Framework.

**5. Do you agree with the proposal to require local planning authorities to plan for a five year supply of traveller pitches/plots?**

**Response** – No - The Council believed that this was wholly unrealistic and completely unachievable in this district, unless some publicly owned land in suitable locations became available.

**6. Do you agree that the proposed wording of Policy E (in the draft policy) should be included to ensure consistency with Planning Policy Guidance 2: Green Belt?**

**Response** – Yes - The Council agreed with the proposed change in wording, because this should “even things up” regarding the consideration of applications for permanent housing and traveller pitches in the Green Belt. The change may make it difficult establishing or justifying completely new traveller sites in the Green Belt,

which in turn would make it increasingly difficult for the Council to identify suitable and deliverable new sites.

**7. Do you agree with the general principle of aligning planning policy on traveller sites more closely with that on other forms of housing?**

**Response** – Yes - The Council believed there were some advantages in bringing pitch provision considerations within the wider housing framework. Assuming that pitch provision could be treated as merely one element of the total housing agenda, this would help reduce suspicion and mistrust. Officers were convinced that at least in this district it would be quite impossible to identify a five year supply of deliverable sites, so there would be limits to how closely pitch provision could be aligned with other forms of housing. Members felt that all peoples involved should be treated equally.

**8. Do you agree with the new emphasis on local planning authorities consulting with settled communities as well as traveller communities when formulating their plans and determining individual planning applications to help improve relations between the communities?**

**Response** – No – The Council generally favoured consultation and involvement of the community, but Gypsies and Travellers and settled community applications should be dealt with in exactly the same way. Members were not persuaded that a new emphasis was needed because there were already existing duties to consult both at policy formulation and at planning application stages. The Council strongly disagreed that consultation on this specific issue would help improve relations. This was based on very recent experience of such a consultation.

**9. Do you agree with the proposal in the transitional arrangements policy for local planning authorities to “consider favourably” planning applications for the grant of temporary permission if they cannot demonstrate an up-to-date five-year supply of deliverable traveller sites, to ensure consistency with Planning Policy Statement 3: Housing?**

**Response** – No if GRT (Gypsy Roma Traveller) housing land supply was going to be brought within PPS3 then the approach must be fully integrated, in particular when considering local need and that land supply in the Green Belt arisen much more as a windfall process.

The “consider favourably” position was really a back stop to encourage proper planning for mainstream housing supply rather than being applicable to the particular attributes of GRT land supply which were never likely to be as formal and documented.

**10. Under the transitional arrangements, do you think six months is the right time local planning authorities should be given to put in place their five-year land supply before the consequences of not having done so come into force?**

**Response** – No - The Council believed this to be a nonsensical suggestion, with no basis on reality, and which showed no understanding whatsoever of the practical difficulties of dealing with this controversial and complex subject.

**11. Do you have any other comments on the transitional arrangements?**

**Response** – Yes - The Council's recent record of increasing significantly the number of authorised pitches indicated that a criteria based policy, reasonably applied, could meet the needs of the travelling community, even in areas of development restraint, if applications were professionally prepared and supported by adequate justification. The Government should therefore be thinking again about the requirement to produce five-year land supplies.

**12. Are there any other ways in which the policy can be made clearer, shorter or more accessible?**

**Response** – Yes - Definitions of the terms "local need" and "historical demand" would help local authorities have a consistent basis from which to calculate future pitch targets. This could also address the confusion that appeared to exist between these terms and the guidance for determining planning applications.

The PPS also proposed the use of a "Rural Exception Site Policy" where there was a lack of affordable land to meet local traveller needs, it was not clear whether the Government thought that this would be an acceptable approach in the Green Belt, given that traveller sites had been added to the definition of "inappropriate development."

Members were asked to note that Housing land supply normally included a stock of unimplemented planning permissions, allocations of land mainly outwith the Metropolitan Green Belt, and that there was active dialogue with promoters of such development about future sites.

Gypsy, Roma and Traveller land supply in this area did not have those attributes, rather it was influenced by what could be purchased and afforded, what need could be presented, whether existing sites could have their capacity raised and what GRT sites could be provided within the Master Planning of future large developments.

Members themselves raised a number of points, they contrasted what had been achieved in terms of extra pitch provision for GRTs locally with the volumes of affordable housing for those on waiting lists. To have met the 2011 target for one group with housing needs, but not to have similarly met the needs of those, some of whom were longstanding local residents was not fair.

The communities within the overall District were diverse, if the costs of GRT provision arise in one locality or community, but resulting benefits such as new homes bonus were expended in other localities that was also unfair.

A clear message from the EFDC consultation pursuant to the Direction was that GRT did not tend to want to live "cheek by jowl" with the settled community. Advice used to seek some separation of the communities, but more recent advice had sought integration. This was a circle which had not been squared.

94% of the District was Metropolitan Green Belt and Traveller sites were inappropriate in the Green Belt the combination made sourcing sites challenging.

The consultation appeared to make no reference to the overall size of site.

**13. Do you think that the proposals in this draft statement will have a differential impact, either positive or negative, on people because of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation? If so, how in your view should we respond?**



**We are particularly interested in any impacts on Gypsies and Travellers, and welcome the views of organisations and individuals with specific relevant expertise.**

**Response** – Yes - The Council believed that Gypsies and Travellers would be adversely affected by the proposed changes, on the grounds that it was likely to be much harder to identify suitable new sites in the Green Belt.

Differential treatment of different groups, on the one hand applying Green Belt policy more fairly would be likely to restrict the ability of GRT to achieve sites in this area, whereas, on the other hand the settled community may well perceive that a balanced approach was fairer overall.

### **Impact Assessment (Specific) Questions**

#### **Option 1: Do Nothing**

**Do you think there are any other benefits to retaining the existing policy, and whether these can be quantified?**

**Response** – No - This was not a viable option, given the changes to the planning system being brought forward by the Government. Nevertheless, the Council had shown that the current system could work, even in areas of significant development restraint.

**Option 2: Withdraw Circulars and do not replace them. Can you identify – in quantitative terms if possible –whether you think there would be any benefits to this option?**

**Response** – No

**Option 3: Withdraw Circulars and replace them with a new single policy (a) Enabling local planning authorities to make their own assessment of need and to use this evidence to set their own targets for pitch/plot provision.**

**Please comments on whether you envisage any extra costs to local planning authorities associated with the assessment of need for traveller sites in their areas, over and above those they experience at present.**

**Response** – No - There would be extra costs. Steps were being taken to identify GRT families potentially living in bricks and mortar. Some cross-agency contacts have been established during discussions about the information of a County-wide Gypsy and Traveller Unit. Ideally a repeat of the consultation exercise aimed at travellers under the direction would be best, however this was time consuming and costly.

**Please give your view on the scale of the time and money benefits which will accrue to local planning authorities as a result of being able to set traveller site targets locally.**

**Response** – Locally derived targets would be subject to rigorous challenge by the settled community, if the Council's recent experience with the direction consultation was anything to go by. This would add to staff and other resource costs. There was also a broad assumption that co-operative working with other authorities to produce joint development plans, would ease the problem for districts such as this which were

mainly Green Belt. Given the controversial nature of the particular land use, it seemed unlikely that there would be much successful co-operation, this was again likely to add to staff and other resource costs.

**(b) Enabling local planning authorities to meet this need over a reasonable timescale.**

**Please give your views on whether the transitional period envisaged will lead to any extra costs – and what these might be in monetised terms.**

**Response** – No - The transitional period of 6 months to identify and establish a five year supply of suitable sites was totally unachievable in this district. The timing would interfere with the preparation of the Issues and Options consultation for the Core Strategy. The settled community, already angered and upset by the previous consultation, would continue to object strongly and in significant numbers, to any more specific work associated with the travelling community at this time.

**Please give your view on the extent to which, and rate at which, you consider the new sites will come forward as a result of the new approach.**

**Response** – The changes were unlikely to have a significant impact. If anything, the rate would reduce with traveller sites now being fully classed as inappropriate development in the Green Belt.

**(c) Enabling local planning authorities to protect Green Belt from development.**

Please give your view on whether the draft policy is likely to have any significant monetary benefit in terms of protection of the Green Belt and, if so, what this is likely to be.

**Response** – It was unlikely that there would be any measureable monetary benefits.

**(d) Reducing tensions between settled and traveller communities.**

**Response** – No requests for comments made.

**(e) Streamlining planning policy for traveller sites. Do the familiarisation costs estimated for local planning authorities appear reasonable? Please give your view on the assumptions made in this calculation.**

**Response** – No - There would be benefits from amalgamating and simplifying what were two broadly similar circulars, but familiarisation costs were likely to be minuscule or otherwise immeasurable. Unlike the assumption made in the calculation, several officers in the Planning directorate would need to familiarise themselves with the changes.

**Do the estimated administrative savings for local planning authorities as a result of streamlining national policy, seem reasonable? Please give your view on the assumptions made in this calculation?**

**Response** – the Council was not able to offer a meaningful response.

**Other Specific Questions**

**(i) Are there any significant costs and benefits that we have omitted? If so, please describe including the groups in society affected and your view of the extent of the impact.**

**Response** – Yes - The definition of traveller sites as being inappropriate development in the Green Belt was likely to trigger almost automatic refusals by this Council for applications for entirely new sites in the district. This may lead to frequent appeals and inquiries with associated costs.

**(ii) Do you think that the draft policy is likely to have any impact, positive or negative, on travelling showpeople as an economic group?**

**Response** – Travelling Showpeople will experience increased difficulty in finding suitable and acceptable sites in the Green Belt. This may have a negative effect on their way of life and their economic operations.

**(iii) Are there any significant risks or unintended consequences we have not identified? If so please describe.**

**Response** – (i) The consultation and the impact assessment seriously underestimated the suspicion and mistrust between the settled and travelling communities in this district. The suggested approach for reducing tension, would only inflame these feelings, and would not achieve the desired results. (ii) Too much reliance was being placed on positive outcomes from collaborative working between authorities. It seemed very unlikely that participating authorities were going to agree to take another authority's pitch members, irrespective of whether this would suit individual families of the travelling community.

**(iv) Do you think there are any groups disproportionately affected?**

**Response** – Life would be tougher for the travelling community in districts such as this where the major part of the area was Green Belt, and where land values and amenity considerations meant that sites could not be found in the built-up areas excluded from the Green Belt.

The report was recommended to Council for final approval before being submitted to the Government.

**RECOMMENDED:**

(1) That subject to consultation with the Chairman of the Overview and Scrutiny Committee, a report be made to Council by the Planning Portfolio Holder, to permit a formal response to the consultation made prior to the deadline set by the Government;

(2) That a meeting be requested with the appropriate Minister to discuss the Council's experience of the previous consultation in connection with the Gypsy and Traveller Development Plan Direction, with the intention of modifying the content of the final version of the Planning Policy Statement; and

(3) That local Members of Parliament be advised of the report and the request to meet the Minister.

**8. PLANNING AND ECONOMIC DEVELOPMENT - ORGANISATIONAL CHARTS**

The Panel received the Staffing Organisational Charts for the Planning and Economic Directorate. It was noted that there were two vacancies within the Forward Planning Team, at senior officer level. The Chairman advised that there were concerns regarding filling officer posts and the recent freeze on external recruitment. It was suggested that a report should be submitted, initially to the Leader of Council, regarding these concerns. However the Portfolio Holder for Planning requested that the report should be submitted to himself initially for consideration.

**RESOLVED:**

That a report be submitted to the Portfolio Holder for Planning regarding the current policy of restricting external entrants from vacancies, particularly in Planning and Economic Directorate.

**9. SECTION 106 - AFFORDABLE HOUSING**

The Panel received a report from Mr N Richardson, Assistant Director of Planning and Economic Development, regarding Section 106 Agreements and Affordable Housing.

Section 106 of the Town and Country Planning Act 1990 allowed a local planning authority to enter into a legally binding agreement or planning obligation with a land owner/developer over a related issue. The obligation was often termed a "Section 106 Agreement."

Section 106 Agreements could act as a main instrument for placing restrictions on developers, often requiring them to minimise the impact of their development on the local community and to carry out tasks providing community benefits.

Such agreements were sought when planning conditions were inappropriate to ensure and enhance the quality of development and enable proposals that might otherwise have been refused to go ahead in a sustainable manner. They were not used to take a share of the developer's profits into the public purse, nor were they used to gain a benefit that was unrelated to the development.

**Affordable Housing**

Affordable Housing was required where a certain threshold (15 dwellings or more or where the site was 0.5 hectare or above) was reached in a single development proposal where the population of the settlement was greater than 3,000 people. The requirement in this case would be 40% of all houses would be affordable and the only way to secure this was through a legal agreement. In smaller settlements outside the Green Belt, up to 50% would be sought.

Negotiation became more complex and delayed the determination of planning applications, when community or off-site affordable housing contribution was sought. The Council had no formulae or standard charges worked up and requests made at planning committee meetings were sometimes interpreted as a take of the developer's profit and therefore not necessary or reasonable in planning terms. An affordable housing contribution should cover the difference between the value of a residential unit on the open market and the amount a housing association could pay for it to charge affordable rents. An evaluation was needed for each unit and a development appraisal based on a cash flow of a housing association managing the units over 30 years netted back to the present value.

**Performance for the Year 2010/11**

There were 7 Section 106 Agreements concluded between April 2010 and March 2011.

Benefits negotiated through the year provided:

- (1) A total of £703,400 to be received into the public purse;
- (2) In the region of 6 affordable housing units;
- (3) Various highway improvements at the developer's expense; and
- (4) Parish Council facilities

Benefits actually realised through the year have provided:

- (5) A total of £545,512 received into the public purse;
- (6) 165 affordable housing units;
- (7) Improvements to public transport facilities at the developer's expense;
- (8) Various highway works at the developer's expense; and
- (9) Town Centre improvements

**The Future**

Essex County Council had been working on proposing a "standard charge" for development within the county. This meant, for example, that for every new dwelling granted permission, they may require a standard sum of money to be paid into the public purse to cater for increased use of libraries, roads, education facilities etc. They have recently produced a "Developer's Guide to Infrastructure Contributions" and within this, there were formulae and standard charges/tariffs relevant to county services. It was sensible for this Council to adopt a similar approach, that on qualifying developments a standard sum be required to cover the increased use of leisure facilities, waste collection, affordable housing, town centre enhancement, public car parking etc. Such a policy would need to be adopted within the emerging LDF.

**RESOLVED:**

That the Section 106 Affordable Housing report be noted.

**10. COMMUNITY INFRASTRUCTURE LEVY**

The Panel received a report from Mr N Richardson, Assistant Director of Planning and Economic Development, regarding the Community Infrastructure Levy.

It was anticipated to replace Section 106 planning obligations as a means of providing payment for the provision of infrastructure in a local area. The Community Infrastructure Levy (CIL) was a new financial charge which would entitle local

planning authorities to charge on development taking place in their area. The money would be spent on local infrastructure.

After April 2014, if the Council wished to collect infrastructure charges or monies, it would formally adopt a CIL as this would be the only option available, and therefore collection through Section 106 legal agreements would no longer be possible. The CIL would include a charging schedule document prepared by the charging authority.

Monies raised under CIL could only be spent on “infrastructure,” which was defined to include the following:

- Roads and other transport facilities
- Flood defences
- Schools and other educational facilities
- Medical facilities
- Sporting and recreational facilities
- Open spaces

It was for officers to determine what was to be infrastructure in the area, and allowed flexibility to include community and cultural facilities.

Pre-requisite to making a CIL payment. Before an obligation to pay CIL could arise there were a number of sequential steps which needed undertaking and conditions satisfied before any landowner or developer would be required to make a CIL payment.

Not every planning permission would be liable to pay CIL, only specific developments defined as:

- The creation of new non-residential buildings where the gross internal floor area space was 100 square metres or more; and/or
- The creation of residential buildings, irrespective of its size

#### **Who can spend CIL?**

The charging authority could spend monies on infrastructure, but the charging authority could also pass receipts to other infrastructure providers, such as Essex County Council, Environment Agency, Highways Agency. The authority could also forward funding to other bodies, this included local councils, as well as neighbourhood groups, they must be locally “elected” bodies.

The Assistant Director of Planning and Economic Development (Policy and Conservation), was preparing a draft EFDC CIL strategy for the next Planning Scrutiny Services Standing Panel in September 2011. This would contain the preferred approaches for our District based on emerging evidence, and new guidance. It was important to add that ongoing changes to the planning system would change the course of action taken.

#### **RESOLVED:**

That the Community Infrastructure Levy report be noted.

#### **11. ANY OTHER BUSINESS**

The Planning Portfolio Holder advised that there was Local Development Framework training taking place on July 14.

**12. DATES OF FUTURE MEETINGS**

The next Panel meeting was taking place on 13 September 2011.

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## TERMS OF REFERENCE - STANDING PANEL

**Title: Planning Services**

**Status:** Standing Panel

**Terms of Reference:**

1. To consider in detail the provision of Value for Money within the following Planning Services in focusing specifically on:
  - Development Control (including Appeals)
  - Forward Planning
  - Building Control
  - Enforcement
  - Administration and Customer Support
  - Economic Development
  - Environment Team
2. To gather evidence and information in relation to these functions through the receipt of:
  - performance monitoring documents,
  - Best Value Review of Planning Services (updated version)
  - benchmarking exercises,
  - consultation with Planning Committee Members, customers and IT Suppliers.
3. To review the measures taken to improve performance within the directorate.
4. To keep an overview of work associated with securing a sound New Local Development Framework; in particular how the core strategy will cater for the adequate delivery of infrastructure of all types, the limited rolling back of the Metropolitan Green Belt, the provision of affordable housing, and the maintenance of the settlement pattern elsewhere in the District.
5. To consider what changes are practical and desirable to Council policies concerning the Metropolitan Green Belt; including those concerning the extension of existing dwellings, and the reuse of redundant and other buildings; in particular, are further restrictions necessary (changes in policy required) to ensure that such developments are truly sustainable.
6. To establish whether there are any resource implications arising out of the topics under review and advise Cabinet for inclusion in the Budget Process each year;
7. To report to the Overview and Scrutiny Committee at appropriate intervals on the above. To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.

**Chairman: Councillor H Ulkan**

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### **Report to Planning Services Scrutiny Standing Panel**

**Date of meeting: 13<sup>th</sup> September  
2011**

**Portfolio: Planning and Technology/Environment**

**Subject: Environment Agency Consultation on Managing Flood Risk in the Roding  
Catchment**

**Officer contact for further information: Ian White (01992 56 4066)/Sue Stranders (01992  
56 4197)**

**Committee Secretary: Mark Jenkins (01992 56 4607)**

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#### **Recommendations/Decisions Required:**

- (1) That the Council objects to the proposed flood risk strategy as there is insufficient detail to show and assess the short and longer term potentially detrimental effects, in terms of flood risk, on:
  - the residents of Epping Forest adjacent to the floodplain;
  - individual properties and areas of land, including land owned by the council;
  - flood zones and hence future development opportunities; and
  - ordinary watercourses within the district;
- (2) Depending on the outcome of discussions with the Environment Agency, that a further report be presented to the Planning Services Scrutiny Standing Panel and the Safer, Cleaner Greener Panel;
- (3) That a copy of the Panel's recommendations is made available to the town and parish councils listed in paragraph 1 of this report;
- (4) That consideration be given to including within the Council's response to the Environment Agency a request that urgent consideration to compensating and giving assistance to those householders who will be more at risk of flooding as a result of the Agency's proposals; and
- (5) That the procedure agreed at Overview and Scrutiny Committee on 24<sup>th</sup> January 2011 (minute 70) is used to ensure that the Panel's recommendations meet the consultation deadline.

#### **Report:**

##### Environment Agency (EA) proposals

1. The following parishes may be affected by the EA proposals on managing flood risk in the Roding catchment – Abbess, Beauchamp and Berners Roding; Buckhurst Hill; Chigwell; Fyfield; High Ongar; Lambourne; Loughton; Ongar; Stapleford Abbots; Stanford Rivers; Stapleford Tawney; Theydon Bois; Theydon Garnon; Theydon Mount; and Willingale.
2. The consultation runs from July to 26 September 2011, and the EA is seeking opinion

on its recommendations for managing flood risk in the Roding catchment. This includes Cripsey and Loughton Brooks, both of which feed into the River Roding. An officer from the EA will attend the Scrutiny Panel meeting to answer any questions which Members may raise. A Strategic Environmental Assessment (SEA) of the management strategy was published in October 2006, and an Environmental Report Addendum followed in June 2011. A short questionnaire has also been published, but this is primarily aimed at residents or owners of other properties which are at flood risk in the catchment.

3. Flooding is a natural process that cannot be entirely controlled or prevented. Climate change, urban development and decisions on managing risk all affect the likelihood and consequences of flooding. The Roding catchment has a long history of flooding – events have been recorded since 1926, with the most recent being in 2000 when more than 300 properties in the Woodford area were affected. The river rises at Molehill Green east of Stansted Airport and runs through Uttlesford and Epping Forest districts, and the London Boroughs of Redbridge, Newham and Barking, before discharging into the Thames at Barking Creek. More than 2,000 residential and commercial properties are potentially at risk in the southern part of the catchment (including the Buckhurst Hill/Loughton area). The upper part of the catchment is very rural and the natural floodplain copes well with flood water following heavy rainfall, although there are a few properties at high risk of flooding, some of which are in this district.

4. The EA is recommending three proposals, which, in combination, will improve protection of up to 1,000 properties, mainly in the Buckhurst Hill/Loughton/Woodford stretch of the catchment. The downside, from this Council's point of view, is that 15 properties in the district will be at greater risk of flooding (see para 6 below). It is important to note that the EA justifies the increase in flood risk to the properties in this district for two reasons. Firstly, the financial cost of continuing maintenance of the river is greater than repairing the damage that could be caused by flooding. Secondly, slowing the water down in the upper reaches of the catchment reduces the risk of flooding to properties in the lower catchment, so a small number of properties are negatively affected to benefit the majority.

5. The first two of the proposals have direct relevance for the district:

(i) making changes to river management and maintenance activities – this includes withdrawing all maintenance of the Roding from its entry into the district at Berners Roding to its exit into the LB Redbridge at Buckhurst Hill – ie allowing nature to take its course. The EA contends that the costs of continued maintenance outweigh the value of protection and the financial benefit provided. This does not apply to the Loughton and Cripsey Brooks where the proposal is to maintain the river channel and flood defences to the current standard of protection;

(ii) creating a large flood storage area (FSA) near Shonks Mill (south-west of Ongar) by 2020 – it would be large enough to deal with a 1 in 200 year flood event. This would involve constructing an earth embankment approximately 700 m long across the floodplain adjacent to Shonks Mill Road. The average height would be 2.5m and the maximum height would be 3.75m. The EA hopes that material to build the embankment (30,200 cubic metres) can be sourced from excavation works for surface runoff areas in Woodford. This implies that there would be lorry movements along the A113 through Chigwell, Abridge and Passingford Bridge to the Shonks Mill area, acknowledged as “increased volume of traffic including heavy vehicles on local roads” in the SEA Addendum Report. The FSA would operate like the Council owned one at Church Lane, North Weald, ie it would only flood during extreme rainfall events, and would remain in its current use (farmland) at all other times; and

(iii) improving surface water management at Woodford – all works would take place in Redbridge.

6. The EA states that some properties in the rural parts of the catchment, including the Cripsey and Loughton Brooks and the majority of properties on the Roding north of Abridge, will experience little change in flood risk. A small number of properties, especially in the northern part of the catchment, will remain at high risk of flooding. There are 15 properties in the district that will face an increased risk of flooding due to the termination of maintenance. Three are in the Passingford Bridge area, eleven around Fyfield and one at Birds Green. The EA has notified the owners of all these properties and states that it will work with them to identify ways of reducing or managing the risk. This includes flood resistance measures (eg defences) and flood resilience measures to reduce damage caused, making it easier to recover. The EA hopes that some property or land owners may wish to take on responsibility for maintaining local flood defences themselves. Officers believe that the EA should be encouraged to make appropriate financial contributions to help the owners affected by the reduction in maintenance of the river.

### Issues

7. The SEA Addendum report acknowledges that withdrawal of all maintenance and repairs will lead to, inter alia, dilapidation and eventual failure of defence structures. Over time, this would lead to increased risk to life and damage to a limited number of properties in times of extreme flood events.

8. The creation of the FSA at Shonks Mill raises issues of visual and noise impact during construction and permanent change to the landscape character of the area. It would be helpful to know for certain what route construction lorries will be taking and an estimate of the likely number of such movements needed to transport material from Woodford. There are three properties immediately downstream of the proposed FSA and therefore their flood risk status will change due to the proximity of the FSA.

9. Whilst the EA has identified 15 properties within the district that will be at increased flood risk, it has not identified areas of open land where there may also be an increased risk. These open land increases may be minor, but they could alter the boundaries of the EA's Flood Zones and the Flood Risk Assessment Zones as shown in the Local Plan Alterations (2006). This in turn could mean that some development proposals will be located in higher flood risk zones than is the case at present. In particular, this could impact upon Ongar and adversely affect its potential for future development, significantly reducing spatial options in the district. The extent of any changes to the flood zones has not been specified by the EA although it is understood that they have undertaken hydraulic modelling to determine this. Greater areas of the catchment will be at risk from flood events, making it even more important that future development is excluded from the floodplain. It is not clear if the EA has considered this potential impact on future development schemes.

10. It is also not clear if the EA has identified the risk that the 'do nothing' option will have on the ordinary watercourse network that discharges into the River Roding (a main river). For any drainage network to function effectively it must be free of obstructions along its length and at its discharge point. By terminating maintenance on the river, vegetation along its banks will gradually increase and silt will build up. This will eventually lead to the discharge point of an ordinary watercourse being blocked up and to localised flooding at some point along the ordinary watercourse. The EA is responsible for main rivers and local authorities for ordinary watercourses. The 'do nothing' option is likely to result in an increase in the Council's monitoring and enforcement activities as well as an increase in responsibility as a riparian owner.

11. The EA currently undertakes routine and unscheduled maintenance on the River Roding including weed cutting, tree and bush management and desilting. Whilst the EA is not the riparian owner of land either side of the river and is not legally responsible for maintenance, it has undertaken this in the past as the authority responsible for managing main rivers and as the national body for managing flood risk with funding for such works.

When the EA withdraws this maintenance the responsibility will again fall to the riparian landowner adjacent to the river. Riparian owners will be responsible for monitoring the riverbank condition, arranging and paying for contractors, or completing the work themselves. This will place additional burdens on riparian owners, although they are legally responsible for maintenance.

12. The Council is riparian owner for approximately two miles of river along the Roding Valley Recreation Area between Debden and Buckhurst Hill. As the River Roding is classified as a Main River, the EA is the managing authority responsible for enforcement and authorising works on the river. The Council has always been the riparian owner and as such holds a responsibility for maintaining the riverbanks. However, the Council has benefited in the past from ad-hoc maintenance work and assistance by the EA and as such there has been no clear definition of who holds the ultimate responsibility for certain aspects of maintenance in that area, eg erosion control works. Officers understand that the EA would always insist that the Council (as riparian owner) is ultimately responsible.

13. Should ordinary watercourses become blocked at their confluence with the river, the Council as riparian owner would be responsible for funding and clearing the blockages along this two-mile stretch. An increase in surface water flooding from blocked ordinary watercourses in the recreational area would be a greater nuisance to the Council and the public who use the park. With all maintenance assistance from the EA terminated there would be over time be an increased cost to the Council for maintaining this stretch of the river. This will include the areas currently affected by erosion and any potential erosion mitigation.

14. The Roding Valley Recreational Area often suffers from flooding due to overtopping of the banks of the Roding. This is simply because the recreational area lies within the flood plain of the river. It is difficult to determine what effects the EA's proposals might have on fluvial (river) flooding in this area although it is possible that the area will see a decreased risk of such flooding due to the benefit of the Shonks Mill FSA upstream – although this may not be constructed until 2020.

15. The Council also own properties (mostly housing stock) in close proximity to the river at various locations along its length, which could be at greater risk of surface water flooding from blocked watercourses.

### Funding

16. The EA states: - 'We have limited amounts of public money available to create flood risk management schemes across the country. So there is always competition for financial support. There are no guarantees about how much funding will be available and over what timescale. We have already allocated some funding from our flood defence budgets to pay towards the Shonks Mill Flood Storage Area. However, we will require further contributions from private, public and voluntary organisations and communities who will most benefit most from our work'.

17. The EA itself will carry out some of the recommendations immediately, in particular where it is planning to vary the maintenance activities along the river. However, in line with the above, the Agency will need to work in partnership to complete some of the other measures including the flood storage area at Shonks Mill. It could therefore be many years before the structures are completed. In areas where properties are at risk of flooding the EA considers that appropriate flood resistance measures could form 'part of community schemes'.

### Conclusion

18. The SEA is a complex document but there is a lack of specific detail and clarity with

regard to the potential effects the proposals may have. The consultation has therefore raised more questions than answers about managing flood risk in the Roding catchment. Given the lack of detail, the fact that the proposals include the termination of routine and unscheduled maintenance along the river which will increase flood risk within the district, officers believe that the Council should object to the recommended approach. **(recommendation 1)**

19. Officers have been trying to gather the additional information but that which has been received to date does not answer all the outstanding concerns. In order to facilitate the process it is recommended that delegated authority be given to the Directors of Environment and Street Scene and of Planning and Economic Development to enter into detailed discussions with the Environment Agency. **(recommendation 2)**

20. A further report should be presented to the appropriate panels once the EA has responded to the Council's concerns and when further details may be available. **(recommendation 3)**

**Reason for decision:**

The EA's proposed strategy has potentially adverse consequences for areas of the district, and it is therefore important that the Council responds expressing its concerns. The information contained within the EA's documents is not detailed enough to allow assessment of all the potential consequences if the recommended approach is implemented.

**Options considered and rejected:**

(a) Given the EA has carried out cost benefit analysis and the recommended approach is seen to benefit the majority of the catchment's public, the Council could support the proposals. But the strategy will have a detrimental effect on some residents and parts of the district. There are also too many 'unknowns' with regard to short and longer-term flood risks, so it is not considered to be in the best interests of the Council and its residents to support the recommended approach.

(b) Not to respond to the consultation.

**Consultation undertaken:** None by the Council

The EA has undertaken various internal consultations, and with relevant councils and agencies, and with members of the public who could be directly affected by the proposals.

**Resource implications:**

Budget provision: Currently none – but as the Council is a riparian owner there would be a resource implication in the future if increased maintenance and work is required on the River Roding/ordinary watercourses.

Personnel: Currently none – but there could be a resource implication in the future if increased inspection and enforcement is required on any ordinary watercourse that may be impacted by the proposals.

Land: Has the potential to affect land owned by the council.

**Business Continuity and Corporate Emergency Plan reference:**

If additional properties at risk of flooding, then should a flooding event arise there could be additional pressure placed upon the Council to assist residents, through for example, the provision of sand bags or related support/advice.

**Relevant statutory powers:**

Land Drainage Acts

Planning and Compulsory Purchase Act 2004  
Flood and Water Management Act 2010

**Background papers:** The EA's:

River Roding Flood Risk Management Strategy Strategic Environmental Assessment –  
Environmental Report October 2006;

River Roding Flood Risk Management Strategy Strategic Environmental Assessment –  
Environmental Report Addendum June 2011; and

Managing Flood Risk Consultation July 2011.

**Environmental/Human Rights Act/Crime and Disorder Act Implications:** None

**Key Decision reference:** (if required) Yes



## **Report to Planning Services Scrutiny Panel**

**Date of meeting: 13 September 2011**

**Portfolio: Planning and Technology**

**Subject: Developing a sustainable framework for UK Aviation. Scoping Document. Consultation.**

**Officer contact for further information: John Preston (01992 56 4111)**

**Committee Secretary: Mark Jenkins (01992 56 4607)**

# SCRUTINY



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### **Recommendations/Decisions Required:**

**To agree that the following responses be made in respect of this consultation;**

- (1) That the Council welcomes sustainability considerations being given a much greater prominence in future aviation policy;**
- (2) That the Council welcomes the decisions to reject further runways at Gatwick, Heathrow and particularly Stansted;**
- (3) That the Council notes that a new owner and operator for Stansted may be secured shortly, but that there are risks if that new owner does not continue with the local dialogue that the present owner and operator has pursued;**
- (4) That the Council will have to remain vigilant in responding to details in the new framework, and, in particular, to what this implies for Stansted, North Weald and Stapleford. Similarly, changes to the impacts of night time flight restrictions could have positive or negative impacts which will require further consideration;**
- (5) That the Council considers whether it would favour concentration of aircraft descent paths, or whether it favours wider dispersion, and then to answer question 44 directly.**
- (6) That the procedure agreed at Overview and Scrutiny Committee on 24 January 2011 (Minute 70) is used to ensure that the Panel's recommendations meet the consultation deadline.**

### **Report:**

1. The Department for Transport is consulting on this document, in particular because it suggests that the previous Government's 2003 White Paper entitled The Future of Air Transport is fundamentally out of date, because it fails to give sufficient weight to the challenge of climate change.
2. The 2003 White Paper was a considerable document in its own right, but was supported by a raft of daughter documents, and was preceded by a South East Regional Airports Study (SERAS).
3. SERAS2 was considered by Cabinet on 30 June 2003 in a substantial report, with a considerable number of agreed recommendations; a copy of that report is attached as an

appendix to this report. It can be seen from that report that, whilst the description “sustainable” was beginning to be used, there were many points that challenged whether the treatment of air travel compared to other forms of travel was fair (for example the taxation of aviation fuel compared to taxes on other vehicle fuels).

4. Among many points, this Council expressed objections to the expansion of Stansted, and in particular to the magnitude of the possible expansion of Stansted which that White Paper envisaged (perhaps the most worrying being long term options predicated upon greatly increased air travel showing Stansted to have four parallel runways with the existing terminal expanded to serve two such runways and a complete new terminal of similar scale to serve two further runways.)

5. It is worth recalling that there was a subsequent legal challenge to the White Paper by objectors groups, and that one of the key points in that challenge was that air travel was not being treated in a sustainable and consistent manner compared to other modes of travel.

6. One might reflect that, by showing such specific plans for the future, the then Government was being open and transparent about such scenarios.

7. Stansted was subsequently granted permission after a Public Inquiry to increase its capacity to 35 million passengers per annum (MPPA) using the existing single runway. The British Airports Authority (BAA) were the then operators of Heathrow, Gatwick and Stansted but were forced to sell Gatwick, and are being forced to sell Stansted.

8. Proposals for expansion of Stansted to include a second parallel runway (known briefly as the G2 scheme) were heading to a Public Inquiry, but BAA eventually withdrew those proposals.

9. The Coalition Government quickly made it clear upon coming to power that they would not approve a second runway at Gatwick or Stansted, or a “third runway” at Heathrow.

10. The economic climate has seen reduced air travel, particularly at Stansted for the time being, albeit that the detailed analysis which underlay the 2003 material showed that changes in the economic cycle or other factors such as wars or terrorism had short term rather than long term impacts; in general, over time air travel has consistently increased.

### **The proposals in the consultation**

11. This consultation is neither an attempt to revisit all the detail of the 2003 material, nor to bring the information up to date, nor to make lesser options or predictions. Although the foreword indicates that there is an urgent need for a genuinely sustainable framework to guide the aviation industry, the document is not a draft of that.

12. Rather, this document is more a synthesis of points that the Government wishes to make, and which herald work that is being undertaken on many factors, but which have not reached conclusions. The stated aim of the document is to define the debate as the Government develop their long term policy for UK aviation.

13. The document contains sections giving statistics and some commentary on;

### **Aviation and the economy**

- The UK aviation sector of the economy.
- UK connectivity.
- Making better use of existing capacity.
- Aviation’s contribution to sustainable economic growth.

## **Aviation and climate change**

- Information on Greenhouse Gas Emissions.
- The Climate Change Act.
- UK Aviation CO2 emissions.
- European Union Emissions Trading System.
- International agreements.
- Aircraft Technology.
- Airspace management.
- Biofuels.
- Alternatives to travel.
- Non – CO2 climate impacts of aviation.
- Adapting to climate change impacts.

## **Aviation and the local environment**

- Community involvement.
- Noise.
- Night noise.
- Air Quality.

14. It is difficult to comment further or take issue with the statistics, or suggest that the list is other than what one might expect.

15. There is a list of 49 questions, at least some of which might make good examination questions, and would require a considerable effort to answer sensibly. It is not proposed to respond to this consultation in that way.

16. However, attention is drawn to the 44<sup>th</sup> question, which is;

Is it better to minimise the total number of people affected by aircraft noise (e.g. through noise preferential routes) or to share the burden more evenly (e.g. through wider flight path dispersion) so that a greater number of people are affected by noise less frequently?

17. At present aircraft can have many origins, but would proceed fairly directly to their destination. They will then, potentially have to be stacked, which involves circling, and descending in stages, before being slotted by National Air Traffic control, and then making a final approach to Stansted. One can characterise that as being quite a dispersed pattern, and hence the noise can be experienced by different locations at different times and on different days or nights.

18. It would be possible to seek a more concentrated and direct descent (which would be less noisy and with less change of noise as the aircraft descends gradually turning less); however, a consequence of such concentration would be that a location such as Nazeing may be under the flight descent on a regular basis rather than an occasional basis.

19. The Council receives very few noise complaints directly about aircraft noise, although BAA Stansted has a noise complaints and investigation system. That said, it is important not to over emphasise this as an issue. Members may have views on this.

## Concerns

20. The Government suggests that part of its philosophy is to make existing airports better rather than bigger; at a general level that is difficult to take issue with. Indeed the new owners of Gatwick have and will operate that airport differently from how BAA would have done. However, whilst a new owner of Stansted may have some different approaches, it is more difficult to see radical change. A fundamental facet of the design of Stansted has always been to have short journeys from arrival points through the terminal to the planes, and the entire structure was intended to be light, airy and give clear views through much of the terminal building. It has also tended to concentrate on closer destinations, and operates more for budget operators than national carriers. It is difficult to envisage how one could eke out much more capacity by doing things better at this site, so it might come under pressure for expansion sooner than those airports which can be made better before they are necessarily made bigger.

21. Some would argue that aviation is very unsustainable for short flights compared to high speed rail (see paragraph 17 of the 2003 Cabinet report). However, there are considerable tensions about further expansion of High Speed Rail through the Chilterns, so until an alternative exists, one may have to accept the devil already known.

22. In other planning documents, the Government is placing weight on sustainability (but without necessarily indicating which definition of sustainability is being used.) If sustainability means a reference to all three economic, social and environmental considerations/dimensions then that is fair enough. However, if it is meaning that economic considerations trump the other considerations then that is a different matter.

23. The Government is separately consulting upon a new National Planning Framework, which is intended to be a brief document rather than equivalent to the works of Shakespeare. However, this document at paragraph 2.17 indicates an intention that the final aviation framework document will fulfill the role of a national planning policy for aviation. Quite how "pro" growth of aviation it will be, set against environmental concerns, and the views of local communities who get benefits when they fly, but who suffer the effects of aviation, remains to be seen.

24. The major expansion of Stansted was always locally considered to be a possible future threat to North Weald. However, this document is of no assistance in understanding a Government view of a particular airfield's further development. Stapleford Abbots was granted permission for a small section of surfaced runway, but the expansion of that has been resisted by the Council previously. How would one deal with a planning application for that expansion if it was put forward under the philosophy that it is only making that airfield better not bigger? Perhaps there would have to be a "hierarchy" of airfields.

25. In briefly re reading the responses of this Council to the 2003 material, it is unfortunate that the previous Government did not give greater weight to the points that were made then, because many of them remain just as valid eight years later.

### **Reason for decision:**

26. The Council has long had concerns about how Stansted could develop because the District experiences limited direct benefits, but receives some adverse consequences from Stansted. (such as aircraft noise, particularly at night and in parts of the District near the descent paths of aircraft; limited employment provision, and poor direct public transport links.)

27. It is understood that there will be a further consultation on amended night time flying restrictions, which the Council will be likely to have an interest in.

28. Air quality impacts and take off routes are not normally of direct relevance to this Council.

29. BAA do seem to have been able to encourage quieter passenger and freight aircraft to be used, and have been receptive to a dialogue with local communities; a new operator would preferably continue that approach.

30. The District has seen threats from aviation proposals in the past, and has two operational airfields (North Weald and Stapleford Abbots) of some magnitude, and of at least local interest, particularly because of their history associated with the defence of Britain.

31. It is difficult to suggest many responses to this particular document, but at a later date the Council will have to keep an eye on the subsequent final aviation framework document and respond to consultation thereon.

**Options considered and rejected:**

Not to respond to the consultation.  
To respond differently to the consultation.

**Consultation undertaken: None; EFDC is a consultee in this case.**

**Resource implications:**

Budget provision: N/A  
Personnel: From existing resources  
Land: Nil

Community Plan/BVPP reference:  
Relevant statutory powers:

Background papers: Environmental/Human Rights Act/Crime and Disorder Act Implications:  
The framework heralds other documents which will give more detail on how the environmental impacts of aviation can be handled more sustainably in future.  
Key Decision reference: (if required)

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**29. THE FUTURE DEVELOPMENT OF AIR TRANSPORT IN THE SOUTH-EAST – SECOND EDITION**

The Planning and Economic Development Portfolio Holder presented a further report on "The Future Development of Air Transport in the South-East (SERAS)" consultation by the Government. A number of comments had previously been sent to the Department of Transport as the District Council's response to the consultation. In its initial consultation the District Council had asked that Gatwick Airport also be taken into account and its viability for expansion be assessed to allow comparisons of airports on a like for like basis. A Judicial Review was sought by Essex County Council, Kent County Council and Medway Council to include Gatwick in the consultation, and at the end of November, the High Court had determined that it was wrong to exclude from that consultation options for the development of new runways at Gatwick. The Government had decided not to appeal this judgement and as a result a second round of consultation had begun, including options looking at new runways at Gatwick Airport. The Portfolio Holder advised that following this second consultation it was still the intention that a Government White Paper would be produced that would formulate a UK airport policy and new policies on civil aviation. Members felt that the observations previously made were still relevant and should be reaffirmed in the proposed response as well as additional observations about constraining or managing air travel demand and the importance of surface public transport links.

**Decisions:**

(1) That the Department of Transport be advised that the District Council reaffirms its previous views about air transport taken by the full Council on 26 November 2002, namely:

(a) urges the Government to reject the 'predict and provide' approach and introduce measures to constrain unfettered air travel demand in order to better match air transport provision generally with environmental and infrastructure capacity in a sustainable manner; and therefore not assume an overriding need to provide a second or alternative hub;

(b) urges the Government to direct proactively demand to regional airports elsewhere in the country, where there is potentially greater capacity and local benefit e.g. Doncaster;

(c) stresses that, so far as Stansted is concerned, the consultative documents and the cost/benefit analysis therein fail to deal adequately with a fundamental issue, namely the adverse impacts of large scale urbanisation, economic stimulus and traffic generation upon the predominantly rural character and limited infrastructure of West Essex/East Herts - long recognised as a fundamental constraint for strategic planning purposes (the outcomes of the current development capacity studies of the central part of London – Stansted – Cambridge corridor must be taken into account); in addition, noise disturbance is particularly intrusive in a rural (as opposed to urban) environment; and no account has been taken of the provision of education or health services;

(d) is therefore opposed to any further runways at Stansted;

(e) is of the view that:

(i) any further significant increase in passenger numbers at Stansted should be accompanied by appropriate new public transport links at a very early stage in order to ensure adequate and sustainable access comparable with other airports; and

(ii) whilst maintaining opposition in principle to further runways a second runway not located close to the existing runway will result in unnecessary land-take;

(f) seeks firm assurances that sites within Epping Forest District rightly discounted at the preliminary site search stage will not be revisited; and

(g) seeks clarification about operational consequences of Stansted expansion for future aviation use of North Weald and Stapleford Airfields.

(2) That in addition to (1) above and having regard to the second edition consultation document the Government be urged to:

(a) review tax exemptions currently in place for the aviation industry so that these are withdrawn over a phased period to provide a level playing field for all transportation types;

(b) introduce significant public transport links between the UK's largest airports so as to allow more flexibility in travel choice;

(c) introduce significant additional public transport links to all UK airports, to increase a shift in modal use away from cars as the primary method for both employees and travellers getting to UK airports.

(3) That members would oppose any further runways and note that a non-land based option has not been put forward by the Government; and

(4) That the Council's observations to the Department of Transport be made known to local MPs and to other Essex authorities.

#### **Reason for Decision:**

The Cabinet considered it vital to make comments on proposals with such far-reaching implications because ultimate guidance would influence the future development in and the protection of this District.

#### **Other Options Considered and Rejected:**

The only other option was to make no response to the Government consultation. This was rejected because this would fail to record the views of the local community and the Council.



## **Report to Planning Services Scrutiny Standing Panel**

**Date of meeting: 13 September 2011**

**Portfolio: Planning and Technology**

**Subject: Essex County Council Minerals Development  
Document – Further Site Allocations Issues & Options Paper**

**Officer contact for further information: Sarah King, Senior Planning Officer (01992 564347)**

**Committee Secretary: Mark Jenkins (01992 564607)**

# SCRUTINY



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### **Recommendations/Decisions Required:**

- (1) To note the potential impacts of the new proposal for a Strategic Aggregate Recycling Site (SARS) at Weald Hall Commercial Centre within Essex County Council's Minerals Development Document Further Site Allocations Issues & Options Paper;**
- (2) To agree the proposed response to the only relevant consultation question (no. 4);**
- (3) To agree that any amendments to the final response necessary following receipt of comments from Land Drainage officers are agreed with the Planning and Technology Portfolio Holder and the Chair of Planning Scrutiny Standing Panel; and**
- (4) That the procedure agreed at Overview and Scrutiny Committee on 24 January 2011 (Minute 70) is used to ensure that the Panel's recommendations meet the consultation deadline.**

### **Report:**

#### Background

1. Essex County Council (ECC) is responsible for preparing the County level Minerals and Waste Development Framework (MWDF). As part of this framework, ECC is working towards a new Minerals Development Document (MDD) to replace the existing Minerals Local Plan (1996). The MDD is required by Government to plan for a steady and adequate supply of minerals in Essex to meet the County's current and future needs to 2028. It will identify suitable sites for mineral extraction, aggregate recycling, and mineral transportation.
2. Several stages of consultation have taken place since 2005. The Issues & Options stage(s) identified many potential new sites, two of these were within Epping Forest District (site A40: Land at Shellow Cross Farm, Elm Farm and Newland Hall Farm, Willingale, and site A41: Patch Park Farm, Abridge). Members received reports at these previous stages, and the Council submitted a formal response objecting to these sites.
3. The next stage of consultation, the 'Preferred Options' in 2010 whittled the proposals down to ECC's 'preferred' sites. Site A40 was removed from the proposals, but site A41 remained in the document. The next opportunity to comment on site A41 will be the Submission consultation to be held in 2012, if it remains in the consultation at this stage.

4. As part of the Preferred Options, ECC invited consultees to suggest any other potential sites which had been overlooked. It is now consulting on the five new site suggestions received. The consultation closes on 20 October 2011.

The new site proposed within Epping Forest District

5. The only new site suggestion within Epping Forest District is at Weald Hall Commercial Centre, on Weald Hall Lane, between Thornwood and North Weald. The proposal is that this site becomes a 'Strategic Aggregate Recycling Site' (SARS). For the purposes of this document, 'aggregate' is defined as 'crushed rock, or sand and gravel, used in civil engineering work in a bound (as concrete) or unbound condition'. The plan of the site included within the consultation document is included at Appendix 1.
6. It is proposed that the facility would recycle construction, demolition and excavation waste from construction sites. This would involve screening (separating particles of different size), crushing (breaking up materials, e.g. concrete) and washing (washing fine materials off coarser gravels etc.). The estimated annual throughput (the amount of material to be recycled at the site) is 100,000 tonnes.
7. Only one of the new proposed sites is within, or anywhere near, Epping Forest District. Thus it is suggested that only the question relating to this site is answered in the Council's response.
8. The County Council recommends considering certain criteria in formulating a response. Each criterion is addressed in turn below, with respect to the Weald Hall Commercial Centre site:
  - i. *Mineral resource and timetable.* It is proposed that the site is used for recycling existing construction, demolition and excavation waste; nothing would actually be extracted from the ground on the site. However it is suggested that the site would be a permanent facility, lasting beyond the current plan period.
  - ii. *Planning history / background.* This site is currently in employment use (it comprises many commercial business units, occupied by various businesses) although it is not designated as an employment site within the Local Plan. The Council's general policy seeks to safeguard existing employment sites. Usually, a change of use of the land would only be permitted if it had been shown that the site was unsuitable for employment, there were conflicts with adjoining land uses, the premises were unsuitable for a modern business, or there was a demonstrable lack of market demand for the site in its current use. It would also have to be shown that there were very significant development or infrastructure constraints making the site unsuitable for employment purposes. It appears that no consideration has been made of whether the existing businesses could partly remain on site, or could be relocated locally.
  - iii. *Landscape.* The site is entirely within the Green Belt. ECC propose to use the existing buildings for the recycling process, and that outside storage would be minimal. Planning Policy Guidance note 2: Green Belts requires, among other things, that the re-use of buildings within the Green belt '*does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it*'. The use of this site for aggregate recycling could have a materially greater impact, through increased HGV vehicle movements bringing material to and from the site. The emerging National Planning Policy Framework, which will replace existing Planning Policy Guidance notes and Planning Policy Statements (PPS), has a similar approach to Green Belt policy.

This Council's Landscape Character Assessment (2010) identifies the area of this proposal as being within 'F5 Ridges and Valleys (North Weald). It states that '*Sensitive key characteristics and landscape elements within this Landscape*

*Character Area include hedges, hedgerow trees and species-rich verges.....overall this Landscape Character Area is considered to have **moderate** sensitivity to change. Guidelines within the document seek to 'Conserve the landscape setting of North Weald' and 'Maintain characteristic open and framed views across the area'. While this proposal is not for new buildings, it would involve the external storage of materials and increased vehicle movements, which could oppose these aims.*

- iv. *Ecology and Designations.* Officers are not aware of any ecological issues, or designations other than those answered in other points.
- v. *Historic environment.* Weald Hall Farmhouse, which is on the proposed site, is a Grade II listed building. Planning Policy Statement 5: Planning for the Historic Environment states that when considering applications which will not make a positive contribution to the setting of a listed building, one should '*weigh any such harm against the wider benefits of the application*'. Again, the emerging National Planning Policy Framework has a similar approach. Although the building is already in close proximity to buildings in employment use, the Conservation Officer feels that the setting of this listed building could be adversely affected due to the likely increase in traffic movements and the type of vehicle likely to be used (HGVs). Outside storage of aggregate materials could also put further pressure on the listed setting.
- vi. *Agriculture.* It is not thought that the proposal would cause significant impacts on local agriculture, as the land is not currently in agricultural use.
- vii. *Proximity to sensitive uses.* The entrance to the site is directly opposite two residential houses, and within 130 metres of Weald Hall Nursing Home. The use of the site for aggregate recycling could potentially be disruptive to residents in these buildings. The hours of operation would need to be reasonably restricted. Furthermore, the site is directly adjacent to North Weald Airfield (see criterion (x)).
- viii. *Water / hydrology / flood risk.* Views have been sought from the Land Drainage team on potential issues, however the lead in time for this report was too short to allow a reply to be made. An oral update on any comments received will be made at the panel meeting.
- ix. *Traffic and transportation.* As noted in criterion (iii), the proposal could result in a significant increase in vehicle movements to and from the site, mostly by HGVs. The proposal is to use the existing (thought to be private) access road to the north east of the site, which leads up to Canes Lane (the A414). This small road is unlikely to be suitable for the amount of traffic likely to ensue. Furthermore, the traffic would join a busy stretch of the A414, without an adequate junction. It is considered that a protected right hand turn lane would be required.
- x. *Recreation.* North Weald Airfield, directly adjacent to the site, is currently used for recreational rather than commercial flights, and is also home to a flight school, as detailed in the recent Halcrow 'North Weald Airfield Intensification Study'. The amenity of these various uses could potentially be affected by the proposal. Please see criterion (xi) for more comments.
- xi. *Amenity and Pollution.* The proposal would involve screening (separating particles of different size), crushing (breaking up materials, e.g. concrete) and washing (washing fine materials off coarser gravels etc.) of aggregate materials, which could give rise to pollution in the air, which may affect the use of the adjacent airfield. Similarly, the HGVs transporting material to and from the site could cause air pollution. There is also a form of clubhouse on the airfield, on the southern boundary of the proposed site, whose amenity could be adversely affected by the increase in noise. However, it is possible that this would not be significant, as the existing use of the airfield must

generate significant noise, however, hours of operation would need to be reasonably restricted.

The Contaminated Land Officer reported that the site has been identified as a potentially contaminated site due to its former use as a farmyard, its use by various industrial units, the presence of made ground and bunds, and the presence of backfilled ponds and a moat (the moat is shown on 1799 2" OS map, the County Series 25" and 6" maps from the 1860s until the 1940s and appears to still be present on the RAF 1945 Aerial Photography, although the photograph of the airfield has been altered by the RAF for security purposes, so may be of archaeological interest. The archaeological team at Essex County Council would need to be consulted about any works to this site.). There is also the potential for enemy bombs that targeted the airfield during WWII to have landed on site and also for munitions waste to have been buried on the site if Weald Hall was used by the military at that time (a dropped bomb was unearthed by EFDC contractors putting in a water pipe at the airfield and cases of buried phosphorous grenades were unearthed when the new access road was put in by EFDC at the airfield).

PPS23 specifies military and industrial use as potentially contaminating uses and made ground as a potential source of contamination and advises that where any of these are identified that an appropriate land contamination risk assessment is submitted with any planning application.

- xii. *After-use and Restoration.* It is not thought that this criterion applies in this case, as the proposal is that the site would be permanent. However, should the site cease in the proposed use, it will remain in the Green Belt and any subsequent use must be in accordance with this and other relevant policy.
- xiii. *Other potential benefits of the site.* Officers are not aware of any 'other potential benefits'.

#### Suggested response to consultation questions

- 9. Only question 4 relates to the Weald Hall Commercial Centre site. It is not proposed that answers are given to the other five questions, four of which are specific to sites far outside the district, and one of which is a general 'any other comments' question.
- 10. Question 4 has three parts as below. The proposed answers to these parts are shown in bold:
  - a) *Do you support this potential Strategic Aggregate Recycling Site?*  
**No**
  - b) *Do you object to this potential Strategic Aggregate Recycling Site?*  
**Yes**

**This is an unsuitable location for a Strategic Aggregate Recycling Site. This site is currently in commercial employment use, and the proposed use is likely to create/sustain fewer jobs by comparison. This Council would seek to safeguard this site as an existing employment location.**

**The site is entirely within, and encircled by, the Green Belt. Planning Policy Guidance note 2: Green Belts requires that the re-use of buildings within the Green Belt 'does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it'. The use of this site for aggregate recycling could have a materially greater impact, through significant HGV vehicle movements transporting aggregate. The**

emerging National Planning Policy Framework, which will replace existing Planning Policy Guidance notes and Planning Policy Statements (PPS), has a similar approach to Green Belt policy. This Council's Landscape Character Assessment (2010) identifies the area of this proposal as being within 'F5 Ridges and Valleys (North Weald), and to *'have moderate sensitivity to change'*. The Council is concerned that the proposal would impact negatively on the landscape character of the area, through the external storage of materials and the increased vehicle movements.

Weald Hall Farmhouse, which is on the proposed site, is a Grade II listed building. Planning Policy Statement 5: Planning for the Historic Environment states that when considering applications which will not make a positive contribution to the setting of a listed building, one should *'weigh any such harm against the wider benefits of the application'*. Again, the emerging National Planning Policy Framework has a similar approach. This Council feels that the setting of this listed building could be adversely affected by the proposal, especially by increased vehicle movements and the outside storage of aggregate materials. ECC's Archaeological team should be consulted regarding the former moat on the site, which is thought to have been backfilled around WWII. The Council is aware that the site could potentially be contaminated due to former uses. PPS23 specifies military and industrial use as potentially contaminating uses and made ground as a potential source of contamination and advises that where any of these are identified that an appropriate land contamination risk assessment is submitted with any planning application.

The entrance to the site is directly opposite two residential houses, and within 130 metres of Weald Hall Nursing Home. The use of the site for aggregate recycling could harm the amenity, visual and otherwise, of residents of these buildings. The hours of operation would need to be reasonably restricted. Furthermore, the site is directly adjacent to North Weald Airfield, currently used for recreational commercial flights, a flight school, and is home to a clubhouse. This Council would want to be assured that the proposed screening, crushing and washing of aggregate materials would not lead to poor visibility on the airfield due to particulates in the air, or to a loss of amenity for these existing uses.

The proposal seeks to use the existing (private) access road to the north east of the site, which leads up to Canes Lane (the A414). This small road is unlikely to be suitable for the amount of HGV traffic likely to ensue. Furthermore, the Council is concerned that the traffic would join a busy stretch of the A414, without an adequate junction. It is considered that a protected right hand turn lane would be required.

It is not thought that after use and restoration applies in this case, as the proposal is that the site would be permanent. However, should the site cease in the proposed use, it will remain in the Green Belt and any subsequent use must be in accordance with this and other relevant policy.

This Council is very concerned that this proposed site is not included in the Sustainability Appraisal and Strategic Environmental Assessment Statement. The consultation document states that 'All SARS sites will be included in the SA/SEA Environmental Report which will accompany the MDD: Submission Draft'. It is far too late to consider the sustainability and environmental affect of a proposal only once the Submission stage of consultation is reached. The impact of such a proposal should be assessed from the start of the process, as with all the other proposed sites. Potential SARS sites suggested in the

**Preferred Options stage of the MDD were discounted for various reasons, as listed in the MDD Preferred Options Appendices Volume 1 document - Appendix D. Several of the reasons apply equally to the Weald Hall Commercial Centre site (within the Green Belt, concerns over access), and yet no assessment has been carried out.**

**It appears that the site may meet one of the County Council's criteria for SARS sites, in that it is near to a Key Centre for Development and Change (Harlow) as designated by the East of England Plan. However, the Government has made it very clear that once the Localism Bill is enacted later this year; all such Regional Spatial Strategies will be revoked. Therefore Harlow will cease to be a Key Centre for Development and Change, and will not necessarily be the focus of the amount of development that has been mooted in the past.**

*c) If [you answer yes to] b), are there any changes that could be made to this proposal that would make it acceptable to you?*

**No**

**Reason for decision:**

To respond on the proposals within the consultation document, in order to ensure that Epping Forest District's interests are considered as County level minerals development proposals are refined.

**Options considered and rejected:**

Not to respond to the consultation, however, this would risk any potential impacts of the proposed development on Epping Forest District being overlooked by Essex County Council.

**Consultation undertaken:**

The consultation document has been discussed by Forward Planning officers, and is being brought to the Scrutiny Standing Panel for consultation with Members.

**Resource implications:**

Budget provision:

Not applicable, as Essex County Council is responsible for Waste and Minerals matters for the area of Epping Forest District.

Personnel:

Not applicable for the purposes of this report; the consultation document was prepared by Essex County Council staff.

Land:

The potential use of the site at Weald Hall Commercial Centre could affect land owned by the Council, as it is directly adjacent to North Weald Airfield.

Community Plan/BVPP reference:

None relevant.

Relevant statutory powers:

Planning and Compulsory Purchase Act 2004

Minerals Policy Statement 1: Planning and Minerals and Planning (MPS1)

Background papers:

[Essex County Council Minerals Development Document – Sites Allocations \(further\) Issues & Options \(August 2011\)](#)

[Essex County Council Minerals Development Document – Sites Allocations \(further\) Issues & Options Paper – Sustainability Appraisal & Strategic Environmental Assessment \(August 2011\)](#)

[Essex County Council Minerals Development Document – Preferred Approach \(December 2010\)](#)  
[Report to Planning Services Scrutiny Standing Panel 10/01/11 \(item 58\)](#)  
[Report to Local Development Framework Cabinet Committee 09/11/09, LDF-004-2009/10](#)  
[Planning Policy Guidance note 2: Green Belts](#)  
[Planning Policy Statement 5: Planning for the Historic Environment](#)  
[EFDC Landscape Character Assessment](#)  
North Weald Airfield Intensification Study (Halcrow)

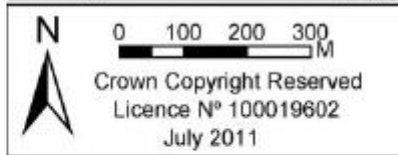
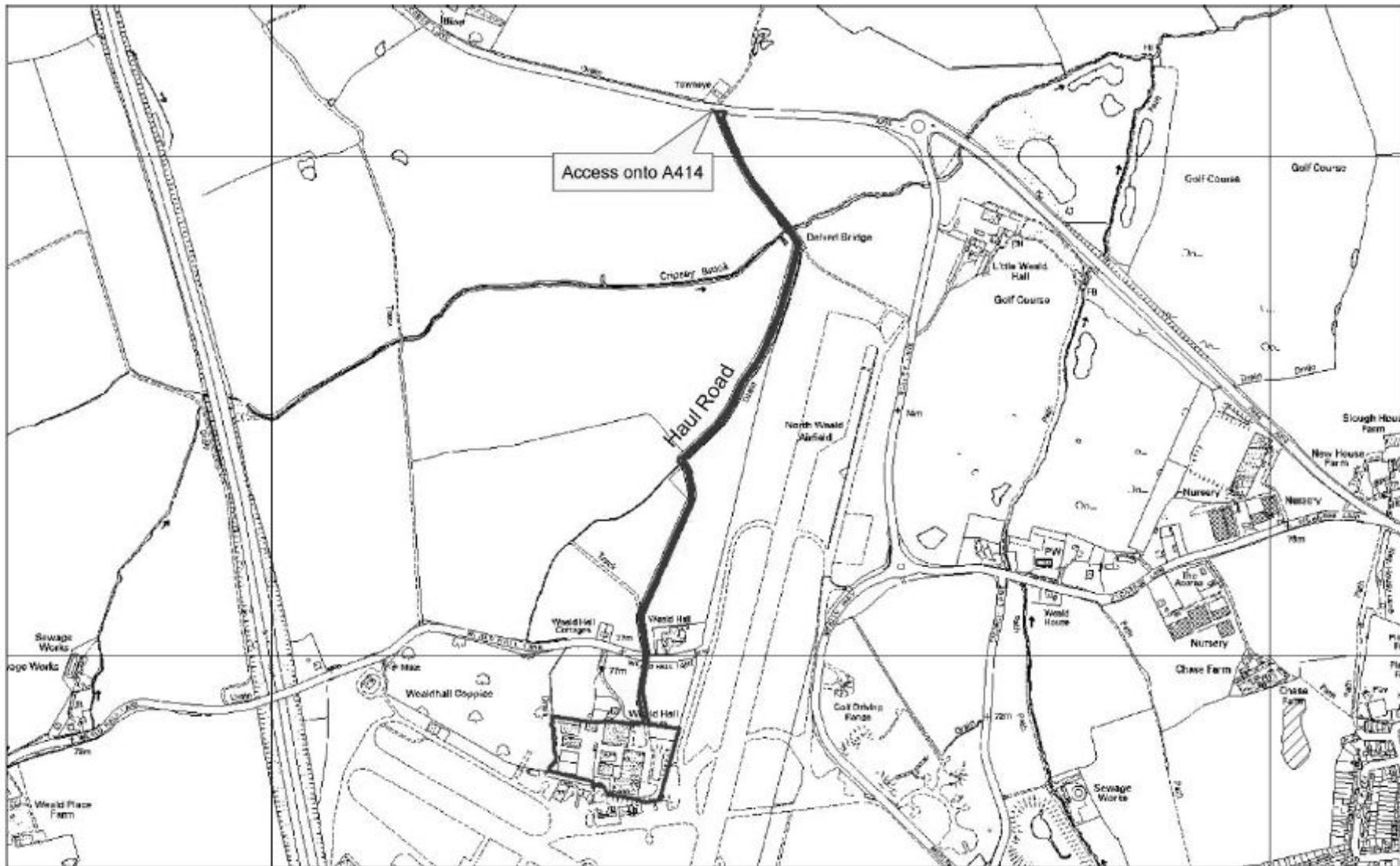
Environmental/Human Rights Act/Crime and Disorder Act Implications:  
Use of the Weald Hall Commercial Centre site for Strategic Aggregate Recycling could have significant local environmental impacts, caused by the recycling itself, and by increased HGV movements on local roads.

Key Decision reference: (if required)  
Not applicable.

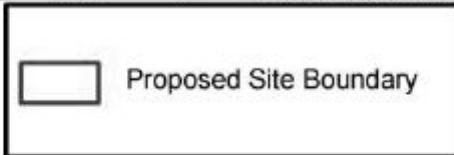
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### Map 4 Site G7: Weald Hall Commercial Centre



**Weald Hall Commercial Centre  
Strategic Aggregates Recycling Site  
G7**



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## **Report to Planning Scrutiny Panel**

**Date of meeting: 13<sup>th</sup> September 2011**

**Subject: Locally agreed Fee Setting for Planning Services**

**Officer contact for further information: Peter Millward (01992 56 4338)**



**Committee Secretary: Mark Jenkins (01992 56 4607)**

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### **Recommendations/Decisions Required:**

- (1) To consider and note the details and progress made in enabling local fee setting for Development Control carried out in conjunction with CIPFA and Planning Advisory Services and;
- (2) To note, that the earliest effective date for any increase will take place within the 2012-13 financial year and the resource/financial implications of this.

### **Report:**

1. (Head of Planning and Economic Development) This report concerns the development of locally agreed Planning Fees against a background where the last planning fees increase took place in March 2008. Current arrangements for the local setting of planning fees is being lead by Planning Advisory Services who initially advised that legislation to enable this was due to be presented for approval by Parliament in August 2011. Unfortunately this has now been postponed and the latest advice is that enabling legislation is likely to be presented to Parliament for approval in April 2012. It is only after this legislation has been passed by Parliament, that the council will be in a position to locally set planning fees. It is also expected that part of the process will involve consultations with councillors and other stakeholders. As a result the anticipated increase in planning fees should take effect towards the end of the first quarter of the next financial year 2012–13. However the timing and whether this takes place at all is dependent on Parliament passing the required legislation.
2. This delay will have an effect on the Development Control Budgeted Income this financial year which was increased by £100 000 for 2011-12 with a further £100 000 added to the 2012-13 budget in the expectation that there would be an increase in Planning Application Fees in the 2011-12 financial year. As a result of the delays in the implementation of the enabling legislation, Development Control Planning Fees will not be increased in the current financial year which may create a shortfall in the budgeted CSB income for 2011/2012 of £100,000. Currently Development Control income is carefully monitored on a monthly basis and is ahead of budget by £40,000 mainly as a result of a number of significant applications for glasshouses.
3. An important element of locally setting Planning Fees is the full cost recovery of all planning fee earning activities. The Planning and Economic Development Directorate has been working with Planning Advisory Services (PAS) to coordinate the development of a low-cost model for local fee-setting process for planning applications. This is being carried out in conjunction with CIPFA and over two hundred local authorities to facilitate the locally agreed setting of planning fees. For the purposes of transparency and accountability, this model is benchmarked both against other local authorities across the country as well as part of a comparator process, where Local Authorities are able to select “Nearest Neighbours” who are considered to be similar in size and geographical location to compare both planning fees and costs with.

4. Local fee setting is necessary to protect “good planning” by ensuring adequate resources are applied to deliver effective and efficient services. As a result Epping Forest District Council needs a robust, transparent process to demonstrate to customers and residents what they are paying for, when making Planning Applications. The proposed benchmarking of comparative data provides such transparent information about both fees and costs in a way that promotes accountability, value for money and efficiency to drive forward productivity. However implementing cost recovery in Planning, is less sharply defined than in other regulatory services such as Building Control and clear guidance is therefore required to help ensure that costs are recovered in a fair way given the lack of choice for customers.
5. In order to develop a suitable “fit for purpose” Fee Charging Model for Planning Services, there is a need to understand how much our planning processes cost and whether the resources are available in the right place and at the right time to deliver high quality Planning Services. The main driver behind exploring different models of delivery is the need to reduce costs and make savings. However it is essential that this is carried out within a framework of customer and stakeholder service satisfaction. It is proposed that this should take place by changing the direction of planning services from outcome-based to a common sector benchmarked framework that meets customer and residents needs. Within this approach the cost recovery element for fee earning activities will help to reduce the burden of planning costs on local council tax payers in Epping Forest District.
6. It is proposed that Epping Forest District Council be able to set their own fees based on the cost model developed with CIPFA and Planning Advisory Services. This model is considered to be a low cost, self service model that is benchmarked with other Local Authorities to ensure transparency, which is fit for purpose and ready for implementation. Planning, like most public services, is being expected to maintain service, productivity and performance levels with less money. Benchmarking helps councils to respond to this by providing useful, comparable information about the real costs of providing the service. It does this by measuring costs of services, productivity, and performance and compares this with other local authorities. This fee setting arrangement seeks to achieve full cost recovery of all Development Control Fee Earning activities and lessen the burden on local council tax payers.
7. Currently the costs to participate in the CIPFA Benchmarking Club, is under £500 per annum, 50% of which is subsidised by Planning Advisory Services. Epping Forest District Council joined the CIPFA Benchmarking Club in October 2010 and participated in the first CIPFA Benchmarking exercise from 1<sup>st</sup> to 26<sup>th</sup> November 2010 along with 89 other local authorities. As this was the first exercise based on time recording of planning activities a number of improvements were identified. As a result a far more accurate exercise was carried out from 27<sup>th</sup> June to 22<sup>nd</sup> July 2011. The proposed benchmarking comprises of two key elements, the cost per hour and the average time each planning application takes in hours or part thereof. As a result planning applications will then be categorised in a completely different way of numbering with the new locally set planning fees calculated in the format of A x B (where A is the cost per hour and B is the hourly resource calculation per application type). The Benchmarking exercise requires that the Cost Model – Recoverable Costs must balance with the Fees Model – Projected/Proposed Fees so as to achieve full cost recovery of fee earning planning application activity.

**Reason for decision:**

To report on the progress of Local Fee Setting as presented to Planning Scrutiny on 10<sup>th</sup> January 2011.

**Options considered and rejected:**

Do not implement Local Fee Setting. This is not an option as the current arrangements for Planning Fees with Planning Advisory Services will cease to have legislative effect from the 1<sup>st</sup> October 2012.

**Consultation undertaken:**

Management Board/Cabinet Members Session, 15<sup>th</sup> December 2010 item number 189.

Proposals for Changes to Planning Application Fees in England Consultation presented to Planning Scrutiny Panel by Assistant Director Development Control 10<sup>th</sup> January 2011. The summary of that consultation document is attached for ease of reference.

Finance and ICT Service – An increase in Planning Fees is supported by Finance (RS)

**Resource implications:**

This will have an impact on the level of Development Control Budgeted Income for both 2011-12 and 2012-13. As a fee increase is subject to statutory approval the earliest possible date this will take place is in April 2012. This will have an impact on the level of Development Control Budgeted income for both 2011-12 and 2012-13 where additional CSB income of £100,000 was included in both years for the new fee increases. This may result in a shortfall in CSB budgeted income for 2011/2012 although current indications are that Development Control income is ahead of budget by £40,000 resulting from a number of significant applications for glasshouses.

Personnel: N/A

**Background papers:** (Full Copies are available on request)

Proposals for Changes to Planning Application Fees in England Consultation  
Department of Communities and Local Government November 2010. (summary attached)

Local Authority Planning Fee Accounting (Draft)

The Chartered Institute of Public Finance and Accountancy June 2011-08-30

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# Introduction

1. Local planning authorities received more than 450,000 planning applications in 2009-10, including everything from house extensions to large developments. It is resource intensive for authorities to handle, check and publicise applications and give each one appropriate and careful consideration. Local planning authorities are able to charge fees in order to recover the costs of processing most types of planning applications.
2. Fees are currently set nationally, which means they do not take account of differing local circumstances and market conditions. This is contrary to the spirit of localism, and the principle that decisions should be taken at the lowest possible level, by people who are accountable to the public.
3. The majority of local planning authorities are failing to recover costs from fee income. Since planning permission often adds significant value to land, this means that local tax payers are subsidising applications which may make the applicant a considerable profit. On the other hand, some authorities are actually generating more income through charging fees than it costs to process applications, because the national charges exceed their local costs.
4. The only way to overcome this is to enable authorities to set their own fees which reflect local costs, and encourage them to run a fair and efficient system.
5. This consultation paper proposes changes to the planning application fees regime which would decentralise responsibility for setting fees to local planning authorities. We also propose to allow authorities to charge for some of those applications which are currently free. Both proposals will help to reduce the subsidising of planning applications by local residents.
6. If accepted and approved by Parliament, the changes would be implemented from April 2011, with a six month transition period until October 2011.

# The legal background

## The Planning Act 2008

7. The provisions for charging planning application fees are set out in section 303 of the Town and Country Planning Act 1990, as substituted by section 199 of the Planning Act 2008. These provisions:
  - allow fees to be charged in relation to any function of a local planning authority and for matters ancillary to those functions
  - allow the Secretary of State to prescribe fees or a means of calculating fees to be set by someone else (such as a local planning authority)
  - allow the Secretary of State to prescribe when a service would be exempt from fees
8. Section 303 (10) of the Town and Country Planning Act 1990 states that the income from a fee must not exceed the cost of performing the fee-related function (handling, processing and determining planning applications, in this instance). This means that fees cannot be used to make a profit.

## The basis for charging planning application fees

9. It is an established principle that local authorities should pay for activities that are purely or largely for the wider public good. The intention of development management is above all to promote the public good: since managing local development helps to secure the long-term benefits of sustainable, well-designed communities. Yet planning decisions often bring private benefit to the applicant as well; in particular, a property with planning permission may be much more valuable than it would be without. The power granted to authorities to charge planning application fees reflects the possible private benefit implicit in a planning permission. An applicant should expect to pay a fee for an application that could bring a measure of gain. The fee payable reflects the overall cost of handling, administering and deciding the application, including related overheads.



# Resourcing the planning system

## Research

10. In February 2009, the previous Government commissioned independent research from Arup<sup>1</sup> to look at whether planning application fees were covering local authority costs, and to identify methods that authorities could use to set their own charges. Arup's report is available on our website. It shows:
  - that authorities are recovering around 90 per cent of their costs, on average
  - that between April 2006 and March 2010 (with projections used for 2009-10) the average cost of handling and determining planning applications was £619, and the average fee received was £569
  - that around 35 per cent of development management resources are being allocated to dealing with applications which do not currently incur a fee

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<sup>1</sup> *Planning Costs and Fees*, Ove Arup & Partners for the Department for Communities and Local Government, November 2010

# The changes we propose

## Decentralising planning application fees

11. Wherever possible, decisions should be taken at the local level, by people who are accountable to the public. There is no reason why charges for planning applications should be an exception. Local planning authorities should be able to set their own charges to recover their own costs. Applicants should be charged for the full cost of the application where they are paying a fee, rather than being subsidised by the general tax payer. **We therefore propose to decentralise responsibility for planning application fee setting to local planning authorities.**
12. In April 2008, fees were increased by 23 per cent in order to help authorities recover more of their costs. However, some authorities are still not recouping costs – as Arup’s research showed – while others are recovering more than it cost them. This variation is inevitable when fees are set nationally and has been raised as an issue by respondents to the Government’s Spending Challenge<sup>2</sup>. Letting local planning authorities set their own fees will enable them to recoup their costs but not exceed them. At the same time, setting fees locally provides a stronger incentive for local planning authorities to run a more efficient service: since it will be a more transparent system, directly accountable to local residents.
13. If the proposal is taken forward there will be a six month transition period to give authorities time to develop charges which accurately reflect their costs.

## Extending the scope of planning application fees

14. Some applications, such as those for listed building consent, are not currently subject to fees, because they provide significant public benefit. Annex A outlines the development management services for which a fee is and is not payable.
15. In some instances, applicants are receiving private benefits without having to pay a fee for their application. This isn’t sustainable for authorities and is unfair for the general tax payer, who is subsidising the application.
16. **We propose to widen the scope of planning application fees so that authorities can charge for more of their services.** This would enable (but not compel) authorities to charge for resubmitted applications, and would allow authorities to charge higher fees for retrospective applications. Specific proposals are outlined below.

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<sup>2</sup> [http://www.hm-treasury.gov.uk/press\\_23\\_10.htm](http://www.hm-treasury.gov.uk/press_23_10.htm)

# Options

## Option 1 would decentralise the responsibility for setting fees for planning applications to local planning authorities

17. This would give local planning authorities control over setting planning application fees. We would set out in regulations the principal requirements for local planning authorities (which would include establishing a charging schedule) and exemptions from fees.
18. Local planning authorities would have to establish a charging scheme which reflects full cost recovery and the principle that the user should pay for the actual service they receive. Authorities should keep their costs to a minimum – helped by local democratic accountability – and should ensure that charges are based on efficient services which remain affordable.

## Option 2 would maintain the current fee system

### ***Preferred option***

19. We believe that option 1 is the appropriate way forward. It would give local planning authorities the flexibility to charge fees that properly recover the costs they incur in determining planning applications. It is the option that is most consistent with the Government's commitment to localise and decentralise power. It will also introduce greater accountability and transparency into the planning fees system, as local planning authorities will need to be able to demonstrate that their charges are justifiable and based on cost.

***Q1. Do you agree that each local planning authority should be able to set its own (non-profit-making) planning application fee charges?***

## Other proposals

***Proposal (a) would allow local planning authorities to decide whether to give applicants a “free go” when resubmitting applications that have been withdrawn or refused***

20. Currently no fee is payable for applications that are resubmitted following withdrawal before determination or refusal (this is known as the “free go”). This is principally because it was considered unfair to charge applicants twice for similar applications, which should theoretically not require as much work to determine as two separate, unrelated applications. However, in practice, a resubmitted application may be very different from the original application whilst still being entitled to a “free go”. Resubmitted applications, can represent substantial work, and therefore cost, for an authority. A comprehensive “free go” fails to reflect this cost. A better approach would be to allow authorities to make their own decisions about whether or not to allow a “free go”, depending on the local costs they expect to incur for resubmitted applications. This would also allow local authorities to deter repeat applications for development which already exists (retrospective planning applications).

***Q2. Do you agree that local planning authorities should be allowed to decide whether to charge for applications that are resubmitted following withdrawal or refusal?***

***Proposal (b) would allow local planning authorities to charge a higher fee for retrospective planning applications***

21. Currently no distinction is made between fees for routine applications and applications which are made retrospectively (after development has begun). Retrospective applications are sometimes made as a result of investigation by a local planning authority. In these instances, they impose a greater cost on authorities than routine applications. The principle behind planning application fees is that they should be set at a level that allows authorities to fully recover the associated costs. Authorities should therefore be able to charge a higher fee for retrospective applications where the application has come about as a consequence of investigatory work by the authority, in order to recover all of the related costs.

***Q3. Do you agree that local planning authorities should be able to set higher fees for retrospective applications?***

***Any other comments***

22. Applications for Listed Buildings, Conservation Area consent<sup>3</sup> and for works to trees that are the subject of a tree preservation order (TPO consent) do not currently incur a fee. In developing our proposals we considered whether this position should change. We are not minded to make a change principally because owners cannot opt-out of having their building Listed or located within a Conservation Area designation, and because such designations confer burdens with regard to preservation and maintenance that are clearly in the public interest. Similarly residents cannot opt-out of the tree preservation order designation, it is a burden on those affected, and tree maintenance (which requires consent) is of public environmental benefit. However, we would welcome comments or suggestions about whether this is the appropriate approach, or about fees and concessions on fees for development management services that have not been discussed in this consultation paper. Annex A sets out the main types.

***Q4. Are there any other development management services which are not currently charged for but should require a fee?***

***Q5. Are there any other development management services which currently require a fee but should be exempt from charging?***

<sup>3</sup> Conservation Area consent is required for the demolition of a building (within a Conservation Area) with a volume of greater than 115 cubic metres, although there are a few exceptions; and for the demolition of a wall, fence, gate or railing over 1 metre in height next to a highway (including a public footpath or bridleway) or public open space; or over 2 metres in height elsewhere.

## Invitation to comment

23. We welcome your comments on this document. You might also want to look at *Planning Costs and Fees*, which outlines some of the evidence informing our proposals. It is on our website.
24. In summary, we propose:
- **to decentralise responsibilities for setting planning application fees to local planning authorities**
  - **to allow authorities to decide whether to provide applicants with a “free go” for applications that are resubmitted following withdrawal or refusal**
  - **to enable authorities to set higher fees for retrospective applications.**
25. The **options** and **proposals** are explained on pages 9–10. A summary of **questions** is below. If responding, please make clear which option, proposal, question or other element of the consultation paper each comment relates to. Ideally, comments should be supported with evidence or data, though anecdotal evidence can serve to illustrate a wider point or identify a risk.

- Q1** *Do you agree that each local planning authority should be able to set its own (non-profit-making) planning application fee charges?*
- Q2** *Do you agree that local planning authorities should be allowed to decide whether to charge for applications that are resubmitted following withdrawal or refusal?*
- Q3** *Do you agree that local planning authorities should be able to set higher fees for retrospective applications?*
- Q4** *Are there any development management services which are not currently charged for but should require a fee?*
- Q5** *Are there any other development management services which currently require a fee but should be exempt from charging?*
- Q6** *What are the likely effects of any of the changes on you, or the group or business or local authority you represent?*
- Q7** *Do you think there will be unintended consequences arising from these proposals?*
- Q8** *Do you have any comment on the outcomes predicted in the impact assessment, in particular the costs and benefits (see Annex B)?*

26. This consultation document is available on The Department for Communities and Local Government website. If necessary, paper copies can be obtained from Julian Wheeler (see below). A consultation response form is provided, and your representations, by e-mail or in writing, should be sent – for receipt by the closing date of 7 January 2011 – to:

Julian Wheeler  
 The Department for Communities and Local Government  
 Zone 1/J1, Eland House  
 Bressenden Place  
 London  
 SW1E 5DU

e-mail: [Julian.Wheeler@communities.gsi.gov.uk](mailto:Julian.Wheeler@communities.gsi.gov.uk)

27. Where possible this consultation follows the Government's Code of Practice on Consultation (see **Annex C** for further details). When commenting, please say if you represent an organisation or group, and in what capacity you are responding. A summary of responses will be published on the website following consultation. Hard copies of the summary can also be obtained thereafter, by contacting Julian Wheeler at the above address.

28. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)).
29. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
30. The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.
31. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.