

# report

meeting **JOINT COMMITTEE ON STRATEGIC PLANNING & TRANSPORT**

date **20<sup>th</sup> October 2006** agenda item number

from: **JOINT OFFICER STEERING GROUP**

## **RUSHCLIFFE LOCAL PLAN - UPDATE**

### **Purpose of Report**

To request the views of members on the latest position regarding the Rushcliffe Plan and its implications for the future planning for the South Nottinghamshire area.

### **Background**

1. The Borough Council adopted their last Local Plan in June 1996. That Plan was drawn up in conformity with the County Structure Plan approved in 1991. The end date of the Local Plan is 2001.
2. The Borough Council formally started work on a review of the Local Plan in 1998 and approved a Deposit Draft Plan in January 2000 which was in conformity with the County Structure Plan adopted in 1996. The end date of the review was 2011.
3. The Deposit Draft Plan received a very large number of objections including an objection from the Highways Agency [HA]. The HA objected to most of the major development sites put forward in the Deposit Draft.
4. The HA had not made similar representations at the Structure Plan Examination-in-Public in 1995 though they were present and to clarify the position, officer discussions were held between the Borough, the County, the HA and on occasions the Government Office for the East Midlands.
5. The outcome of these discussions was as follows –
  - a) the Borough Council, with the support of GOEM, placed the Local Plan review process on hold pending
  - b) the carrying out of a Multi-Modal Study [MMS] by the Government for the A52 (east) the purpose of which was to assess potential development sites and their implications for the Trunk Road network.
6. The MMS was completed in 2004 and the Borough Council approved a revised Deposit Draft Local Plan in conformity with the then emerging Joint Structure Plan. The revised draft Plan received representations of objection and support

and a Public Local Inquiry was held in 2005 and the Inquiry Inspector's Report became available at the end of that year.

7. The Borough Council then published Proposed Modifications to the Draft Plan earlier this year which received objections particularly with regard to the major development site in the Plan – the site at Edwalton near to Sharp Hill Wood.
8. In June of this year, the Borough Cabinet resolved to make changes to the draft Plan by removing this development site and referred the matter to Full Council on 21<sup>st</sup> September. Discussions were also being held with the Government Office concerning the transitional period for processing old-style Local Plans.
9. The Borough Council received a letter (copy attached) from the Government Office later in July setting out the Government Office's view as to alternative courses of action put forward by the Borough, and these views and other matters were set out and dealt with at the Full Council Meeting in September.

### **The Decision by the Borough Council**

10. The Borough Council has resolved to abandon the Local Plan and to prepare a new Local Development Scheme for submission to the Government Office. At the same time the Council has approved changes to the Local Plan draft by making a small number of alterations to the text and removing site allocation policies for the purpose of making the document a non-statutory Plan for development control policies only.
11. The Borough Council is formally requesting views until 6<sup>th</sup> November on –
  - a) the decision to adopt the Local Plan on a non-statutory basis as a development control document; and
  - b) on the proposed modifications put forward to the above.

### **Comments**

12. At this stage the two Councils have yet to make their views on the above matters. The view of the Government Office is very important to the decision to abandon the Local Plan and it is difficult to see in the light of this letter how the Borough Council could have come to a different conclusion. There are, however, a number of issues raised that are brought before this Committee and these are set out below.
13. **Scale/Location of Development** – the Borough has been the general location for the greatest allocation of green field proposals (compared with other Local Authorities in the S. Nottinghamshire area) in both the Structure Plan of 1996 and the Joint Structure Plan of 2006 for housing and employment land. The emerging draft RSS (see separate report to this Committee) also identified the Borough for urban expansion. This is why it is so important to ensure that planning at the local level for the Borough is timely and soundly based. The past history of local planning in the Borough outlined in this report shows that there has been considerable delay in the process and that key elements of the Plan are not soundly based, notably with regard to the relationship of development to Trunk Road issues.
14. As regards the transport relationships outlined above, it is important that history does not repeat itself and that the Highways Agency needs to be closely

involved by all parties involved in the emerging RSS process. This is a matter upon which both Councils should be actively involved.

15. The scale of development in Rushcliffe Borough is also a key element in the Growth Point Bid (see the RSS report to this Committee) which both Councils support.
16. **Green Belt** - the abandonment of the Local Plan means that the Green Belt review requested in the Secretary of State's decision letter in 1991 when he approved the 1991 Structure Plan and required by the 1996 Structure Plan and 2006 Joint Structure Plan has not taken place in the Borough but has been undertaken in all other Local Authority areas in the geographic County that are affected by the Green Belt designation. Government advice clearly states that Green Belt boundaries should only be amended through the plan-making process where there is a clear statement at the strategic planning level that such a review is necessary. The emerging RSS is requiring just such a review so that the anomalous position of the Borough should be resolved through the RSS/LDD process in due course. This is a matter that both Councils should be again actively supporting in the next stages leading to the approval of the RSS.
17. **Saved Policies** – the abandonment of the Local Plan means that the Borough Council has no policy framework on which more detailed planning guidance can be hung. An important element will be developer contributions. It is national planning guidance for Local Planning Authorities to have a clear strategy for this matter normally prepared as Supplementary Planning Document [SPD]. The Joint Structure Plan has such a policy [Policy1/3]. The various documents forming the relevant Report to the Borough Council make no reference to this issue but it is important that the matters are addressed as a matter of some urgency and to clarify the status of the existing non-statutory developer contributions strategy approved by the Borough Council over a year ago. Discussions are being held at officer level on this matter and the outcome of or progress on these discussions will be reported at Committee.
18. The issue of saved policies also applies to the 1996 adopted Borough Local Plan. This plan will cease to be operative in September 2007 unless it is saved in whole or part by agreement between the Borough Council and the Secretary of State before that date. Of strategic planning concern is the matter of Green Belt boundaries. The statutory boundaries of the Green Belt in the Borough are given in the 1996 Local Plan and it is important that these boundaries are saved until superseded by new boundaries in adopted Local Development Documents which may be at least 5 years in the future. There also needs to be discussion on minor transport schemes where it is important to formally safeguard land from possible prejudicial development. Again ongoing discussions are taking place with officers at the Borough and the progress/outcome will be reported at Committee.

## **RECOMMENDATION**

19. It is RECOMMENDED that:
  - (a) the report be approved; and

- (b) the two Councils be informed of the Joint Committee's concerns regarding the issues set out in paragraphs 13 -18.

### **Background Papers**

No background papers.

### **Contact Officers**

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### **APPENDIX**

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Our Ref: EMP/3040/475/8/1Pt3

Date: 18 July 2006

Dear Keith

### **RUSHCLIFFE BOROUGH REPLACEMENT LOCAL PLAN**

I am writing further to the meeting held on 20 June at the Government Office with your officers to discuss the current position regarding Rushcliffe Borough's process for replacing their local plan. This following the Council's most recent decision not to proceed to formally adopt the plan as previously proposed to be modified. As you know, the issue centred on the key matter of whether or not to allocate land at Edwalton, Sharphill for housing and at Landmere Lane for employment, in the light of the Inspector's alternative recommendations and in the face of concerted local opposition.

When Jim Collinson, David Armiger and David Berry met with GOEM's Karin Staples and Michael Smith it was agreed that I would write to you. This is to stress the seriousness with which we and DCLG view these latest developments and our deep concern, especially against the background of an already lengthy and stilted local plan process which has been beset by various problems.

Your officers helpfully outlined to us a number of possible options for taking forward planning policy development as a basis for discussion. The issue was whether it was acceptable and realistic to progress the replacement plan or move to the new Local Development Framework. We particularly stressed the need to impress on members the priority that has to be attached to the Council fulfilling its statutory responsibilities in relation to planning and housing numbers. The Attached Annex A sets out GOEM's views on the options put to us.

I understand that a report will be going to your Working Group in late August and then to Full Council on 21 September, which provides the next formal opportunity to decide how you should progress. Your officers have kindly agreed to let us see a draft of the report when it is available in order for GOEM to feed back from our perspective.

I would very much welcome an opportunity to come and discuss these and related issues with you if possible before the date of the Working Group. Perhaps I could ask you to let Stella McCluskey in my support team know of possible dates that would be convenient for us to meet. Stella can be contacted on 0115 971 2671 and

at [stella.mccluskey@goem.gsi.gov.uk](mailto:stella.mccluskey@goem.gsi.gov.uk). If it would be helpful to have a conversation in advance of any meeting, please do give me a call.

I look forward to seeing you to help agree the best way forward so that Ministers can be assured of your Council's commitment and capacity in respect of development planning and housing delivery.

Yours sincerely

A handwritten signature in black ink that reads "Melanie Alker." The signature is written in a cursive, slightly slanted style.

**Melanie Alker**  
Director for Sustainable Communities

cc Jim Collinson  
David Armiger

## **ANNEX A**

### **GOEM COMMENTS - RUSHCLIFFE BOROUGH REPLACEMENT LOCAL PLAN**

Meeting held at GOEM on 20 June with Rushcliffe Borough Council officers to discuss the current position regarding Rushcliffe Borough's process for replacing their local plan. This following the Council's most recent decision not to proceed to formally adopt the plan as previously proposed to be modified. The issue centred on the key matter of whether or not to allocate land at Edwalton, Sharpill for housing and at Landmere Lane for employment, in the light of the Inspector's alternative recommendations and in the face of concerted local opposition.

GOEM stressed the seriousness with which we and DCLG view these latest developments and our deep concern, especially against the background of an already lengthy and stilted local plan process which has been beset by various problems. The Government remains committed to a plan-led system, as evidenced by the new Local Development Framework provided by the Planning and Compulsory Purchase Act 2004, which included transitional arrangements for old-style local plans like Rushcliffe's. While GOEM has for several years been appreciative of Rushcliffe's local difficulties this had more recently been in the full expectation that the plan would finally be adopted by mid July 2006, the deadline after which Strategic Environmental Assessment (SEA) requirements would have meant further but unavoidable delay.

In the event, members voted, albeit very narrowly, not to adopt the plan with the locally contentious allocations at Edwalton, Sharpill and Landmere Lane retained, as had been proposed through the statutory modifications stage. This notwithstanding that the Council had some months earlier approved its reasoning for not accepting the Inspector's recommendations in this particular regard and had then decided to proceed to formal adoption. Rather, members wanted officers to look again at alternative sites. GOEM has no view as to whether the land at Edwalton should be included, whether at all or in preference to any other sites. However, we are especially keen that Rushcliffe make the speediest progress commensurate with due process having regard to national and regional planning policy advice. In connection with which we look for a clear commitment from the Council to resolve their development plan situation quickly, to

provide the certainty that the local community need and Ministers expect. This is increasingly important in the context of the Barker Review, emerging new PPS3 and the heightened imperative for all local authorities to deliver their required housing numbers.

**RBC officers helpfully outlined to us a number of possible options** for taking forward planning policy development as a basis for discussion. The issue was whether it was acceptable and realistic to progress the replacement plan or move to the new LDF. We particularly stressed the need to impress on members the priority that has to be attached to the Council fulfilling its statutory responsibilities in planning for growth.

**A number of procedural questions were asked of GOEM.** We confirmed there was no cut-off date for adoption of an old-style plan, other than the need for purposes of SEA to adopt the plan before 21 July 2006. The premise of course being that most if not all transitional plans would have gone through the due process by this date. Although a few are still on-going these will all be SEA-compliant. We confirmed

that a Council can resolve to adopt a draft plan on a non-statutory interim basis for development control purposes and gave examples of where this has been done. We also confirmed that a Council can 'abandon' their deposited plan by using the formal withdrawal procedures provided for by the Act, whilst retaining elements by adopting on a non-statutory basis having taken out relevant parts as necessary.

**RBC's first suggested option** was to drop Sharphill and Landmere Lane and indicate that there is no longer a need for the (c1,200) dwellings. This would require further consultation and possible inquiry as it would be a major change to the plan. Also, failure to consult would be open to legal challenge. Moreover, we thought this option was not tenable in the light of the previous proposed modifications stance and also queried the likely justification that could reasonably be advanced and withstand scrutiny. This would also involve further delay.

**RBC's second suggested option** would also involve dropping Sharphill and Landmere Lane and undertaking a full review of alternative sites, in line with the Inspector's recommendations. This would also require further consultation and possible inquiry as a major change to the plan. Failure to consult would likewise be challengeable. We had similar concerns about this option though more especially due to additional delay and potentially in terms of sustainability.

Both of these options would involve significant delays. RBC considered that any option to move forward the old-style plan would probably entail at least 18 months delay. Not least due to the post 21 July requirement for SEA about which GOEM could not provide any assurance that this might reasonably be avoided. Any fresh consultation would now require SEA and while it might be possible to retro-fit some elements to satisfy SEA there would be other new elements to take into account. Also, there would be delay on account of the probable need for a Further Modifications public local inquiry which could not be held until the end of 2007 with adoption

possibly not until the end of 2008. RBC were particularly mindful of the fit with timescales for the on-going review of Regional Spatial Strategy (RSS8), including the Strategic Review of the Green Belt, with Examination in Public (now confirmed) for May / June 2007 and the Panel Report likely to be published early 2008. RBC felt that if they proceeded with the plan they would be unlikely to get to inquiry stage before the RSS EIP. We confirmed that the likely wait for an Inspector would almost certainly involve even greater delay, until the end of 2007 at the earliest, with consequent delay for final adoption. We do not feel that RBC should be relying on an old-style plan that would then be saved possibly until 2011 or longer.

**RBC's third suggested option** is to abandon the whole process and commence LDF instead. However, RBC were most concerned that this would mean a policy vacuum for development control. Whilst clearly unfortunate, planning by appeal is one inevitable consequence of not proceeding to adopt the plan about which members were made fully aware. In all the circumstances, and with considerable reluctance, **GOEM feel that the only option effectively open to the Council is to formally withdraw the plan.** We do not consider that the significant additional delay that would result from moving forward the old-style plan can be countenanced. In connection with which **we agreed that the Local Development Scheme, which requires to be revised in any event, should be revisited as a matter of urgency to set out an accelerated programme for LDF to be submitted and agreed with GOEM.**

RBC must ensure a very efficient LDF production and move quickly to examination of the Core Strategy. All of which underlines the critical importance of

the Council ensuring sufficient resources are made available to deliver the LDS and ensure Rushcliffe provides for growth. Although RBC will wish to take their own legal advice in all of this, our view is that any challenge to their chosen option would be more defensible were the Council able to show that it is progressing its LDF.

**RBC's fourth suggested option** would involve freezing the plan's non-contentious policies and commencing the LDF process early in 2007, when figures coming out of the RSS8 review are known. Suggested timescales along the following lines: Core Strategy commence February 2007, Submission March 2008, Adoption December 2008; Site Allocations DPD and Development Control DPD both commence September 2007, Submission September 2008, Adoption May 2009. While the Council are able to resolve to use the draft plan (less the contentious allocations) on a non-statutory interim basis for development control purposes we do not consider it at all satisfactory to delay starting the LDF. If carefully written, a new-style Core Strategy DPD could be made flexible enough to take on board changing circumstances that might come out of RSS review.

GOEM understand that a **report will be going to RBC's Working Group in late August and then to Full Council on 21 September**, which provides the next formal opportunity to decide how Rushcliffe should progress. Before which officers have kindly agreed to let us see a draft of the report when it is available. This in order for GOEM to feed back from our perspective, in relation to those matters which the Council will need to demonstrate it has taken into account in



deciding whether to formally proceed with the replacement Local Plan or to withdraw it.

GOEM look forward to helping agree the best way forward so that Ministers can be assured of the Council's commitment and capacity to development plan delivery for Rushcliffe Borough.

*GOEM July 2006*