

**REPORT TO ECONOMIC DEVELOPMENT AND ENTERPRISE SCRUTINY COMMITTEE
3rd SEPTEMBER 2014**

**THE STOKE ON TRENT AND STAFFORDSHIRE LOCAL ENTERPRISE PARTNERSHIP
PLANNING CONCORDAT**

Report authors: Simon Smith and Guy Benson
Job Titles: Economic Development Officer and Head of Planning
Telephone: Extns 2460 and 4440

Purpose of the report

To inform members about the 'Planning Concordat', prepared by the Local Enterprise Partnership (LEP), which aims to ensure that planning authorities are playing their part in promoting the LEP's growth agenda.

Recommendation

That the LEP's Planning Concordat be commended to Cabinet

Reasons

To improve the effectiveness of the planning system in terms of supporting (appropriate) development.

1. Introduction

- 1.1 The LEP launched a Planning Charter Mark initiative in February 2012 to encourage its Local Planning Authorities to demonstrate a proactive and business-focused approach to planning applications. The LEP envisaged certain 'outcomes' would be delivered by the Local Planning Authorities, and although they were not prescriptive about exactly how these outcomes would be delivered they did suggest specific proposals based upon a survey of businesses. Although the focus of the Charter was on the planning system – reflecting the role of each of the local authorities as the Local Planning Authority for their area, there was an expectation that Councils will support economic growth in exercising all of their functions. The Peer Review of the Council that took place in 2012 had highlighted the importance of aligning the strategies and policies of regulatory functions with the Council's corporate priorities most notably that of a "borough of opportunity.
- 1.2 The outcomes that the LEP were seeking were Clarity and consistency, Effort and focus, Competence and respect, Accuracy and fairness, and Dialogue and understanding. The Council was invited to sign up to the process it being indicated by the LEP that if it did so it would then receive the 'Charter Mark' when it had adopted measures which the LEP considered necessary to deliver the 'outcomes', and that in subsequent years retention of the 'Charter Mark' would depend upon sustained and measurable improvements in the service experienced by businesses.
- 1.3 Cabinet considered a report at its meeting on 12th December 2012 and resolved that
 - The Stoke on Trent and Staffordshire LEP be advised that the Council wished to attain the Planning Charter Mark status and invites the LEP to satisfy itself that the Council's current practices and procedures are compliant with the spirit and intent of the Charter Mark

- The LEP be informed of the Council's decision and be invited to keep under review the Council's current decision-making processes procedures and performance in relation to planning applications for development relating to the safeguarding and/or growth of jobs with a view to achieving continuous improvement
- The Planning Committee be advised of this decision and asked to introduce specific monitoring of business- related planning applications in its current performance monitoring regime
- Officers bring forward proposals to a future meeting of Cabinet on the steps that were likely to be required to achieve Planning Charter Mark Status in 2013.

1.4 No formal award of the 'Charter Mark' was subsequently made to any of the Staffordshire Authorities that are part of the LEP. In July 2013 the LEP commissioned the Planning Cooperative consultancy to undertake a review of planning policies and practice across the County - to assess the extent to which the local planning authorities were demonstrating an appropriate level of commitment to economic regeneration and recovery and to explore the circumstances in which the Charter Mark could be awarded. The consultants' final report and recommendations went before the LEP Board at its meeting on the 11th July 2014 and are understood to have been approved.

2. Questions to be addressed by the Overview & Scrutiny Committee and possible outcomes

2.1 It is suggested that the Committee should scrutinise the recommendations of the LEP which will be reported to Cabinet, and give a view on whether the Council should ratify the Concordat which would then mean :-

- agreeing to actions to undertake those elements of the Concordat which are not currently being provided and implementing these within an agreed timeframe probably within the following 6 months
- setting in place monitoring arrangements to provide data including business customer satisfaction information
- participating in annual reviews of actions and outcomes
- contributing to case studies of examples of where a positive and helpful approach has been taken to development proposals

3. The approach taken by the consultants

3.1 The Charter Mark Initiative grew out of a perception within some parts of the business community that the planning process might not be doing all it could to facilitate new employment development proposals in the time scale needed to respond to opportunities and changes in market conditions.

3.2 The consultants' report suggests that the planning system is recognised as having a key role in securing economic recovery. This role has two aspects:

- promoting new sites through the Local-Plan process and
- determining planning applications on both existing and new sites in line with national and local policy.

- 3.3 Because of the importance of these activities to local businesses, planning authorities are seen by them as the gate-keepers to economic growth.
- 3.4 The operation of the planning system is of crucial importance in encouraging economic growth both through the expansion of existing businesses and attracting inward investment. The purpose of the research was to provide an objective, independent analysis of practice and process across Stoke-on-Trent and Staffordshire - the intention being to foster good practice and understanding.
- 3.5 The consultants' report observes that the original Charter Mark initiative
- was a one-way street initiative – with the LEP looking to the LPAs to demonstrate a response to the obvious importance of economic growth during a time of recession, whilst a more two way process would be more appropriate – recognising that some developer and agents have not responded to the other theme of the National Planning policy framework – the delivery of higher quality and more sustainable development
 - was strongly influenced by anecdotal examples of poor behaviour by Local Planning Authorities that were not necessarily representative of general practice
 - did not accurately represent the NPPF's more rounded and nuanced approach
- 3.6 The consultants report indicates that the National Planning Policy Framework (NPPF) and principles of sustainable development are the two bedrocks of the modern planning system. They focus on the fact that the NPPF states that economic growth must be planned for, encouraged and facilitated but must be handled in such a way as to constitute sustainable development. Sustainable development is the 'golden thread' running through NPPF. Development that achieves that status enjoys a presumption in favour of consent and should be approved without delay.
- 3.7 The consultants see sustainable development as that which avoids adverse impact on the environment and on the wellbeing of the wider society. Where possible it goes further delivering enhancement and improvement as well as securing economic growth. But while economic growth is made something of a special case in the NPPF it is not, the consultants say, so special as to be exempt from the defining criteria of sustainable development. These are to do with the quality of the proposals and the nature of their impacts which should be minimized in all cases and be positive whenever possible.
- 3.8 The consultants say the established way of evaluating planning applications is to divide the issues (material planning considerations) into two groups, those in favour and those against, and then to judge which side has the greater weight of argument. Under that process they consider it is unlikely that either of the two possible outcomes will be seen as sustainable development. On the one hand a **refusal** deprives the community of economic growth which is vital to their future well-being. This is clearly contrary to the aims of NPPF and was the central justification for the Charter Mark initiative.
- 3.9 Equally however, a **consent** reflecting the importance of the economic issues will almost inevitably involve a price to be paid in the form of additional adverse impacts on the natural or built environment, infrastructure capacity or some aspect of quality of life for the local community. Very frequently it will also represent a missed opportunity to deliver wider benefits, including measures to improve the environment which is also a requirement of NPPF and a defining element of sustainable development.
- 3.10 The NPPF, the consultants say, requires all the parties involved with development proposals to acknowledge the legitimacy of the valid planning concerns raised rather than seeking to play some of them down in order to increase the chance of success,

either way. Instead, the issues raised by the development should be used to refine and improve the proposals so that the scheme becomes sustainable and therefore benefits from the presumption in favour of consent rather than being used as an argument for rejecting the initial proposals.

- 3.11 Central to this approach for the consultants is the concept that sustainable economic growth is a shared objective and an end-point of all parties and that it can be secured only by collaborative working. In their words Punch and Judy planning has had its day.
- 3.12 For the consultants, the best examples of sustainable development come from collaborative working in which the views of all parties, including the local community on whom the impacts most obviously fall, are aired and considered jointly. Views expressed need not necessarily be for or against but are proposed as issues to be considered and to contribute to the design process and emergence of a more sustainable proposal.
- 3.13 The NPPF is very clear on the importance of not missing opportunities both to reduce potential impacts and to widen the scope of potential benefits of development proposals. There were several examples of this approach being used presented to the consultants during meetings with the officers of the local planning authorities.
- 3.14 For the consultants Ecology and archaeology are two areas in the NPPF that illustrate this point most clearly. The government policy is explicit that they should not be taken as a barrier to development but that they must be properly taken into account so that the development can be designed and managed to avoid significant impacts and, where practical, result in enhancement. An increasing number of issues of this kind derive from legislation that is independent of the planning system. As such it is outside the discretion of the local planning authorities even though the need for the information about the issue has been triggered by a planning application.
- 3.15 The total policy context provided by NPPF could be summed up as an attempt to have your cake and eat it (again the consultants' words). That, they say, is only possible with two-way, cooperative working.

4. The LEP's recommendations on a Planning Concordat

- 4.1 Following consultation with local planning authorities across the county, the LEP has drawn up the following 8 recommendations:
 - All parties agree that the NPPF requirement for high-quality, sustainable forms of development should be an over-arching priority in respect of all future development proposals.
 - The LEP will seek to publish, as a matter of urgency, a Strategic Economic Plan for the area, in consultation with LPAs and appropriate consultees, and subsequently to coordinate the Local Plan strategies of individual LPAs in accordance with its stated aims and policies.
 - The LEP will investigate the possibility of establishing a "call-off" contract with appropriate supplier(s) to provide consultancy assistance if / when required by LPAs and developers.
 - The LEP will establish and convene a bi-annual Working Party comprising planning officers, elected members, statutory consultees, planning agents, and representatives of local businesses at which issues of interest and concern can be raised, discussed and resolved in an open and collaborative environment.

- All parties to encourage pre-application submissions and discussions, to include elected councillors in cases where there are likely to be community concerns. In pursuance of this, individual LPAs will publish a clear set of guidelines for potential developers wishing to engage in pre-application discussions.
- LPAs to provide Town and Country Planning update training of an appropriate standard for planning officers and elected members on an annual basis, in addition to Introductory training for new councillors.
- LPAs will monitor and regularly review levels of customer satisfaction with the services offered by Planning Departments, and review their own performance in terms of adding value to new development.
- LPAs will ensure that the planning section of Council web-sites are as informative and customer-friendly as possible and that they are updated on a regular basis, with regard to both development management and policy issues.

To reflect the new approach the LEP have renamed the Planning Charter Mark the Planning Concordat.

5. Next steps as set out in the consultants report

- 5.1 The consultants envisage several stages to the effective implementation of the Concordat. The **first stage** is ratification. As a joint initiative between the participating bodies it will need to be ratified by all the respective partners. For the planning authorities it will require a report to be taken to their Cabinet or a relevant committee. Your officers' intention is to bring a report to the 15th October Cabinet
- 5.2 The **second stage** would be a set of agreed actions by the participating bodies to undertake those elements of the agreement that are not currently being provided. A period of time for these to be established will need to be set out and agreed within the Concordat. The LEP propose that this should be 6 months from formal ratification, to be agreed between the parties.
- 5.3 The various officer groups in the County that meet already on a regular basis are seen by the LEP as a useful source of experience to help with introducing any changes required. This would continue the process of evolving and sharing good practice that is already established.
- 5.4 The **third stage** would be some form of monitoring or reporting to confirm the extent to which the Concordat is being implemented. In the spirit of joint enterprise reporting by each party to an annual review of actions and outcomes would be the preferred way of securing this information. This should include it is suggested some aspects of customer satisfaction as well as hard data on the number of permissions granted, the scale of job creation and appropriate measures of economic success.
- 5.5 Much of this data it is suggested by the consultants will be collected already and it should be relatively straightforward to assemble the necessary information to illustrate the operation and effectiveness of the Concordat.
- 5.6 One additional element that might be considered would be to compile annually a series of case study examples provided by the participating bodies that highlight a positive and helpful approach to development proposals.
- 5.7 There is no statutory basis for the proposed arrangements for encouraging the delivery of sustainable economic regeneration across Staffordshire and Stoke on Trent. It is hoped by the LEP that all the authorities will see the value in agreeing to the measures

proposed but they are free to choose not to if circumstances argue against their continued involvement. The annual review would be the opportunity for this.

6. The consequences for the Borough of participation in the Concordat.

6.1 The Council already provides some of the elements of the Concordat. For example it encourages preapplication submission and involves members in preapplication discussions on certain applications (through the Strategic Planning Consultative Group). That it charges for some of these is not seen as incompatible with that objective. It has a well developed website offer in certain respects, although its pages will always require regular review. It has been pursuing as part of the Staffordshire One Place initiative the concept of inter authority trading of specialist services, as an alternative to the use of consultants and the LEP call off contract proposal could perhaps add another useful option, resources permitting. Other elements referred to in the LEP's recommendations are perhaps not as well developed at the Borough Council as they might be – for example member training (where there has been introductory training rather than an indepth annual programme) and the limited provision of guidelines for potential developers wishing to engage in pre-application discussions being examples. The Planning Concordat could provide a useful focus for their introduction. Your officers see no fundamental objections to any of the 8 recommendations.

7. Constraints

7.1 There would be resource implications for the Council associated with participating actively in the Planning Concordat. These would include officer time attending the required meetings, providing input and ideas, drawing up proposals, implementing them and then participating in the proposed annual reviews. By using the services of the LEP to organise meetings such as the suggested Bi-annual Working party at which issues of interest and concern can be raised, some of the administrative burden of such arrangements would not have to be borne by the Council and it could be a useful forum and does not exist at present. Whilst the LEPs' consultants suggest that hard data may already be available on outcomes, in some cases additional information may need to be collected which could have resource implications but these should be able to be managed. There could even be direct costs – for example if customer satisfaction surveys are to be undertaken successfully they may require some form of financial incentive to participants to achieve high return rates.

7.2 The Council is already preparing to respond to the recent Planning Peer Review and this will involve the preparation, approval and implementation of an Action Plan. However much of this activity would relatively easily feed into engagement into the Planning Concordat and should be compatible with it.

7.3 If the burden of participating in the Planning Concordat became unduly onerous then the option of withdrawing from it would exist.

8. Conclusions

8.1 The Planning Charter Mark has been reconsidered by the LEP, who are now promoting what they term a Planning Concordat. Your officers consider that there is merit in engaging in such an initiative. Members are requested to consider the recommendations of the LEP and to indicate what their views are on these particularly where they relate to the role of the Local Planning Authority - so that when the matter comes before Cabinet, these views can be taken into account.

Relevant Portfolio Holders: Councillor John Williams (Planning & Assets) and Councillor Terry Turner (Economic Regeneration, Business and Town Centres)

Background Materials (available to view in the Members Room)

The Stoke and Staffordshire Local Enterprise Partnership Planning Agreement : February 2014

Stoke-on-Trent & Staffordshire Local Enterprise Partnership – Planning Concordat – Final Report 15 May 2014

Date report prepared 21st August 2014