

CABINET RESPONSE TO A SCRUTINY TASK GROUP'S REPORT AND RECOMMENDATIONS REGARDING THE NEWCASTLE DEVELOPMENT PROGRAMME

Submitted by: Portfolio Holder for Regeneration & Planning

Portfolio: Regeneration and Planning

Ward(s) affected: All wards

Purpose of the Report

To enable Cabinet members to consider and respond to a report and recommendations of a Scrutiny Task and Finish Group that was set up to review plans for the disposal and development of surplus Council-owned land (seven particular sites).

Recommendations

- (a) That the Newcastle Development Programme (NDP) Scrutiny Task and Finish Group, and all those involved in supporting the review process, be thanked for their report and recommendations in respect of this matter.**
- (b) That it be confirmed that no further decision be taken at this stage regarding disposal of the seven NDP sites.**
- (c) That the appropriateness of development, in land-use planning terms, of the seven NDP sites along with all other surplus non-operational land belonging to the Council, be reviewed as part of the forthcoming Site Allocations Development Plan Document process.**
- (d) That future versions of the Council's Asset Management Strategy incorporate an annual planned disposals programme, as appropriate, supported by:
 - (i) appropriate site specific technical information;**
 - (ii) a clear process for effective community and stakeholder consultation along with a summary report of the outcome of any related public consultation activities regarding individual sites and;**
 - (iii) clear evidence of alignment with the Council's financial capital planning process.****
- (e) That officers be instructed to undertake an annual review of the progress made with implementation of the North Staffs Green Spaces Strategy and the associated action plan.**
- (f) That Members note the information regarding the ongoing transformation programme, particularly in relation to The Way We Work Programme and the Business of the Council programme.**
- (g) That the annual Member Training and Development programme be reviewed and revised, as may be necessary, to incorporate training relating to both Asset Management and strategic policy making.**

Reasons

- To enable Cabinet to respond to the report and recommendations of the NDP Scrutiny Group.
- To enable improvements to be made to key decision-making procedures within the Council including greater clarity around consultation procedures and improved links between key

1. **Background**

- 1.1 On 24 March 2010 Cabinet approved an Asset Management Strategy for the period 2010/11 to 2012/13 and requested that a further report on a disposal programme be prepared for a future Cabinet meeting.
- 1.2 On 28 July 2010 Council resolved to support proposals for the release and disposal of surplus parcels of land at a number of locations throughout the borough.
- 1.3 On 15 December 2010 Cabinet received a report outlining progress with the programme of land disposals and resolutions were passed for the disposal of a further 3 sites.
- 1.4 In response to public concerns about the programme (known as the Newcastle Development Programme – NDP) full Council resolved at its meeting on 23 February 2011 to refer the processes which had been put in place in relation to the operation of the NDP for scrutiny.
- 1.5 A report regarding the NDP was submitted to the Overview and Scrutiny Co-ordinating Committee on 4 March 2011, and they resolved to establish a Task and Finish Group to undertake the review.
- 1.6 On 20 April 2011 the Scrutiny Task and Finish Group met to agree the scope of the review, its methodology and a timetable for its completion.
- 1.7 During the Scrutiny process presentations on matters pertaining to Planning Policy, Asset Management and Financial Strategy, Housing Need and Green Space Strategy formed the key evidence base. Members of the Scrutiny Group visited all seven sites and representatives of local residents groups took the opportunity to make representations about both the general programme and site-specific considerations. Additionally members of the group received a range of written representations and were provided with key policy documents.
- 1.8 Having considered the evidence, the Task and Finish Group produced a report that was endorsed at their final meeting on 20 July 2011, and asked full Council to refer eleven recommendations to Cabinet for its consideration and decision. At the Council meeting on 27 July 2011 members agreed to this request. All members were provided with a copy of the Group's report as part of the agenda for the Council meeting but the conclusion and recommendations are reproduced at Appendix 'A' for ease of reference.

2. **Issues**

- 2.1 The main task for Cabinet is to consider the report and recommendations of the NDP Scrutiny Task and Finish Group and to decide the most appropriate response(s).
- 2.2 Before reviewing the report it is important for Cabinet to re-state the rationale for the NDP which can be broadly summarised as follows:
 - (i) it accords with the Council's Asset and Management Strategy, particularly in relation to the disposal of surplus land/property and the reduction of unnecessary estate management and maintenance costs.
 - (ii) it would facilitate housing-led regeneration of communities to meet housing needs at a time when external regeneration funding has diminished significantly.
 - (iii) it would generate capital receipts to support the Council's future capital programme.

2.3 Notably the Scrutiny Task and Finish Group accept the rationale for the NDP but they raise a number of concerns which are articulated in the conclusions and recommendations sections of the report. In summary these concerns focus around the following points:

- (a) the value of green spaces within communities;
- (b) transparency of decision-making;
- (c) the process of identifying sites for disposal (including clear criteria/information);
- (d) the need for greater clarity about the processes for decision-making in respect of asset disposal and;
- (e) the method and timing of public consultation.

2.4 Your officers consider that the eleven recommendations of the Group can be most effectively addressed by focussing on the above points, as set out below and Cabinet agrees.

2.5 Green Spaces

2.5.1 Inevitably there has been a great deal of focus upon the key policy document - the North Staffordshire Green Spaces Strategy – the Task Group’s main concern appears to centre upon the importance to the communities of amenity open space/semi-natural areas. Whilst the Task Group acknowledges that the Strategy document demonstrates an approach to meeting recognised standards for the provision and maintenance of open space and play facilities they feel that it fails to address their concern. Also they consider that the associated consultation processes should have been more extensive in order that the value of amenity open spaces within communities could have been recognised.

2.5.2 In responding to these points (and specifically recommendation 2) Cabinet considers that it is vitally important to understand the national and local context for producing the Strategy. The main external driver is national government policy – Planning Policy Guidance No. 17 (“Planning of Open Space, Sport and Recreation”) which was issued in 2002. This policy document advises that Local Authorities should “undertake robust assessments of the existing and future needs of their communities for open spaces, sports and recreational facilities”, in order to facilitate effective planning of provision to maintain and/or enhance people’s quality of life.

2.5.3 Members will recall that the North Staffordshire Green Spaces Strategy (NSGSS) was jointly commissioned by this Council and Stoke City Council). This sits under the framework set by the adopted Joint Core Spatial Strategy and was prepared in accordance with the approach promoted in PPG17. The strategy was adopted after consultation in December 2009 and is a 15 year plan which sets the strategic framework and direction for delivering community green space need. The strategy’s action plan will deliver locally-agreed standards for green space provision within the existing quantity of functional and publicly accessible green space which exists (a total of 750 hectares) leaving a surplus of about 18 hectares (43 acres). Over the strategy’s lifetime it is anticipated that it will have to be adapted to meet changing community and stakeholder needs – it is sufficiently flexible to enable this. Whilst, fundamentally, it remains the view of Cabinet that the Strategy must continue to ensure the provision of an effective and accessible strategic green spaces network that meets community needs, it must be understood that the Strategy’s purpose does not extend to offering protection for individual green spaces within communities.

2.5.4 Nevertheless the Council is about to commence preparation of the Site Allocation Development Plan Document – in accordance with Government requirements, having prepared and adopted a Core Spatial Strategy – that will seek to balance the demands of different land uses, including open space provision, as part of a comprehensive approach to spatial planning. The key point being that the perceived value to communities of amenity open spaces/semi-natural land can be most appropriately judged within both the planning

policy framework and in the determination of individual planning applications.

- 2.5.5 In view of the above it is considered neither appropriate nor necessary to undertake a full review of the NSGSS at this stage. However, an annual review of progress of the strategy and its Action Plan in the light of any significant changes in local circumstances as well as any national or legislative changes, would be appropriate. Logically any such review would be undertaken after the end of each financial year (to accord with work planning cycles) with the finding reported to Cabinet by the end of Quarter 1 (i.e. around June/July).

2.6 Transparency of decision-making

- 2.6.1 The communities within which the NDP sites are located expressed strong views about the lack of transparency in the decision making processes and the Scrutiny Group has responded to this concern by making a number of recommendations relating to public consultation in the future land disposal situations (see section 2.9)
- 2.6.2 To a large extent the public perception, reflected in the Scrutiny Group's report, relates to the fact that the two key reports (to Council on 28 July 2010 and to Cabinet on 15 December 2010) were presented as confidential reports. Whilst this was justifiable on the grounds that the reports contained information of a commercially sensitive nature, Cabinet is committed to promoting public confidence in the manner that the Council operates.
- 2.6.3 To that end it is important to highlight ongoing cultural transformation and organisational change. Several years ago the Council embarked on a journey of improvement, striving to be excellent in all that it does. The current position in this regard is reflected in a report elsewhere on your agenda (entitled "Transformation Programme update"). While the NDP Scrutiny process was taking place, the Council undertook a Peer Review of its Scrutiny arrangements. Changes are likely to be implemented that will encourage greater influence of Scrutiny upon the Cabinet's decision-making, thereby improving the quality of decisions.

2.7 Identification of sites for disposal

- 2.7.1 The Scrutiny Group expressed concerns about the approach to selecting the seven sites for disposal. In summary they felt that members had insufficient technical information about the sites and neither did they have any clarity around the liability of or risks associated with, disposal of the sites.
- 2.7.2 It is acknowledged that the main criteria used to judge the suitability of the sites was a relatively simple policy matrix that sought to identify preferred sites based upon alignment with key policies. Whilst officers had undertaken some desktop analysis of technical considerations (such as ground conditions) to inform the site selection process, this information was not included in either of the two key reports.
- 2.7.3 The Scrutiny Group has made a specific recommendation seeking detailed site-specific technical assessments prior to any 'in-principle' land disposal decision in the future. The kind of matters that they have recommended is largely the same as those which officers addressed in respect of the seven NDP sites.
- 2.7.4 Therefore, subject to any particularly sensitive information, it is considered that this recommendation can be broadly accepted and the next version of the Asset Management Strategy could specify the preferred range of information.

2.8 Asset Disposal Strategy

- 2.8.1 In summary the Scrutiny Group is recommending a more comprehensive options analysis of

all available Council-owned land/property, supported by detailed assessments of the sites' viability. Additionally they are recommending that such viability assessments should frame a sustainable asset disposal strategy prior to submission of sites into the Strategic Housing Land Availability Assessment.

2.8.2 Crucially the scrutiny process has identified the need for a more comprehensive and planned approach to asset disposals. Whilst there will, inevitably, be a need to respond to opportunistic/ad-hoc disposal requests, there is merit in establishing an annual disposal programme (as part of the annual preparation of the Asset Management Strategy) that links more explicitly to corporate capital programme requirements.

2.8.3 The main point of detail in this regard relates to the Task Group's recommendations relating to the inclusion of detailed viability assessment information as part of the decision-making process. Cabinet considers that a summary level viability analysis will suffice in the majority of cases to achieve the objectives of this kind of programme. It is considered that literal and rigid adherence to the Task Group's recommendations would result in unnecessary and inappropriate expenditure.

2.9 Public/stakeholder consultation

2.9.1 In order to strengthen the confidence of the public and other key stakeholders in the processes relating to the disposal and development of Council-owned land the Scrutiny Group felt that there needed to be greater clarity about the approach and timing of public consultation.

2.9.2 The main issues to address in this regard are:

- The need to define and agree public/stakeholder consultation processes in relation to the Council's responsibilities as both local planning authority and land owner and;
- The timing of any public/stakeholder consultation processes.

2.9.3 For town planning purposes (both in policy making and in the processing of planning applications) there are clear and well documented consultation processes. The Site Allocations DPD (which the Council is about to start) will be submitted to an independent Planning Inspector who will have to satisfy him / herself that sound consultation arrangements are in place.

2.9.4 With regard to the Council's approach to this matter when acting as land owner there is no consistent or documented procedure. It will be important in the future to develop a clear process that clarifies the points at which the public can engage formally in the decision-making chain of events. At this stage an indicative decision-making flowchart has been prepared highlighting the main opportunities for community engagement (see Appendices B(i) and B(ii)). It is envisaged that the next version of the Asset Management Strategy would include a clear procedure in this regard.

2.10 Other recommendations

2.10.1 The only other recommendations not covered above relate to housing targets and member training.

2.10.2 Housing Targets

In summary the Task Group is recommending that there is clarity and ongoing monitoring of housing targets in terms of the quantum, location and tenure. Cabinet is satisfied that these matters are addressed in the following ways:

- The existing Core Spatial Strategy identifies the quantum and broad locational criteria as well as general guidance on sequencing. This Strategy has been prepared in accordance with national government guidance and reviewed by an independent Planning Inspector prior to formal adoption;
- The Council's Annual Monitoring Report reviews progress against the Core Strategy targets (the Council is under a statutory duty to produce this report);
- The forthcoming Site Allocations Development Plan Document will clarify at a more locally relevant level the specific locations or the main development sites and;
- The current and future versions of the Council's Housing Strategy will continue to provide clarity around the needs for social and affordable housing.

2.10.3 Consequently there is no further specific action required in respect of this recommendation.

2.10.4 Member training

The Group's recommendations in this regard seek to improve the awareness and understanding that Members have in relation to both asset management (specifically land disposals) and the alignment of strategic policy documents. These matters can and should be addressed through the ongoing Member Training and Development programme

3. **Proposals**

3.1 In view of the above, Cabinet consider that there is an overriding need to ensure that statutory and/or formal processes should be reviewed and utilised in order to address the Scrutiny Group's concerns. In this regard there are three key functions within the Council:

- town planning;
- asset management and;
- financial capital planning

3.2 Town Planning - Site Allocations Development Plan Document (DPD)

3.2.1 Members will be aware that the Council, as local planning authority, has committed itself to the preparation of the above document beginning in the autumn of this year. It will form part of the statutory planning policy framework and will "nest" under the adopted Core Spatial Strategy. It is important to stress the point that the Planning System operates in the wider public interest and seeks to facilitate delivery of sustainable development. In the context of the Borough's housing and economic growth the Core Strategy has set a target to achieve the delivery of 5,700 new dwellings by the year 2026, mostly focussed within the urban areas of Newcastle and Kidsgrove.

3.2.2 The Site Allocations DPD will be prepared by the Council in accordance with national government guidance and will, ultimately, be the subject of a public examination process conducted by an independent Planning Inspector. The document will be the subject of considerable public and stakeholder consultation and engagement during its preparation.

3.2.3 The Site Allocations DPD will enable a balanced and objective review of land uses at a neighbourhood level, taking account of both strategic policy drivers and local considerations.

3.2.4 Consequently officers consider that this process will enable open and transparent consideration of the appropriateness of developing surplus non-operational Council-owned land alongside land/property put forward by other land owners (including other public bodies – such as the County Council – and private land owners).

3.2.5 Finally it is noteworthy, when considering the Council's duties as local planning authority, that it will not be possible to achieve the Core Strategy's housing target without developing some Borough Council land. If insufficient housing land were available the only option would be to increase site densities or to locate development within or beyond the Green Belt (thereby causing significant conflict with both the Core Strategy and national policy). Therefore, in view of the Council's other responsibilities described in this report, it is vitally important that the any surplus Council-owned land is available for consideration in the DPD's preparation.

3.3 Strategic Asset Management

3.3.1 The Scrutiny process has accepted that the buying and selling of land/property is a normal part of Council business. Successive governments have encouraged Local Authorities to manage their estate efficiently, consistent with the objective of making best use of resources. With direct relevance to the NDP programme, Councils (and other public bodies) have been encouraged to dispose of surplus land for the kind of reasons that underpin Cabinet's rationale (see para. 2.2).

3.3.2 It is acknowledged that, whilst the Council's strategic approach to Asset Management has improved in recent years, based upon national best practice guidance from the Audit Commission, there is scope for further improvement, specifically relating to the approach to land disposals.

3.3.3 The Scrutiny process has demonstrated the necessity for a more comprehensive and transparent approach to decision-making. Previous versions of the Strategy have described the approach to the disposal of surplus land and this would appear to be acceptable in relation to ad-hoc or opportunistic land sales. However, it is clear that, if the Council is to embark upon a more planned approach to asset disposal (consistent with government policy) then the document could (and should) be improved by setting this out when it is refreshed annually.

3.3.4 There will be two key issues for Members to balance:-

- (a) Public/Stakeholders consultation and;
- (b) The need for appropriate technical supporting information.

(a) Public Consultation

As stated elsewhere in this report it is important to allow the statutory town planning processes to establish the appropriateness of development on Council-owned land alongside other private and publicly-owned land. In so doing it enables the land use considerations to be tested prior to any disposal decision being made. In turn this means that any public consultation relating to land disposal can be focussed on more site-specific technical considerations. An indicative decision-making flow chart is attached at Appendix B demonstrating a number of opportunities for local people to engage in the process.

(b) Technical Assessment

It is evident that a degree of desktop analysis had been undertaken in respect of the seven NDP sites as well as some criteria-based assessment of their suitability for development. However, not all of this information was incorporated in the two key decision-making reports in a form that demonstrated the necessary clarity.

3.3.5 In future it is considered that any disposal proposals in the Asset Management Strategy could, and should, include desktop analysis addressing the kind of matters referred to in the

Scrutiny Group's report.

3.3.6 In some circumstances it may be evident that further technical information is required to better understand financial viability but for 'value-for-money' reasons it would be inappropriate to commission detailed surveys/studies in all cases.

3.4 Finance Capital Planning

3.4.1 It is acknowledged that the Council has been in the fortuitous position for some time of having available funds to support the Council's capital programme requirements. These funds have been available through a combination of the following:-

- Large Scale Voluntary Transfer (LSVT) of housing stock;
- Right to Buy receipts;
- Disposal of surplus Council-owned land;
- Interest derived from investments;
- External funding (including regeneration, European and Lottery) and;
- Government grants.

The majority of the above funding streams have either been exhausted or are unlikely to be available for the foreseeable future.

3.4.2 Therefore it is both necessary and appropriate that the Council establishes more robust Asset Management planning to align with corporate priorities and planning (including capital financial planning).

3.4.3 In short it is intended that, in future years, there will need to be greater clarity around the requirements to generate capital funds from the disposal of surplus land, consistent with Government guidance and the Council's own assessment of the requirement for capital receipts to support its capital programme.

3.5 Summary

3.5.1 As indicated above the broad rationale for the Newcastle Development Programme was found to be sound by the Scrutiny Task Group. However it is evident from the Task Group's report and recommendations that there is both a need and scope for improving the processes and procedures relating to the planned disposal of surplus land.

3.5.2 The recommendations below seek to reflect a balanced and pragmatic response to the Scrutiny Task Group's work in the context of the related functions and duties of the Council:-

- (a) That the Newcastle Development Programme (NDP) Scrutiny Task and Finish Group, and all those involved in supporting the review process, be thanked for their report and recommendations in respect of this matter.
- (b) That it be confirmed that no further decision be taken at this stage regarding disposal of the seven NDP sites. (Addresses Scrutiny recommendation 10).
- (c) That the appropriateness of development, in land use planning terms, of the seven NDP sites along with all other surplus non-operational land belonging to the Council, be reviewed as part of the forthcoming Site Allocations Development Plan Document process. (Addresses Scrutiny recommendations 4, 6 and 10).
- (d) That future versions of the Council's Asset Management Strategy incorporate an

annual planned disposals programme, as appropriate, supported by:

- (i) appropriate site specific technical information;
- (ii) a clear process for effective community and stakeholder consultation along with a summary report of the outcome of any related public consultation activities regarding individual sites and;
- (iii) clear evidence of alignment with the Council's financial capital planning process.

(Addresses Scrutiny recommendations 3, 5, 6, 7, 8, 9 and 10).

- (e) That officers be instructed to undertake an annual review of the progress made with implementation of the North Staffs Green Spaces Strategy and the associated action plan. (Addresses Scrutiny recommendation 2).
- (f) That members note the information regarding the ongoing transformation programme, particularly in relation to The Way We Work Programme and the Business of the Council programme. (Addresses Scrutiny concerns about transparency in decision-making rather than any direct recommendation).
- (g) That the annual Member Training and Development programme be reviewed and revised, as may be necessary, to incorporate training relating to both Asset Management and strategic policy making. (Addresses Scrutiny recommendation 11).

NB. There is no recommendation that directly responds to the Scrutiny Task Group's first recommendation; Cabinet is satisfied that the statutory town planning system and processes address this point satisfactorily given the existence of:

- An adopted Core Spatial Strategy which has clear targets for the quantum and broad location of future housing;
- A statutory annual monitoring report procedure to Government;
- An approved Housing Strategy and;
- A forthcoming Site Allocation Development Plan Document.

4 Reasons for Proposals

- 4.1 The main reason for the proposals is to respond to the NDP Scrutiny Task Group's report and recommendations.
- 4.2 In responding to the Scrutiny report the recommended proposals seek to improve key decision-making procedures relating to future land disposal whilst acknowledging that such actions are, and must continue to be, a part of the strategic and day to day operation of the Council's business.

5. Outcomes linked to Sustainable Community Strategy and Corporate Priorities

- 5.1 The substantive issue of disposing of surplus Council-owned land/property has significant implications around the Council's objectives relating to Regeneration and Planning matters as well as the stated objectives relating to the efficient use of resources. In particular the anticipated outcomes of delivering an effective Development Programme are:

- the regeneration of communities through the delivery of housing to meet identified needs,
- to generate capital receipts that can be used to fund the corporate capital programme and;

- to reduce unnecessary expenditure on the management and maintenance of surplus land.

6. **Legal and Statutory Implications**

- 6.1 The Council is under a statutory duty to make best use of its resources and to achieve value for money – the NDP is consistent with these obligations. More particularly S. 123 of the Local Government Act 1972 places an obligation on the Council to achieve “best consideration” when it is considering disposal of land. Additionally the Council has statutory town planning, housing and asset management responsibilities; having an effective programme of surplus land disposal should facilitate the discharge of such responsibilities.

7. **Equality Impact Assessment**

- 7.1 In the longer term the potential nature of any site-specific development has the potential to have a different impact insofar as it may help to bring forward affordable housing for vulnerable households. Also the Scrutiny process has produced some learning about the ways in which the Council consults with disadvantage groups and individuals.

8. **Financial and Resource Implications**

- 8.1 Clearly there are both strategic and practical financial implications arising from the report and recommendations of the Scrutiny Group.
- 8.2 It is noteworthy that the Task Group acknowledges the rationale for a programme of surplus land disposal in order to finance future capital projects. The recommendations seek to ensure greater alignment between corporate planning processes to achieve this outcome.
- 8.3 The other notable feature relates to recommendations seeking the production of technical and other information relating to future land disposals prior to any decision being made in principle. The recommendations above endeavour to balance the need for Members to have access to appropriate technical information whilst avoiding commissioning potentially abortive and costly studies/surveys (i.e. any such information should be proportionate).

9. **Major Risks**

- 9.1 The most significant risk lies in any decision that would either seek to press on without due regard to the Scrutiny Group’s work or to cease all land disposal activity in the foreseeable future. The above recommendations endeavour to respond to the Scrutiny report in a manner which acknowledges that the buying and selling of land is a normal part of the Council’s functions.

10. **Sustainability and Climate Change Implications**

- 10.1 At this stage there are no direct implications in this regard. However the Site Allocations DPD process will judge, in due course, the necessity for disposing of any surplus Council-owned land to facilitate the evolution of a balanced and sustainable community in the Borough.

11. **Key Decision Information**

- 11.1 This item has been listed in the Forward Plan and constitutes a key decision within the meaning of the Council’s constitution.

12. **Earlier Cabinet Committee Resolutions**

28 March 2010 – Cabinet (minute 853/10)
28 July 2010 Council (minute XX/YY)
15 December 2010 – Cabinet (minute XX/ZZ)
March 2011 - Council (minute AA/BB)
20 July 2011 - Scrutiny Task and finish Group (minute DD/EE)

13. **List of Appendices**

Appendix A – NDP Scrutiny Group report July 2011; conclusions and recommendations.
Appendix B(i) & B(ii) Indicative decision-making process relating to future surplus land disposals.

14. **Background Papers**

Report and recommendations of the NDP Scrutiny Task and Finish Group