

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**EXECUTIVE MANAGEMENT TEAMS REPORT TO COUNCIL**

**16 May 2018**

**REPORT TITLE**                      **A500 WIDENING -  
LAND NORTH OF DOMVILLES FARM, AUDLEY PARISH - 348/241**

**Submitted by:**                      **Executive Director – Regeneration and Development – Neale Clifton**

**Portfolio:**                              **Planning and Regeneration**

**Wards affected:**                      **Audley**

**Purpose of report:** This matter is brought to Council for a decision as to whether or not the Council wishes to delegate to Cheshire East (as an LPA) any of its planning powers (with respect to the determination of a planning application and with respect to the giving of a Scoping Opinion). The planning application is due to be submitted in early June, the content of the Environmental Statement that will accompany it will be determined by the Scoping Opinion that has been sought, and it is critical that the Borough Council's position, with respect to such delegation, is known before then.

**RECOMMENDATIONS**

- 1. That Council resolves that it delegates to Cheshire East Council the discharge of the Borough Council's function under the Town and Country (Environmental Impact Assessment) Regulations 2017 to give a Scoping Opinion, under the above Regulations, with respect to a proposal to widen the A500 between Junction 16 of the M6 and the Meremoss roundabout, Crewe, insofar as it relates to land that lies within the Borough Council's administrative area.**
- 2. That Council resolves that it delegates to Cheshire East Council the discharge of the Borough Council's planning control functions under Section 70(1) (Part III) of the Town and Country Planning Act 1990 to determine, insofar as it relates to land that lies within the Borough Council's administrative area, a cross boundary planning application in relation to the proposed widening of the A500 between Junction 16 of the M6 and the Meremoss roundabout, Crewe.**

**Reason for Recommendation**

Whilst the Council has demonstrated that it can in a co-operative manner determine cross boundary planning applications, in this particular case because such a small amount of land relative to the total area is involved (and the development within the borough comprising only of a temporary works compound/stockpile and then surface water attenuation feature and planting), and the scheme so clearly relates to a strategic priority for both Councils, it is considered appropriate to recommend in this case that Council consider devolving limited planning powers to Cheshire East Council

**Background / issues**

An application for planning permission is to be submitted, by Cheshire East Council, in the very near future for the dualling and consequent widening of the section of the A500 that lies to the west of Junction 16, and runs between that junction and the Meremoss roundabout to the south of Crewe. The application site lies primarily within the administrative area of Cheshire East but a very small proportion of it (less than one percent of the application site area) lies within the Borough of Newcastle. That section that lies within the Borough would be used for a temporary site compound during the construction works and subsequently for planting and for a permanent surface water attenuation feature.

At the same time Cheshire East Council as Local Planning Authority (LPA) have received a request for what is termed a Scoping Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Given that the site of the proposals extends into the Borough, albeit to a very limited extent as described above, the question also arises as to whether Cheshire East Council can give such an Opinion with respect to the land that lies within the Borough.

The authority for the giving of scoping opinions by the LPA (under the EIA Regulations) is one that Council has delegated to the Executive Director (Regeneration and Development) and the authority for the determination of planning applications for this scale of development (the application if made to the Borough Council would be considered to be Major Development) is one that Council has delegated, ordinarily, to the Planning Committee. The giving of comments to an adjoining Local Planning Authority on a proposal for Major Development (other than in certain limited circumstances) also similarly rests with the Planning Committee.

In circumstances where an application crosses the administrative boundary between two LPAs national planning practice guidance indicates that two *identical* planning applications, should be submitted, one to each local planning authority, seeking planning permission for the development of land falling within each local planning authority's administrative area and identifying the relevant area on a site plan. The guidance goes on to say "the planning fee is paid to the LPA whose area contains the largest part of the application site".

In this case the largest part of the application site lies within the administrative area of Cheshire East Council (CEC), accordingly the application fee is payable solely to CEC. Indeed the area of land involved in the proposal that lies within the Borough is less than 1% of the total area involved. A plan attached to this report shows the Borough boundary and the expected application site boundary to illustrate this point.

In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the LPA in whose administrative area the development is to be carried out. In the case of cross boundary planning applications this can lead to two LPAs making individual planning determinations, imposing differing conditions on the permissions and entering into separate S106 agreements. There is always a risk that this may be counter to the achievement of a coordinated approach to delivering development, although your officers have been able in respect of past cross boundary applications to work closely and positively with the other LPA concerned. Government Guidance encourages joint working between LPAs in relation to the use of their planning powers. Para 178 of the NPPF, albeit in the section on 'plan-making', advises that public bodies have a duty to cooperate on planning issues which cross administrative boundaries, particularly those which relate to strategic priorities.

Pursuant to Section 101(1) of the Local Government Act 1972 a Local Authority may arrange for the discharge of any of its functions by a Committee, a subcommittee, an officer of the authority *or by any other local authority*.

Accordingly the Borough Council could delegate its decision making powers (whilst retaining for the avoidance of any doubt its enforcement powers and its power to determine any other planning applications relating to this site). It could also delegate to CEC its power to give a Scoping Opinion. The Borough Council will be consulted by CEC on the application regardless and the Planning Committee will be asked to agree comments to be sent to CEC, which it would be required, by law, to give consideration to. Similarly CEC would be required, by statute, to consult with Staffordshire County Council as Highway Authority; officers of CEC have confirmed this to your officers.

Members may feel uncomfortable with the principle of another authority determining an application within the Borough. This is understandable but there are considered to be circumstances here that could justify such approach.

First of all the dualling of this section of the A500 is clearly a matter of joint strategic importance. Secondly the fee for any planning application for this particular development would not be received by the Borough Council but would go to CEC, so if the Borough Council were to determine the application it would have to bear such costs entirely. Thirdly and most importantly in your Officer's

view, the area of land involved is very small indeed and the development would comprise only of a temporary works compound/stockpile and then a surface water attenuation feature and planting.

With respect to the giving of a Scoping Opinion it makes no sense whatsoever for the Borough Council to have to give such an Opinion in a case like this. A common sense approach is for the Authority considering the substance of the scheme to provide such an Opinion.

This matter was considered by the Planning Committee at its meeting on 24<sup>th</sup> April and the Planning Committee recommended to Council the two actions referred to in the above recommendation.