

## **Cabinet**

A meeting of Cabinet was held on Thursday, 15th March, 2007.

**Present:** Cllr Mrs P A Cains, Cllr D Coleman, Cllr B Cook, Cllr A Cunningham, Cllr R Gibson, Cllr P Kirton, Cllr K Leonard, Cllr S Nelson, Cllr Mrs J O'Donnell

**Officers:** G. Garlick, (CE) J. Haworth (ACE); A. Baxter (CESC); J. Allport, M. Robinson, K. Linton, M. Chicken, C. Straughan, C. Wood (DNS); J. Spittle (R) D. Bond, M. Waggott, G. Birtle, P. Mennear, J. Trainer, L. Lawty, S. McDonald, M. Henderson (LD)

**Also in attendance:** S. Boyd (Tristar Homes Limited)

**Apologies:** Cllr Johnson

### **1062 Declarations of Interest**

Councillors Leonard, Nelson and Roberts declared a personal, non prejudicial interest in items 5 and 6 relating to Choice Based Lettings as they were Members of the Tristar Homes Management Board.

Councillor Cunningham declared a personal, non prejudicial interest in items 8 and 9 entitled 'Stockton on Tees Borough Council Environment Policy' and 'Tees Valley Climate Change Strategy and the Stockton Action Plan' as he was employed as an energy consultant.

Councillor Mrs Cains declared a personal, non prejudicial interest in item 9 entitled 'Tees Valley Climate Change Strategy and the Stockton Action Plan' as she was a life Member of Nature's World.

Councillor Cook declared a personal, non prejudicial interest in item 10 entitled Tees Valley Unlimited: Proposed Governance Arrangements as he served on the Tourism Partnership.

Councillor Nelson declared a personal, non prejudicial interest in item 17 as he was a Member of the Tristar Homes Management Board.

Councillor Leonard declared a personal and prejudicial interest in item 17 entitled 'Approval of Hardwick Development Agreement' as he was a resident of the Hardwick Estate. Councillor Leonard left the meeting room during the whole of the consideration of the matter.

Councillor Frankland declared a personal, non prejudicial interest in items 5 and 6 relating to Choice Based Lettings as he had a relative who worked for Tristar Homes.

### **1063 Minutes of the Meeting held on 1st February 2007 and the Special Meeting held on 22nd February 2007**

The minutes of the meetings held on 1st February 2007 and 22nd February 2007 were confirmed as a correct record.

### **1064 Review of Teenage Pregnancy - Report of Children and Young People Select Committee**

Cabinet noted that the Children and Young People Select Committee had been tasked with reviewing the approach taken by the Teenage Pregnancy Partnership that existed in Stockton Borough to tackle the increased number in conceptions and pregnancies occurring in the borough. This was set against a national target that expected a 50 per cent reduction in the under 18 conception rate by 2010.

The Committee established that close working relationships were required between the four mainstream agencies – the Primary Care Trust, Education Department, Social Services and Children and Youth Services/Connexions.

The Teenage Pregnancy Co-ordinator played a key role in the delivery of the partnership's strategy. The Committee was therefore concerned when it learnt that the position at the time of the review was funded as a temporary contract which threatened the continuity of the service. The Committee supported the changes made to mainstream the co-ordinator's post having raised this issue as part of this review.

A major element of future reductions in teenage conceptions and pregnancies was the implementation of adequate sex education in schools. The Committee was keen to engage with the borough's schools to determine how schools met the requirements. Sex education had tended to focus on the biology of reproduction and disease and not the broader issues of sex and relationships.

The Committee was pleased to learn about the 'Lucinda and Godfrey' resource available for primary schools and specially packaged resources in secondary schools, designed and delivered in partnership with the North Tees Primary Care Trust, and was therefore hopeful that the improvements and the links that had been developed across the two school types would begin to show a reduction in the pregnancy rates of teenage girls in the borough.

Focused contraception/sexual health services, trusted by teenagers and well known by professionals working with them was the factor stated by the Department for Education and Skills as having the biggest impact on conception rate reductions in the high performing areas. The Committee explored this issue with officers from the North Tees Primary Care Trust and heard that an increased number of 12 and 13 year-old girls presented themselves to clinics in the borough but was reassured by the approach health professionals adopt.

The review was, in part, instigated by the percentage increase in teenage conception and pregnancy in the borough. What this belied was the low number of girls directly affected but which had a large impact on percentage figures. Comparison with other Tees Valley authorities showed how they were all susceptible to small numerical change.

The Committee recognised the effort and importance that was given to this issue by all parties on the Teenage Pregnancy Board and welcomed the reduction in the teenage pregnancy statistics in 2005 that were published after the Committee completed this review.

RESOLVED that

1. the creation of the new permanent role of Teenage Pregnancy Co-ordinator be supported and the Council and the PCT board be urged to support the continued funding of this post in order to provide essential staff continuity to help tackle the issue of teenage pregnancy.
2. all schools be encouraged to ensure that all young people have equality of access to the wide range of SRE information and services available.
3. Head Teachers, Governing Bodies and the Teenage Pregnancy Partnership be encouraged to consider ways of integrating SRE into the curriculum of all primary schools in the borough.
4. the role of the youth service be examined as part of the monitoring of the review.
5. the revised Teenage Pregnancy Strategy be presented to the Committee for consideration together with details of the funding arrangements and that the Committee receive reports and updates presented to the Teenage Pregnancy Strategy Board and Teenage Pregnancy Regional Co-ordinator as part of the monitoring of the review.

#### **1065 Sub Regional Choice Based Lettings in the Tees Valley**

Members considered a report relating to the proposed implementation of a sub regional Choice Based Lettings (CBL) scheme.

It was explained that in January 2005, Office of the Deputy Prime Minister (ODPM) published Sustainable Communities: Homes for All, the Government's five year housing plan for England. This document set out the Government's plans for taking forward its CBL policy. The aim was to have in place a nationwide system of choice by 2010, by extending CBL to cover not only local authority and housing association properties, but also low cost home ownership options and properties for rent from private landlords.

The Tees Valley sub regional CBL partnership was convened in early 2006 following the announcement by the Department for Communities Government & Local Government, formally the ODPM, that it had been successful in receiving Government funding (£105,000) to explore the possibility of developing a sub regional CBL scheme, with a positive view to implementation by 2008. The partnership was made up of representatives from Middlesbrough Council, Stockton Council, Redcar & Cleveland Council, Hartlepool Council, Darlington Council, Erimus Housing, Tristar Homes, Coast & Country Housing and Housing Hartlepool.

Since September 2006 the Council's Housing & Community Safety Select Committee in their scrutiny role had been undertaking a piece of work to:

- respond to the national agenda for Choice Based Lettings and to look at the options for delivering such a policy in Stockton-on-Tees.
- assist with the development of a choice based lettings Policy in the Borough as part of the development of a sub-regional CBL Scheme.

- examine the opportunities offered by CBL and how they might apply locally.

The work of the Select Committee had fed into and helped shape this report.

As a result of the Government funding a Sub-Regional CBL Co-ordinator post for the Tees Valley was appointed to drive forward the process. A feasibility study, which considered the issues in developing a sub regional scheme was undertaken and completed by the sub regional CBL co-ordinator in November 2006 and discussed with the 5 Tees Valley local authorities.

The sub regional CBL proposal was at a stage where strategic and financial decisions needed to be made. This included the procurement of an ICT system and the revision of the existing allocations policy, with a view to introducing a Common Housing Register and a framework for a Common Allocation Policy, which allowed for local lettings policies.

The framework for a Common Allocation Policy would include a method for determining which categories of applicants would be prioritised within the scheme in accordance with the reasonable preference groups as set out in Housing Act 1996. This would ensure a consistent and transparent approach to allocations across the sub region.

The Common Allocation Policy would also provide for local lettings policies that existed within the individual local authority boundaries. The local lettings policies would be clearly set out within the scheme and would be evidence based and justified with an explanation wherever possible to ensure transparency.

The framework for the Common Allocation Policy would be developed over a 3 month period and the draft document would be circulated to key stakeholders during the 12 week consultation period to ensure they had a reasonable opportunity to comment on the proposals.

It was anticipated that the final draft policy document would be presented to Members later in the year for full approval.

Members considered issues relating to the implementation of a Sub Regional Scheme:-

#### Funding

In year 1, each of the 9 partners had committed £5,000 (£45,000 in total) towards Government funding to explore the benefits of developing a sub regional scheme. This funding had contributed to the co-ordinators' salary and expenses, admin, consultation, training and development. It was proposed that each partner contributed a further £23,152 in year 2 (07/08). This funding was built into the 07/08 Housing Revenue Account. It was anticipated that Government funding and the additional contribution provided by the partners would cover the development and implementation costs in setting up the ICT system, together with any costs associated with training, development and consultation. A copy of the financial breakdown was provided to Members.

## Procuring ICT Software

Procuring ICT software that met the needs of each Organisation, would prove to be the greatest expense in setting up the sub regional CBL scheme. The estimated cost of setting up and implementing a sub regional CBL system would be approximately £120K depending upon the functionality. This cost would be divided between the number of partners committing to the scheme. Additional costs would be incurred in terms of running costs i.e. hosting of the site, system support etc...at a cost of approximately £6K p.a. per partner organisation. There could be other additional running costs incurred if the partnership decided to procure a system, which offered additional functionality in terms of telephony and SMS (0845/0800 numbers and text messaging) or if they wanted the supplier to provide the management and maintenance of the back office systems. In any event, the partnership could expect to pay in the region of £120K+ for a sub regional ICT solution.

Members noted that the cost of setting up a single CBL system would be in the region of £20K together with additional running costs of approximately £5K p.a.

After considerable discussion the partnership recommended a single common policy for allocating properties, which allowed for local variations, together with the development of a common housing register. The bid submission to the former ODPM indicated that the intention of the Tees Valley partnership was to develop a common policy and a common housing register.

RESOLVED that

1. the development of a Tees Valley Housing Register and an overarching Tees Valley Allocations Policy which, following consultation, will be reported back to Cabinet, for detailed consideration, be agreed
2. the Council enter into a formal tender process in conjunction with the Tees Valley Councils, to select a preferred software supplier.
3. the initial financial resources required to implement a sub regional scheme by 2008, already built into the Housing Revenue Account, be noted.
4. following the production of a draft Allocations Policy, a Members Seminar be held, prior to a further Cabinet Report being submitted.

### **1066 The Development of Choice Based Lettings - Report of Housing and Community Safety Select Committee**

Members considered a report that had been produced by the Council's Housing and Community Safety Select Committee and related to Choice based lettings and how Stockton Borough could respond to the national agenda.

It was explained that Choice-based lettings (CBL) was a new method of allocating social housing. CBL schemes gave people more choice in where they wanted to live by allowing people to apply (or 'bid') for advertised social housing vacancies. Applicants were allowed to see the full range of available properties and could apply for any to which they were suitably matched.

Housing authorities were still required to ensure that reasonable preference was extended to certain categories of applicants, for instance those who were homeless or who had medical need. CBL schemes generally provided for this by placing applicants into priority 'bands'.

The Housing and Community Safety Select Committee examined the subject over a 6-month period in order to determine how Stockton Borough Council should respond to the national agenda.

It was a Government target for all local authorities to operate CBL schemes by 2010, and for those schemes to include housing associations and the private rented sector. The Government also wished to see CBL schemes developing at the sub-regional and regional level.

The Committee concluded that choice-based lettings had advantages over the current method of allocating social housing in Stockton Borough and had the potential to deliver real benefits to residents; it represented a shift towards a much more customer focussed approach.

Cabinet noted that during the course of the review, it became clear that due to the timescales of the Tees Valley sub-regional project, Stockton Borough Council's Cabinet would be required to make a decision in March 2007 on whether to give approval for Stockton's commitment to membership of the sub-regional scheme. The Committee recognised the additional benefits likely to be achieved through membership of a Tees Valley sub-regional scheme in terms of customer choice and economies of scale, and conclude that Stockton should give full commitment to the project.

The Committee noted the significant differences between existing, points-based method of allocation and choice based lettings; and that a comprehensive consultation process would need to be made in order to prepare both customers and staff for the introduction of choice based lettings.

Cabinet commended the report and fully supported the recommendations of the Select Committee.

RESOLVED that

1. in principle Stockton Council adopts a Choice Based Lettings scheme for allocating its property.
2. the Stockton Choice Based Lettings scheme be developed further in the context of the Tees Valley Sub-regional scheme; and that the necessary IT system be procured through the appropriate joint tendering exercise.
3. the sub-regional scheme be developed on the basis of a common overarching policy and the development of a Common Housing Register; and that the common policy be developed to reflect the features as set out in Appendix 1 of the report.
4. a detailed feasibility study be undertaken by Tristar Homes on the preferred option of a one-stop shop approach to deliver choice based lettings in Stockton Borough, taking full account of necessary expenditure, the qualitative and

quantitative cost-benefits that would accrue, and with due regard to existing and proposed Council service provision; and that this be examined by the Committee at its first meeting of municipal year 2007-08.

5. the Suspensions Policy in relation to the Choice Based Lettings scheme be based on the approach adopted by Erimus Housing, as set out in Appendix 2 of the report

6. other Housing providers in the Borough and sub-region be encouraged to participate in the Choice Based Lettings scheme.

7. the possibility of introducing a sub-regional Disabled Persons' Housing Service be further investigated by the Tees Valley CBL partnership.

8. a comprehensive consultation process was undertaken by Tristar Homes in order to provide both customers and staff with an understanding of the new scheme and to ensure ease of access for all, once implemented.

### **1067 Local Authority Nominations to School Governing Bodies**

Cabinet Members were requested to consider the nominations to school Governing Bodies in accordance with the procedure for the appointment of school governors, approved as Minute 84 of the Cabinet (11th May 2000).

RESOLVED that the appointments to the following School Governing Bodies be approved in line with agreed procedures subject to successful List 99 check and Personal Disclosure:-

Bede College	Mr T.Bean
Kirklevington Primary School	Mrs C. Farrimond
Whinstone Primary School	Mrs J. Sherwood

### **1068 Stockton Borough Council Environment Policy**

Cabinet considered a report regarding the Council's Environment Policy. This policy sets out the key areas of the environment that the activities of the authority would impact upon and considered how those impacts could be reduced and improved.

A copy of the draft policy was provided to Members. The policy recognised the fact that there were other strategies, plans and policies that governed the Council's influence on key areas such as transport and planning and did not intend to replicate or replace them. It did, however, seek to address the impacts on the environment that it had through day-to-day activities in delivering a range of services.

The policy therefore focused on areas of influence where the Council could make a difference and in several cases would relate to basic management and use of resources.

The environment policy could form the starting point should a decision be taken to pursue an environmental management system in the future.

It was explained that the Council required potential suppliers and contractors to provide a copy of their environmental policy as part of the procurement process. By adopting this policy the Council would be setting an example and the standard that it would reasonably expect potential suppliers to strive to achieve.

Stakeholders and partners would be supported in developing environmental policies that could mirror the Council's aims and targets. Tristar homes had already taken this opportunity and drafted an environment policy with support from council staff in line with this draft.

The commitments and targets had been developed by a cross-service group of officers in a range of specialist areas and with appropriate expertise.

To deliver the targets in the policy would require actions to be developed and fed into the service planning process.

Progress towards targets and the delivery of actions would be through an annual report, together with actions taken and planned. The policy would be reviewed and updated annually.

RESOLVED that the draft Environmental Policy be approved as a basis for further consultation and delegated final approval of the policy be given to the Corporate Director of Development and Neighbourhood Services in consultation with the Cabinet Member for Environment.

#### **1069 Tees Valley Climate Change Strategy and the Stockton Action Plan**

Members were informed that the Council had been pro-active in tackling some of the significant environmental issues such as energy consumption and waste management. The Council had been very successful with projects such as the warm zone initiative, achieving a high level of energy efficiency improvements in the housing stock and leading on a waste management project with partners in Europe.

In November 2002 the Leader of the Council and the Chief Executive signed the Nottingham Declaration on Climate Change, which committed the authority to:

- Work with central government to contribute, at a local level, to the delivery of the UK climate change programme.
- Participate in local and regional networks.
- Develop plans to progressively address the causes and impacts of climate change.
- Publicly declare, with appropriate plans and strategies, the commitment to achieve a significant reduction of greenhouse gas emissions from our own operations, especially energy sourcing and use, travel and transport, waste production and disposal and the purchasing of goods and services.
- Assess the risks associated with climate change and the implications for services and our communities, and adapt accordingly.
- Encourage all sectors in the community to adapt to the impacts of climate change, to reduce their own green house gas emissions and to make public their commitment to action.
- Monitor the progress of our plans against the actions needed and



publish the result.

In 2005 the Tees Valley Climate Change Partnership was established as a pioneering sub-regional initiative between the 5 boroughs of Darlington, Hartlepool, Middlesbrough, Stockton and Redcar & Cleveland.

Working in partnership with the Environment Agency, Renew Tees Valley, Tees and Durham Energy Advice and Scottish Power, as well as a number of strategic delivery partners, the Partnership was leading the way in effective collaborative response to the threat of climate change, principally in supporting a full-time Climate Change Co-ordinator to develop a sub regional strategy.

Officers from the five Local Authorities, together with the Environment Agency, Renew Tees Valley, and the Tees and Durham Energy Advice Centre had subsequently met monthly since October 2005 to establish appropriate sub regional targets on emission reductions, and reached consensus on a 1.25% annual reduction.

By sharing resources in this way the Partnership was able to avoid duplication of effort, and work in the most efficient way possible, ensuring a coordinated and consistent approach across the sub-region.

From the outset the Partnership recognised the importance of establishing a baseline and consistent methodology for the sub-region, allowing for meaningful comparisons of emissions over time.

Data on energy use, transport and waste had been obtained from a number of reliable sources, including the DTI, DEFRA and the Tees Valley Joint Strategy Unit. From this consumption data, a series of conversions and calculations had enabled the development of the Emissions Inventories for each Local Authority area, using the year 2000 as a baseline. The inventories were updated with the release of new data and used to monitor long-term progress.

Working in conjunction with the Environment Agency, the Partnership had also been able to disaggregate emissions from industry from Local Authority sub-totals, ensuring targets for Local Authorities were based on emissions from the domestic and SME sectors only. Achieving an average 1.25% annual reduction in the industrial sector would lie within the remit of the Environment Agency, who would provide the Partnership with annual progress reports.

It was explained that a Strategy for the sub-region was being developed and represented a high-level, comprehensive approach to documenting the current situation in the Tees Valley. It was driven by the partners (5 local authorities and the Environment Agency) to achieve both short-term and long-term emission reduction targets. Stockton's Climate Change Action Plan would influence the final version of the Tees Valley Strategy and represented Stockton's contribution to the partnership goals:

- § A minimum 8.75% reduction below 2000 levels from 2006-2012
- § A further minimum 27% reduction from 2012-2030

In addition, the strategy outlined broad sub-regional actions for reducing emissions and adapting to climate change, and identified the Partners

responsible for implementation.

The target of 1.25% reduction had been arrived at following extensive analysis of emissions data, potential savings from a range of activities and those local authorities that had historical data on emissions savings, such as Stockton and its comprehensive database compiled largely due to the warm zone initiative. The target would also see the Council make a significant contribution to the national targets.

There had been significant interest already in the collaborative approach that the five Tees Valley Local Authorities had taken in base-lining the sub regions emissions, particularly at Government Office level. The Council was also demonstrating that as a borough and an authority it was committed to better protecting our communities from the known impacts of extreme weather events and was contributing to the national Climate Change Programme.

It was explained that a copy of the final Tees Valley Strategy would be made available in the Members Library when completed.

The Stockton Climate Change Action Plan was provided to Members and it was explained that it had been developed in tandem with the developing Tees Valley Climate Change Strategy. It had involved staff from a variety of disciplines and service areas within the authority as well as a number of external agencies that would be involved in the delivery of the plan.

The plan focused on actions that could contribute towards the sub-regional target as well as measures to adapt to the inevitable consequences of climate change. Those included short-term actions such as installation of insulation measures, medium term such as the development of renewable energy technologies and the longer-term impacts from revised planning policies.

Underpinning this would be initiatives to encourage and enable individuals to understand their role and responsibility in tackling climate change.

RESOLVED that

1. Cabinet notes that the emerging Tees Valley Climate Change Strategy includes a target of 1.25% CO<sub>2</sub>e emissions reduction per annum.

2. the draft Stockton on Tees Climate Change Action plan be adopted as the basis for further consultation and delegated approval of the final Action Plan be given to the Corporate Director of Development and Neighbourhood Services in consultation with the Cabinet Member for Environment.

## **1070 Tees Valley Unlimited**

Cabinet considered a report that set out the new governance arrangements for Tees Valley Unlimited (TVU), the proposed joint working arrangements for local authorities in the Tees Valley and their partners, which would replace the existing Tees Valley Partnership arrangements.

The report set out the principals, which would guide the operation of Tees Valley Unlimited, including the terms of reference composition and

accountability arrangements. It also includes an outline implementation programme.

The proposed structure for Tees Valley Unlimited was provided to Members as an appendix to the report. It was based around a leadership board with officer support and a number of sub boards dealing with the areas of planning and economic strategy, transport, employment and skills, housing and tourism. The timescales for implementation were provided.

It was explained that there were a number of key principles which underlay the Tees Valley Unlimited proposals. They were:-

#### Subsidiarity

It was important to recognise Tees Valley Unlimited would deal with issues which could be dealt with at a city region level to improve the economic performance of the Tees Valley.

#### Partnership

It was envisaged that Tees Valley Unlimited was a partnership, coordinating activities across the Tees Valley appropriate to a city region level. It was not proposed, at least in the first year, for the local authorities to delegate any powers to Tees Valley Unlimited. As progress was made on developing the work of the Boards, and where the partners agreed it would be sensible, it may be necessary to delegate powers, but at least for the first year of operation, this was not expected to be the case. Minutes of the Leadership Board would be reported through Cabinet to ensure a decision trail.

#### Joint Strategy Committee (JSC)

Tees Valley Unlimited effectively took over the function of the Joint Strategy Committee. There would need to be a process put in train to wind up the JSC .

#### Voting

There was an issue over where it was appropriate for the local authority members to have a vote and where all members of the Board could vote. In certain cases where there was local authority statutory functions e.g. a response to the Regional Spatial Strategy, Transport it was proposed that only local authority members could vote. In other areas such as economic development, all members could vote. There was a concern that unless partners could vote on non-statutory matters, they would feel unable to influence policy .

#### Accountable Body

The Multi Area Agreement between the five local authorities and ONE, the Regional Housing Board /Department for Communities and Local Government and Department for Transport would need to be ratified by each of the authorities. One authority would act as accountable body for the resources set out in the multi area agreement.

## Local Strategic Partnership

The link with Stockton Renaissance would be via the Leader's position on the Leadership Board and the Renaissance Partnership.

RESOLVED that the governance proposals and the implementation timetable set out in the report be endorsed.

### **1071 Minutes of Various Bodies**

Consideration was given to minutes of meetings of Area Partnership Boards, the Regeneration Sub Group and the Stockton – Middlesbrough Initiative (SMI) Member Group.

RESOLVED that the minutes of the following Area Partnership Boards, the Regeneration Sub Group and the Stockton - Middlesbrough Initiative Member Group, as appended, be received/approved, as appropriate:-

Stockton Renaissance	5 December 2006
Stockton Renaissance	16 January 2007
The Billingham Partnership	6 November 2006
The Billingham Partnership	4 December 2006
The Billingham Partnership	15 January 2007
Central Area Partnership	14 December 2006
Central Area Partnership	25 January 2007
Eastern Area Partnership	28 November 2006
Eastern Area Partnership	19 December 2006
Eastern Area Partnership	30 January 2007
Regeneration Sub Committee	9 January 2007
Regeneration Sub Committee	31 January 2007
Stockton Middlesbrough Initiative Member Group	7 November 2006

### **1072 Second Revised Local Development Scheme**

Cabinet considered a report detailing revisions to the Local Development Scheme (LDS), which set out detailed arrangements for the production of Local Development Documents (LDDs) which will comprise the Council's Local Development Framework (LDF). The revisions were necessary to;

- Delete those documents which had been completed and adopted,
- To insert new documents
- To revise the timetable for the production of the Core Strategy, Regeneration and Environment Development Plan Documents (DPDs) in accordance with current resources.

It was explained that the LDS was a three-year rolling programme for the production of the documents that would comprise the LDF. It identified each document that was to be prepared with a detailed timetable for the production of that document.

As part of the management of the process, the Council was required to produce an Annual Monitoring Report (AMR) to assess, amongst other things, the

Council's progress in meeting the commitments set out in the LDS and, if progress had not been made as anticipated, to explain why.

Members noted that in December 2006, the Annual Monitoring Report 2005/6 was reported to Planning Committee. It showed that between April 2005 and March 2006 a number of documents had progressed in accordance with the LDS timetable:

- Alteration No.1 to Adopted Stockton-on-Tees Local Plan was adopted in March 2006.
- Statement of Community Involvement was adopted in March 2006
- Core Strategy DPD Issues and Options and the Conservation and Historic Environment Folder SPD were progressing in line with the target dates contained in the LDS.
- Boathouse Lane Planning and Design Brief and Parking Provision for New Developments were both on schedule with their consultation periods.

However, the Regeneration DPD was identified as unlikely to meet the target date set out in the LDS.

Since March 2006, progress had been made on a number of documents:

- Boathouse Lane Planning and Design Brief SPD was adopted in June 2006
- Parking Provision in New Developments was adopted in November 2006, advertised in January 2007 and is currently within the 3-month period when a High Court challenge can be made.
- the Conservation and Historic Environment Folder was adopted in January 2007, was advertised in February 2007 and was within the 3-month period when a High Court challenge could be made.

However, there had been some slippage in progress on both the Core Strategy and the Regeneration DPDs. This was the result of a variety of factors.

Stockton was not the only authority to be experiencing slippage in its LDS timetable. A letter from GO-NE dated 6th December 2006 indicated that this was the case. Consequently, Department for Communities and Local Government (DCLG) announced that it wished to improve the reliability of the LDS so that it became the definitive programme management document for LDF production.

As from 1 April 2007, the LDS was to be departed from only in exceptional circumstances or as agreed in response to annual monitoring. The letter informed local authorities that DCLG was giving them an opportunity to get it right for the forthcoming year. GO-NE and PINS had to agree any alterations to the LDS in advance. GO-NE had also indicated that LDS timetables revised at this time would be the one against which eligibility for future Planning Delivery Grant (PDG) on plan making would be assessed. This year, PDG was assessed on an authority's original LDS, which had to be submitted in March 2005. This was considered unfair by many authorities that had agreed amendments to their original documents.

For these reasons, it was considered opportune to review Stockton's LDS. The revised LDS was provided to Members as an appendix to the report. The documents affected by the revisions were:

- Core Strategy DPD.
- Regeneration DPD.
- Environment DPD.

In addition one new SPD would be added to the timetable for Greater North Shore.

In summary the changes were as follows:

#### Core Strategy

- Consultation on Preferred Options - September to October 2007
- Submission of Core Strategy to Secretary of State – May 2008
- Consultation on Core Strategy - May to June 2008
- Public Examination - February 2009
- Receipt of Inspector's report - August 2009
- Adoption - October 2009

#### Regeneration DPD

- Consultation on Issues and Options – September to October 2007
- Consultation on Preferred Options – May to June 2008
- Submission of Regeneration DPD to Secretary of State – January 2009
- Consultation on Regeneration DPD – January to February 2009
- Public Examination August 2009
- Receipt of Inspector's report February 2010
- Adoption April 2010

#### Environment DPD

- Consultation on Issues and Options – January to February 2008
- Consultation on Preferred Options - August to September 2008
- Submit Environment DPD to Secretary of State June 2009
- Consultation on Submission Environment DPD – June to July 2009
- Public Examination January 2010
- Inspector's Report July 2010
- Adoption August 2010

#### SPD7 Greater North Shore

This was a new Supplementary Planning Document to be added to the programme. Its timetable would be:

- Start of Preparation and Sustainability Appraisal March 2007
- Draft Consultation period April -May 2008
- Consideration of representations - June to August 2008
- Adoption and Publication - September 2008

The following completed documents were deleted from the LDS:

- LDD1 Statement of Community Involvement Completed,
- SPD3 Parking Provision in New Developments,

- SPD4 Conservation Areas and Historic Environment Folder
- SPD5 Boathouse Lane Planning and Design Brief.

The revised LDS had been submitted to PINS via GO-NE. Once they had confirmed acceptance of the revision, the document then became the official project management plan for progressing the Local Development Framework in the next year. Members noted that PINS may make recommendations for minor alterations to the timetable in relation to those activities in which they played a part; the date of Public Examinations or the production of Inspectors' Reports.

RECOMMENDED to Council that:-

1. the contents of this report be noted.
2. the amendments to the timetables of individual LDDs and the addition of an SPD for Greater North Shore be agreed
3. the further stages in agreeing the revised timetable with Government Office for the North East (GO-NE) and the Planning Inspectorate (PINS) be noted.
4. officers be delegated to make minor amendments to the timetable required by GO-NE and PINS.

### **1073 Electoral Administration Act and Security Measures and Elections 2007**

Members considered a report that provided an update relating to the Electoral Administration Act and security measures, together with details of the support arrangements for the May 2007 elections. Specifically the report covered the following areas relating the Act:-

Changes to the timetable  
Nominations and candidates  
Performance standards

With regard to arrangements for the Elections in May 2007 Members noted work that had been undertaken in the following areas:-

Polling stations

A review of polling stations had been undertaken including consultation with members to identify suitable buildings in the borough. The exercise had not been as successful as hoped and it had been necessary to hire mobile polling stations for certain locations.

This extensive review of polling venues and facilities was complete and details of the polling stations identified were provided to Members. Members noted one amendment to the list appended to the report, this related to Bishopsgarth and Elmtree Ward where the Mobile Polling Station in the Lay by at the Five Alls Pub, Marske Lane would now be Mobile Polling Station at Bothell Drive behind Marske Parade Shops.

The work undertaken with regard to Polling Stations would contribute towards

the full review of polling stations required by the Electoral Administration Act before December 2008.

#### New postal and proxy vote provisions

The first part of the exercise had been completed and over 18,000 renewals had been returned. The remaining 7,500 would be sent a reminder and any non-respondents after that sent a deletion notice which would include a fresh application form.

Any completed application form would have to bear the electors usual signature as it would be rejected if it does not match the signature provided on the security statement returned with the ballot paper.

#### Pre poll Information

Officers were considering using an A4 format that would incorporate the detail of the traditional polling card together with additional information to raise awareness of key dates e.g. last day for postal vote applications.

#### Electoral Suppliers

It was noted that the electoral Reform Society was the main printing and packing supplier and it would be printing all pre-poll, postal and ballot papers for this Election. The Royal Mail's walk sort service would be used to ensure cost effective delivery.

The count hall would accommodate the counting of 16 wards at a time. The order of the count had been determined taking into account information from the last elections regarding the number of votes cast, the closeness of result and the number of seats. The first 16 wards would be the first to be verified and counted and the rest would follow as a table became available. The parish counts would follow the borough counts in the same order. Details of the count order were provided.

#### Communication

Regular briefings with Group Leaders continued and information updates had been sent to all Councillors, Parish Clerks and Regional Party Offices. A Parish Clerks meeting was held on 13 February and a Members seminar at Thornaby Pavilion was held on 6 March. A briefing of all appointed election agents was to be held prior to the election.

#### Police meeting

A liaison meeting had been arranged with the police nominated single point of contact to discuss the provision of policing response to a local election situation to enable free elections.

Following this meeting Officers would be liaising with Stockton Security and Surveillance service to discuss arrangements as necessary.



## Publicity

Members noted that The Electoral Commission's campaign for elections in England and Wales which used the central theme of 'if you want to vote, make sure nothing stops you'. The campaign aimed to communicate the need to register to 'have your say' by voting.

The Council would be running a series of local events to compliment this campaign. A second burst of advertising would run in the week immediately prior to Election Day, reminding people about the upcoming elections. Additionally appropriate articles had been published in KYIT and the Stockton News and work with partners across the Tees Valley would include using adverts on the rears of buses and a 9 week campaign at Showcase Cinema Teesside.

## Recruitment

The recruitment drive had been successful in achieving the numbers of staff required and application forms had been sent to individuals during February asking for line managers approval. At the time of writing the majority of forms had been authorised and returned to the Democratic Services Unit.

## Fees

Details of the fees agreed by the Returning officer for Stockton, in line with those agreed across the Tees Valley were provided. The Director of Law and Democracy had previously been appointed by the Council as Returning Officer for Local Government Elections and as registration Officer under section 8 of the Representation of the Peoples Act 1983. It was explained that, for insurance purposes those appointments should be reconfirmed before 3 May elections. It was therefore recommended that Council be asked to reconfirm the appointments.

RESOLVED that the progress regarding the Electoral Administration Act and support arrangements for the May 2007 elections be noted.

RECOMMENDED to Council that the appointment of the Director of Law and Democracy as Returning Officer for Local Government Elections and as Registration Officer under Section 8 of the Representation of the Peoples Act 1983 be reconfirmed.

## **1074 Report of the Local Government Ombudsman**

Cabinet was informed that the Local Government Ombudsman issued a report on the 29 November 2006 in which she criticised the Council for failing to handle nuisance caused by drifting car wash spray.

It was explained that the Council was required to consider the Ombudsman's report and to inform her of the action it had taken or proposed to take in response to the report.

The complaint essentially concerned two issues, noise and drifting car wash spray, arising from the grant of planning permission in 2003 for the extension of

any existing garage site. The alterations included an extension to a shop, the re-positioning of a car wash and a new jet wash facility. Whilst planning conditions were imposed with regard to controlling noise and the hours of operation, a condition to control spray was not imposed.

When the re-positioned car wash started operating in May 2004 complaints were received from two nearby residents about noise from both the car wash and the jet wash. Following extensive investigations and the service of an Abatement Notice, appropriate measures were taken by the garage owner to reduce noise levels. Environmental Health Officers were satisfied that any noise emanating from the site was not a statutory nuisance. The Ombudsman had found that the noise problems were quickly abated and solved commendably quickly by Environmental Health. However, she had criticised the Council for a delay of about 18 months in enforcing a condition in relation to an automatic timer for air conditioning units (to effectively ensure they were not left on at night).

Complaints about drifting spray began in September 2004 and the Complainant was advised to keep a log of events. The Complainant's Planning Consultant and Solicitor also wrote to the Council about the spray problem. Discussions took place with the garage owner about a possible solution, however, a proposed scheme involving the installation of perspex screening was considered to be inadequate and only a full enclosure of the car and jet wash was considered to be an effective remedy. A further Abatement Notice was therefore served to this effect. The owner appealed against the Abatement Notice and the matter was determined by a Judge sitting in the Magistrates' Court. Following a two-day Hearing the Judge allowed the appeal on the basis that the spray did not constitute a statutory nuisance as he considered it to be an odourless, harmless spray that was not occurring to an extent that caused severe detriment to neighbouring residents.

In her report the Ombudsman had concluded that the Council failed properly to consider:-

- a. the Complainant's objection about spray (which did provide evidence of an existing problem from spray drift but which was too briefly summarised in the Planning Committee report);
- b. existing precedents which warned that spray drift from a car wash was a particular problem;
- c. Environmental Health Officers' recommendations about measures to combat spray; and
- d. the proximity of residential properties (and particularly the Complainant's property) to the re-positioned car wash and new jet wash.

This was maladministration. As a result, the Council failed either to seek an amended application or add a condition to prevent the likely problem of spray drift causing a nuisance to nearby residents.

The Ombudsman appeared to accept that the Complainant was more sensitive to the spray drift than most other people. However, she believed the Council's

maladministration had led the Complainant and his partner to unnecessarily suffer a significant loss of amenity and all the upset and adverse effect on his fragile health which that had entailed. To remedy this injustice, the Ombudsman had recommended that the Council should now:-

a. pay the Complainant £3,500 compensation for the injustice he had suffered so far and his time and trouble in making his complaints to the Council and to the Ombudsman; and

b. either pay the Complainant a further £6,500 compensation for the continuing injustice he would suffer or seek to negotiate with the garage owner for a permanent physical solution to the spray problem to be funded by the Council; and

c. engage the District Valuer to advise whether the Complainant's property had been devalued by the significant loss of amenity due to the spray which should have been prevented or more effectively tackled by the Council, and pay the Complainant any loss of value identified.

Members were informed of Officers' comments and noted that they did not agree with the Ombudsman's conclusion that the Complainant had suffered a significant loss of amenity. With regard to noise, the Complainant had made numerous complaints only one of which was found to be substantiated. This was in respect of a dryer on the car wash. Accordingly an Abatement Notice was served, whereupon the owner ceased the use of the dryer and carried out appropriate work to abate the nuisance. Numerous visits to the premises and to the Complainant's home had been carried out by Environmental Health Officers over the last 2 years in response to complaints about noise. Negotiations with the owner led to the re-positioning of the refrigeration units and ensuring that air conditioning units were turned off at night. Environmental Health Officers were satisfied that noise emanating from the site was not a statutory nuisance, however, the Complainant had nevertheless continued to complain about noise.

With regard to the criticism about a delay in enforcing a planning condition concerning the installation of an automatic timer for the air conditioning units, Environmental Health Officers were satisfied that management controls were in place to ensure the units were switched off at night and that the units were not the cause of the complaint. This was evidenced by the fact that the Complainant had continued to complain about noise from air conditioning units after the installation of an automatic timer. The complaint about noise had been attributed by Environmental Health Officers to the plant room, however, this noise in itself was not significant and was barely audible against general background noise. Therefore, this was not a statutory nuisance and Officers were unable to satisfy the Complainant with regard to noise.

The problem with spray drift was the more difficult issue. Planning Officers accepted that the advice of Environmental Health Officers was not followed and was not made the subject of a planning condition in the original planning approval. Conditions with regard to noise and hours of operation were imposed but not a specific condition in relation to controlling spray drift. It was felt that this was either an oversight on the part of the Planning Officer or following numerous site visits, and discussions with the owners planning and noise

consultants, it was agreed that such a condition was not necessary. Subsequent attempts to agree a resolution to the problem with the garage owner had failed as it was felt that only a full enclosure of both the car wash and the jet wash would prevent any over-spray of water. This would be an expensive solution for the garage owner and would affect the viability of the operation. Fully enclosing the jet wash was likely to result in those using the facility getting wet. The owner therefore appealed against the Abatement Notice. The fact that his appeal was successful perhaps demonstrated that the imposition of a planning condition may not have been reasonable. Accordingly, Officers felt that the matter had been put to the test in a court of law and the Judge's comments were relevant when considering the Ombudsman's finding that a significant loss of amenity had occurred.

The Ombudsman had been asked to further clarify why she considered a significant loss of amenity had occurred, (given the fact that it was not a statutory nuisance and given the comments made by the Judge). Her response was that:-

“The Council may disagree now that there has been a significant loss of amenity due to spray but Environmental Health clearly did not disagree prior to the Judge's decision - given the time it devoted to the case, its recorded actions and the Abatement Notice it served.

I would suggest that the Ombudsman's investigation of the injustice to the Complainant has been much more thorough than any investigation the Judge could undertake in connection with the Hearing. This is not to criticise the Judge, but rather to highlight the limitations of their remit.”

The Head of Legal Services found the Ombudsman's comments difficult to accept, they effectively sought to disregard the decision on appeal and seemed to place both the Council's and the Ombudsman's judgement above the law. Whilst Environmental Health Officers must be satisfied that a nuisance existed before serving an Abatement Notice, the ultimate decision was made by a Court in any subsequent appeal. In this case the Court heard from expert evidence on behalf of the garage owner, the Complainant himself and the Council's professional Environmental Health Officers. The Judge did not accept that there was a significant loss of amenity. As a result a statutory nuisance from any spray drift was not evidenced to the satisfaction of the Court. The Ombudsman's finding that the Complainant and his partner had indeed suffered a significant loss of amenity “even if it did not amount to a statutory nuisance” was totally at odds with the evidence. For this reason, the Council was advised not to accept the Ombudsman's suggested remedy.

The Head of Legal Services also took issue with the comment that the Ombudsman's investigation had been much more thorough than any investigation the Judge could undertake. The Judge heard from all parties including the owner and his expert witness whom the Ombudsman made no mention of having interviewed.

It was explained that whilst the recommendations of the Ombudsman were not legally enforceable, adverse reports should be given full consideration and any decision not to accept them should be subject to a full and public explanation.

Further enquiries were being made with the owner of the garage to seek his views on a permanent physical solution to the problem as recommended by the Ombudsman.

RECOMMENDED to Council that

1. The Ombudsman be informed that the Council disagrees with the suggested remedy and that the Council will make the following offer of compensation to the Complainant:-

a. a sum of £1,000 (one thousand pounds) for the Council's failure to impose a planning condition to control spray drift from the car and jet washers; and

b. a sum of £250 (two hundred and fifty pounds) for the time and trouble in pursuing the complaint.

2. The Ombudsman be informed that the Council considers it is unnecessary to instruct the District Valuer since no significant loss of amenity has occurred.

## **1075 COUNCIL PLAN AND SERVICE IMPROVEMENT PLANS 2007-2010**

Cabinet was reminded that the Council Plan set out how the Council would contribute to community objectives. The plan was based on the objectives and outcomes already set in the Community Strategy, but provided focus on the key objectives the Council needed to achieve authority wide, and which needed to be monitored by Corporate Management Team and the Cabinet.

The principle underlying the development of the Council Plan was that it should be a business plan for the organisation, focusing on key corporate priorities for change, rather than summarising all activities that the Council undertook. This approach was vital to ensure a clear focus on improvement, but meant that some significant service areas did not feature in the key objectives and outcomes. The focus of the plan shifted each year as the Council's key improvement priorities altered over time; it was a three year rolling plan which was updated on an annual basis.

Service Improvement Plans supported the Council Plan by setting out how key priorities and objectives would be delivered, and their resource implications. The plans also include information about each service area and its achievements.

The 2007-2010 Council Plan contained two main parts. The first was a narrative about the Borough, the Council, its achievements and future plans. This was supported by the second main part – an action plan which sets out how the objectives and priorities of the Council would be delivered.

The objectives within the Council Plan had been updated following recent Resident Satisfaction Surveys and consultation with Councillors. The plan had been developed in partnership with:

Councillors – through seminars on the Residents Survey Results and the Council Plan and through “drop in” sessions

for Members to discuss the plan with officers.

Corporate Management Team, Heads of Service and Policy Officers through joint working to develop the plan.

As an 'Excellent' Council Stockton had the freedom to use its Council Plan to meet the statutory requirement to prepare a (Best Value) Performance Plan. This Council Plan therefore formed a Performance Plan for 2007/8. It would be supplemented by an annex of best value performance indicator information and targets to be published at the end of June, once this data was available.

In its guidance on performance plans, the Department for Communities and Local Government specified the intended audiences of those documents:

- a. the primary audience should be the authority itself including elected members and officers.
- b. the Government was a secondary audience, because the plans contained essential information enabling it to monitor performance
- c. Although Performance Plans must be available to the public, the public were not intended to be the primary audience.

This was in line with Stockton's approach and full copies of the plan were provided to members, managers and key partners and the Government. A summary version of the Council Plan would also be prepared for all staff. The Council would also ensure that the Council Plan was available in public places and that copies could be provided to the public when requested: full and summary versions would also be available over the Internet.

The service planning framework was reviewed in 2005 and a revised framework put into place to focus on changes and improvements and to bring service and resource (finance, human resources, ICT, procurement) planning closer together. Service Improvement Plans (SIPs) included the key changes, improvements and priorities that would require significant attention from heads of service to deliver. Core business in each service was covered in business unit plans that sat beneath the SIPs.

The service improvement plans supported the Council Plan and Community Strategy. Plans were structured to include

- an introduction outlining the strategic direction of the service and key achievements from the previous year
- action plans linked to the five themes of the Community Strategy and a theme of organisational development. The action plans included links to other plans, identified actions and milestones, responsible officers, success measures and targets, and risks. In addition where actions would have resource implications they were identified
- The medium term financial plan for the service.
- A performance indicator table including both measures and targets.

Plans had been developed to cover all service areas. In some areas it had been sensible to develop combined SIPs covering more than one head of service's

remit e.g. Children's Services, Resources. Performance against SIPs would be monitored and reported to Members twice a year, alongside Council Plan monitoring.

Members were provided with abridged versions of the draft SIPs, focusing on key elements of the action plans. Full draft SIPs had been placed on the Intranet to enable Members to consider them in detail. Once agreed, plans would be published on cd-rom and on the intranet with a set of hard copy plans lodged in the Members' Library.

RESOLVED that the Corporate Management Team be authorised to continue to refine the Council Plan and Service Improvement Plans 2007-2010 prior to Special Council on March 28th.

RECOMMENDED to Council that the draft Council Plan and Service Improvement Plans for 2007 – 2010 be approved

## **1076 Independent Remuneration Panel**

Members were reminded that The Local Authorities (Members Allowances) (England) Regulations 2003 required Councils to establish and maintain an Independent Remuneration Panel, so that the Panel could provide recommendations on Members' Allowances Schemes and the amounts to be paid to Members. An Authority was not able to introduce new or revised Schemes without first having had regard to its Panel's recommendations in that respect. A Panel had to be in place and ready to act, even if an Authority proposed not to change its existing Allowances Scheme.

The terms of office of Stockton's current Independent Remuneration Panel members were due to expire in May this year. It was necessary therefore to reconstitute the Panel.

As regards the composition of the present Panel, the three members had indicated that they would be willing to serve again on a new Panel established by the Council. Details of the three members who were willing to sit on the new Panel were provided.

Under the Regulations and Guidance, a Panel of three persons would be acceptable. None of the Panel members must be elected Members of a Local Authority or be disqualified from being an elected Member. The three current Panel members satisfied these requirements. The functions of the Panel, as previously reported to Cabinet, were provided.

There was no specific appointments process specified in the Regulations and Guidance. The Council did however originally go through an appointments process for the inaugural Panel. In May, 2003, Cabinet and Council agreed to retain the present Panel Members. The Authority must be satisfied that re-appointing the three persons identified again, to its new Panel, would still result in the membership of the Panel being independent, well qualified to discharge the functions of the Panel and representative of the diversity of the communities in the Council's area. It was considered that nothing had changed

in this regard since the last decision in May 2003 and that the three persons specified would ensure that these considerations were met.

The Allowances Guidance indicated that Authorities should consider:-

- the extent to which some or all of the candidates were recognisable members of the community;
- the extent of any candidate's connections to a political party; and
- a candidate's knowledge of local government.

The Guidance also provided that when appointing a Panel, Councils should consider:-

- whether to appoint one member of the Panel as Chair or allow the Panel to do so;
- the term of office of members of the Panel;
- incorporating provision for removal of a Panel member by the Council at any time in the event that there was sufficient reason to do so and subject to the requirements of natural justice;
- whether to pay the Panel allowances.

Those provisions were addressed in the May 2003 Cabinet report and it was proposed that, as before, Richard Bell be the Chair of the Panel and the other two members be Brent Godfrey and Paul McGee. It was suggested that their terms of office be for the period up to May, 2011 (the Guidance suggested 3 – 5 years, subject to the electoral cycle); and that their appointments are subject to termination as indicated in the preceding paragraph. Proposed payment to the Panel for its work was provided to Members.

RECOMMENDED to Council that

1. the independent remuneration panel be re-established comprising the Chair and the two other persons specified at paragraph 8 and Appendix 2 (exempt) of the report.
2. the terms of office of the three Panel Members be for the period up to May 2011.
3. the Council reserves the right to remove any one or more of the Panel Members at any time as indicated at paragraphs 7 and 8 of the report.

## **1077 Hardwick Redevelopment**

Members considered a report relating to the redevelopment of the Hardwick Estate.

Members were reminded of previous reports Cabinet had considered on this matter and noted the key features of the scheme.

Details of some of the progress on the ground was provided and it was explained that extensive community consultation had been central to the redevelopment proposals for the area:



This report sought to move the scheme forward by:

- Authorising the signing of the Development Agreement – a legally binding contract which, detailed the obligations of all partners in the delivery of the scheme.
- Appropriating the land for planning purposes – the formal decision to apply the land for development purposes, which also had the effect of ensuring that all third party rights on the land were overridden.
- Seeking Cabinet authority to make Compulsory Purchase Orders – powers used to buy back properties where owners did not sell by agreement.
- Seeking Cabinet authority to undertake road closures – powers used by the Council to close adopted highways.
- Extending the boundary of the redevelopment area to include three blocks of flats (11-33 Easington Road, 1-23 Elwick Gardens and 4-13 Embleton Walk) and approving a decant and demolition programme to commence in partnership with Tristar Homes Ltd.

The proposed Development Agreement would be a three way legally binding agreement, which regulated the transactions between Stockton-on-Tees Borough Council (SBC), Endeavour Housing Association (EHA) and Barrat Homes Limited (BH), committing each party to obligations contained within the agreement. The framework of the deal had changed from the original tender, however independent advice from GVA Lamb and Edge and the Council's Auditors had confirmed that the deal represented best consideration for the Council. The detailed agreement was summarised through its main Heads of Terms;

#### Price and Sale of Land

- i) SBC would receive phased capital receipts for the disposal of the land, which would be sold in phases as it became vacant through decanting, projected to take a further 3 years. The total sale price for the private housing land was provided to members in an exempt appendix to the report. The price for each phase would be calculated pro rata by reference to the developable area of land sold. A requirement of the agreement was that BH must buy any developable land as it became vacant (provided it was at least one hectare in area) to ensure that SBC had sufficient cash flow to deliver the scheme. The value of the land was set which meant that any future housing market slump and related fall in land values would not lead to a reduction in capital receipts received in later phases. In return for this assumption of risk by BH, and in consideration of the land value negotiated, BH would derive the benefit of any increases in property values during the 7 years that the scheme would run.
- ii) SBC would receive a net capital receipt at an agreed financial sum to cover construction of the new primary school, acquisition costs for Right to Buys (RTB), homeownership assistance, cycleway provision and linkages to the Castle Eden Walkway, a contribution to Tees Valley Wildlife Trust and other miscellaneous costs and overheads related to the delivery of the scheme.

iii) BH would cover the cost of all the abnormal costs relating to the redevelopment which would normally be funded by the Council from the gross capital receipt such as sewer diversions, infrastructure costs (including highway replacement), environmental improvements etc. This meant that the Council was provided with more certainty over the financial elements of the scheme and free of most of the potential risks that could arise from unexpected abnormal costs, which could arise as the scheme progressed. There was still a small financial risk surrounding acquisition of Right to Buys as the amount specified had been capped, which meant SBC would need to cover any cost over run. A contingency had been built into this estimate and any cost over run would be met from the overall scheme costs.

iv) In addition to the net capital receipt, BH would also fund the following:

- a) Traffic light junction on Harrowgate Lane and associated gateway landscaping - £378,313
- b) Improvement works to Durham Road roundabout - £272,100
- c) Provision of protected right turn at the Letch Lane junction on Harrogate lane - £187,135
- d) Improvements to Mile House junction - £70,000
- e) A commuted lump sum for the landscape maintenance of open space provision and all highway verges - £180,000
- f) Cycleway connection to Castle Eden walkway to provide safe links to the new primary school and also Bishopsgarth School - £50,000
- g) Provision of a Multi Use Games Area at the Door Step Green project off High Newham Road - £190,000
- h) Contribution towards the Newham Grange Park masterplan - £50,000

v) SBC would sell the land within the scheme allocated for social housing separately to EHA. EHA would then make a separate arrangement with BH to build properties on their behalf. The land sale price was a sum to be determined by reference to the amount of grant and other funding available to EHA phase by phase, but with a minimum price payable to the Council of £8,250 per plot.

Acquiring Right to Buys (RTB's)

i) SBC would be obliged under the agreement to deliver vacant possession of the land, if necessary, using Compulsory Purchase Orders (CPO) if the properties could not be acquired by agreement.

ii) In order to stop the Council being obliged to sell under the Right to Buy (and subsequently have to repurchase) any of the properties within the scheme boundary, approval was sought to serve Initial Demolition Notices (IDN) under schedule 5A to the Housing Act 1985. The effect of an IDN was to suspend the Right to Buy for a period to be specified in the notice (maximum 5 years) as being the period within which the Council intended to demolish the property. For any of the properties where a RTB application had been made at the time of the issue of an IDN the legislation entitled the applicant to compensation for abortive costs incurred in the application. At the date of this report there was 1

pending application that would be suspended by the IDN. The serving of the IDN also gave the Council certainty on the number of RTB properties that it would have to acquire and the subsequent funding needed to acquire them.

### Timescales

BH anticipated starting on site April 2007, the tender to construct the new school would go out in April/May 2007, scheduled to be ready for occupation in September 2008.

### Equity Shares

The Development Agreement put a requirement on BH to provide up to £500,000 for equity share properties for local residents. This had been a significant national policy shift for both companies and first trialled for both companies at Mandale. BH would retain a 25% share in 12 new homes, which would enable local residents of Hardwick to purchase one of the new homes for 75% of its value the remaining 25% was only repaid when the property was sold. The equity share properties would be ring fenced initially for homeowners within the demolition area and any remaining would become available for the wider Hardwick community.

With regard to Planning Appropriation the Council's legal advisers for the scheme advised that before disposal the land was appropriated for planning and development purposes. Appropriation involved recognition that the land was no longer required for the purpose for which it was held immediately before the appropriation. Appropriation to planning and development purposes had the effect that any covenants, easements or third party rights that may be held over the land could not be enforced so as to prevent the carrying out of development on it. Once appropriated, the land was to be held and in due course disposed of under Part 9 of the Town and Country Planning Act 1990.

To apply this to the site:

i) The housing, which, had been or would be demolished was of poor quality and the area had experienced a spiral of socio economic decline. The Housing Business Plan and the Hardwick Visioning Exercise 2003 both identified this housing as non-sustainable, which meant that investment would not bring those properties up to the Government's Decent Homes Standard and therefore demolition had been identified as the only option. The needs of the community for social rented housing could be better met by the disposal of this land to EHA to allow modern, high quality homes for rent to be built.

ii) Hardwick Primary School playing field would be disposed of once the school had relocated to its new site. The Department for Education and Skills (DfES) had given consent to dispose of the existing playing field and re-provide at the English Martyrs site. Sport England had also given their consent to the disposal of this school playing field on the basis that community use playing fields at the new school, and on the land to the south of High Newham Road, would be provided along with a Multi Use Games Area.

Before it could appropriate or dispose of any land forming part of open space,

SBC was required to advertise its proposals and consider any objections. 'Open space' included land in the Council's ownership, which was used for public recreation. The area of open space bordering the school playing field/Harrowgate Lane and Embleton Walk and those areas on Whitburn Road and Willington Road were used for such purposes on an informal basis. The proposal to appropriate the land for development purposes and dispose of it was advertised in the Evening Gazette on the 24th and 31st January 2006. No objections were received. In view of the measures noted above, and the other benefits flowing from the development. Members were invited to conclude that the loss of amenity associated with the loss of informal recreational open space was outweighed by the scheme benefits, and to agree to the appropriation and disposal of the open space land along with the rest of the site as and when appropriate. Whilst some time had elapsed since the notice procedures were undertaken, there had been no material change in circumstances since that time.

Legal limitations on the Council's power to appropriate houses meant that the formal decision to appropriate the land should only be taken after the houses had been demolished. Approval in principle to appropriate the land in due course was therefore sought, together with approval for the Corporate Director for Development and Neighbourhood Services to be delegated the ability to make the formal decision to appropriate the land for planning purposes after the remaining Council-owned houses had been demolished.

The re-purchase by agreement of those properties that were sold under the Right to Buy and remained in private ownership, and of other outstanding land interests within the redevelopment site, should be made using the Council's powers under section 227 Town and Country Planning Act 1990 to acquire land for planning/development purposes. Clearly this was the intended purpose of the acquisitions, and formal resolution to that effect would also ensure the benefits described above in overriding covenants and third party rights, were extended to the lands to be re-purchased.

Members considered Compulsory Purchase issues and it was explained that in addition to the land owned by SBC there were 28 RTB still to acquire. This number should now remain static with the serving of the Initial Demolition Notice on those properties within the boundary of the scheme that were still in the Council's ownership. Every effort would be made to secure acquisition by agreement and a range of financial and relocation packages had been introduced to facilitate this. Negotiations were ongoing, however, in order to ensure that the scheme proceeded the Council, needed to be prepared if required, to use its CPO powers. Authority was therefore sought to proceed with CPO's. The draft Statement of Reasons was provided to Members. Members were requested to approve the making of the compulsory purchase orders and to delegate to the Corporate Director for Development and Neighbourhood Services in consultation with the Cabinet Member for Housing and Cabinet Member for Regeneration and Transport authority to approve amendments to the Statement of Reasons, if required, setting out the justification for CPO in more detail for consideration by the Secretary of State.

The making of a CPO would need to be confirmed. If objections were received the Secretary of State would make arrangements for a Public Inquiry to be held to consider the objections, before the Secretary of State decided whether or not

to confirm the Order. The timescales for making an Order, having it confirmed and bringing it into effect were variable but could be up to 18 months due to pressures at the Planning Inspectorate which would conduct the Inquiry.

It was proposed to include an obligation within the Development Agreement to use the Council's CPO powers to acquire the Right to Buy properties and any other land required to facilitate the development. The Council should be satisfied that before the making of the Order that there were no planning barriers to the scheme. These matters were covered in some detail in the Statement of Reasons, but could be summarised as:

- The existing Local Plan, which was adopted in 1997, prior to the introduction of the new Government agenda of housing market renewal, gave no specific land-use allocations to the Hardwick redevelopment, however, there were a significant number of policies relating to new housing developments within the limits to development. The Local Authority was working on the new Local Development Framework and this document would make reference to this development.
- The redevelopment was in accordance with a range of other national, regional and local plans and strategies including National Planning Guidance (PPG3 Housing), and new Planning Policy Statement 3 (PPS3 Housing) ODPM Action Plan – 'Sustainable communities in the North East: Building for the Future' (ODPM 2003), Regional Planning Guidance for the North East – RPG1 (2002), the Tees Valley Structure Plan and SBC's Housing Strategy.
- The full planning application had been approved by the Council's Planning Committee on the 14th March 2007.

Delegated Authority was requested that amendments to be made to the Statement of Reasons be approved by the Corporate Director for Development and Neighbourhood Services and the Director for Law and Democracy in consultation with the Cabinet Member for Housing and Cabinet Member for Regeneration and Transport.

In arriving at any decision to make a CPO, and thereby depriving a person of their interest in and in most cases, occupation of property, the Council should be satisfied that there was clear evidence that the public benefit would outweigh private loss.

The public benefits of the scheme lay in the regeneration of an area resulting from the redevelopment through the provision of modern, attractive homes for rent and sale, attractive open space areas and the construction of a new replacement school for the estate. Secondary benefits included employment opportunities for local people, which would in turn boost the local economy.

It was important that the Council's proposals incorporated a re-housing strategy, which ensured that residents were successfully relocated to a permanent home and not disadvantaged financially. In this regard;

All private tenants, Council tenants and homeowners were offered either a new Endeavour Housing Association property (subject to tenancy referencing) or an alternative Council home.

In addition to the above homeowners were offered a range of schemes to assist them to purchase an alternative home and remain in homeownership.

The statement of reasons demonstrated that the scheme was financially viable.

In light of the above, officers were satisfied that it could be demonstrated that the public benefits from any of the CPO's that may be required would outweigh the private loss.

To enable the Council to obtain title to the land to allow redevelopment to begin without undue delay it was recommended that once any CPO was confirmed use was made of the powers to make a General Vesting Declaration (GVD). On such a declaration coming into effect the Council obtained title of the land included in the order without having to follow normal conveyance practice. Payments for compensation were dealt with after the GVD had taken effect.

Members considered necessary Road Closure Orders and noted that the Council would be obliged to use reasonable endeavours to obtain Road Closure Orders (RCO's) over several small sections of existing adopted highways within the scheme under the Highways Act 1980 Sec 116. Before seeking an order from the Magistrates' Court, the Council in its capacity as Highway Authority had to be satisfied that the highways were unnecessary and that there were no other reasons why they should remain open. The highways in question were detailed on a plan provided to Members. They had served former housing now demolished, were not required to be retained as part of the redevelopment proposals, and were not needed in connection with access to any other land. There were no other reasons for their retention, and their stopping-up would facilitate the redevelopment proposals in accordance with BH's planning permission. The plan also identified sections of highway for which RCO's would be sought at an appropriate time, once the housing had been demolished.

Cabinet noted that over recent years the flats at 11-33 Easington Road, 1-23 Elwick Gardens and 4-13 Embleton Walk had become increasingly unpopular and suffered from increasing levels of antisocial behaviour. As a result a block (2-24 Elwick Gardens) was demolished in January 2005 and of the 34 remaining units 14 were already void. A recent feasibility study into the future of these flats had revealed that there was overwhelming support from the tenants of the flats and the local Ward Members to demolish them. Approval was therefore sought to demolish the remaining flats and the site to be developed and included within the wider scheme.

RESOLVED that Cabinet

1. approve the terms for the proposed Development Agreement set out in the report and delegate to the Corporate Director for Development and Neighbourhood Services and Corporate Director for Resources in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport all powers necessary to carry out the Council's obligations under the Development Agreement.
2. approve the financial appraisal of the scheme at Appendix 2 and that the net capital receipt is sufficient to deliver the scheme.

3. approve the policy of using any surpluses that may arise within the scheme to be used in the first instance to balance shortfalls within other major housing regeneration schemes and authorise the Corporate Director for Development and Neighbourhood Services and Corporate Director for Resources in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport to approve any subsequent transfers of funding between the schemes.

4. agree that the capital receipt from the Housing land identified in Appendix 1 be used in the first instance to fund the construction of the replacement Hardwick Primary School and then repaid from the capital receipt from the land following the sale of the current Hardwick Primary School site to the developers upon relocation.

5. agree that all the land identified at Appendix 1, which is currently owned by the Council, be declared as surplus for the purpose for which it is currently held and delegate to the Corporate Director for Development and Neighbourhood Services in conjunction with Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport the ability to make the formal decision to appropriate the land for planning purposes at the appropriate time.

6. agree that all subsequent purchases by agreement of properties and interests in properties within the land at Appendix 1 are to be made under section 227 of the Town and Country Planning Act 1990, for inclusion in the re-development scheme.

7. ,in relation to the Compulsory Purchase Orders, agree:

- that the redevelopment of the land shown on the plan at Appendix 1 will improve the economic, social, and environmental well-being of the area;

- that the acquisition of all interests in that area of land which are not already in Council ownership will facilitate the carrying out of its redevelopment;

- in principle that the Council makes a Compulsory Purchase Order in respect of the area indicated as the CPO boundary shown at Appendix 1 pursuant to Section 226 (1) (a) of the Town and Country Planning Act 1990 as amended by Section 99 of the Planning and Compulsory Purchase Act 2004;

- that the Corporate Director for Development and Neighbourhood Services and the Director for Law and Democracy in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport be delegated the authority to authorise the making of the CPO and amend, if required, the detailed Statement of Reasons required for the CPO, which will set out the Council's justification for the use of CPO powers, the draft of which is appended to this report (appendix 4);

- that the Director for Law and Democracy be authorised to publish and serve all necessary notices consequent upon the making of the Orders and submit the Orders to the Secretary of State for confirmation;

- that if the Compulsory Purchase Orders are confirmed, then upon such

confirmation, the Director for Law and Democracy be authorised to publish and serve all necessary Notices, consequent upon the confirmation, and required in connection with the making of the general vesting declarations relating to the land included in the confirmed Orders in accordance with Part 2 of the Compulsory Purchase (Vesting Declaration) Act 1981;

- that the Director for Development and Neighbourhood Services and the Director for Law and Democracy in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport be delegated the authority to authorise the making of the General Vesting Declarations or serve Notices to Treat at the appropriate time and take all necessary steps to bring the land within the ownership of the Council.

8. approve applications for the closure of sections of adopted highway within the boundary of the scheme under the Highways Act 1980 section 116 as shown at appendix 3, on the grounds that they are unnecessary.

9. approve the serving of Initial Demolition Notices in order to suspend the Right to Buy in the area already approved for demolition and within the boundary of the scheme, in accordance with Schedule 5A of the Housing Act 1985 as amended by S.183 of the Housing Act 2004, and delegate to the Corporate Director for Development and Neighbourhood Services in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport authority to determine the period to be specified in the initial demolition notices having regard to the programme of phased development of the site.

10. authorise the Corporate Director for Development and Neighbourhood Services in consultation with the Cabinet Member(s) for Housing and Cabinet Member(s) for Regeneration and Transport be delegated the authority to serve the final demolition notices at the appropriate time.

11. agree to extend the boundary of the redevelopment area to include 3 blocks of flats for demolition and redevelopment within the E's section of the estate (11-33 Easington Road, 1-23 Elwick Gardens and 4-13 Embleton Walk) as indicated at Appendix 1 plan.

## **1078 Information Items**

Cabinet considered and noted the following information items:-

a. Adoption of Supplementary Planning Document 3: Parking Provision for new developments.

b. Comprehensive Performance Assessment 2006

c. Performance Report - Quarter 3 ending 31st December 2006