

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

30 AUGUST 2007

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION/COUNCIL DECISION

Regeneration and Transport – Lead Cabinet Member – Councillor Cook

**APPROPRIATE ASSESSMENT OF THE CORE STRATEGY DPD PREFERRED
OPTIONS
LOCAL DEVELOPMENT FRAMEWORK**

1. Summary

This report informs Members of the requirement to carry out Appropriate Assessment of Development Plan Documents, and includes, as an appendix, a working draft of the document, for information.

2. Recommendations

Members are recommended to: -

- i) Note the contents of this report, for information
- ii) Agree that the finalised Appropriate Assessment is published for consultation in conjunction with the Core Strategy DPD Preferred Options and the accompanying Sustainability Appraisal.

3. Reasons for the Recommendations/Decision(s)

There is a statutory duty for all local planning authorities to adopt and keep under review the development plan for their respective areas. Under the Planning and Compulsory Purchase Act 2004, the Core Strategy is a development plan document that will set out the Council's vision and spatial strategy for meeting known and anticipated development requirements to 2021.

Planning Policy Statement 12: Local Development Frameworks states the "Local planning authorities should prepare development plan documents taking into consideration the process of continuous community involvement.....and should front load the preparation of development plan documents by facilitating early involvement and securing inputs from the community and all stakeholders".

Carrying out an Appropriate Assessment of the Core Strategy is a statutory requirement under the Conservation (Natural Habitats, &C) (Amendment) (England and Wales) Regulations 2006.

4. Members Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

AGENDA ITEM

REPORT TO CABINET

30 AUGUST 2007

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION/COUNCIL DECISION

APPROPRIATE ASSESSMENT OF THE CORE STRATEGY DPD PREFERRED OPTIONS LOCAL DEVELOPMENT FRAMEWORK

SUMMARY

This report informs Members of the requirement to carry out Appropriate Assessment of Development Plan Documents, and includes, as an appendix, a working draft of the document, for information.

.

RECOMMENDATION

Members are recommended to: -

- i) Note the content of this report
- iii) Agree that the finalised Appropriate Assessment is published for consultation in conjunction with the Core Strategy DPD Preferred Options and the accompanying Sustainability Appraisal.

DETAIL

1. An Appropriate Assessment (AA) is an assessment of the potential effects of a proposed plan – “in combination” with other plans – on sites which are of European importance for their nature conservation value, broadly speaking Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). The ‘assessment’ proper is a statement which says whether the plan does, or does not, affect the integrity of a European site. However, the process of determining whether or not the plan will affect the site(s) is commonly referred to as ‘appropriate assessment’.
2. The requirement for AA of plans is outlined in Articles 6(3) and (4) of the European Communities (1992) Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive). Schedule 1 of the Conservation (Natural Habitats, &c) (Amendment)(England and Wales) Regulations 2006 (Habitats Regulations) transposes into English law the requirement to carry out AA for land use plans. It is the responsibility of the Regional Planning Body or Local Planning Authority (LPA) to ensure that the AA process is carried out in accordance with the Habitats Directive and the amending Habitats Regulations.

THE APPROPRIATE ASSESSMENT PROCESS

3. Undertaking an AA involves:

- collecting information on European sites within and outside¹ the plan area potentially affected, including the characteristics of the sites, their conservation objectives and other relevant plan or projects
 - identifying the effects of the plan (options/policies) on the habitats and species of international importance and how those effects are likely to affect the site's conservation objectives,
 - deciding whether the plan proposed would adversely affect the integrity of the site in the light of conservation objectives
 - if significant effects are identified, considering whether the plan could be modified so as to avoid adverse effects on the integrity of the sites.
4. Where a plan has been found to have adverse effects on the integrity of a European site, these effects should be mitigated, with the aim of fully cancelling out any adverse effects.
 5. After mitigation measures have been exhausted on an emerging option/policy, and it is still shown to have a potentially negative effect on the integrity of a European site, and in the absence of any other alternative solution, as a rule the option/policy should be dropped. In the exceptional circumstance and as an exception to the rule, if the pursuit of the option/policy is justified by 'imperative reasons of overriding public interest', consideration can be given to proceeding in the absence of alternative solutions.
 6. Preparing an Appropriate Assessment of the effects of a Development Plan Document on the integrity of European sites is a technical process involving Natural England and possibly other nature conservation bodies. A report is currently being prepared, and a working draft of the document is attached as Appendix 1.

CONSULTATION ON THE AA

7. In addition to working closely with Natural England, the AA findings should be made available and consulted on at the Preferred Options stage of plan preparation. This means that the AA findings are published at the same time as the Sustainability Appraisal report.
8. Following receipt of consultation responses, the LPA will refine the Preferred Options and prepare for the submission DPD. It may be necessary to revisit the AA at this point if the changes made for submission are such as to affect the validity of the AA report.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

9. The production of the document can be made within existing budgetary provisions. However, Planning Delivery Grant is based on meeting the timetable set out in the Local Development Scheme, and missing the target date for the Preferred Options (together with its Appropriate Assessment and Sustainability Appraisal) to go out for public consultation could result in the council being penalised.

Legal

10. Pre-submission consultation relating to the preparation of Development Plan Documents is a statutory requirement of the Town and Country Planning (Local Development) (England) Regulations 2004. Failure to comply would lead to the Core Strategy being found "unsound".

¹ Significant effects may be incurred even in cases where the area of the plan is some distance away.

RISK ASSESSMENT

11. A Strategic Risk Assessment has been undertaken, and there are no known risks that would arise from the preparation of the Appropriate Assessment. However, delay at this stage could lead to difficulties in meeting subsequent target dates for the preparation of and consultation on the Preferred Options and Submission documents, independent examination and adoption of the Core Strategy together with its component documents.

COMMUNITY STRATEGY IMPLICATIONS

Environment

12. Appropriate Assessment seeks to ensure that proposals in the Core Strategy will not have an adverse effect on sites of European importance for nature conservation.

Community Safety and Well-Being

13. The Appropriate Assessment will not have any implications for community safety and well-being.

Health

14. The Appropriate Assessment will not have any implications for health.

Economic Regeneration

15. Any adverse impacts identified in the Appropriate Assessment resulting from economic regeneration will need to be capable of mitigation.

Education and Lifelong Learning

16. The Appropriate Assessment will not have any implications for education and lifelong learning.

Arts and Culture

17. The Appropriate Assessment will not have any implications for arts and culture.

CONSULTATION INCLUDING WARD/COUNCILLORS

18. As this is a Borough wide document, it is not possible to identify specific wards or ward councillors for consultation. The document will be subject to a full public consultation over a period of six weeks in autumn.

Name of Contact Officer: Jane Elliott

Post Title: Principal Planning Officer, Spatial Planning Section

Telephone No. 01642 526053

Email Address: jane.elliott@Stockton.gov.uk

Background Papers:

The Conservation (Natural Habitats, &C) (Amendment) (England and Wales) Regulations 2006.
Planning for the Protection of European Sites: Appropriate Assessment: Guidance for Regional Spatial Strategies and Local Development Documents.

Ward(s) and Ward Councillors: N/A

Property: N/A