

MEDWAY COUNCIL

CABINET

26 SEPTEMBER 2006

CALL-IN – TEMPLE WATERFRONT DEVELOPMENT BRIEF

Portfolio Holder: Councillor Rodney Chambers, Leader

Report from: Robin Cooper, Director of Regeneration and Development

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1. Summary

1.1 This report sets out the recommendations from the Regeneration and Development Overview and Scrutiny Committee, following the call-in of Cabinet's decision to adopt the Temple Waterfront Development Brief.

2. Decision Issues

2.1 Where a matter is called-in to an Overview and Scrutiny Committee and the Committee, following discussion, have concerns, a report will be prepared and submitted to Cabinet in line with the Overview and Scrutiny rules set out in the constitution.

3. Background

3.1 On 18 July 2006 the Cabinet considered a report detailing the consultation process for the Temple Waterfront Development Brief. The Cabinet had previously agreed the brief for statutory consultation on 25 April 2006 and the report set out the responses to this process.

3.2 The Cabinet took the following decision (143/2006):

The Cabinet adopted the Temple Waterfront Development Brief, subject to the changes recommended in Appendix 2 of the report, as a Supplementary Planning Document to the Medway Local Plan 2003.

A copy of the report can be obtained from the Council's website as follows:

http://www.medway.gov.uk/cabinetdecisions-past_issues.asp?ID=1002

Alternatively, please call 01634 332509/332008 and speak to Wayne Hemingway or Anthony Law for further details.

- 3.3 Following this decision Members of the Council were sent e-mails and letters from interested parties and organisations requesting that the decision was called-in so that the Cabinet's decision could be reviewed and the issue of encroachment on open space discussed.
- 3.4 The decision was subsequently called-in by six Members of the Labour group in accordance with the provisions set out in the constitution. The stated reason for call-in was to allow further discussion.

1. Regeneration and Development Overview and Scrutiny Committee

- 4.1 At the meeting of 5 September 2006, Councillor Godwin introduced the item, as it had been called-in by six Members of the Labour group. He advised that there were a range of issues he wished the Committee to consider, including:
- the process used for considering development briefs and whether they should be considered by Overview and Scrutiny Members before being considered by the Cabinet
 - what extent of development on the site would be required to provide public access to the river?
 - what level of green spaces are proposed to be provided in the brief?
 - there is more than one owner of the land included in the development brief – which part of the site is owned by whom?
 - the option chosen by the Cabinet is for 600 housing units. What is Medway's overall housing target and what impact does this site have on other development sites in Medway if these units were not included in the overall total required?
 - how was the public consultation carried out? The input of consultees in the process was unclear
 - whatever number of units are to be built on the site – the proportion of affordable housing units should be higher than 25% of the total
 - what work had been carried out on the impact on traffic using the A228 by this development?
 - problems with visual amenity of those residents living on the other side of the river especially with regard to building heights and river frontage
- 4.2 Representatives of the Medway Countryside Forum, the Open Spaces Society, Rochester Historical Society, Frindsbury and Wainscott Community Association and the Anchor Reach Management Company spoke to the Committee on a number of issues including (but not limited to) the following:

- development on the area of open space detailed in option 2 is a departure from the Local Plan. Loss of open space to housing conflicts with policy L3. Any departure from the Local Plan should be advertised. The integrity of the marshland area was being compromised.
- Residents of Rochester requested that the development should not have a sheet-piled river wall (as on the Rochester site) and that a natural edge is maintained in this location, as a wall or raising the level of the bank would be an eyesore from the other side of the river. There was also a general worry about land in-fill and raising of land levels on the site, together with the height of proposed buildings.
- Morgan's timber yard was thought to be inappropriate in the centre of a new residential development and would create noise nuisance for residents living there. Consultees asked would it not be more appropriate to relocate the timber yard.
- problems with an increase in traffic congestion on the A228 especially at 'Darnley Arch' and a request for a riverside road to help to alleviate the problem.
- the impact of the consultants in preparing the brief (in trying to achieve as large a profit as possible) over the aims of the Council for the site.
- what local facilities/amenities are proposed, as submitted in the brief? Why does there have to be space used for amenities when there are new, modern facilities a short distance away in Strood? On the opposite side of the river there are approximately 1,058 properties without 'vital' amenities which are about the same distance away from Rochester and the residents manage well.
- at the consultation workshops, the value of maintaining open spaces and retaining the current character was discussed and consultees had left the workshop feeling confident that the open space would be protected, as designated. This was not reflected within the option chosen by the Cabinet.
- is the Countryside and Wildlife Strategy in place yet? There was concern over the affect of development on diminishing wildlife in the area.
- will there be gas monitoring on the site?
- a Council officer had previously stated that Strood South ward was already short of play space. Why was another 160 acres being taken away from this type of use?
- the objective of the Government's policy PPS1 is to improve people's quality of life. How can this be achieved when the protection policy does not seem to protect?
- Option 1 allows 'limited' encroachment (300 units) onto open space and Option 2 has 'moderate' encroachment (approximately 600 units.) Approximately one quarter to one third of open space detailed in option 2 is not a 'small' part of the designated open space.
- there was concern over how an additional 270 units (the difference between proposed units in Option 1 to Option 2) will fit into an area of 2 hectares unless there is even bigger encroachment including the Site of Nature Conservation Interest (SNCI).

- the Environment Agency, Open Space Society and others shared the rejection of the interpretation of 'moderate' encroachment into open space
- why have funding applications not be pursued for improvements to the open space through the Raillink Countryside Initiative?
- Consultees present at the meeting advised that they felt option 1 to be a more accessible, amenable proposal with no encroachment into precious open space and requested that Cabinet re-consider their decision to progress with option 2 so as not to sacrifice the natural heritage for financial gain.

- 4.3 Officers responded to the various points raised and stated that they did not believe that option 2 was a departure from the Local Plan. The development brief, as presented, was not on a detailed Ordnance Survey plan, it was an illustrative drawing only. It had been researched in detail and officers considered that the plan indicated a possible loss of open space of around 2 hectares but that this was not definitive. A loss of 2 hectares from an open space of 10 hectares would represent a reasonable interpretation of Policies L3 and S10.
- 4.4 The Committee was advised that option 2 provided the best balance of a number of competing factors. Open space was an important factor but the site was remote and if it could not become a neighbourhood/community in its own right, then it would be a poor end result for the development and area as a whole. Officers advised that they believed that 500-600 housing units plus amenities was the right balance to enhance the area and bring an under-used space back into management with a self-sustaining community.
- 4.5 Members were also advised that the Local Plan had a nominal figure of 100 dwellings on the site. This figure as agreed at a Local Inquiry is the likely number of homes that could be completed on the site by the end of 2006. There was an acceptance by the Inspector at the Inquiry that there would be more housing on the site at a later date.
- 4.6 The Committee was also informed that a riverside road would be costly to construct and complex in engineering terms but the Development Brief did not rule out this option. Officers had also been in contact with Network Rail about Darnley Arch who had given assurance that the bridge would be replaced within the next 25 years. However, the Council would receive monies next year which would be used to build a pedestrian underpass at that location. Various traffic impact assessments had been carried out on the A228 and concluded that the highway could cope with the increased demand. There was a wider issue of traffic management in the centre of Strood which was currently being investigated.
- 4.7 With regard to the natural frontage of the marshland on the river, officers agreed that the area had a more natural environment than Rochester Riverside and the intention was to retain this feature of the site. There

may need to be some work to make the river edge stable but the main feature would be to raise the level of the land further back into the site.

- 4.8 The Committee discussed a variety of recommendations including a request that the site should contain 35% affordable housing units rather than the 25% currently allocated. This recommendation was lost on a vote.
- 4.9 In addition to the recommendations to Cabinet, set out below, the Committee agreed that
- a) an executive summary of the modelling of traffic impact on the A228 is put into the public domain and sent to Members;
 - b) officers arrange a visit to the site for Members of the Committee in order for them to understand the concerns that had been raised and review the elements impinging on the current open space.

4.10 **Regeneration and Development Overview and Scrutiny Committee Recommendations**

The Regeneration and Development Overview and Scrutiny Committee agreed to refer the following recommendations to the Cabinet:

- (i) officers be instructed, as a matter of policy, that all future development briefs are subject to pre-decision scrutiny by this Committee;
- (ii) that a further period of public consultation is held for all development briefs, including this one, to allow workshop formats to be used at a second stage in the consultation process, so that consultees may assist with developing the brief once it has been drafted, in order that active involvement is not just at the first stage of the process.

5. Options

- 5.1 Cabinet can either: agree to both, or one, of the recommendations detailed in paragraph 4.10 above; or confirm its original decision made on 18 July 2006 having taken into account the views of Overview and Scrutiny.

6. Director's Comments

- 6.1 As Cabinet is aware a number of development briefs have been prepared in recent months and more will be coming forward over the next year or so.
- 6.2 Of those prepared in the recent past only the Temple Waterfront Development Brief had not been considered by the Regeneration and Environment Overview and Scrutiny Committee prior to a decision to

adopt by the Cabinet. However, given the concerns raised in this case it is considered that there would be benefits in agreeing to the scrutiny committee's recommendation in relation to pre-decision scrutiny. This should reduce the likelihood of future call-ins and ensure that the Cabinet is aware of all viewpoints prior to considering the adoption of a development brief.

- 6.3 The Temple Waterfront development brief has been in preparation for some time and there was a significant amount of public engagement from the beginning. Three workshops were held in 2005 with officers and external stakeholders including a final meeting focussing on open space issues. This allowed all identified issues to be fully considered before a first draft of the development brief was produced.
- 6.4 Following Cabinet approval on 25 April 2006 of a consultation draft brief, a six-week statutory consultation period was held. The draft development brief was sent to all formal consultees and an exhibition was held in the Civic Centre in Strood.
- 6.5 56 comments were received in total and the report to Cabinet on 18 July 2006 contained all the comments received together with officers' responses and recommended changes to the draft brief.
- 6.6 At each key stage local residents over a wide area were leafleted, notices placed in the press and 'deposit' copies of the documents made available in a variety of places.
- 6.7 The process followed conformed fully with the Council's Statement of Community Involvement. This, in turn, conforms to best practice as advocated by the Department for Communities and Local Government in its published guidance.
- 6.8 Notwithstanding this, the second recommendation from the Overview & Scrutiny Committee proposes the introduction of a further 'workshop' stage in the preparation process.
- 6.9 Active and continuing engagement by the public and stakeholders is an important feature of the preparation process for all planning policy documents, including development briefs. The current practice has at least two formal consultation stages before adoption, one of which involves workshops at an early stage in the process. Due to the range of procedural requirements that have to be met it now takes at least a year to get a brief to the adoption stage.
- 6.10 Given this situation, and the fact that the Council is already following best practice, it is considered that the scrutiny committee's proposal would unnecessarily extend the process, put increasing pressure on scarce staff resources and cause confusion for the public by departing from Government guidance. Accordingly the Cabinet is advised not to accept this recommendation from the scrutiny committee.

6.11 Officer Recommendations

Officers would therefore recommend that:

- a) Cabinet reaffirm its decision from 18 July 2006 to adopt the Temple Waterfront Development Brief, subject to the changes recommended in Appendix 2 of the report, as a Supplementary Planning Document to the Medway Local Plan 2003.
- b) Cabinet instruct officers, as a matter of policy, that all future development briefs are subject to pre-decision scrutiny by the Regeneration and Development Overview and Scrutiny Committee

7. Financial and legal implications

- 7.1 The intention is that the Council will adopt the development brief as a supplementary planning document. This means that the brief will constitute a 'material consideration' to be taken into account when determining any planning applications for the Temple Waterfront site.
- 7.2 A supplementary planning document must conform with policy S10 and other associated policies in the Medway Local Plan 2003 and be in accordance with the provisions of the Planning and Compensation Act 2004.
- 7.3 Once the development brief is adopted, further publicity, in accordance with the regulations covering supplementary planning documents, will be required. This is to ensure it is brought to the attention of the public and all other interested parties.
- 7.4 The Cabinet is free to accept or reject the recommendations of the scrutiny committee in this case. The officers' advice in relation to each is set out in the body of the report.
- 7.5 The costs of producing the development brief, leaflets and exhibition material have been met from the approved Medway Renaissance budget. Post adoption costs can also be met from existing budgets.
- 7.6 A Diversity Impact Assessment has not been completed in this case as the development brief is merely amplifying already adopted policy. However, a full assessment has been undertaken for the emerging Local Development Framework and this will inform consideration of future planning applications on the site.

8. Recommendations

- 8.1 The Cabinet is asked to consider the recommendations from the Regeneration and Development Overview and Scrutiny Committee

detailed at paragraph 4.10 of this report, in light of the officer comments and recommendations set out in section 6.

9. Suggested reasons for decision(s)

- 9.1 Where a matter is called-in to an Overview and Scrutiny Committee, the Committee, following consideration, may request Cabinet to re-consider its decision, a report will be prepared and submitted to the Cabinet in line with the Overview and Scrutiny rules.

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Background papers

Responses to the public consultation
Planning and Compensation Act 2004; Town and Country Planning (Local Development) (England) Regulations 2004 and associated guidance issued by the Department for Communities and Local Government and the Planning Inspectorate.

The following documents are available on the Council's website:
www.medway.gov.uk:

Cabinet 18 July 2006 -Temple Waterfront Development Brief
Overview and Scrutiny Committee 5 September 2006 -Call-in – Temple Waterfront Development
Statement of Community Involvement