
PLANNING AND TRANSPORTATION POLICY WORKING GROUP

MINUTES of the Virtual Meeting held via Microsoft Teams on Monday, 20 February 2023 from 7.00 pm - 9.00 pm.

PRESENT: Councillors Mike Baldock (Chair), Monique Bonney, Alastair Gould (Vice-Chair), Mike Henderson, James Hunt, Carole Jackson, Peter Marchington, Richard Palmer, Eddie Thomas, Ghlin Whelan and Corrie Woodford (Substitute for Councillor Elliott Jayes).

OFFICERS PRESENT: Billy Attaway, Flo Churchill, Kellie MacKenzie, Jill Peet and Stuart Watson.

ALSO IN ATTENDANCE: Councillors Steve Davey and Ken Rowles.

APOLOGY: Councillor Elliott Jayes.

667 **Emergency Evacuation Procedure**

Not applicable as the meeting was held virtually.

668 **Declarations of Interest**

No interests were declared.

669 **Minutes**

The Minutes of the Meeting held on 6 October 2022 (Minute Nos. 364 – 367) were taken as read, approved and signed by the Chair as a correct record.

670 **Part A Minutes for Recommendation to the Policy and Resources Committee
E-Petition: Replace trees felled by developers**

The Principal Planning Officer introduced the report which was a proposal from an ePetition that ran from 11/03/2022 to 22/04/2022 and had received 279 signatures. He said that the proposal in the ePetition was understandable but explained that in practice where trees were not covered by Tree Preservation Orders (TPOs), the proposal was not achievable. He suggested that a Tree Strategy would enable greater flexibility to the Council when considering planning proposals. A Tree Strategy would be dependent on appointing a new Urban Design and Landscape Officer.

The Chair invited Members to make comments, which included:

- Had sympathy with the idea behind the ePetition;
- it was hard for the Council to stop developers from making changes on their own land;
- the Council should be able to control what happened to land when a planning application had been submitted;
- the Council should be able to prevent developers from removing trees before determination of any application;
- it would not be reasonable to expect developers to replace ancient specified species of trees on a like-for-like basis;

- hedges were easier to replace than large trees;
- could the term 'mature trees' be removed from the suggested tree strategy as this would be unachievable for developers?;
- could the strategy suggest that trees be planted somewhere else rather than on the development site to a location where they were most needed?;
- understood that officers were working on digitalising the TPO register, but asked when this would be introduced?;
- officers should look at what other local authorities were doing to maintain trees and hedgerows; and
- officers needed to include the open spaces team in discussions when drafting the Tree Strategy to understand what the Council could do to best preserve the trees and hedges in the borough.

The Interim Head of Planning Services responded to questions raised during the discussion and said that the Tree Officer only worked for Swale Borough Council for two days a week and that he was working hard on the digitalisation of the TPO register. She suggested that he be invited to the next Planning and Transportation Working Group meeting to give Members an update on the project.

In response to the removal of the working 'mature trees' the Interim Head of Planning Services said developers were not expected to replace mature specimen tree species, as there was not a sufficient supply. She added that it would be difficult to ask developers to plant trees on a site that was outside their proposed development. However, she suggested that the tree strategy helped Members seek additional Section 106 money when approving developments, to help fund the planting of trees elsewhere in the borough.

The Interim Head of Planning Services said that she was happy to ask other local authorities what they included in their local plans to help mitigate the trees and hedges that were being removed by developers, in order to draft the Tree Strategy.

Recommended:

(1) That the ePetition be noted and a Tree Strategy be prepared by officers.

671 **Levelling Up and Regeneration Bill: Reforms to National Planning Policy Framework (NPPF Consultation)**

The Planning Policy Manager introduced the report which contained the Council's proposed response to the recent Levelling Up and Regeneration Bill (LURB) that was progressing through the House of Lords for proposed changes to the National Planning Policy Framework (NPPF). The Planning Policy Manager shared a presentation with Members setting out the headlines in the NPPF consultation and the implications the changes would have on Swale.

The Chair invited Members to make comments and ask questions on Appendix I of the report.

Question 8 –

Members raised concern that developers often proposed theoretical proposals for improved local transport infrastructure that was never normally followed-up and wondered

what could be done to ensure that developments were not completed until the correct infrastructure was in place, as infrastructure deficiencies were also a constraint.

In response, the Interim Head of Planning Services said that officers did not have sufficient detail in the consultation to properly consider many of the implications. However, when the NPPF came out in 2012, Government had said that a definition on what classed as sustainable development was contained within the NPPF and that legal definition had still not been delivered by Government. She added that Members could write to Government requesting an answer on what was classed as sustainable development, so that they could fully assess the impact on the borough.

Members comments on question 11 included:

- Sought for clarification on why officers thought the plan needed to be justified;
- the council needed to consider what the impact of removing the requirement for plans to be justified and needed to carefully consider the response; and
- concerned that the Government was thinking of removing the requirement of a justified strategy.

The Interim Head of Planning Services responded and said that the officers' view was that there was not enough information in the consultation for them to provide a more detailed response and suggested to Members that officers could change the answer to say 'that there was not enough detail in what was being proposed to understand the implications on the local plan process'.

Question 18

Members considered that officers had not sufficiently answered the question and that the answer needed to be amended to say if they supported the additional permissions-based test or not.

The Planning Policy Manager responded to say that officers were happy to change the answer to be clearer and show that they were in support of the additional permissions-based test.

Members comments on question 21 included:

- Agreed that the focus needed to be on the root causes of under-delivery;
- wanted to know why the Housing Delivery Test (HDT) was related to the Local Plan?;
- what was the point of a review on the HDT figures if they were decided along with a local plan?;
- the Government were constantly changing the HDT figures and local authorities were always playing catch-up; and
- the Council needed to be strong with their views that it could only deliver on the figures set out in the Council's plan.

The Planning Policy Manager responded and said that when local plans were prepared, there was an annual figure for each year in the plan period. So, if and when the annual figure was changed outside of the local plan process, it created an uplift on the number of houses to be built. As housing figures in a local plan were agreed, and sites allocated in good faith, local planning authorities should not be penalised for failing to deliver a greater number outside of the local plan process.

Question 22 –

Members raised concerns that affordable homes needed to be more affordable and more were needed in the borough. Members also raised concern on the definition of social rent and wanted clarification as to how social rent was provided. The Planning Policy Manager responded to say that social rent came from a social provider and recognised the need for more genuinely affordable social rent in the borough.

Question 30 –

Members disagreed with the officers' response and thought that developers behaviour in the past should be taken into account when a decision was being made on an application.

In response, the Interim Head of Planning Services said that officers felt they needed more information before they could give a formal response as applications should be dealt with on their own individual merits and this could cause issues if officers took into account applicants' previous behaviour.

Members agreed that the officers' answer should be changed to 'yes'.

Question 31 –

Members considered that the answer should be 'yes' and that both options should be considered and if there were mechanisms in place to determine an application based on the applicants' previous behaviour, then they should be considered.

The Planning Policy Manager responded to say that officers would be happy to change the response to 'yes' and that both options were considered the best, but that more information would be needed.

Question 35 –

Members felt that the Council should clear design plans and have clear requirements of what was required in an application at the beginning stage.

In response, the Planning Policy Manager said that there was a resource implication that needed to be considered with the answer. When there were clear breaches of conditions, the starting point was to see what could be done to overcome the breach. She agreed that officers could reword the answer and try to reinforce good practice.

Question 37 –

Members felt that the response was negative and thought that if the Council could give examples of small things that could be done to intervene then they should be pursued. Members added to their concerns that outline applications were difficult to consider at Planning Committee as they did not always know what the developer was planning on the site. They asked the officers if it would be possible to add to the answer that they felt that outline applications should not be an option for developers when making applications for planning permission.

In response the Planning Policy Manager said design codes could be used to deliver Biodiversity Net Gain (BNG).

In response to the outline applications the Interim Head of Planning Services said that after discussions with the Development Manager, officers could change the answer to express Members' frustration with outline applications and that Members felt that outline permission did not give any purpose to a planning application.

Recommended:

- (1) That the proposed consultation response on behalf of the Council be noted subject to the amended changes as minuted.***

Chair

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All minutes are draft until agreed at the next meeting of the Committee/Panel