

SDC/11



Public Session

Report Reference Number C/11/3

Agenda Item No: 12

To:	Council
Date:	13 September 2011
Author:	Keith Dawson
Lead Officer:	Keith Dawson

Title: Core Strategy Decision Making

Summary:

The Core Strategy hearing, by way of the Examination in Public (EiP), commences on 20th September and will be heard by an independent Inspector. During the course of the hearing the Council may have to decide whether to accept or challenge a proposal of the Inspector and will not have the opportunity to seek an adjournment to take instructions. Therefore, a mechanism to delegate decisions to officers is required to assist the smooth running of the EiP.

This report seeks Council's formal agreement on the extent officers can agree or challenge proposals put forward by the Inspector.

Recommendations:

- i. The authority to accept or challenge minor amendments to be delegated to the individuals formally representing the Council at the hearing.**
- ii. The authority to accept or challenge non minor matters to be delegated to the Director of Community Services.**
- iii. The authority to accept or challenge controversial matters will be delegated to the Director of Community services after consultation with the Leader of the Council.**

Reasons for recommendation

To ensure clarity for the decision making process and ensure that decisions that are taken are lawful.

1. Introduction and background

- 1.1 The Core Strategy hearing commences on 20th September and is scheduled for 2 weeks.
- 1.2 It is possible that during the course of this hearing the Council may have to decide whether to accept or challenge a proposal of the Inspector in respect of an issue.
- 1.3 For example, where it is suggested by the Inspector, it may well be expedient for the Council to agree to a proposed policy amendment and any requisite amendments to other policies which arise as a direct result. Having the authority to agree such matters at the time will enable the EiP to progress smoothly, prevent unnecessary delays whilst officers seek adjournment for approvals and also demonstrate the professional way in which the Council can manage the EiP process.
- 1.4 This report sets out how this delegation will be exercised in relation to the Core Strategy EiP and seeks Council's formal endorsement of the arrangement.
- 1.5 The alternative is either potentially frequent delay or that the Council accepts everything proposed by the Inspector, but this would remove the Council's ability to argue its position and potentially have an impact on how officers could defend the Council's position.

2. The Report

- 2.1 The Core Strategy sets out the development strategy for the district for the next 15 years. Following public consultation it has been submitted to the Secretary of State and an independent Inspector has been appointed to consider whether the core strategy is sound. This will be done at an EiP beginning on the 20 September 2011. At the EiP Council officers will explain the evidence underpinning the core strategy and other participants will make representations to seek changes to the core strategy through challenge to the evidence upon which the Council relies or the conclusions the Council has reached from such evidence.
- 2.2 To avoid any confusion and reduce the potential for future challenges, this report seeks clear delegations to officers as to what can be agreed during the hearing.
- 2.3 Council is asked to endorse the following delegations and note the reasoning for those delegations;

Authority to accept or challenge minor amendments to be delegated to those individuals formally representing the Council at the EiP.

- 2.4 During the hearing agreement may be reached with other participants as to the form of wording used in some cases and the Core Strategy may be subject to what is deemed "minor amendments".
- 2.5 This phrase has a distinct meaning in the relevant legislation and guidance and such amendments are more than mere typographical corrections.
- 2.6 However, they are not significant changes but may for example include changing wording of policies or supporting text to improve clarity, whilst not significantly altering the outcome.
- 2.7 Any significant amendments would be subject to the same process of sustainability appraisal, publicity, and opportunity to make representations as the submitted plan. This may lead to the need to adjourn the hearing and delay the process of examination.

Authority to accept or challenge non minor matters will be delegated to the Director of Community Services.

- 2.8 There may be some amendments that amount to more than a change to the wording and could involve a change that affects the way in which a policy may be applied or interpreted, which is different from that which the Council originally proposed.
- 2.9 This would amount to more than a variation of words, as with minor amendments, as it could affect the way in which a policy is applied. Therefore, it is deemed appropriate that except where this is a controversial change, the Director of Community Services is best placed to make the decision under delegated powers.

Authority to accept or challenge controversial matters will be delegated to the Director of Community services after consultation with the Leader of the Council.

- 2.10 There may be amendments proposed that affect the outcome of a policy to such an extent that this may be deemed controversial and in such circumstances, it is appropriate that the Director of Community Services will exercise his delegation only once he has consulted with the Leader of the Council. This ensures that where there are controversial suggestions, there will have been Councillor involvement before any final decision is made.
- 2.11 In all cases appropriate advice will be sought from the Solicitor to the Council and a full record of how the delegations have been used will be reported to a future meeting of the Executive.

2.12 These arrangements will provide clarity for the decision making process and help to reduce the risk of challenge on the grounds of technical breaches to the decision making process.

3. Legal/Financial Controls and other Policy matters

13.1 Legal Issues

The proposed delegations ensure the EiP is not subject to unnecessary delays whilst officers seek approval but maintains an open and transparent decision making framework in which decisions can be made that can be defended robustly.

3.2 Financial Issues

The cost of the EiP is currently within budget but there is potential for financial issues to emerge at the EiP. For example, if the Inspector insists that the EiP is deferred pending a further consultation exercise, this consultation exercise will be compulsory and will require additional expenditure. The Council has a contingency budget for such eventualities and subject to sufficient funds being available within the contingency then accessing these funds is already delegated to the Executive Director within the existing scheme of delegations and financial procedure rules.

4. Conclusion

Council's endorsement for the proposed delegations is sought.

5. Background Documents

None

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Appendices:

None

**SELBY DISTRICT COUNCIL
MINUTES**

Minutes of the MEETING OF COUNCIL held on Tuesday 13 September 2011, in The Council Chamber, Civic Centre, Doncaster Road, Selby, commencing at 6:00 pm.

30	Apologies for Absence
31	Disclosures of Interest
32	Minutes
33	Communications
34	Announcements
35	Petitions
36	Public Questions
37	Councillors' Questions
38	Reports from the Executive
39	Reports from Committees
40	Site Allocations DPD Preferred Options Stage and Other Local Development Framework Documents
41	Core Strategy Decision Making
42	The Corporate Plan
43	Overview and Scrutiny Work Programmes
44	Urgent Action
45	Sealing of Documents

Present: Councillor Mrs K McSherry in the Chair

Councillors: Mrs E Casling, I Chilvers, M Crane, J Crawford, Mrs D Davies, Mrs S Duckett, M Dyson, K Ellis, M Hobson, W Inness, Mrs G Ivey, M Jordan, C Lunn, D Mackay, Mrs C Mackman, J Mackman, B Marshall, J McCartney, Mrs M McCartney, C Metcalfe, Mrs W Nichols, I Nutt, R Packham, C Pearson, D Peart, A Pound, R Price, I Reynolds, Mrs S Ryder, Mrs A Spetch, R Sweeting and J Thurlow

Officials: Chief Executive, Deputy Chief Executive, Managing Director of Access Selby, Director of Business Services, Business Manager (ES) and Democratic Services Manager.

In attendance: Reverend Francis Loftus offered opening prayers.

Public: 15
Press: 2

30. **Apologies for Absence**

Apologies for absence were received from Councillors J Cattnach, J Deans, Mrs M Davis, Mrs P Mackay, Mrs E Metcalfe, R Musgrave, R Sayner and S Shaw-Wright.

31. **Disclosures of Interest**

Councillor Mrs S Ryder declared a personal and prejudicial interest in item 11 Site Allocations DPD Preferred Options Stage and other Local Development Framework Documents (minute 40) by virtue of her owning land identified as a potential allocation Site. She left the meeting during debate on this item.

32. **Minutes**

The minutes of the meeting of the Council held on 28 June 2011, were confirmed as a correct record.

Resolved:

To approve the minutes for signing by the Chairman.

33. **Communications**

Tadcaster Central Area Car Park

The Chief Executive reported correspondence received in relation to a Judicial Review of the Council's actions in respect of Tadcaster Central Area Car Park. All grounds for the Judicial Review had been dismissed in favour of the Council. The Chief Executive reported that there was still the possibility of an appeal.

Resolved:

To note the correspondence.

Boundary Commission for England

The Chief Executive reported correspondence received from the Boundary Commission for England. Council heard that the Boundary Commission for England had released proposals for changes to Parliamentary Constituencies across England. The proposals were subject to consultation. There was a significant change to the boundaries affecting Selby's constituencies. The Chief Executive would provide further details to all councillors via email.

Councillors requested that the Council submit a response. The response would be developed by Policy Review Committee and then approved by the Executive.

Resolved:

- i. **To note the correspondence;**
- ii. **To submit a formal response to the consultation via the Policy review Committee and the Executive.**

British Legion

The Chairman reported correspondence she had received from the British Legion requesting authority to sell poppys from the Civic Centre. Councillors unanimously approved the request.

Resolved:

To note the correspondence.

34. **Announcements**

The Chairman informed Council that she had recently visited Councillor J Deans, who had been in an accident whilst away on holiday. The Chairman stated that Councillor Deans' condition was improving.

Councillors asked that best wishes be sent to Councillor Deans.

35. **PETITIONS**

Gypsy and Traveller site at Brotherton.

It was reported that a petition had been received in connection with proposals to name a site at Brotherton as the Preferred Option for a Gypsy and Travellers Site in the Site Allocations Development Plan Document. Council noted that the matter was subject to discussion later on the agenda and that, in accordance with the Council's Petitions Procedure Rules, the petition would be considered as a consultation petition. The concerns of the petitioners would be considered as part of the consultation on the Preferred Options.

Barlow Common Nature Reserve

It was reported that a petition had been received in connection with proposals for the future operation of the Nature Reserve at Barlow Common. The issue was still being considered by the Executive and, in accordance with the Council's Petitions Procedure Rules the petition would be considered as an ordinary petition and reported to the Executive. The petition organiser would have the right to attend the Executive Meeting and address the meeting for up to three minutes on the issues covered by the petition.

36. **Public Questions**

None received.

37. **Councillors' Questions**

None received.

38. **Reports from the Executive**

The **Leader of the Council** reported on items on which the Executive had taken decisions since the last meeting of Council. He highlighted the Annual Report and the Corporate Plan Progress Report. He responded to questions from councillors in relation to his role in encouraging members of the public to contribute to the Corporate Plan through his attendance at Community Engagement Forums.

Councillor Mrs G Ivey, Deputy Leader and **Lead Executive Member on External Relations and Partnerships**, reported work she had undertaken with officers in reviewing the Leisure Contract. Mrs G Ivey responded to questions from councillors in relation to leisure provision across the District

She also provided Council with an update on the provision of affordable housing within Selby District and offered to respond to detailed questions outside of the meeting. She went on to highlight the importance of Council representation on the North Yorkshire Health and Wellbeing Board.

Councillor C Lunn, **Lead Executive Member for Finance**, reported on the Budget Exceptions report and the Interim Treasury Management report he had presented to the Executive. He responded to a question regarding the concordat with Harrogate and Craven and would provide more detail outside of the meeting. A councillor raised a question regarding the reduction in salary costs as a percentage of the total amount saved to which Councillor Lunn offered to respond outside of the meeting.

Councillor J Mackman, **Lead Member for Place Shaping**, reported the work undertaken by the Executive on the Site Allocations DPD which Council would discuss later in the meeting. He also highlighted the consultation exhibition on Olympia Park soon to take place at Barby Bridge Primary School.

Councillor C Metcalfe, **Lead Member for Communities**, reported the work the Executive had undertaken on Countryside Management, Car Parking Charges and the future provision of CCTV.

Resolved:

To receive and note the reports from the Executive.

39. **Reports from Committees**

Chair of Scrutiny, Councillor Mrs W Nichols, reported on the Call In of the Executive's decision on Countryside Management. Councillor Nichols responded to questions regarding the committee's scrutiny of Transport provision and, in particular, the future provision of a number of bus routes across the District.

The Council agreed to co-opt Councillor Brian Marshall on to Scrutiny Committee with non-voting rights, whenever the Committee considers Crime and Disorder matters.

Councillor M Jordan, **Chair of Policy Review Committee**, reported on the Committee's work since the last Council meeting. He highlighted the Working Group that would be established, subject to Council approval, on the potential Gypsy and Traveller Sites as part of the Site Allocations DPD.

Councillor Mrs E Casling, **Chair of Audit Committee**, reported that the Committee had reviewed the Internal Audit Plan 2011/12 and Risk Management Report. Councillor Casling also added that the Committee would receive risk registers from Access Selby and Communities Selby.

Council agreed that Scrutiny Chairs could also produce written reports for future meetings.

Resolved:

To receive and note the reports from the Executive.

Having declared a personal and prejudicial interest in the next item, Councillor Mrs S Ryder left the meeting.

40. **Site Allocations DPD Preferred Options Stage and Other Local Development Framework Documents**

Councillor J Mackman presented the report which set out the Council's response to the recent consultation exercise regarding the Site Allocations DPD (SADPD) as part of the Local Development Framework.

Councillor J Mackman provided Council with a brief introduction to the document which had been discussed and examined at length by both the Executive and Policy Review Committee. He then gave details of the consultation process and the potential for continual changes to the document as more sites came forward.

The Council discussed the allocation of Gypsy and Traveller sites across the District. Councillor J Crawford questioned the communication process when potential sites came forward. He felt it was imperative that ward Councillors were informed at the earliest opportunity should any sites come forward within their wards. Councillor J Mackman acknowledged Councillor Crawford's concerns and gave a detailed explanation of the process which had taken place.

Councillor J Mackman provided Council with an update on the site at Brotherton. Following the landowner withdrawing the site, it was now necessary to find an alternative preferred option for the Gypsy and Traveller site. Councillor J Mackman proposed that the recommendation be amended to reflect the revised preferred site of Poplar Farm at Whitley and, as a consequence, the reallocation of 10 residential units to site EGWH004.

Councillor J Mackman then moved discussion onto the five year supply of housing. He reminded councillors that the Council could not demonstrate adequate provision of a five year supply of housing. He felt it essential that the Council release all phase two sites. Councillor J Mackman proposed an amendment to the recommendation to clarify that 'all' phase two sites would be released. This was supported.

Resolved:

SADPD

- i. Council approve the Site Allocations DPD Preferred Options document at Appendix A to proceed to the next stage of consultation, subject to an amendment in respect issue G, the preferred site is EGWH10C Poplar Farm at Whitley and EGWH004 allocation be increased to 67.**
- ii. To request Officers undertake a 10-week public consultation process commencing on 22 September 2011;**
- iii. To delegate authority to the Managing Director of Access Selby after consultation with the Lead Executive Member for Place Shaping to deal with amendments agreed or requested at this meeting, prior to consultation;**
- iv. To commission Policy Review Committee to undertake additional work in relation to Gypsy & Traveller sites, on the basis of the terms of reference in Appendix C.**

5 Year Supply

- v. **To note the DRAFT Technical Report at Appendix B;**
- vi. **To agree to the release of all the Local Plan Phase 2 residential allocations, but with revised housing numbers consistent with those set out in the Site Allocations DPD Preferred Options;**
- vii. **That appropriate publicity be given and landowners notified;**
- viii. **To delegate authority to the Managing Director of Access Selby, after consultation with the Lead Executive Member for Place Shaping, to deal with consequential amendments to the SADPD in response to the release, prior to its consultation.**

Legal Representation at Core Strategy Examination in Public

- ix. **To note that Counsel will be appointed on behalf of the Council.**

Councillor Mrs G Ivey asked to be recorded as abstaining from the vote which took place on the Site Allocations DPD Document.

41. **Core Strategy Decision Making**

The Deputy Chief Executive presented the report. Council was reminded that the Core Strategy Examination in Public commenced on 20 September 2011 and would be heard by an independent Inspector.

The Deputy Chief Executive explained that during the course of the hearing, the Council may have to decide whether to accept or challenge a proposal of the Inspector and will not have the opportunity to take instructions. The Deputy Chief Executive requested a mechanism to delegate decisions to officers to facilitate the smooth running of the hearing.

Council debated the issue with particular reference to the level of officer delegation. Council approved an amendment to the second recommendation which removed the word 'non', allowing the Director of Community Services to challenge or accept minor matters.

Resolved:

- i. **To grant authority to accept or challenge minor amendments to be delegated to the individuals formally representing the Council at the hearing;**
- ii. **Authority be granted to the Director of Community Services to accept or challenge minor matters;**
- iii. **The authority to accept or challenge controversial matters be delegated to the Director of Community services after consultation with the Leader of the Council.**

The meeting finished at 8.10pm.

