



DERBY CITY COUNCIL

PLANNING AND TRANSPORTATION COMMISSION 24 SEPTEMBER 2007

Report of the Director of Corporate and Adult Services

Draft Scoping Report on a proposed review of development on former Domestic Gardens

RECOMMENDATION

1. That Commission members consider the draft scoping report and indicate any changes they wish to be made.

SUPPORTING INFORMATION

- 2.1 Under current planning legislation domestic gardens are classified in planning terms as equivalent to brownfield sites and any development proposed on them must be treated in the same way as that proposed for an old gas works or railway site. Housing development is understandably a preferred option for brownfield sites and consequently it is very difficult for local authorities to refuse planning applications for former domestic gardens.
- 2.2 As this is a matter in which there is considerable public interest and concern in Derby, it is considered by the Chair that there would be value in the Planning and Transportation Commission conducting a short focussed review with the aims of:
 1. Exploring the implications of the existing legislation
 2. Seeking to develop a set of draft criteria for acceptable development within sites in urban areas that were formerly domestic gardens
- 2.3 It is proposed that the objectives of the review should be:
 1. To consider the scope and effectiveness of existing planning controls as they apply to residential development on former garden land
 2. To examine the advantages and disadvantages of residential development on former domestic gardens
 3. To look at the scale and the impact on the local environment of the residential development on former gardens that has already taken place in Derby

4. To seek the views of Derby residents who have first hand experience on the effects of residential development of former gardens
 5. In the light of evidence considered at the review, to develop a set of draft criteria for acceptable development within sites in urban areas that were formerly domestic gardens
- 2.4 The intention is that evidence gathering phase of the review will be conducted in a single session on the evening of 25 September 2007.
- 2.5 The Council's Head of Development Control & Land Searches will provide the Commission with information on the legislation and its application and on the scale of any problem in Derby and members of the public have been invited to attend the meeting and to inform Commission members of situations and outcomes of which they have direct experience.
- 2.6 Appendix 2 of this report contains a copy of the draft scoping report for the proposed review

For more information contact:	David Romaine 01332 255598 e-mail david.romaine@derby.gov.uk
Background papers:	Appendix 1 – Implications
List of appendices:	Appendix 2 – Draft scoping report on the proposed review of development on former Domestic Gardens

Appendix 1

IMPLICATIONS

Financial

1. None arising from this report. The costs of conducting the review will need to be contained within the Commission's research budget.

Legal

2. None arising from this report.

Personnel

3. None arising from this report.

Equalities impact

4. Development on former domestic gardens is a matter of interest to many Derby residents.

Corporate Objectives

5. This report has the potential to link with the following Corporate Objectives,

- Making us proud of our neighbourhoods
- Leading Derby towards a better environment
- Giving you excellent services and value for money

P&T B-land scope

Draft Scoping Report

Planning and Transportation Commission

Proposed Review of development of former Domestic Gardens

Background

Under current planning legislation domestic gardens are classified in planning terms as equivalent to brownfield sites and any development proposed on them must be treated in the same way as that proposed for an old gas works or railway site. Housing development is understandably a preferred option for brownfield sites and consequently it is very difficult for local authorities to refuse planning applications for former domestic gardens.

There have recently been a number of planning applications involving residential development on former domestic gardens in Derby. There has been a lot of public opposition to the developers' proposals and this has been expressed both at Planning Committee meetings and through the local news media. Opposition to this kind of development has been particularly strong in Allestree where a local action group, the Allestree Preservation Group' has been formed.

The conflict created by residential developments in former domestic gardens was also been the subject of a private members bill, The Land Use (Gardens Protection etc) Bill, which was sponsored by Mrs Caroline Spelman MP.

The issue of back land developments in Derby was raised at the Council meeting on 18 July 2007 through a Notice of Motion which challenged the intention of the legislation as it applies to domestic gardens. In the subsequent debate members recognised the conflicting needs of providing extra housing and of protecting the character and amenity of established communities.

After consideration of the Notice of Motion, Council resolved to write to the Government and to ask for:

- More structured guidance on this issue
- The removal of domestic gardens from the brownfield category
- The ability for local authorities to resist such applications where it is clear there will loss of amenities and consequences for quality of life
- A strengthening of the role of ward members to object to inappropriate applications.

It remains to be seen how the Government will respond to Council's suggestions but as this is a matter in which there is considerable public interest and concern in Derby, it is considered that there would be value in the Planning and Transportation Commission conducting a short focussed review with the aims of:

3. Exploring the implications of the existing legislation
4. Seeking to develop a set of draft criteria for acceptable development within sites in urban areas that were formerly domestic gardens

Objectives of the Review

It is proposed that the objectives of the review should be:

6. To consider the scope and effectiveness of existing planning controls as they apply to residential development on former garden land
7. To examine the advantages and disadvantages of residential development on former domestic gardens
8. To look at the scale and the impact on the local environment of the residential development on former gardens that has already taken place in Derby
9. To seek the views of Derby residents who have first hand experience on the effects of residential development of former gardens
10. In the light of evidence considered at the review, to develop a set of draft criteria for acceptable development within sites in urban areas that were formerly domestic gardens

Proposed methodology

The intention is that evidence gathering phase of the review will be conducted in a single evening session.

It is considered that the principle contributors to the review will be:

- a. The Council's Head of Development Control & Land Searches who will provide the Commission with information on the legislation and its application and on the scale of any problem in Derby
- b. Members of the public who will be invited to attend the meeting and to inform Commission members of situations and outcomes of which they have direct experience.

A press release will be used to inform members of the public of the intention to hold the review and to invite them to attend the evidence gathering meeting.

It is thought that having considered the evidence from the witnesses, members will be in a position to effectively assess the implications of the legislation and the way in which it is being applied in Derby.

The Commission should then be well placed to prepare some draft criteria for acceptable development within sites in urban areas that were formerly domestic gardens.

Timing and Timescales for the Review

The review will only involve one evidence gathering meeting. It is considered that this should ideally be an evening meeting as this will enable members of the public who work during the day to attend.

Depending on the level of contribution by the public and the number of witnesses who consequently give evidence, it is estimated that 2-3 days will be needed to write up the report of the review and the Commission's recommendations. If the evidence gathering meeting is held during the last two weeks in September it is conceivable that the draft report could be completed by Friday 12 October but this will depend on to some extent on the other work commitments of the Co-ordination Officer.

Demands on Overview and Scrutiny Members

Overview and Scrutiny members will only need to attend the evidence gathering meeting and to agree on the form of any recommendations they wish to make. The total time involved should not exceed four hours.

DRR 6 August 2007.