



DERBY CITY COUNCIL

SCRUTINY MANAGEMENT COMMISSION 7 JUNE 2005

Report of the Planning and Environment Commission

Adoption of Land

RECOMMENDATION

1. That the Council should adopt a more vigorous approach to the enforcement of the planning conditions and the conditions of Section 106 agreements that relate to the provision of public open space by developers.

SUPPORTING INFORMATION

- 2.1 The Planning and Environment Commission has responded to the request made by the Scrutiny Management Commission and has considered the issues relating to the adoption of land by the Council. The matter was originally raised by Area Panel 1 in respect of Community Facilities at Breadsall Hilltop. However the Area Panel asked that the Overview and Scrutiny Commissions investigate the wider issue of land adoption across the city with a view to preventing the recurrence of the situation that had occurred at Breadsall Hilltop.
- 2.2 Information on the Council's land adoption procedures and on the Breadsall Hilltop site specifically was provided to the Commission by Steve Medlock, Head of Parks Services. With regard to the Breadsall Hilltop site he said that this was a former school site that had been sold to developers just before the County Council's Education function had been transferred to the City Council. The developers put in a planning application for housing on the west side of the site and open space on the east side. As part of the planning agreement the developers were required to provide an Adult Education Centre and some open space. Steve Medlock said that it had taken a long time for the developer to complete laying out the open space, although it was now nearly finished. He told the Commission that the problem had been the difficulty of enforcing planning conditions on the developers. This was now mostly done through Section 106 agreements which were contracts and so could in theory be legally enforced, but previously this had not happened.
- 2.3 So far as sites in general were concerned, Steve Medlock told the Commission that when a development was completed the site was

inspected by the Council. If the work appeared to have been carried out according to the plans, the site remained in the developer's ownership for a 12 month approval period then if after this period the site was still in a satisfactory condition, the land was adopted by the Council. He said that most problems were due to the difficulty of getting the developer to bring the site up to the standard required by the Council. Once the building work was finished there was a tendency for the developer to lose interest and concentrate on their next site. He said it took time to bring the land up to the required standard but once this was done there were no real problems as the developer was keen to hand the land over and transfer the maintenance costs to the Council.

2.4 Referring to the procedure that was followed, Steve Medlock said that the process of acquiring a site came about through the planning process and now involved the use of S106 agreements. Under this process the site was laid out, developed and eventually transferred to the Council. The Planning Department, Parks, Estates and Legal Departments were all involved in this process and interdepartmental meetings were held to keep it under review.

2.5 Steve Medlock told the Commission that there was a need to make sure developers complied with the open space provisions before they moved off the site. He said that agreements now contained better planning and legal conditions that required the developer to complete the open space works before all the building work was finished, but he agreed that there was still the question of what the Council did if the developer failed to comply in full with the conditions of the planning agreement.

2.6 Steve Medlock told the Commission that in certain cases more vigorous enforcement of the planning conditions would be helpful, and he agreed with a suggestion by Cllr Troup that if the Council had a strong case it should pursue it more vigorously.

For more information contact: David Romaine 01332 255598 e-mail david.romaine@derby.gov.uk Background papers: Appendix 1 – Implications List of appendices:
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Appendix 1

IMPLICATIONS

Financial

1. None arising from this report.

Legal

2. None arising from this report.

Personnel

3. None arising from this report.

Equalities impact

4. None arising from this report.

Corporate Objectives, Values and Priorities

This report has the potential to link to the following of the Council's Corporate Objectives, Values and Priorities:

Objectives:

- A prosperous successful and vibrant economy
- A shared commitment to regenerating our communities

Values

- Be open, transparent and honest in everything we do
- Develop effective partnerships with all stakeholders, especially Derby's residents
- Adopt new ways of working wherever these will help us do things better and provide value for money, customer focussed services

Priorities

- Improving customer service in the city centre and locally