

**City Centre Eastern Fringes Area Action Plan – Report on Progress and Changes to Future Programme****SUMMARY**

- 1.1 On 5 September 2006, Cabinet agreed a 'Preferred Option' for the above Plan for formal consultation. However, publication of this document was held back pending more work on the plan's evidence base, in order to ensure it would eventually be considered 'sound'. It was therefore felt that Preferred Options consultation should not proceed until a number of crucial studies had been completed. Some of this work is on-going.
- 1.2 The recent experiences of other local authorities with the LDF system have, however, highlighted a number of other 'soundness' issues. These have given rise to concerns over whether the AAP is still the most appropriate vehicle for bringing forward the regeneration of the 'Eastern Fringes' area.
- 1.3 Of particular concern is the risk of preparing the AAP in advance of the Core Strategy. The Government has recently confirmed that the Planning Inspectorate is finding it very difficult to consider such plans. While some authorities have been successful, there are no guarantees that an Inspector will consider our AAP acceptable.
- 1.4 A further area of concern is the changing aspirations of some AAP stakeholders and the lack of certainty over their long-term requirements. The AAP process is not suited to accommodating changes to proposals, particularly once the Preferred Option has been finalised.
- 1.5 It is important to ensure that delays in preparing the AAP, or issues over its soundness, do not hold up the regeneration of the 'Eastern Fringes'. The AAP was intended to facilitate regeneration by providing a statutory basis for compulsory purchase. It was never the intention, nor is it desirable, for the AAP process to restrict or delay otherwise acceptable proposals.
- 1.6 In order to mitigate the risks and delays outlined above, an alternative approach is being recommended. This envisages the Preferred Option Report being published early next year and any changes required as a result of this being reported back to Cabinet as normal. At this point, however, the preparation of the AAP would be suspended. This would still give weight to the work carried out to this point in bringing forward and assessing regeneration proposals. In particular, it will provide the template for attracting and selecting a 'preferred developer' for the Castleward Area. The 'preferred developer' will work with the Council and Derby Cityscape to bring forward appropriate proposals that are consistent with the planning framework

already in place and bolstered by the Preferred Option. This approach would save the time and resources needed to prepare a formal Submission document and for its Examination by the Planning Inspectorate. If necessary, production of the AAP could be picked-up again at a later date. Appendix 2 contains a diagram illustrating the recommended course of action, compared against the normal procedures

- 1.7 Counsel advice has been sought as to whether this is an appropriate course of action and whether it would have a detrimental impact on our ability to justify compulsory purchase, if required. This has confirmed that there are significant risks associated with continuing with the AAP and that to suspend it at this stage would not necessarily have a prejudicial impact on regenerating the area. As such, a formal AAP may not be necessary to carry out a CPO.
- 1.8 Changes to the AAP's preparation will need to be reflected in the Council's Annual Monitoring Report (AMR) (also being considered at this Cabinet) and the Local Development Scheme (LDS). A revised LDS will be considered by Cabinet next year and will have to be agreed by GOEM before it can take effect.
- 1.9 Subject to any issues raised at the meeting, I support the following recommendations.

RECOMMENDATIONS

- 2.1 To agree the revised route toward regeneration of the Eastern Fringes area, as set out in para 1.12 of the attached Director's report.
- 2.2 To reflect the above in the Council's Annual Monitoring Report and Local Development Scheme.

REASONS FOR RECOMMENDATIONS

- 3.1 There are risks associated with progressing the AAP to submission at this stage, both to the 'soundness' of the plan and the impact this could have on regeneration. The alternative course of action would minimise these risks, while still making full use of the work already done. Counsel advice has been sought on this in conjunction with Derby Cityscape and other public funding partners.
- 3.2 The progress on the preparation of DPDs, revised timetables and milestones must be published in the Council's AMR and LDS documents.



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SUPPORTING INFORMATION

- 1.1 Area Action Plans (AAPs) are new style planning documents that are intended to focus on areas where significant change is expected or desired. The 'Eastern Fringes' is one of those areas. It covers some 65 hectares and takes in the Derbyshire Royal Infirmary, Castleward, the Railway Station, Bass's Recreation Ground and an area of land to the north of the Derwent that is occupied by the Trent bus depot and Derby Evening Telegraph. The area is identified by Derby Cityscape and the City of Derby Local Plan Review (CDLPR) as a significant opportunity and priority for regeneration. The decision to progress an AAP for the area was taken following liaison with Government Office and was reflected in the Council's first Local Development Scheme. It was considered at the time that an AAP would be the appropriate means to test and take forward large scale regeneration proposals, in particular to provide a sound statutory basis for any necessary compulsory purchase.
- 1.2 Members will recall that a version of the 'Preferred Option' for the development of this area was considered on 5 September 2006. This was not published, however, as there were some concerns relating to the new tests of 'soundness'. The tests of 'soundness' are those which all development plan document must 'pass' before they can be Adopted and which are considered by the Planning Inspectorate at Examination. At the time the Preferred Option was taken before Members, the first two plans in the country to be subject to these tests failed. In order to deal with some of the issues raised by this failure, it was agreed that publication of the Preferred Option should be postponed and that a more robust evidence base for the plan should be developed. As such, a number of important pieces of research have been carried out, or are on-going.
- 1.3 The most significant of these include a major Transport and Highway Design Study, a Flood Risk Assessment (FRA) and a car parking study (covering the whole of the City centre). Other work has focussed on economic viability, phasing and the implementation mechanisms for bringing the AAP forward. City-wide research covering such issues as housing land availability, has also been used to assist in the preparation of the plan. More detailed design work has also been carried out on the 'Castleward Avenue' area of public realm and accessibility improvements linking the railway station to the City centre. This work is coming to an end and officers are in the final stages of considering the implications of the research for the AAP's proposals.
- 1.4 In addition to the above, the opportunity has been taken to carry out further consultation with key stakeholders. This has been an on-going exercise and has

fitted in well with the Government's ideas on 'continuous consultation'. The general public have also had a further chance to comment on proposals through Derby Cityscape's consultation on their Revised Masterplan from October 2007 to February 2008 (this was reported to Members on 31 July 2007). Other examples of further consultation include the 'Railway Conservation Area Appraisal'. This has been the subject of a recent public consultation exercise, the results of which will be fed into the 'Preferred Option' proposals.

- 1.5 All of the above has led to a number of changes to the proposals that were put forward in September 2006. It is anticipated that a full report on this will be put before Members in the new year, alongside the results of the some of the research mentioned above.
- 1.6 The general principles of what we want to achieve have not radically changed, however. The Eastern Fringes will still be a predominantly residential-led mixed-use area, with supporting commercial and community facilities being developed alongside the new housing. We still also want to see this area developed using the highest levels of design quality, with sustainability being a key factor in all decisions.
- 1.7 However, both this work and the recent 'lessons learned' from other authorities, have highlighted a number of further concerns over the 'soundness' of the AAP and the resulting impacts that this might have on bringing forward the anticipated and desired regeneration.
- 1.8 In particular, there is increasing concern about the risks of preparing the AAP in advance of the Core Strategy (the document that will set out the planning vision and framework for the whole City). As a general rule, the Core Strategy should be prepared before other Development Plan Documents (DPDs) produced as part of the Local Development Framework. Government guidance has been that, in some circumstances, preparing DPDs in advance of the Core Strategy can be acceptable and there are examples of authorities who have been successful. As noted above, Government initially endorsed this approach with regard to the AAP. However, the Government have recently indicated that the Planning Inspectorate are finding it very difficult to consider detailed site specific DPDs without an established context of broader long term spatial planning principles provided by a Core Strategy. There are therefore no guarantees that the Inspectorate will consider the approach acceptable here and there is no way of ascertaining their attitude until after the AAP has been 'Submitted'. Getting to this stage would require a considerable level of additional time and resources, without any certainty that the AAP would be considered 'sound'.
- 1.9 There is growing evidence that a number of authorities are falling foul of the tests of soundness, either because of the Core Strategy issue, or for other reasons. As a result, plans are either being found unsound at Examination stage, or Local Authorities are withdrawing their plans before they get to this stage. There are a number of examples locally where this has occurred, including Nottingham, who have recently withdrawn their AAP on The Meadows.
- 1.10 A further area of concern is the changing aspirations of some AAP stakeholders, and the lack of certainty over their long-term requirements. This issue has particularly come to the fore during the further consultation that has recently taken place. The AAP process is not suited to accommodating changes to proposals, particularly once the Preferred Option has been finalised. If progression were made toward Submission of the Plan and one of the major stakeholders objected to the proposals

then it will actually lead to further soundness issues and could potentially prejudice otherwise acceptable development.

- 1.11 There has already been some considerable delay in the preparation of the AAP, mainly related to the additional evidence and consultation requirements that the LDF system is creating. At present, this has not had a significant impact on the timetable for bringing forward development. However, it is important to ensure that further delays and uncertainty do not hold up regeneration. We are now at the stage where schemes could soon be coming forward. The AAP was intended to facilitate regeneration by providing a statutory basis for compulsory purchase. It was never the intention of the AAP to restrict or delay appropriate proposals.
- 1.12 In order to maintain momentum and minimise further risks and delays, an alternative course of action is being recommended. This will involve the following steps;
- agree the Preferred Option for the Eastern Fringes early in the new year;
 - publish the Preferred Option for consultation;
 - report the results of the consultation back to Cabinet and amend the Preferred Option as necessary;
 - suspend production of the AAP;
 - resolve to use the Preferred Option (along with the Cityscape Masterplan and Adopted Local Plan) as the basis for regeneration in the area as a whole and specifically for marketing the Castleward area individually to attract a 'preferred developer' for that part of the 'Eastern Fringes';
 - select preferred developer (working with Derby Cityscape and other partners).
 - work with preferred developer and partners to prepare an appropriate and acceptable planning application;
 - grant planning permission.
 - serve compulsory purchase order, if required;
 - implement permission.
- 1.13 The advantage of this approach is that it allows us to use the work already done to act as a template for the regeneration of the area. The Preferred Option, along with other relevant documents including the CDLPR and the Cityscape Masterplan, will form the basis for the marketing of the site. Furthermore, the considerable amount of work undertaken on studies such as the transportation study will directly feed into any planning application process. Developers will be expected to submit schemes that meet the vision and objectives set out in this planning framework. Their conformity with this will be an important consideration in the selection of the preferred developer. All of the work that has been done in taking the plan this far will be fed into the development of detailed proposals and will facilitate the working up of a high quality overall scheme.
- 1.14 Before recommending this course of action, legal advice has been sought to ensure that it will not undermine the long-term regeneration aspirations for the area. This has confirmed that our concerns over the soundness of the plan are well founded and that the existing planning framework, alongside a valid planning permission, should be a sufficient basis for proceeding.

OTHER OPTIONS CONSIDERED

- 2.1 A number of alternative options have been considered, including continuing with the AAP as initially intended or withdrawing the AAP prior to the publication of the Preferred Option. The recommended course of action makes the most use of the work already done and minimises risks and delay.

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Background papers: None
List of appendices: Appendix 1 – Implications
Appendix 2 – Diagram of Alternative Programme

IMPLICATIONS

Financial

- 1.1 Preparation of the AAP has financial implications in terms of printing and consultation costs and the use of consultants. Derby Cityscape have contributed toward these costs and the additional funding for these has been incorporated within the current revenue budget for the Local Development Framework. Submission of the AAP would have further financial implications, in particular the costs of the Examination by the Inspectorate. Suspending the AAP at this point may therefore alleviate some of the pressures on the budget from LDF work, which was reduced last year in order to contribute to corporate savings.
- 1.2 The implementation of the AAP proposals may incur costs in the future. These will be subject to discussions with Derby Cityscape and its partners and reported separately when appropriate.

Legal

2. The processes involved in preparing an Area Action Plan are set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development) (England) Regulations 2004. All actions to date accord with these processes.

Personnel

3. The personnel resource implications of preparing the AAP were considered in drawing up the Council's Local Development Scheme. Suspension of the AAP at Preferred Options stage will enable staff resources to become more focussed on the Core Strategy and Site Allocations DPDs.

Equalities impact

4. The Sustainability Appraisal will consider the social implications of the AAP's proposals and will suggest mitigation measures for any issues there may be. The regeneration proposals outlined in the Preferred Option Report will also have implications, in relation to job creation, making environmental improvements and in terms of improving accessibility.

Corporate Priorities

5. The proposals predominantly come under the Council's Objectives of improving the quality of life in Derby's neighbourhoods, reducing inequalities between neighbourhoods, reinvigorating the City centre and river areas, making Derby cleaner and greener and providing greater opportunities for people to participate in decisions about the area they live in. They also relate to building a healthy and independent community.