

6.1 Possible actions to address the current situation

It is clear from the evidence that has been considered by the Commission that there is no quick and simple solution to the problem that is perceived by some residents to exist in some areas of the City. The problem is compounded by the drive by central government to build new houses and to build those houses on previously developed land.

For Derby the main questions seem to be whether or not the current level of backland development is having a significant and quantifiable adverse effect on Derby's residential suburbs and if so, whether changes to its planning policies would provide the Council with more control over this kind of development.

The Council has well established planning policies and procedures and the Commission has been told that individual applications are considered on their merits and are refused if they do not meet the defined criteria. The Commission has also been told that decisions which are not supported by policy are likely to be overturned at appeal and that local authorities cannot refuse an application if it satisfies policies or defined criteria.

The Commission has heard evidence that the Council has current planning policies and procedures which are being applied to applications for backland development on former domestic gardens. The question is whether there is a case to amend and strengthen these policies and if so in what way. Under the new planning system, policies are set out in the various documents comprising the Local Development Framework (LDF). There is an opportunity in the coming year to influence key plans being prepared as part of the LDF in order to ensure that the issue of back garden development is addressed. These documents include the Core Strategy and the Sustainable Design Supplementary Planning Document (SPD).

There appear to be a number of policy options which could be examined in order to provide for the improved control of backland developments in Derby. These options include:

1. Use of the proposed Sustainable Design Supplementary Planning Document to expand upon existing Local Plan guidance for the development of backland sites
2. The development of new policies within the proposed LDF Core Strategy. These could include policies for different sorts of brownfield sites and policies to protect and/or improve the established character particular residential areas.
3. The identification and declaration of 'Areas of Special Housing Character'. This is the approach adopted by East Hampshire District Council.
4. Realignment of the boundary of public open spaces to include part of the gardens of adjacent residential property.

The Commission was told that evidence would be needed to investigate and justify the adoption of any of these options. This will mean that they cannot be implemented without additional work by officers of the Community and Regeneration Department.

Resources have been identified as an issue within the Development Control and Plans and Policies teams and it is suggested that extra staff resources will be needed to develop and implement any initiatives proposed by the Planning and Transportation Commission.

7. Draft Recommendations

The draft recommendations are intended to address the issues identified as a consequence of the Commission's review.

Recommendation 1

That the Council Cabinet Member for Planning and Transportation ensures that the proposed Sustainable Design SPD includes appropriate detailed guidance on how existing Local Plan policies should be applied to backland garden sites.

Reasons 1

The Commission has been told that policy based reasons are needed to control planning applications for former domestic gardens and to justify the refusal of inappropriate or unsuitable applications for these sites. However, members have been informed that the current Local Plan only contains generic design policies for windfall sites.

The Commission considers that the Council is currently at a disadvantage because it has no supplementary guidance to illustrate how the principles of the Local Plan should be applied in these circumstances. The forthcoming Design SPD, scheduled for publication as a draft for comment in September 2008, is an opportunity to remedy this deficiency.

Recommendation 2

The Planning and Transportation Commission recommends that the Cabinet Member for Planning and Transportation should investigate how policies within the Core Strategy and other Local Development Framework (LDF) documents might be developed to give greater clarity and weight to the concept of protecting the established character of particular residential areas of the City. This should include examination of the following policy options:

- a. The development of distinct policies for different categories of brownfield land, distinguishing for example between garden land and former industrial land.

- b. The approach taken by East Hampshire District Council to declare 'Areas of Special Housing Character' to protect the established character of some of Derby's suburbs.
- c. The realignment of the boundary of some or all of Derby's green open spaces to include part of the gardens of adjacent residential property, thereby precluding future backland development on land adjacent to the green open spaces.

Reasons 2

Members have been advised that the new planning documents being prepared as part of the LDF, including the Core Strategy, represent an opportunity to strengthen policies to protect the character of particular areas of the City. Members consider that these options have the potential to provide the Council with the policies and controls that it requires to more effectively resist inappropriate and unsuitable applications for backland developments in the City.

Recommendation 3

It is recommended that as a matter of urgency the Council Cabinet member takes action to address the current high workload of the officers of the Development Control and Plans and Policies teams and that in the medium term regard is also taken of the additional capacity and support that will be required if these teams are to effectively deliver the new 'place shaping' role that is envisaged by central government.

Reasons 3

Members of the public have criticised the quality and content of Planning Control Committee reports to the Commission. They have also commented that calls and letters to planning officers have not been answered and that the officers are not easily accessible.

Paul Clarke has informed the Commission that whilst the government's recommendation was that planning officers should deal with 150 applications per year, one of the officers in his department had dealt with 320 applications in the past year.

Members consider that the heavy workload of the development control officers must, inevitably, have an adverse impact on the quality of the officers' work on planning applications, the time that they can devote to dealing with enquiries from the public and the nature/quality of those contacts.

Members are also concerned that the heavy workload of individual officers will increase stress levels and the likelihood of mistakes. More mistakes will increase the likelihood of complaints which will further increase stress levels. The additional complaints will need to be investigated which will take time that

cannot then be used to deal with planning applications. This in turn will further increase the pressure on the officers which will increase stress levels and may lead to further mistakes. Officers who are stressed and working under pressure may, understandably, be less helpful to objectors than they otherwise might be.

The Commission considers that the only way of resolving these problems is to reduce the workload of individual officers. This can only be done by increasing the number of officers available to do the work. It is considered that this needs to be done urgently to improve the quality of service to the public and, most importantly, to protect officers from excessive work related stress.

Recommendation 4

- a. That the Cabinet member should consider how the Planning Obligations SPD, as recently approved for consultation by Cabinet, can be strengthened in its final form in order to better off-set the load on local infrastructure created by backland developments. In particular, consideration should be given to the scope for reducing thresholds for different types of contributions and to how the role of local Members and Neighbourhood Boards can be in establishing appropriate planning obligations under Section 106 of the Act can best be enhanced.
- b. That consideration be given to how planning obligations policies can be further strengthened along the lines set out in a. above through the preparation of the Core Strategy, having regard to current legislative proposals for a Community Infrastructure Levy, or 'planning charge'.

Reasons 4

The Commission has been told that S106 contributions are currently only sought for developments of over nine units on one site. This is because it is not cost effective to ask for S106 funding from smaller developments. For some types of contribution, e.g. secondary schools, the threshold is higher still. Consequently the small piecemeal nature of backland developments often means that no funding is secured from these developments.

Residents who have given evidence to the Commission have complained that backland developments place demands on local infrastructure but contribute nothing to it. If it were possible to reduce the thresholds being applied, this would provide an additional source of funding that could be used to the benefit of the area. The Commission is also of the view that local Members and the relevant Neighbourhood Board should where possible have a greater input into determining where S106 funds are used.

The recent draft Planning Obligations SPD sets out policies for negotiating S106 agreements within the context of the Local Plan and there is an opportunity to strengthen this guidance before it is finalised. The forthcoming preparation of the Core Strategy process is an opportunity to look at this issue in more depth. However, regard will need to be had to the effect of the Government's recent proposals for a Community Infrastructure Levy. This would in effect be a form of 'roof tax', calculated on the basis of overall infrastructure requirements arising from development, and will apply to all housing schemes, leading to a somewhat reduced role for S106 agreements.

Recommendation 5

The Commission recommends that the Cabinet member examines, and where appropriate enhances, the processes for publicising and consulting on proposals for backland development.

Reasons 5

To ensure that the Council is doing everything that is reasonably practicable to inform residents of an area of the proposals that are likely to affect them and to make it as easy as is practicable for residents to give their views on what is being proposed.