
REPORT TO:	Environment and Development Committee	AGENDA ITEM:	13
DATE OF MEETING:	10 th July 2003	CATEGORY:	RECOMMENDED
REPORT FROM:	Deputy Chief Executive	OPEN	
MEMBERS' CONTACT POINT:	John Birkett (5742)	DOC:	
SUBJECT:	Local Plan Inquiry Proposed Change of Policy Burnaston Cross	REF:	
WARD(S) AFFECTED:	Willington/Walton/North West/Hilton	TERMS OF REFERENCE:	ES03

1.0 Recommendation

1.1 That the Committee recommends a definitive course of action to the Council.

2.0 Purpose of Report

2.1 To consider a revised position adopted at the Inquiry in regard to the objection promoting employment use at Burnaston Cross.

3.0 Detail

3.1 The Mill Group, objects to the omission from the plan of an allocation for employment use in the triangle of land south east of the A38A50 junction. On the first morning of their appearance at the Inquiry, the objects proposed to officers an amended policy, to that they had been seeking to introduce into the plan. After discussion of the matter between the advocates for both sides, assisted by their advisors, the following policy was agreed between the parties. This was put to the Inspector as acceptable to the Council.

3.2 *DEVELOPMENT OF 32 HA OF LAND AT BURNASTON CROSS WILL BE ALLOCATED FOR A STORAGE AND DISTRIBUTION FACILITY TO ACCOMMODATE REQUIREMENTS OF A SPECIFIC END USER WHICH CANNOT BE SATISFIED ELSEWHERE WITHIN THE GENERAL INDUSTRIAL AND DISTRIBUTION PROVISION. ANY SUCH DEVELOPMENT SHALL COMPLY WITH ALL OF THE FOLLOWING CRITERIA:*

- (1) *THE DEVELOPMENT SHALL ENSURE THAT BOTH THE POTENTIAL FOR THE PROVISION OF AN INTERMODAL RAIL FREIGHT CONNECTION TO THE SITE AND THE ABILITY FOR ALL UNITS OVER 4645 SQUARE METRES TO UTILISE RAIL ACCESS WITHIN THE SITE ARE SAFEGUARDED*

(2) *THE BUILT FORM OF DEVELOPMENT SHALL BE SET WITHIN A SUBSTANTIAL LANDSCAPE FRAMEWORK AND ANY BUILDINGS SHALL BE SET BACK FROM THE BOUNDARIES OF THE SITE BY A MINIMUM OF 60 METRES.*

(3) *NO BUILDING SHALL GENERALLY EXCEED 15 METRES IN HEIGHT AT EAVES ABOVE EXISTING GROUND LEVEL*

NB ENVIRONMENT AND TRANSPORTATION MATTERS COVERED IN OTHER POLICIES APPLY BUT BURNASTON CROSS NEEDS TO BE ADDED TO POLICY T8 - FREIGHT

3.3 The basis for this policy insertion is general compliance with Economy Policy 6 (E6) of the Structure Plan, which provides for large developments on exclusive sites in addition to the general provision for employment uses and where they could not be accommodated on that provision.

3.4 Supporting their case the objector provides a large volume of evidence to demonstrate:

- The crucial importance of the location to facilitate key employment provision, particularly Strategic, rail connected Distribution
- Compliance with Regional Policy and the QUELS Study that supported recent revision of it. In their view this demonstrates a clear shortage of suitable strategic sites particularly for distribution
- The need to replicate losses in Employment land, e.g. Willington Power Station and for a flexible interpretation of overall provision on the Structure Plan
- Market imperatives for distribution use on this site that do not apply to other sites with South Derbyshire and the wider area.
- The feasibility of developing it with adequate access, sustainable transport connections, a viable rail connection and minimal impact on the wider environment.

3.5 Immediately prior to the Inquiry they secured a letter of very strong support from EMDA for the proposal on the basis of known interest from inward investors. These investors require reassurance as to the likelihood of obtaining permission to carry out the development. The objector also challenged a report from GVA Grimley commissioned by the Highways Agency on the basis of conflict of interest with GVA's support for the Inogy proposal at Willington Power Station. Whilst disputing that any conflict arose, GVA asked the Council not to rely on this report. The report found fault with many of the conclusions of the objector on a range of issues. The objector drew attention to a statement in the Structure Plan that it was up to Local Authorities to decide whether or not to make specific allocations for E6 type uses in their Local Plan. Finally they drew attention to letters sent by the Chief Executive to the Mill Group advising them that the Council would consider proposals that genuinely met with the requirements of E6. On the day they brought forward further evidence in rebuttal of the Council's position. Of particular note was expert evidence of the feasibility and viability of the rail connection.

3.6 E6 of the Structure Plan has the following criteria that must be met in addition to the requirement that the development could not be accommodated within the general provision. Proposals should:

- Be well related to urban areas
- Contribute to regeneration of deprived areas of Derby
- Make full and effective use of brownfield or underused land
- Be located where significant public transport infrastructure is available or will shortly become so
- Have good road and where possible rail access]
- Take account for the need for or availability of infrastructure
- Take account of environmental considerations.

3.7 The Council's case to the inspector was:

- The objector has exaggerated the influence of the market on Local Plan policy and discounted the opportunities for market choice in the wider region.
- The market influences but does not dictate policy. Sustainability is a more important influence.
- Conversely the market pays scant attention to Local Authority boundaries in locational terms.
- Consequently one must look further than South Derbyshire to meet locational requirements that are regional in essence on the basis of regional rather than local policy imperatives.
- South Derbyshire should only require to meet regional needs if regional policy so dictated having regard to the objectives and strategy behind that policy.
- In quantitative terms the Council has met the requirements imposed by strategic policy (Structure Plan + RPG).
- Qualitatively the allocated land in South Derbyshire, almost all brownfield, is not unlikely to come forward.
- Existing + emerging regional policy and QUELS and the State of Freight report seek to impose no specific land requirements beyond that of the Structure Plan on South Derbyshire. Rather they call for better use of existing provision/removal of constraints.
- Significant opportunities exist for development in the wider area; the A50 corridor report and RPG directing development to the Northern Coal fields and Leicester sub areas.
- The Council would not oppose the development of Burnaston Cross, provided sufficient justification were demonstrated in accordance with E6 but it does oppose speculative development on this site. Also the Council pointed out significant inhibiting factors to viable and environmentally compatible development (some of these may no longer be relevant).
- The means of overcoming these inhibiting factors, if there is one, is to demonstrate the imperative in terms of E6 of the Structure Plan and to overcome the constraints by way of a comprehensive Environmental appraisal based on definitive, specific user proposals.
- This mechanism by-passes and short circuits the Local Plan adoption process which imposes a delay on any legitimate development opportunities currently arising.

- 3.8 The reason for compromise, on the day turned on the promise of genuine inward investment substantially complying with E6 and the ability within the Structure Plan guidance to make specific provision available. In the face of the apparent strengthening of the objector's case in the run up to the Inquiry, officers considered that a pragmatic approach was most efficacious, leaving the issues of actual compliance with the policy for the planning application stage. A strategic rail connected distribution facility, providing intermodal operation, potentially servicing Toyota by rail would be a significant economic development for the District. On the other hand, because of rules for SRA grant eligibility, requiring (by condition or Section 106 Agreement) that the rail connection be constructed at the outset would preclude any chance of obtaining a grant. The Council could also not insist upon continued operation of the connection.
- 3.9 The change has been put to the Inspector on the basis that the Council is content to see the plan modified. However, such a significant change did not fall to officers to decide. Hence reference to the Committee and on to Council. Should Members not agree with the revised policy, the objector's conditional withdrawal of objection would be revoked and a rearranged appearance would follow. Delay in achieving adoption of the Local Plan could follow. Should Members agree to it, draft modifications to the Plan must be published that might be subject of objection from third parties and further Inquiry might need to be arranged. This would have happened anyway were the inspector to have recommended a policy change on the strength of the arguments at the session itself.
- 3.10 Further information may be to hand prior to the meeting as to the nature or identity of potential inward investors.

4.0 Financial Implications

- 4.1 Additional costs may be incurred if the case is remitted back to the Inquiry. These relate to the fees of employing the Advocate, the Inspector's fee and that of the Programme Officer.

5.0 Corporate Implications

- 5.1 A Local Plan for the District is a key objective in the Corporate Plan.

6.0 Community Implications

- 6.1 The Local Plan must be subject to adequate levels of public involvement and adequate opportunity for changes to be considered must be given.

7.0 Conclusions

- 7.1 The Council is faced with as choice of two distinct options; one to accept the revised policy as fulfilling the intentions of the Structure Plan policy without injury to the other proposals of the Plan. The other option is to reject the change on the basis of a robust interpretation of the Structure Plan policy that has not so far been and by current indications is not likely to be met.

8.0 Background Papers