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Our Ref: PGH/Cabinet
Date: 22 June 2012

Notice of meeting

EXTRAORDINARY CABINET

Date: Monday 2 July 2012

Time: 5.00 p.m.

Place: Goddard Room, Council Offices, Knowle Green, Staines.

To: Members of Cabinet

| Members of the Cabinet | Cabinet member areas of responsibility |
|-------------------------------------|--|
| F. Ayers (Chairman) | Leader of the Council/ Strategy and Corporate Governance |
| Mrs. J.M. Pinkerton (Deputy Leader) | Health, Well-being and Independent Living |
| Mrs C.A. Bannister | Communications |
| T.J.M. Evans | Finance and Resources |
| P.C. Forbes-Forsyth | Community Safety and Young People |
| G.E. Forsbrey | Planning & Housing |
| Mrs D.L. Grant | Parks and Assets |
| N. St. J. Gething | Economic Development |
| R.L. Watts | Environment |

AGENDA

| Description | Page Number |
|---|-------------|
| 1. Apologies for absence | |
| To receive any apologies for non-attendance. | |
| 2. Disclosures of Interest | |
| To receive any disclosures of interest from members in accordance with the Council's Code of Conduct for members. | |
| 3. Recommendations from the Local Development Framework Working Party meeting held on 11 June 2012 | |
| To consider the recommendations of the Local Development Framework Working Party from its meeting held on 11 June 2012 on the two Determination Statements under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 in relation to the Council's Supplementary Planning Documents on Flooding and Housing size and type. (copy attached) | 1 - 14 |
| 4. Urgent Items | |
| To consider any items which the Chairman considers as urgent. | |

LOCAL DEVELOPMENT FRAMEWORK WORKING PARTY

Monday 11 June 2012

Present:

Cllr R Smith-Ainsley

Cllr I Beardsmore

Cllr R L Watts

Cllr N S Gething

Cllr T Evans

Cllr Mrs S Webb

1 Apologies

Cllr G E Forsbrey; Cllr Ms P A Broom

2 Election of Chairman for the meeting

In the absence of Cllr Forsbrey, Cllr Watts nominated Cllr Smith-Ainsley as chairman for the meeting; this was seconded by Cllr Webb. There were no other nominations. Cllr Smith-Ainsley was appointed and chaired the meeting.

3 Report of the Assistant Chief Executive

a. SPDs on 'Flooding' and 'Housing Size and Type'

The report explained the purpose of the meeting which was to consider representations made to the two draft Supplementary Planning Documents (SPDs) on 'Flooding' and 'Housing Size and Type' and agree recommendations to Cabinet about their adoption. The SPDs elaborate respectively policies LO1 and HO4 in the Core Strategy and Policies DPD.

The report explained that SPDs could only amplify existing policy and could not be used to amend them.

Ten representations had been raised to the Flooding SPD and 8 representations for the Housing Size and Type SPD. All comments were summarised respectively in Appendices A and B to the report and a recommended response was set out. A few minor changes to each SPD were recommended where the text could be helpfully clarified. These recommended changes were set out in tracked-changes versions of the SPDs in respectively Appendices C and D to the report.

The Working Party agreed the recommended changes to each of the SPDs, that Cabinet be recommended to recommend their adoption to Council and that the necessary 'notices' and publicity for adoption be given.

The Working Party also considered the statutory requirement for the Council to undertake a 'scoping' assessment of each SPD under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004. The purpose of this 'scoping' assessment is to decide whether a Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) are required. The assessments, set out at Appendices E and F, confirmed neither an SA nor SEA were required in this case as the documents merely amplified policies which had themselves been formally assessed when the Core Strategy was prepared. It was explained that Cabinet would need to formally agree these 'assessments' at a meeting prior to their

meeting at which they considered the SPDs.

Recommendation:

1. That Cabinet recommend Council to adopt the two SPDs, subject to the amendments as set out in Appendices C and D.
2. That statutory 'notices' of adoption and appropriate publicity on the website be given.
3. At a separate Extraordinary Cabinet meeting on 2 July Cabinet be recommended to agree the Determination Statements prior to the SPDs being recommended for adoption at the meeting of Cabinet on 17 July.

b. National Planning Policy Framework

Officers explained that, following publication of the NPPF at the end of March 2012, they were undertaking a detailed assessment of all existing planning policy documents to determine the extent to which they remained consistent with it. The intention was to report back to a meeting of the LDF Working Party as soon as this was complete.

As had been outlined at the Member Briefing on the NPPF on 18 April, it is already clear (paras 159-161 of the NPPF) that the Council will need to review some of the key evidence underpinning the Core Strategy by preparing a new Strategic Housing Market Assessment, Strategic Housing Land Availability Assessment, an Economic Assessment and Retail/Town Centre Assessment. This work will enable a comprehensive consideration of future needs and enable judgements to be made about the extent to which existing policies remain up to date or require some review.

Members of the Working Party noted what would be presented to a future meeting and the need to then set an appropriate programme of work. They were pleased that this would include a careful consideration of future housing needs and such matters as how land suitable for housing is best developed.

Information Noted

APPENDIX E**SPELTHORNE BOROUGH COUNCIL****Determination Statement under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004****Flooding Supplementary Planning Document****1. Introduction**

- 1.1 This statement sets out the Council's determination under Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 on whether or not a Strategic Environmental Assessment is required for the Flooding Supplementary Planning Document (March 2012)

2. Sustainability Appraisal

- 2.1 Sustainability Appraisal considers the social, economic and environmental effects of a plan. The Town and Country Planning (Local Development) (England) Regulations 2004 required all local development documents to be subject to a Sustainability Appraisal which would also meet the requirements of the EU Directive on Strategic Environmental Assessment (SEA). However, the Planning Act 2008 removed the automatic requirement for Sustainability Appraisal of Supplementary Planning Documents (SPDs). SA is still required for SPDs which have significant social, economic or environmental effects that have not been covered in the SA of the parent development plan document or where the SEA Directive would require one.
- 2.2 The Council has therefore prepared the Flooding SPD in accordance with the 2008 Regulations and has not subjected the plan to a formal Sustainability Appraisal, but has carried out screening to formally determine the need for SEA.

3. Strategic Environmental Assessment

- 3.1 Under the requirements of the European Union Directive 2001/42/EC, Planning Authorities must conduct a Strategic Environment Assessment of all DPDs and SPDs. However, there are circumstances when an SEA is not required. The publication 'A Practical Guide to the Strategic Environmental Assessment Directive (2005) OPDM' outlines the process by which plans should be 'screened' to determine whether exceptions might apply.
- 3.2 The SEA Directive requires an SEA for plans which (i) 'determine the use of small areas at a local level' or which are (ii) 'minor modifications' to plans, only when these are determined to be likely to cause significant environmental effects.
- 3.3 In accordance with the provisions of the SEA Directive and the Environmental Assessment of Plans and Programmes Regulations (2004)(Regulation 9(1)), the Council must determine if a plan requires an environmental assessment. Where the Borough Council determines that an SEA is not required then

under Regulation 9(3) it must prepare a statement setting out the reasons for this determination.

4. The Screening Process

- 4.1 To determine whether or not an SEA is required it is necessary to carry out a screening process having regard to the criteria set out in Annex II of the Directive and Schedule 1 of the Regulations (see Appendix 1). A formal determination in accordance with Regulation 9 cannot be made until the three statutory consultation bodies: The Environment Agency, Natural England and English Heritage have been consulted. The responses received are set out in Table 1 below.
- 4.2 Once the Authority has made its determination it must publish within 28 days a statement setting out its decision and the reasons for making it. The determination must be made available to the public and be sent to the three consultation bodies. The relevant SPD may not be adopted before the determination has been made under Regulation 9(1).

5. Scope and Purpose of the Flooding SPD

- 5.1 The Flooding SPD explains in more detail the Council's approach to dealing with development in flood risk areas as set out in Policy LO1 and supporting text of the Council's Core Strategy and Policies Development Plan Document (February 2009).
- 5.2 The SPD is intended to ensure that the Council provides clear guidance on the factors which need to be taken into account in preparing and determining applications for development in areas of flood risk. The SPD in particular provides further guidance on how flood risk may be managed.

Table 1 Details of the Supplementary Planning Document

| | |
|------------------------------|--|
| Responsible Authority | Spelthorne Borough Council |
| Title of Plan | Flooding Supplementary Planning Document |
| Parent Document | Core Strategy and Policies Development Plan Document (February 2009) |
| Purpose of Plan | To explain in more detail the Council's approach to dealing with development in flood risk areas in the Borough. |
| Period of Plan | Until superseded |
| Plan Area | Whole Borough |

6. Habitats Regulations Assessment

- 6.1 In addition to the SEA screening process a Habitats Regulations Assessment is required to determine whether a plan or project would have significant

adverse effects upon the integrity of internationally designated sites of nature conservation importance, or Natura 2000 sites. The need for an HRA is set out within the EC Habitats Directive 92/43/EEC and transposed into British Law by Regulation 102 of the Conservation of Habitats and Species Regulations 2010.

- 6.2 The Directive states that any plan or project not connected to or necessary for a site's management, but likely to have significant effects on the integrity of the site shall be subject to appropriate assessment. The screening of the Core Strategy and Policies DPD under the Habitats Regulations concluded that, on its own or "in combination", the plan would not have any significant effect on the integrity of any of the Natura 2000 sites assessed. Accordingly there is no mechanism for the Flooding SPD, which is based on Policy LO1 of the Core Strategy and Policies DPD, to have any potential adverse impacts, on its own or in combination with other plans, on the integrity of the sites concerned.

7. Consultation Responses

- 7.1 The draft determination was sent to the consultation bodies on 9 March 2012 and the formal responses are set out in Table 1

Table 2 - Responses from the Consultation Bodies

| Consultation Body | Comments | Date |
|--------------------------|---|---------------|
| English Heritage | From the historic environment perspective, English Heritage does not consider that the SPD requires an SEA and therefore agrees with the Council's draft conclusions in this respect. | 3 April 2012 |
| Environment Agency | Concur with your determination that the Flooding SPD does not require a formal SEA under the SEA Directive because the SPD provides interpretation of existing policy; supplements current guidance and should therefore have no significant environmental effects. | 11 April 2012 |
| Natural England | On the basis of the information available, agree with your conclusion that the Flooding SPD does not require an SEA under the SEA Directive. | 29 March 2012 |

8. SEA Determination and Reasons

8.1 The Council has considered the outcome of the screening process set out in Appendix 1 together with the responses from the three consultation bodies and has determined that the Flooding SPD does not require a formal SEA under the SEA Directive for the following reasons:

- a) The SPD is based on Policy LO1 in the Core Strategy and Policies DPD which has been the subject of a full Sustainability Appraisal.
- b) The SPD provides interpretation of existing policy and only supplements current guidance.
- c) The SPD will have no significant environmental effects.

8.2 This determination was made on **xxxx**.

Appendix 1 - Screening Assessment for the Flooding SPD

Environmental Assessment of Plans and Programmes Regulations 2004

Schedule 1 – Criteria for determining the likely significance of effects on the environment

| | SEA Directive Criteria | SBC Response | Is there a significant effect on the environment? |
|-----------|---|--|---|
| 1. | The characteristics of plans and programmes, having regard, in particular, to: | | |
| (a) | the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources; | The SPD does not set the framework for projects or other activities. It provides guidance on how new development should take account of the need to reduce the risk of flooding. | No |
| (b) | the degree to which the plan or programme influences other plans and programmes including those in a hierarchy; | The SPD amplifies existing policy and is subordinate to the higher level Core Strategy and Policies DPD. | No |
| (c) | the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development; | The SPD helps promote sustainable development by reducing the risks associated with flooding, but will not have any significant effects over and above those covered by the higher level policy. | No |
| (d) | environmental problems relevant to the plan or programme; | Any environmental problems associated with flooding have been addressed in the higher level Policy LO1 and the SPD seeks to clarify the scope of the policy. | No |
| (e) | the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection. | The SPD has no direct relevance. | No |

| | SEA Directive Criteria | SBC Response | Is there a significant effect on the environment? |
|-----------|---|--|--|
| 2. | Characteristics of the effects and of the area likely to be affected, having regard in particular to: | | |
| (a) | the probability, duration, frequency and reversibility of the effects; | The SPD will have a positive effect only in relation to any new planning application for new residential development. | No |
| (b) | the cumulative nature of the effects; | The SPD will have positive effects on reducing any cumulative impact on flooding. | No |
| (c) | the transboundary nature of the effects; | The SPD will have no transboundary effects. | No |
| (d) | the risks to human health or the environment (for example, due to accidents); | The SPD seeks to ensure that risk to human health is minimised by mitigating the effects of flooding. | No |
| (e) | the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected); | The SPD relates only to new development over the Plan period to 2026 and to those parts of the Borough affected by fluvial flooding. | No |
| (f) | the value and vulnerability of the area likely to be affected due to: <ul style="list-style-type: none"> i. special natural characteristics or cultural heritage; ii. exceeded environmental quality standards or limit values; iii. intensive land-use. | The SPD will assist in limiting the impact of flooding but will not have any significant effect on the natural characteristics of the area or environmental quality standards. | No |
| (g) | The effects on areas or landscapes which have a recognised national, Community or international protection status. | The SPD will not have any significant effect on the location of development and therefore has no effect on landscapes or international designations. | No |

APPENDIX F**SPELTHORNE BOROUGH COUNCIL****Determination Statement under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004****Housing Size and Type Supplementary Planning Document****1. Introduction**

- 1.1 This statement sets out the Council's determination under Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 on whether or not a Strategic Environmental Assessment is required for the Housing Size and Type Supplementary Planning Document (March 2012)

2. Sustainability Appraisal

- 2.1 Sustainability Appraisal considers the social, economic and environmental effects of a plan. The Town and Country Planning (Local Development) (England) Regulations 2004 required all local development documents to be subject to a Sustainability Appraisal which would also meet the requirements of the EU Directive on Strategic Environmental Assessment (SEA). However, the Planning Act 2008 removed the automatic requirement for Sustainability Appraisal of Supplementary Planning Documents (SPDs). SA is still required for SPDs which have significant social, economic or environmental effects that have not been covered in the SA of the parent development plan document or where the SEA Directive would require one.
- 2.2 The Council has therefore prepared the Housing Size and Type SPD in accordance with the 2008 Regulations and has not subjected the plan to a formal Sustainability Appraisal, but has carried out screening to formally determine the need for SEA.

3. Strategic Environmental Assessment

- 3.1 Under the requirements of the European Union Directive 2001/42/EC, Planning Authorities must conduct a Strategic Environment Assessment of all DPDs and SPDs. However, there are circumstances when an SEA is not required. The publication 'A Practical Guide to the Strategic Environmental Assessment Directive (2005) OPDM' outlines the process by which plans should be 'screened' to determine whether exceptions might apply.
- 3.2 The SEA Directive requires an SEA for plans which (i) 'determine the use of small areas at a local level' or which are (ii) 'minor modifications' to plans, only when these are determined to be likely to cause significant environmental effects.
- 3.3 In accordance with the provisions of the SEA Directive and the Environmental Assessment of Plans and Programmes Regulations (2004)(Regulation 9(1)), the Council must determine if a plan requires an environmental assessment. Where the Borough Council determines that an SEA is not required then

under Regulation 9(3) it must prepare a statement setting out the reasons for this determination.

4. The Screening Process

- 4.1 To determine whether or not an SEA is required it is necessary to carry out a screening process having regard to the criteria set out in Annex II of the Directive and Schedule 1 of the Regulations (see Appendix 1). A formal determination in accordance with Regulation 9 cannot be made until the three statutory consultation bodies: The Environment Agency, Natural England and English Heritage have been consulted. The responses received are set out in Table 1 below.
- 4.2 Once the Authority has made its determination it must publish within 28 days a statement setting out its decision and the reasons for making it. The determination must be made available to the public and be sent to the three consultation bodies. The relevant SPD may not be adopted before the determination has been made under Regulation 9(1).

5. Scope and Purpose of the Housing Size and Type SPD

- 5.1 The Housing Size and Type SPD explains in more detail the Council's requirements for securing the right size and type of dwelling in new residential developments and conversions as set out in Policy HO4 and supporting text of the Council's Core Strategy and Policies Development Plan Document (February 2009).
- 5.2 The SPD is intended to ensure that the Council secures the right mix of dwellings providing one, two, three and four plus bedrooms in new development, so that, together with the existing housing stock, the housing needs of the Borough are best met. The SPD in particular provides further guidance on the dwelling mix required in developments which incorporate an element of affordable housing

Table 1 Details of the Supplementary Planning Document

| | |
|------------------------------|--|
| Responsible Authority | Spelthorne Borough Council |
| Title of Plan | Housing Size and Type Supplementary Planning Document |
| Parent Document | Core Strategy and Policies Development Plan Document (February 2009) |
| Purpose of Plan | To explain in more detail the Council's requirements for securing the right size and type of dwellings to meet housing needs in the Borough. |
| Period of Plan | Until superseded |
| Plan Area | Whole Borough |

6. Habitats Regulations Assessment

- 6.1 In addition to the SEA screening process a Habitats Regulations Assessment is required to determine whether a plan or project would have significant adverse effects upon the integrity of internationally designated sites of nature conservation importance, or Natura 2000 sites. The need for an HRA is set out within the EC Habitats Directive 92/43/EEC and transposed into British Law by Regulation 102 of the Conservation of Habitats and Species Regulations 2010.
- 6.2 The Directive states that any plan or project not connected to or necessary for a site's management, but likely to have significant effects on the integrity of the site shall be subject to appropriate assessment. The screening of the Core Strategy and Policies DPD under the Habitats Regulations concluded that, on its own or "in combination", the plan would not have any significant effect on the integrity of any of the Natura 2000 sites assessed. Accordingly there is no mechanism for the Housing Size and Type SPD, which is based on Policy HO4 of the Core Strategy and Policies DPD, to have any potential adverse impacts, on its own or in combination with other plans, on the integrity of the sites concerned.

7. Consultation Responses

- 7.1 The draft determination was sent to the consultation bodies on 9 March 2012 and the formal responses are set out in Table 1

Table 2 - Responses from the Consultation Bodies

| Consultation Body | Comments | Date |
|--------------------------|---|---------------|
| English Heritage | Confirm that, from the historic environment perspective, English Heritage does not consider that the SPD requires an SEA and therefore agrees with the Council's draft conclusions. | 3 April 2012 |
| Environment Agency | We have no additional comments to make on the Housing Size and Type SPD. | 5 April 2012 |
| Natural England | On the basis of the information available, I agree with your conclusion that the Housing Size and Type SPD does not require an SEA under the SEA Directive. | 29 March 2012 |

8. SEA Determination and Reasons

8.1 The Council has considered the outcome of the screening process set out in Appendix 1 together with the responses from the three consultation bodies and has determined that the Housing Size and Type SPD does not require a formal SEA under the SEA Directive for the following reasons:

- a) The SPD is based on Policy HO4 in the Core Strategy and Policies DPD which has been the subject of a full Sustainability Appraisal.
- b) The SPD provides interpretation of existing policy and only supplements current guidance.
- c) The SPD will have no significant environmental effects.

8.2 This determination was made on xxxx.

Appendix 1 - Screening Assessment for the Housing Size and Type SPD

Environmental Assessment of Plans and Programmes Regulations 2004

Schedule 1 – Criteria for determining the likely significance of effects on the environment

| | SEA Directive Criteria | SBC Response | Is there a significant effect on the environment? |
|-----------|---|--|--|
| 1. | The characteristics of plans and programmes, having regard, in particular, to: | | |
| (a) | the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources; | The SPD does not set the framework for projects or other activities. It provides guidance on the application of Policy HO4 to ensure the most appropriate mix of dwellings in new development. | No |
| (b) | the degree to which the plan or programme influences other plans and programmes including those in a hierarchy; | The SPD amplifies existing policy any is subordinate to the higher level Core Strategy and Policies DPD. | No |
| (c) | the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development; | None. | No |
| (d) | environmental problems relevant to the plan or programme; | None. | No |
| (e) | the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection. | The SPD has no direct relevance. | No |
| 2. | Characteristics of the effects and of the area likely to be affected, having regard in particular to: | | |
| (a) | the probability, duration, frequency and reversibility of the effects; | The SPD will have a positive effect only in relation to any new planning application for new residential development. | No |
| (b) | the cumulative nature of the effects; | The SPD will have positive effects on the mix of dwellings to meet needs. | No |

| | SEA Directive Criteria | SBC Response | Is there a significant effect on the environment? |
|-----|---|--|--|
| (c) | the transboundary nature of the effects; | The SPD will have no transboundary effects. | No |
| (d) | the risks to human health or the environment (for example, due to accidents); | The SPD seeks to ensure that there is an appropriate mix of dwellings to meet needs. Any effect will be positive and there will be no direct risk to human health. | No |
| (e) | the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected); | The SPD relates only to new development over the Plan period to 2026. The new dwelling requirement represents less than 9% of the total dwelling stock. The spatial extent of the influence is small. | No |
| (f) | the value and vulnerability of the area likely to be affected due to: <ul style="list-style-type: none"> i. special natural characteristics or cultural heritage; ii. exceeded environmental quality standards or limit values; iii. intensive land-use. | The SPD seeks to ensure that there is an appropriate mix of dwellings to meet needs. It will not have any significant effect on the total number of dwellings to be provided over the Plan period or their location. | No |
| (g) | The effects on areas or landscapes which have a recognised national, Community or international protection status. | The SPD seeks to ensure that there is an appropriate mix of dwellings to meet needs. It will not have any significant effect on the location of development and therefore has no effect on landscapes or international designations. | No |