

Council, 2nd August 2007

LOCAL DEVELOPMENT FRAMEWORK – SHERFORD AREA ACTION PLAN - INSPECTOR'S REPORT

Report of the Head of Community Regeneration

Statutory Powers: Town and Country Planning Act 1990 and Planning & Compulsory Purchase Act 2004.

Financial Implications: The Sherford AAP should be adopted in accordance with the timescale shown in the Local Development Scheme (LDS) timetable to avoid the possible loss of Planning Delivery Grant.

Purpose: The Sherford AAP Inspector's binding report has just been received. This report outlines the importance of adopting the AAP in order to enable progress with the delivery of the needed development of the new community.

Links to Council Priorities - The Sherford AAP will link to all Council Priorities and Commitments.

Recommendation :

That Council RESOLVES to adopt the Sherford Area Action Plan in line with the Inspector's binding report.

Background

1. The Sherford Area Action Plan (AAP) is a key document in the South Hams Local Development Framework (LDF) portfolio. It is required as a priority document to enable delivery of strategic development of the Sherford new community as proposed in the adopted Devon Structure Plan to 2016, the emerging Regional Spatial Strategy (RSS) to 2026 and the Council's own adopted LDF Core Strategy. It sets out the vision and policies for the development of the new community to enable progress towards its delivery in line with the timescales set out in the Structure Plan, RSS and Core Strategy. The AAP was submitted to government in June 2006 and was subject to formal Examination (public inquiry) conducted by an Inspector from January to April 2007.
2. Concurrent with this Plymouth City Council's North Plymstock AAP was also submitted and examined. The Sherford and North Plymstock AAPs combine to enable cross-boundary delivery of the new community, and the two authorities have worked closely together, along with other stakeholders including Devon County Council, to ensure a joined-up approach to the development.

The Inspector's Report

3. Following the close of the examination, the Inspector's report was received on 2 July and has been placed on the Council website at www.southhams.gov.uk/planning_and_compulsory_purchase_act_2004.pdf. The report is "binding" and the Council is now required to act expeditiously to adopt the AAP.

4. The Inspector has found the AAP to be 'sound' (i.e. it has passed the nine 'tests of soundness' set by government). This means that the Sherford AAP can be added to the set of adopted South Hams LDF documents alongside the Core Strategy and the Statement of Community Involvement. It also helps to maintain the Council's position as one of the government's LDF pathfinders.
5. The Inspector has endorsed the content of the Sherford AAP with few modifications. He makes some changes to sharpen policies and clarify content, and many of those changes were suggested by the Council at the Examination, but the general shape and form of the plan for Sherford is unaltered.
6. An alternative site ('Sherford Refined') was promoted by the Plymouth and South Western Co-operative Society. The Inspector has not found in favour of the alternative site.
7. Plymouth City Council's North Plymstock AAP has also been found to be 'sound' by the Inspector who presided over that examination. Together the AAPs provide a joined-up basis for the planned delivery of the new community

Next Steps

8. Members will be aware of the position statement considered by the Executive on 7th June 2007 regarding Sherford. Following adoption the AAP has to be formally published. Once notification of adoption has occurred there is a 6 week period within which the Council can be challenged on a point of law about the planning process.
9. During the Examination Counsel, on behalf of the Co-op, indicated on a number of occasions that in their view the Council's approach to identifying the site for the new community was flawed. Their key concern appears to be the process the Council has undertaken to evaluate alternative sites to arrive at the site choice, prior to publication of the submission stage of the AAP in June 2006. The Council's proposals for Sherford were developed based on a range of considerations including extensive discussion with a wide range of stakeholders, initially facilitated by the Prince's Foundation through the Enquiry by Design process. The Council's proposal for Sherford fully aligns with the proposals in the related North Plymstock Area Action Plan, produced by Plymouth City Council.
10. The Council is, in effect, on notice from the Co-op of a potential statutory challenge to the adoption of the Inspector's report.
11. The Council is at the forefront of the new national planning system. The Council's Core Strategy was the first in the country to be adopted, and the Sherford Area Action Plan is running in tandem with a proposal for a new community in South Cambridgeshire as the first AAP to be advanced nationally. The Council is therefore a pathfinder for the new system.
12. Running in tandem with the new planning system are new procedures flowing from European Directives relating to Sustainability Appraisal, Strategic Environmental Assessment and Appropriate Assessment. Members will recognise that Sherford is a complex project, and navigating the LDF through the new planning system and recent directives has created some significant challenges.

13. In light of the above, it is encouraging that the Inspector has found the plan sound and concluded that the Alternative Site promoted at the Examination is not appropriate.
14. The Co-op, in line with their written and oral submissions to the AAP, are now likely to seek to challenge the Inspector's report in the High Court. They would need to lodge an application to the High Court within six weeks of the adoption of the Inspector's Report by the Council. Such an application would seek to quash the Inspector's report and require the Council to re-run the process at the AAP, in whole or in part, and for a fresh report by an Inspector to be prepared and adopted by the Council. A successful challenge could result in the Council having to pay the objector's legal and other costs. These costs could be significant.

Strategic Risk Assessment

Risk	Mitigation
The Sherford AAP will set the vision and context for the development of the new community. Failure to adopt it in accord with the programme set out in the LDS would have significant consequences for delivering the needed development at Sherford with attendant impacts on the Council's key priorities relating to affordable housing and quality jobs. It could also result in loss of Planning Delivery Grant.	Adoption of the AAP in August 2007 in line with the programme set out in the LDS.
Failure to adopt would constitute a breach of Regulations requiring expeditious adoption of the AAP in line with the Inspector's binding report and would lead to a direction from government requiring adoption.	Adoption of the AAP in August 2007 in line with the programme set out in the LDS.
Indication by the Co-op that the AAP if found sound by the Inspector it is likely to be legally challenged.	Carefully consider the Inspector's report and take Counsel's advice prior to adoption of the AAP.
Financial loss. Difficult to quantify at this stage, but a successful challenge could result in the Council having to pay the objector's legal and other costs. These costs have the potential to be significant.	If costs awarded, they could be funded from the Local Plan reserve. The Reserves would then need to be topped up to enable other LDF work currently programmed to proceed.

Conclusion

15. The Sherford AAP will set out the vision and policies required to enable the sustainable development of the new community. Its approval as 'sound' by the Inspector is a very significant milestone for the Council to have reached. The Inspector's report is binding and the Council is now obliged to adopt the plan.

Lee Bray
Head of Community Regeneration

Council
 2nd August 2007

Background Documents:

South Hams LDF Core Strategy – adopted December 2006

Sherford Area Action Plan – Submission Version, June 2006

Sherford Area Action Plan Inspector's Report – July 2007

North Plymstock Area Action Plan – Submission Version, August 2006

North Plymstock Area Action Plan Inspector's Report – June 2007