



Council 5 April 2011

Schedule of Referrals from Cabinet and Licensing and Regulatory Committee

(A) Referrals from Cabinet: 16 March 2011

1. Transfer of Southgate Community Centre

Forward Plan Reference: Mar11/09

Report B507

*Cabinet Members: Cllrs Robert Everitt and
Sara Mildmay-White*

RECOMMENDED:- That

- (1) *the principle of transferring at nil value the freehold of Southgate Community Centre to the Southgate Community Partnership is agreed, subject to the Partnership:-*
 - (a) *completing its business planning;*
 - (b) *demonstrating that it has in place the necessary policies and procedures to meet the requirements of the Expectations Document of September 2010; and*
 - (c) *accepting in the transfer of the property sufficient safeguards to ensure that the centre remains in community use.*
- (2) *the Corporate Director for Community Services, in consultation with the appropriate Portfolio Holders for asset management and community, be given delegated authority to confirm that the requirements of the Expectations Document and safeguard measures have been met and to, thereby, approve the transfer.*

In 2006/2007 the Cabinet asked the former Policy Development Committee to conduct a review of community centres: *'in accordance with the Council's Asset Management process, to ascertain if the Community Centres were fit for purpose and to identify the funding and management options which would most effectively and efficiently meet the long term needs of local communities and Council corporate priorities.'* This review resulted in Cabinet accepting the recommendation (Minute 65 (2) 19 September 2007 refers): *'that the long-term aim of the Council is for all of the Community Centres to have a greater degree of community involvement in their management and to become more financially independent'.*

In Autumn 2009 officers contacted all the Community Associations regarding future models for the centres with a view to encouraging the asset transfer of community centres. Between January and March 2010 a leaflet was circulated to local voluntary and community groups, churches, schools and other public bodies to let the wider community know that the Council was willing to transfer its centres to appropriate community groups. This activity was reported to the Cabinet on 26 May 2010 (Paper B12 and Minute 12 refer).

As a result of that activity a new group came together in Southgate, Bury St Edmunds, the Southgate Community Partnership (SCP) formed by the Southgate Community Association and Southgate Church. This group has been working towards the transfer of the Centre.

On 28 September 2010 the Council approved a formal Expectations Document (Minute 52(B)(3) refers) capturing the requirements it had of any organisation seeking to take on a community centre via an asset transfer. This document has guided subsequent work with SCP.

SCP is in the final stages of its business planning and production of the policies needed to comply with the Expectations Document. This report seeks in principle agreement to the transfer, with delegated authority to progress the final details.

2. Policy BSE16: West Suffolk College, Bury St Edmunds: Approval of Amendments to Masterplan

*Forward Plan Reference: Mar11/03
Cabinet Member: Cllr Terry Clements*

*Report B509
(Sustainable Development
Working Party Report B492)*

RECOMMENDED:-

That, subject to no significant issues arising during the remainder of the consultation period, the amendments to the Masterplan for the development of West Suffolk College, Bury St Edmunds, as detailed in Appendix A to Report B492, be adopted as non-statutory planning guidance.

Policy BSE16 of the adopted Replacement St Edmundsbury Borough Local Plan allocated land at Out Risbygate for use as educational premises. The Local Plan states that applications for planning permission will only be determined once a Masterplan had been adopted for the site. A Masterplan was adopted in February 2007, however subsequent to the adoption, the scale of development has been reduced and the Masterplan amended to reflect these changes.

3. Policy HAV3: Employment Site, Hanchett End, Haverhill: Approval of Masterplan

***Forward Plan Reference: Mar11/03
Cabinet Member: Cllr Terry Clements***

***Report B509
(Sustainable Development
Working Party Report B493)***

RECOMMENDED:-

That the Masterplan for the development of the employment site at Hanchett End, Haverhill, attached as Appendix A to Report B493, be adopted as non-statutory planning guidance for a limited period of three years.

Policy HAV 3 of the adopted Replacement St Edmundsbury Borough Local Plan allocates 12 ha of land at Hanchett End, Haverhill as a strategic employment site for Class B1 and B8 uses. Development would comprise of:-

- (a) light industrial, research and office use (proposals for pure B1 office development must satisfy the relevant requirements of Policy TCR1);
- (b) units for new and small firms involved in high technology and related activities; or
- (c) low density development with extensive landscaping.

A Concept Statement for the development of the area was adopted as planning guidance in September 2010. Taking account of the current economic climate and the likely costs associated with bringing the site forward, the Concept Statement did make provision for the introduction of a proportion of higher value uses in addition to those listed. Given the policies applicable to the area, any such uses would have to be fully justified by a detailed viability assessment.

The Masterplan has been amended to address concerns raised during the consultation period. Housing development was proposed in the Masterplan as an exception to policy in order to bring forward the principle development. It was noted that the detailed design and layout of the residential development would be developed prior to submission of the outline planning application. Due to the exception concerning housing development it was proposed that the Masterplan be time limited to three years.

4. Policy BSE2: Vinefields Farm, Bury St Edmunds: Strategic Housing Site: Approval of Masterplan

*Forward Plan Reference: Mar11/03
Cabinet Member: Cllr Terry Clements*

*Report B509
(Sustainable Development
Working Party Report B494)*

RECOMMENDED:-

That, subject to no significant issues arising during the remainder of the consultation period, the Masterplan for the development of Vinefields Farm, Bury St Edmunds, as detailed in Appendix B to Report B494, and as amended to include reference to enabling potential rear access from the Masterplan site to adjoining residential properties in Eastgate Street, be adopted as non-statutory planning guidance.

Policy BSE2 of the adopted Replacement St Edmundsbury Borough Local Plan allocated 3.5 ha of land at Vinefields Farm, Bury St Edmunds for the development of approximately 50 houses and the formation of an area of recreational open space. The Local Plan states that development cannot proceed until a Masterplan has been adopted and informed by a Concept Statement. A draft Masterplan was prepared and consultation undertaken.

Arising from consultation, and reiterated by the Working Party, concerns were raised as to the ability to access the rear of properties in Eastgate Street that adjoined the Masterplan site. Members were reminded that the Concept Statement made provision to seek to provide access. In light of this, the Working Party requested that the recommendation be amended to ensure the Masterplan did not preclude provision for rear access, and the Cabinet endorsed this revised recommendation.

5. Review of Inclusion of Cumulative Impact Policy in St Edmundsbury Borough Council Licensing Statement of Policy

(The following recommendation has been made by both the Cabinet and the Licensing and Regulatory Committee on 14 March 2011.)

*Forward Plan Reference: N/A
Cabinet Member: Cllr Robert Everitt*

*Report B514
(Licensing and Regulatory
Committee Report B501)*

RECOMMENDED:-

That taking into consideration the schedule of responses to the recently concluded public consultation, the Council re-adopts a Cumulative Impact Policy for the Area identified in Appendix A of Report B501 and the Licensing Statement of Policy published on 5 January 2011 be amended accordingly.

The Council cannot legally undertake any functions under the Licensing Act 2003 or determine any applications without an adopted Licensing Statement of Policy which has been consulted on in accordance with the Act.

The Council is required to review its Licensing Statement of Policy every three years. The current Licensing Statement of Policy was approved by full Council on 14 December 2010 (Minute 73 (B)(5) refers) and published on 5 January 2011 and an updated version is attached as Appendix C to Report B501.

Government guidance defines 'Cumulative Impact' as '*the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.*' The cumulative impact of licensed premises on the promotion of the Licensing Objectives is therefore a proper matter for the licensing authority to consider in developing its Licensing Statement of Policy. This guidance states that where, after considering the available evidence and consulting prescribed individuals, the Council is satisfied that it is appropriate and necessary to include an approach to cumulative impact within the Licensing Statement of Policy, it could indicate that it would be adopting a Cumulative Impact Policy for a designated area (a Special Area Policy).

The effect of adopting a Special Area Policy of this kind is that:-

- (i) where valid representations are received the application is referred to a hearing; and
- (ii) applications within the defined area which are likely to add to the cumulative problems identified in the area will normally be refused; unless
- (iii) the applicant can demonstrate in their operating schedule that their application will not add to the cumulative problems identified in the special area.

In order for a Cumulative Impact Policy to be included within the Licensing Statement of Policy members must be convinced that:-

- (i) there is good evidence that crime and disorder or nuisance is happening and is caused by the customers of licensed premises in the proposed area identified; and
- (ii) it is possible to identify the boundary of an area where the problems are occurring.

Any special policy will need to be reviewed regularly to assess whether it is still needed or should be amended or removed.

In the Spring of 2010, as part of the review of the Licensing Statement of Policy, the Council had reviewed the evidence available for continuing the Cumulative Impact Policy for the historic core of Bury St Edmunds. An extract of the Licensing Statement of Policy relating to 'Cumulative Impact' is attached as Appendix B to Report B501 considered by the Licensing and Regulatory Committee on 14 March 2011. The review included the outcome of a public call for evidence.

On 12 July 2010 the Licensing and Regulatory Committee resolved that there was insufficient evidence to support this Cumulative Impact Policy continuing in place. Instead, they resolved to undertake a public consultation on the draft Licensing Statement of Policy **without** the inclusion of the Cumulative Impact Policy and to set up a licensing forum for Bury St Edmunds (and subsequently Haverhill).

Following the close of the formal public consultation on 22 October 2010, the revised Licensing Statement of Policy was referred back to the Committee on 8 November 2010. The public consultation had resulted in a number of responses from residents in the Churchgate area of Bury St Edmunds requesting that the Cumulative Impact Policy (commonly referred to as a Special Area Policy) for the Churchgate area be re-instated. The Committee also considered a petition brought by the Churchgate Residents' Association. On the 8 November 2010 the Committee concluded that having reconsidered the evidence presented at its meeting of 12 July 2010, and taking into account the relevant responses to the public consultation, that a further public consultation be undertaken incorporating the Cumulative Impact Policy.

A total of 50 submissions were received in response to the consultation in support of the proposed Cumulative Impact Policy. A schedule of the responses and copies of submissions is attached as Appendix E to Report B501. Many of the submissions simply indicated their support for the inclusion of a Cumulative Impact Policy, without indicating the nature of the issues that are being experienced. However, some submissions made by local residents in support of a Cumulative Impact Policy did indicate that some residents are experiencing noise and anti-social behaviour in the defined area.

At the Committee meeting on 14 March 2011, Councillor Farmer, a local Ward Member and Committee Member, tabled two papers. The first of these contained an analysis of responses to a questionnaire circulated by the Churchgate Area Association which indicated that a high percentage of local residents had experienced incidents of crime, anti-social behaviour and vandalism which had been submitted to the Licensing and Regulatory Committee in July 2010. The second document was an extract of Government guidance about the use of powers contained in Section 182 of the Licensing Act 2003 relating to cumulative impact policies. Councillor Farmer stated that in line with the Government guidance the information supplied by the Churchgate Area Association provided a substantial body of evidence to support the reinstatement of the Cumulative Impact Policy and that the boundary of the area to which the Policy would apply had been previously defined.

Officers advised the Committee that while it was recognised that crime, disorder and nuisance were experienced in the defined area, there was no evidence that it was caused by licensed premises in that area, rather, that the problems experienced were caused often late at night as people walked back through this area from late night licensed premises in other parts of the town. In addition, an e-mail from Police Inspector Jane Hertzog was read out, which included that *'there is no direct evidence that the licensed premises within the designated area have increased the levels of crime/anti-social behaviour across the town'*.

6. Sex Entertainment Licences: Regulation of Lap Dancing and other Sexual Entertainment Venues

(The following recommendation has been made by both the Cabinet and the Licensing and Regulatory Committee on 14 March 2011.)

Forward Plan Reference:
Cabinet Member: Cllr Everitt

Report B514

RECOMMENDED:-

That the revised Statement of Licensing Policy for Sex Establishments, attached as Appendix A to Report B502 be adopted and the timescales for administering applications for Sexual Entertainment Venues following the proposed adoption of the additional powers arising as a result of the amendment to Part II of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009 be noted.

The Government had responded to calls for further controls to be introduced specific to lap dancing clubs and similar premises by introducing legislation through the Policing and Crime Act 2009 to reclassify such venues as 'Sex Entertainment Venues' through the amendment of the Local Government (Miscellaneous Provisions) Act 1982.

On 1 March 2011 the Council resolved (Minute 90 (B)(2) refers) to formally adopt the additional powers arising as a result of the amendment to the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009. The powers will take effect on 5 April 2011, the First Appointed Day (FAD), following the necessary publication of notices.

Following the second appointed day (six months after FAD) any applications received for Sexual Entertainment Venues will need to be determined in accordance with the Council's Statement of Licensing Policy for Sex Establishments.

The new legislation empowers local communities and, in particular, will allow for:-

- (i) local people to oppose an application for a Sex Establishment Licence if they have legitimate concerns that a Sex Entertainment Venue would be inappropriate given the character of an area, for example, if the area was primarily a residential area;
- (ii) a local authority to reject a licence application if they believe that to grant a licence for a Sex Entertainment Venue would be inappropriate given the character of a particular area;
- (iii) a local authority to set a limit on the number of Sex Encounter Venues that they think is appropriate for a particular area (it is not proposed that St Edmundsbury Borough Council sets a limit); and
- (iv) a local authority to impose a wider range of conditions on licences than they are currently able to under the Licensing Act 2003.

The Council's draft Statement of Licensing Policy in respect of Sex Establishments is attached as Appendix A to Report B502. The Policy provides the framework for restricting such premises by location on the merits of the application and the representations made. A formal public consultation on the draft policy was undertaken between 29 November 2010 and 18 February 2011. The Schedule of Responses is attached as Appendix B to Report B502.

W:\Democratic WP Services\Committee\Reports\Council\2011\11.04.05\B537 Schedule of Referrals from Cabinet & Licensing & Regulatory Committee.doc