

Protocol for Officers- Otterpool Park Development

1. Introduction

1.1 Shepway District Council ('SDC') is the local planning authority under the town planning acts for the District of Shepway. It is responsible as such for, amongst other things, the determination of applications for planning permission and the formulation and approval of planning policies.

1.2 SDC also has interests as a landowner in the development of land at Otterpool Park in the proximity of junction 11 of the M20. As landowner it may take actions that other landowners can do including, but not limited to, making applications for planning permissions.

2. Purpose of this protocol

2.1 The dual role of SDC set out above could lead to conflicts of interest and perceptions of unfairness; that SDC as the landowner uses information and influence that other landowners do not have to further its own commercial interests.

2.2 This protocol therefore aims to establish a delineation of functions within the officers of the council (a separate protocol is in place for councillors), - we should reflect that this protocol is in place and is not under development provisions for the handling of information and for the declaration of conflicts of interest where they arise.

2.3 The governance structure set out below is specific to the Otterpool Park project but the provisions for the avoidance of conflicts of interest have general application.

3. Underlying principles

The underlying principles are that:-

- SDC should carry out its role as local planning authority without having regard to its commercial interests where they do not constitute a material planning consideration and
- that in its capacity as a developer it will not seek to take advantage unfairly of its role as local planning authority.

4. Definitions

CE - the chief executive and head of paid service appointed under S4 Local Government and Housing Act 1989;

CDS - the corporate director - strategic development;

CDOC - the corporate director - organisational change and chief finance officer appointed under S151 Local Government Act 1972;

HOSDP- Head of Strategic Development Projects

CMT - corporate management team; the officer leadership board of SDC comprising CE, CDS, CDOC and Corporate Director Strategic Operations;

Collaboration Board - the board described below comprising Andy Jarrett - HOSDP, Julia Wallace-Master Planning Project Manager and Pat Main-Head of Finance together with three representatives from the owners of the racecourse comprising of Stephen Higgins, Patrick O'Driscoll and Liz Whittaker.

MO - the monitoring officer appointed under S5 Local Government Act 1989;

Steering Group - the group described below comprises of CMT; MO; Julia Wallace, Chris Lewis, planning adviser and HOSDP- Head of Strategic Development Projects

the Responsible Officers - CDS and HOSDP;

the Project - the project to develop Otterpool Park as a garden town;

the Statutory Officers Group - the group described below comprising CE, CDOC and MO

5. Governance structure

5.1 The governance structure is shown in appendix 1. The various roles are described here. The structure does not alter or override SDC's existing governance or decision making processes. Officers are bound by SDC's current policies, procedures, rules and the lawful decisions of the members of SDC. Roles must be seen in the context of any decisions made by Members on this project

5.2 HOSDP shall have the overall responsibility to ensure that SDC's land is developed and that it achieves its commercial objectives whilst at the same time ensuring that these activities are carried out in a way that ensures that SDC does not take advantage of its position as the local planning authority.

5.3 CDS shall have the overall responsibility of ensuring that SDC's functions as local planning authority are carried out effectively and efficiently and in particular that these functions are not influenced or affected by SDC's commercial interests.

5.4 Both HOSDP and CDS shall make sure that the relationship between SDC as developer and SDC as local planning authority is, as far as possible, the same as the relationship between a third party developer and the local planning authority.

5.5 The Steering Group shall, under the directions given by cabinet set SDC's vision, strategy and delivery for the Project. In case of conflict between the two roles of SDC the Steering Group will adjudicate on the area of conflict in an open and transparent way.

5.6 The Statutory Officer Group will consider the decisions of the Steering Group and assess whether those decisions stand up to scrutiny when assessed against this protocol.

6. Information

6.1 The Responsible Officers shall ensure that there is an information "barrier" to prevent exchange of inappropriate information. It is not the task of this protocol to define "inappropriate" but by way of example would include information on the SDC's consideration of options for planning policies that may affect the Project, insofar as these are not public or conversely development options for SDC's land.

6.2 The Responsible Officers shall ensure that there is no exchange of inappropriate information and that access to information is restricted accordingly.

7. Division of functions

Each head of service within SDC shall consider his/her area of responsibility and shall take steps to ensure that where there are potential conflicts these areas of conflict are managed. This may include assigning different officers to different functions. The adjustments made shall be recorded in writing and sent to the CE.

8. Communication

Good practice for all planning proposals suggests good communication and early engagement between a developer and Local Planning Authority. SDC intends to act as a responsible land owner and will establish regular project and technical meetings with the LPA. Officers will maintain transparency over their respective roles at these meetings. At pre-application stage a Planning Performance Agreement will be prepared setting out a programme for handling the application and how the developer and LPA will work together.

8. Dealing with conflicts

8.1 Where a conflict of interest does occur and cannot be avoided the officer concerned shall record his / her conflict in a note on the relevant file and how he/she dealt with it and the decision taken or action carried out.

8.2 CE shall determine how any conflicts are dealt with in case of disagreement between the officers involved. His decisions shall similarly be recorded on the file.

9. Personal responsibilities

This protocol does not purport to identify or provide solutions to all circumstances where conflicts between the interests of SDC can occur. It is the responsibility of each individual officer to be aware of conflicts or potential conflicts and to act accordingly in accordance with this protocol and the underlying principles set out.

10. Approval and review

10.1 This protocol; was approved by CMT on 05/07/2016 minute 16/142. It shall be kept under review to assess its effectiveness and may be amended by CMT.

10.2 CE may change the roles of officer as he sees fit from time to time.

10.3 This protocol and any amendments shall be published on the council's web – site.

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Appendix one

Otterpool Park Governance Arrangements Diagram

