

BROMSGROVE DISTRICT COUNCIL

OVERVIEW BOARD

12TH MARCH 2009

OVERVIEW INVESTIGATION PROPOSAL

Responsible Portfolio Holder	N/A
Responsible Head of Service	Mrs. C. Felton, Head of Legal, Equalities and Democratic Services

1. SUMMARY

- 1.1 An overview and scrutiny proposal form relating to inappropriate development on the green belt has been completed which the Board needs to consider.

2. RECOMMENDATION

- 2.1 That the Board considers the completed proposal form (at Appendix 1) together with information contained within section 3 of this report and agrees to **one of the following options**:
- (a) agrees the topic is included on the work programme and the Board undertakes the investigation;
 - (b) agrees the topic is included on the work programme and a Task Group is established to undertake a more in-depth investigation (if this option is agreed, membership forms would be sent out to all non-Cabinet Members and completed forms, along with a completed overview and scrutiny exercise scoping checklist would be considered at the next meeting);
 - (c) requests further information from a relevant source before deciding whether or not further investigation is required; or
 - (d) decides to take no further action.

3. BACKGROUND

- 3.1 An Overview and Scrutiny Proposal Form relating to the Green Belt has been submitted by Councillor P. M. McDonald and is attached at Appendix 1 for the Board to consider and discuss.
- 3.2 Approximately 90% of the district is made up of areas which have been designated by the government as Green Belt land. It may assist Members to be reminded of the current policy framework relating to the Green Belt.

- 3.3 National guidance on the Green Belt is set out in Planning Policy Guidance 2 (PPG2) a copy of which is attached at Appendix 2. The aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Under PPG2 there is a general presumption against inappropriate development in the Green Belt. Such development should not be approved except in very special circumstances. PPG2 sets out the very limited circumstances where development will not be deemed as inappropriate in paragraphs 3.4 to 3.20.
- 3.4 At a local level there is further detail as to policy to be applied in the Green Belt set out in the Bromsgrove District Local Plan. In particular DS2 Green Belt development criteria and sections S7 to S13A re housing in the Green Belt (Appendix 3). Policy D.39 of the adopted Worcestershire County Structure Plan states that there will be a presumption against allowing inappropriate development in the Green Belt as stemming from national planning guidance PPG2 "Green Belt". Policy D.12 and D.38 of the Worcestershire County Structure Plan and Policy DS2 of the Bromsgrove District Local Plan are in general accordance with PPG2 in resisting development in the Green Belt unless the proposals fall within a defined list of appropriate development.
- 3.5 If a development is deemed to be inappropriate development in the Green Belt planning permission can only be granted if the applicant is able to show that there are very special circumstances to justify the inappropriate development. The very special circumstances must outweigh the harm caused by the inappropriateness of the development. In considering whether very special circumstances apply the decision has to be based on the individual circumstances of the application, and is in effect an opportunity for the decision maker to exercise a discretion conferred on it by the planning regime.
- 3.6 In terms of legal issues to be aware of, case law has established that the test of very special circumstances has to be very strictly applied. In other words only genuinely unique and unusual situations should be deemed to be very special circumstances. If not properly applied the Council may be left in a position where it's decision to grant permission may be legally challenged through judicial review in the High Court. There has also been an increasing trend recently for the Local Government Ombudsman to investigate complaints about planning decisions under the broader heading of maladministration. Finally, because these are planning issues that rest on the individual facts of each case, the legal principle that a local authority must not fetter its own discretion when taking a decision needs to be borne in mind. If it is Members intention to introduce any new policies on the Green Belt then careful consideration needs to be given to ensure that any policies recommended (and subsequently adopted) as a result of the Overview

and Scrutiny exercise are not based on irrelevant legal considerations and that they are drafted in such a way that they do not require the Planning Committee to adhere to them in every case.

- 3.7 If the Board decides that it does wish to investigate this topic further, it then needs to decide whether it is appropriate for the Board itself to undertake the investigation or whether a more in-depth investigation is required which means a task group would need to be established.
- 3.8 Another option is for the Board to request further information on the topic from a relevant source to assist Members to decide whether an investigation is required.
- 3.9 Finally, the Board could decide that it is not a topic it wishes to be investigated in which case no further action would be required.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications directly relating to this report, however, if the proposal is accepted, any implications would be considered as part of any subsequent investigation undertaken.

5. LEGAL IMPLICATIONS

- 5.1 The legal implications relating to the subject matter of this report are set out in paragraph 3.6 above.

6. COUNCIL OBJECTIVES

- 6.1 This report does not directly link to the Council Objectives, however, information on how the topic links to the Council Objectives and Priorities is included on the proposal form at Appendix 1.

7. RISK MANAGEMENT

- 7.1 There are no risk management issues directly relating to this report, however, if the proposal is accepted, any implications would be considered as part of any subsequent investigation undertaken.

8. CUSTOMER IMPLICATIONS

- 8.1 There are no customer implications directly relating to this report, however, if the proposal is accepted, any implications would be considered as part of any subsequent investigation undertaken.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 There are no implications directly relating to this report for the Council's Equalities and Diversity Policies, however, if the proposal is accepted, any implications would be considered as part of any subsequent investigation undertaken.

10. VALUE FOR MONEY IMPLICATIONS

10.1 There are no value for money implications directly relating to this report, however, if the proposal is accepted, any implications would be considered as part of any subsequent investigation undertaken.

11. OTHER IMPLICATIONS

If the proposal is accepted, any implications would be considered as part of any subsequent investigation undertaken.

Procurement Issues – None
Personnel Implications – None
Governance/Performance Management – None.
Community Safety including Section 17 of Crime and Disorder Act 1998 – None
Policy – None
Environmental – None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No, not at this stage as the Board has yet to make a decision.
Chief Executive	Yes
Executive Director - Partnerships and Projects	Yes
Executive Director - Services	Yes
Assistant Chief Executive	No

Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All Wards.

14. APPENDICES

Appendix 1 - Proposal Form relating to Green Belt

Appendix 2 - Planning Policy Guidance 2 (PPG2) – Green Belts

Appendix 3 - Extracts from the Bromsgrove District Local Plan

15. BACKGROUND PAPERS

None.

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