

BROMSGROVE DISTRICT COUNCIL

EXTRAORDINARY MEETING OF THE OVERVIEW BOARD

THURSDAY, 12TH MARCH 2009 AT 6.10 P.M.

PRESENT: Councillors L. J. Turner (Vice-Chairman, in the Chair), A. N. Blagg,
Mrs. M. Bunker and S. R. Colella

Observers: Councillor D. L. Pardoe

Officers: Mr. T. Beirne, Mr. D. Hammond, Mrs. S. Sellers and
Ms. D. McCarthy

42/08 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors P. M. McDonald, Miss D. H. Campbell and Dr. G. H. Lord.

43/08 **DECLARATIONS OF INTEREST**

No declarations of interest or whipping arrangements were received.

44/08 **OVERVIEW INVESTIGATION PROPOSAL**

Consideration was given to the proposal submitted by the Board Chairman, Councillor P. M. McDonald, which related to inappropriate development on Green Belt.

The Vice-Chairman (in the Chair) invited the Board to ask questions of Mr. D. Hammond, Head of Planning and Environment Services, and there was a lengthy discussion on various aspects around policy and Government guidance relating to development in the Green Belt.

It was understood that the aim of the proposal from Councillor McDonald was for an investigation to take place to develop a clear policy on this issue to assist the Planning Committee in making decisions on applications rather than using Government guidelines only.

When questioned, Mr. Hammond referred to PPG2 (appendix 2 to the report) which was the national policy and guidance on Green Belt. It was explained that the aim of the Green Belt policy was to prevent urban sprawl by keeping land permanently open and that under PPG2 there was a general presumption against inappropriate development in the Green Belt.

It was explained that at a local level under the old planning system, Green Belt was also covered within the existing Bromsgrove District Local Plan (adopted in 2004) and this was in accordance with the national planning guidance

PPG2. However, the new planning system was less prescriptive. Members were reminded that the Bromsgrove District Local Plan would be replaced by the Bromsgrove Local Development Framework (LDF) which was made up of a portfolio of documents, including the Core Strategy. It was expected by the Government that Core Strategies would not repeat national policy and therefore, Green Belt would not be covered at a local level under the Core Strategy as it would be covered under PPG2. PPG2 was issued in 1995 and officers were unaware of any plans by the Government to revise national Green Belt policy at the time.

It was stated that there was a presumption against development in the Green Belt unless the proposals fell within a defined list of appropriate development and this was covered under section 3 of PPG2. The Board was referred to paragraphs 3.4 to 3.10 of PPG2 which related to new buildings and re-use of existing buildings that could be deemed as appropriate development in the Green Belt.

The Board was informed that if a development was deemed to be inappropriate in the Green Belt, planning permission could only be granted if the applicant was able to show that there was 'very special circumstances' to justify it. There was a lengthy discussion on this point as Members contemplated what could be considered as very special circumstances rather than merely 'circumstances' or 'special circumstances'. It was explained that the very special circumstances must outweigh the harm caused by the inappropriateness of the development and in considering whether such circumstances applied, the decision would have to be based on the individual circumstances of the application, and was in effect, an opportunity for the decision maker to exercise a discretion it had been given by the planning regime.

Members questioned why a list of what could be classed as very special circumstances could not be compiled in order to assist the decision maker. It was explained that 'very special circumstances' could not be defined as they had to be unique situations that could not be repeated.

It was explained that each application had to be treated on its own merits. For example, all affordable housing could not be deemed as very special circumstances as it would depend on several factors (e.g. the need, location, numbers etc) as to whether there were very special circumstances or merely circumstances or special circumstances. It was pointed out that when considering applications that have gone to appeal, it had been impossible to compare similar applications from one area to another as the situations were different and therefore had been treated differently.

The Board was informed that case law had established that the test of very special circumstances had to be very strictly applied and consequently only genuinely unique and unusual situations should be deemed to be very special circumstances. Mrs. S. Sellers, Senior Solicitor, warned that if it was not strictly applied, the Council might be left in a position where its decision to grant permission might be legally challenged through judicial review in the High Court. Members were also informed that there had been an increasing

trend for the Local Government Ombudsman to investigate complaints about planning decisions under the broader heading of maladministration leading to possible compensation claims against the Council. Furthermore, as these planning issues rested on the individual facts of each case, the legal principle that a local authority must not confine its own discretion when taking a decision needed to be borne in mind. Therefore, from a legal perspective, to avoid pre-determination, if it was Members' intention to introduce any new policies on the Green Belt then careful consideration would need to be given to ensure that any such policies were not based on irrelevant legal consideration and that they were drafted in such a way that they did not require the Planning Committee to adhere to them in every case.

The Board asked what information was submitted to Planning Committee and it was stated that Members received reports presented in a clear and logical format based on policy, with a recommendation and reasons for the recommendation. It was stated that Case Officers compiled such reports and the Area Planning Managers approved them. If it was a large application, the Head of Planning and Environment Services was also involved to sign off such a report prior to consideration by Members. It was then up to the decision maker to decide whether there were very special circumstances and reasons justifying the decisions were recorded. The Board was informed that generally, with regard to Planning Committee overturning decisions, it tended to be overturning recommendations for refusal and allowing the development rather than the reverse.

It was confirmed that there was compulsory planning training for all Planning Committee Members (including substitutes). It was reiterated that the exceptions policy in the Local Plan allowed small scale development to meet the needs of the area and this was the responsibility of the local authority and RSL (Registered Social Landlord) partners. It was pointed out that Bromsgrove District was 91% Green Belt.

The Board enquired about the West Midlands Regional Spatial Strategy (RSS) which would inform the Core Strategy. It was confirmed that the West Midlands RSS would have implications for the Green Belt for Bromsgrove and neighbouring local authorities as it suggested restricted growth within Bromsgrove District and significant growth for Redditch. It was explained that all issues would be discussed through the Examination in Public of the West Midlands RSS between April and June 2009 and this Council would be fighting against the proposals.

Members of the Board went through the proposal form one section at a time and considered the evidence. For example, it stated that it was a key interest to the public and indicated there could be low levels of satisfaction. However, Members present were unaware of any evidence to support this view. Whilst close consideration was given to the completed proposal form, it was noted by all Board Members that as the proposer was not present at the meeting, it made it more difficult for the Board to be clear exactly what outcomes were expected, particularly as there was national policy in place which should not be repeated at a local level.

The Board raised concerns over the lack of understanding Members might have in relation to this topic and the option of training and briefing reports were discussed as a possible way forward. It was suggested that Parish Councils might also benefit from such training and the Board was informed that briefing sessions were already available to Parish Councils via the Parish Council Forum and CALC (County Association of Local Councils).

RESOLVED that the report including the proposal and background information be noted and no further action be taken in terms of an investigation by the Overview Board or a Task Group.

RECOMMENDED that the Modern Councillor Steering Group be requested to include planning training for all Members within the Modern Councillor Programme to cover the Green Belt policy and related issues.

The meeting closed at 7.00 p.m.

Chairman