

Guidance for members involved in the Malton Development Strategy Steering Group or any other LDF Member Reference Group

Background

The Policy and Resources Committee has determined that a Malton Development Strategy Steering Group be set up to provide a “sounding board” and give guidance to officers on issues relating to the Malton Town Centre Strategy. The group is chaired by Councillor Tony Hemesley and other Members will be District Councillors. The group consists of Group Leaders and Ward Members.

The Purpose of the Member Steering Group

The Local Development Framework is the primary vehicle through which the District Council is able to give spatial expression of the Sustainable Community Strategy and is a key component in the delivery of the vision for the future of the District. It necessarily addresses difficult choices in advancing a sustainable and deliverable strategy for the development of the homes, jobs, supporting facilities and green infrastructure needed by future generations.

National concern over the delivery of housing to bridge a projected serious shortfall in provision is reflected in the government’s recent Green Paper and in proposals for the reform of the planning system directed towards the early delivery of the new homes that are needed. That urgency is translated into specific incentives within the new Housing and Planning Delivery Grant regime which came into effect on 1 April 2008. Having previously been rewarded for the achievement of national targets for the delivery of planning application decisions, the system of rewards has now been refocused on the delivery of houses on the ground and the achievement of the milestones set out within the Local Development Scheme, the project plan for the production of the Local Development Framework (LDF). Failure to meet key targets within three months of the milestone will be reflected in a reduced financial reward, with further reductions on a sliding scale.

There is, therefore, a powerful incentive to local authorities to deliver their LDF as timetabled. The progress of the Ryedale LDF has been arrested already when the Planning Inspector found the Core Strategy ‘unsound’ following its Examination. It, therefore, has no weight in decision-making. This has created in effect a local ‘policy vacuum’ where the Council has to rely on the ‘saved policies’ of the 2002 Ryedale Local Plan and emerging Regional and National Planning Policy in making planning decisions. Whilst supporting evidence undertaken to underpin the LDF are material considerations in planning decisions, this leads to a situation where potentially over a hundred

documents could be relevant to a single application. It is essential that planning decisions are made on the basis of an up to date spatial plan which reflects the aspirations of the Community Strategy and delivers many key aims of the Council's Corporate Plan. The Council has recently agreed additional resources to ensure swifter progress in the preparation of the LDF.

Under current regulations responsibility for the approval of key consultation documents associated with the LDF resides with the Policy and Resources Committee. Endorsement of the Council is only required once the 'submission' stage is reached, which is the final consultation stage in preparing the plan.

However, that process still runs the risk of failing to engage Members in the preparation of the plan and the attendant risks of rejection at submission stage, with obvious consequences for delay and loss of potential grant support.

In establishing the Steering Group, the Policy & Resources Committee have recognised the value of engaging a wider group of Councillors in the policy making process. The benefits were seen to include:

- The cultivation amongst a core group of Councillors of a more detailed understanding of the processes and issues surrounding the preparation of the planning policy,
- The opportunity for officers to seek an informal steer from Reference Group Members in the assessment of options and subsequent development of policies and proposals. The final decision as to what is to be included within the resultant reports will remain with the relevant Unit Manager.
- The timely preparation of key documents in accordance with the published Local Development Scheme programme, reducing the risks of rejection and delay at later critical stages.

Ground rules for meetings of the group

The intention of the initial member Steering Group is to encourage a constructive debate on the issues impacting on the Malton Town Centre strategy and to provide officers and the Policy and Resources Committee with a steer on these issues. There are a number of contentious issues connected with this subject which Members will wish to discuss. The Chairman will ensure that all participants have an opportunity to contribute and that as wide a range of issues as possible is included in the discussion. Individual Members are, therefore, asked to assist the process by ensuring that they do not prevent a wide-ranging and open debate by dominating the discussion with matters only relating to their own area of interest.

Standards Issues

Interests -

Members of the Steering Group must apply the normal rules regarding declaration of interests when attending meetings of the reference group. This would include declaring whether they have a personal or prejudicial interest in an item at the start of the meeting and withdrawing from the meeting at the point the issue is discussed where their interest is prejudicial.

Due to the nature of the items to be considered by the group it is unlikely that many members would have a prejudicial interest. It is not anticipated that members would have interests arising from the location of their home or employment when considering the broad issues within the Malton Town Centre Strategy or strategic policy matters relating to the LDF. However where the discussion relates to specific sites for development, a member is more likely to have a prejudicial interest, for example where their property, or that of a relative or close associate is adjacent to the site in question. The fact that a member lives in the ward within which the site is situated does not mean they have an interest unless the matter has a greater impact on them or someone they know well, than the majority of inhabitants of the ward.

Some Members were or are members of lobby groups relating to the Malton Town Centre Strategy or LDF issues. This should be recorded in the Register of Members' Interests as they are bodies whose principal purposes include influencing public opinion and should disclose a personal interest when those issues on which the group campaigns are considered at a meeting.

In general membership of lobby groups would not normally give rise to a prejudicial interest and prevent a member from participating in the consideration of matters relating to those issues, especially when the matters being considered are of broad policy. However if the matter to be considered relates to specific decisions about buildings or land which are owned or used by the group the interest is likely to be prejudicial.

If Members are not members of a particular lobby group, but have campaigned on a particular aspect of the Local Development Framework, they would not have a personal or prejudicial interest under the Code of Conduct.

Private Meetings

Members will be aware that it is essential that the decision making process of the Council and its Committees in relation to the development of planning policy open, transparent and accountable and that good public involvement is built into the decision making process.

The Local Government Association and the Planning Advisory Service amongst others have published guidance to Councillors not to meet developers or the agents of developers alone or put themselves in a position where the Councillor appears to favour a person, company or group and gives rise to the perception of a lack of transparency. Even a 'friendly' private discussion with a developer could cause others to mistrust your impartiality or give rise to a perception of bias.

Predetermination -

Members should not reach a final conclusion on an issue before they have to take a decision on it in the relevant forum. This does not mean that members cannot form a provisional view about the matter before the meeting, but if they have formed a view, they must still be willing to consider all arguments presented at the meeting and be open to persuasion on the merits of the case. If a member is not open to persuasion on the merits of the case, the decision might be open to legal challenge under the common law concept of predetermination.

Members should be mindful of predetermination issues when participating in a member Steering Group. However as the role of the group is to provide a steer rather than actually make decisions and predetermination only applies where a member has already made their mind up prior to being part of a decision-making process, it is unlikely that predetermination would prevent the involvement of any Members in the member Steering Group.

Members should however be mindful that speaking very strongly for or against a particular matter at a member Steering Group could put them at risk of predetermining their decision and therefore prevent them from taking part at a later date in the decision-making process, for example as a member of Policy and Resources Committee or when the Local Development Framework is considered at Full Council.

Sharing of Information

Some of the information provided to the member reference group may be confidential and this should not be shared with those outside of the member reference group. Officers will ensure members are aware that documentation is confidential by marking it as such and will make it clear at the meetings if anything being discussed is of a confidential nature. Members are reminded that to disclose information given to them in confidence is a potential breach of the Members' Code of Conduct. If in any doubt about the nature of information provided through the Council Solicitor.