

CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 17 December 2008
Report of: Chris McCarthy, Interim Strategic Director Places
Title: Joint working for Minerals and Waste Planning Policy

1.0 Purpose of Report

- 1.1 This report has been prepared to inform Members of the decisions that have been made thus far relating to joint working for minerals and waste planning policy and the implications that this has for the local development scheme (appendix 3) as well as exploring options for future working and Governance and to advise on the next steps (appendix 4).

2.0 Decision Required

- 2.1 The content of the report be noted;
- 2.2 Cabinet confirm the decisions made so far, that joint working on minerals and waste planning policy is an appropriate way forward;
- 2.3 Government Office for the North West be advised of suggested amendments to the LDS in relation to the aspect of joint working on minerals and waste planning policy, (appendix 3)
- 2.4 That Cabinet confirm that the Portfolio Holder authorise the Director (or his nominee(s)) to enter into interim arrangements under the Local Authority (Goods and Services) Act 1970 to support and enable officers to facilitate joint working on minerals and waste planning policy and that progress on joint working be reported regularly to the LDF task group;
- 2.5 That further consideration be given to the form of any joint working.

3.0 Financial Implications for Transition Costs

- 3.1 It is proposed to establish an officer working group to take forward this joint working proposal. Any financial implications for transitional costs would be identified by this group and reported back.

4.0 Financial Implications 2009/10 and beyond

- 4.1 As above, the working group will identify and report back on the staff and other resources required to establish the proposed joint working arrangements for mineral and waste planning policy.

5.0 Legal Implications

- 5.1 For the new Authorities the intention legally is as far as possible to have a pro forma joint working/lead authority agreement with “bolt on” schedules containing the details rather than bespoke arrangements for each joint initiative. The pro-forma is in the process of being worked up but is not yet available.
- 5.2 However, the practicalities of how joint working can be achieved could be documented, in advance of or in the absence of the pro forma, by means of an exchange of correspondence under the Local Authorities (Goods and Services) Act 1970. This empowers local authorities to collaborate with regard to the provision or sharing of professional (e.g. planning staff); administrative (e.g. mail shots) or technical services (e.g. mapping, graphics, IT) and related expenditure between participating Authorities. It is routinely used to document practical arrangements for staff and resources sharing and partnership working.
- 5.3 The pro forma and/or the 1970 Act will be able to document the practicalities of future joint working and officer support. The most appropriate form of agreement will be utilised when the permanent governance arrangements at elected member level are determined. Both forms of agreement will however require decisions to be made relating to the professional, technical and administrative arrangements, for example;
- Will there be a separate team/unit; will there be a lead authority;
 - How should that team/unit operate;
 - Staffing arrangements and secondments;
 - Equitable exposure to costs and benefits;
 - What work would the team be expected to undertake;
 - Administrative and IT arrangements;
 - Arrangements for consultation;
 - Proposed timescales for work;
 - Working procedures;
 - Procurement of relevant studies.

- 5.4 There are a substantial number of aspects which have to be resolved between the relevant parties prior to joint working taking place, a number of these relate to the more technical aspects such as for example administration and work area responsibilities. In the interim, it is suggested that work starts to evaluate the most appropriate means by which joint working could take place. To expedite this work it is anticipated that relevant officers of the Authorities be authorised to enter into arrangements to anticipate, facilitate and underpin joint working. At the Strategic Development Task Group there was agreement that such a working group was required to expedite matters.

6.0 Risk Assessment

- 6.1 A draft risk assessment has been undertaken and the results are shown in Appendix 5.

7.0 Background and Options

7.1 Decisions / discussions and advice so far

- 7.1.1 As a consequence of local government review and the creation of Cheshire East and Cheshire West and Chester, the future delivery of minerals and waste planning policy has been re-examined. Various reports and meetings have been prepared and attended at Executive and panel level; by Councillors and Officers and through the Joint Implementation Team. A concise indication of where reports/meetings have taken place is contained within appendix 1. There is significant support for the delivery of minerals and waste planning policy through joint working at Councillor and officer levels in both the East & West Authorities. The details of how such joint working may now be achieved are now being considered and a officer working group is expected to be set up to facilitate and expedite matters further.
- 7.1.2 As an integral part of the work so far has included a SWOT analysis (Strengths; Weaknesses; Threats and Opportunities) of potential joint working between the authorities on Minerals and Waste planning policy. The SWOT analysis was put together following consultation with our North West neighbouring Authorities of Greater Manchester, Lancashire County Council and Merseyside; these Authorities already operate joint working for minerals and waste planning policy. They have been very helpful in identifying some of the strengths as well as weaknesses of any such work. We have also taken advice from the planning policy documentation published by the Planning Officer Society in March 2008. This work can be found in Appendix 2.

7.2 Implications of joint working on the Local Development Scheme

- 7.2.1 All Local Planning Authorities are required to produce and maintain an up to date Local Development Scheme (LDS) for their area. An LDS is

a public statement which sets out the Council's programme for the production of its Local Development Framework. It focuses on the programme of preparation over a three year period, setting out the Council's priorities for planning and identifying which documents are to be produced, in what order and what work might also be undertaken beyond this period. The first task for Cheshire East is to prepare a Local Development Scheme. The LDS has to be submitted to the Secretary of State in December 2008. Full Council will have considered the draft LDS on 9 December 2008.

- 7.22 The draft LDS for the West is going forward indicating that there will be joint working in relation to minerals and waste planning policy. Within the draft LDS prepared by Cheshire East, the initial minerals development plan document was to be developed solely by East Cheshire and a draft timetable was prepared accordingly. Joint working on minerals and waste planning policy has now been agreed as an appropriate way forward. While there is agreement that joint working should take place, the administrative details and form of Governance have yet to be decided. In these respects it is advised that a number of amendments are made to the draft LDS to reflect the new position on joint working. Appendix 3 provides the details. Following the Strategic Development Task Group on the 3 December, it has been indicated that it will not be possible after Full Council to change the LDS being submitted to GONW. Government Office may however indicate that there are inconsistencies between the two LDS for the East and West Cheshire and require amendments to be made. With this in mind it is now advised that the amendments identified in appendix 3 be submitted to the GONW along with the draft LDS, for their consideration.

7.3 Options for the Governance of joint working.

- 7.3.1 The designated officer team will generate advice and draft policy for consideration by the two authorities. At the simplest level of collaborative working, that advice can be provided to the LDF task group /Panel for each authority with a view to endorsement and ultimate adoption by the respective Councils in due course. However, it is likely that there will be the necessity for decisions over more formal political Governance arrangements. Set out within Government advice¹ there would seem to be two options of Governance of joint working arrangements. Appendix 4 sets these options out in more detail. The appendix has drawn heavily upon the guidance note. Advice has also been taken from existing North West authorities already working collaboratively.

¹ 'The preparation of Joint Waste Development Plan Documents: Guidance Note for Metropolitan and Unitary Authorities', by GMGU (Urban Vision Partnership Ltd) funded by Defra, March 2008.

- 7.3.2 In essence Governance ranges from the strongest decision-making capabilities in the form of Committee taking executive decisions to the looser in the form of a working group. Before identifying which form of Governance is best suited to a particular situation it is helpful to consider the future partnership; the work to be undertaken and potential risks within the partnership. Appendix 5 identifies some of the risks associated with partnership working and provides a draft initial risk assessment on the identified risks. (the table has been worked up following a request from the Strategic Development Task Group on the 3 December). It would be hoped that this work would be continued through the officer working group.
- 7.3.3 In general it seems that where significant difficult and contentious issues might be anticipated, the use of a stronger structure (such as a joint committee or board) might be more appropriate for reconciling conflicts and resolving the way forward.
- 7.3.4 Once a decision has been made on Governance then further decisions will have to be made potentially on structures; composition of membership – for councillors and officers, (substitute representatives) meeting arrangements; administration and the like. Nevertheless, practical work at officer level to maintain momentum and continue with the necessary steps to progress policy and site review and development could continue under Local Authority (Goods and Services) Act 1970 arrangements until the Councils agree upon more formal governance arrangements.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The proposed working group will report back in more detail on the issues requiring a decision, such as governance and working arrangements, in due course.

9.0 Reasons for Recommendation

- 9.1 Following the decision on Local Government Reorganisation there have been a substantial number of discussions on how minerals and waste planning policy should be delivered through the new Authorities. Within these discussions joint working has been fully supported at all levels. It has also been noted that such partnerships are promoted by the Government; would allow for the most appropriate spatial solutions to problems while harnessing existing work and utilising staff resources and expertise. There were also seen to be clear synergies to the Sub Region. (Appendix 1).
- 9.2 Given the decision made so far on joint working for minerals policy, certain amendments will be required to be made to the draft LDS and these are tabled in appendix 3.

- 9.3 There are a substantial number of aspects which have to be resolved between the relevant parties prior to joint working taking place, a number of these relate to the more technical aspects such as for example administration and work area responsibilities. Experience of the practicalities of such arrangements is still being gathered from Authorities that have entered into joint working arrangements. It is suggested that this continues to ensure that as many practical issues are anticipated as possible prior to vesting. In the interim, it is suggested that work starts to evaluate the most appropriate means by which joint working could take place. To expedite this work it is anticipated that relevant officers of the Authorities be authorised to enter into arrangements to anticipate, facilitate and underpin joint working.
- 9.4 The research work undertaken by GMGU (Urban Vision Partnership Ltd) indicates that where significant difficult and contentious issues might be anticipated, the use of a stronger structure such as a Committee or Board, might be more appropriate for reconciling conflicts and resolving the way forward. Discussions with the West's LDF panel identified some of the risks in appendix 5. Given that contentious issues may well be anticipated this would lend itself towards the stronger form of Governance in the form of a Board or Committee.

For further information:

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