

**At a meeting of the PLANNING AND HIGHWAYS COMMITTEE held in the CIVIC CENTRE on TUESDAY 26<sup>th</sup> November, 2010 at 6.00 p.m.**

**Present: -**

Councillor Tye in the Chair

Councillors Ball, Charlton, Ellis, Essl, M. Forbes, Francis, E. Gibson, G. Hall, Old, Padgett, Snowdon, Wood and A. Wright.

**Declarations of Interest**

There were no declarations of interest.

**Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors Copeland, Fletcher, O'Connor, Tate, P. Watson and D. Wilson

**Minutes of the last Meeting of the Committee held on 23<sup>rd</sup> November, 2010**

1. RESOLVED that the minutes of the meeting of this Committee held on 23<sup>rd</sup> November, 2010, 2010 be confirmed and signed as a correct record subject to the deletion of apologies from Councillors G. Hall and Tye who were in attendance at the meeting.

**Report of the meeting of the Development Control (South Sunderland) Sub Committee held on 2<sup>nd</sup> November, 2010**

The report of the meeting of the Development Control (South Sunderland) Sub Committee held on 2<sup>nd</sup> November, 2010 (copy circulated) was submitted.

(For copy report – see original minutes).

2. RESOLVED that the report be received and noted.

### **Report of the meeting of the Development Control (Hetton, Houghton, Washington) Sub Committee held on 2<sup>nd</sup> November, 2010**

The report of the meeting of the Development Control (Hetton, Houghton and Washington) Sub-Committee held on 2<sup>nd</sup> November, 2010 (copy circulated) was submitted.

(For copy report – see original minutes).

3. RESOLVED that the report be received and noted.

### **Ryhope Village Conservation Area Character Appraisal & Management Strategy**

The Deputy Chief Executive submitted a report (copy circulated) to advise Planning and Highways Committee of the responses received following consultation on the draft version of the 'Ryhope Village Conservation Area Character Appraisal & Management Strategy' and to seek Committee's comments on the revised document before it is submitted to Cabinet for approval to adopt the document as supplementary planning guidance.

(For copy report – see original minutes).

Mr Mark Taylor, Senior Conservation Officer presented the report.

Councillor Ball welcomed the improvement works to be carried out on the former Church of England Village School but advised that the boundary wall was in disrepair.

Mr Taylor agreed that the mortar used on the wall was of poor quality and he advised that the diocese construction manager had agreed to rectify the problem.

Councillor M. Forbes urged that an ongoing dialogue with the diocese is sustained. The old school was a breeding ground for rats and the outbuildings were a mess.

Councillor Ellis welcomed the document and enquired how many areas had been awarded a blue plaque.

Mr. Taylor advised that in general blue plaques were erected on a building where a person was born, lived or worked for a significant period in the city, or where an event or incident of important national or local significance occurred on a local or national famous building or landmark. He advised that proposals for plaques in respect of other properties could be considered subject to the availability of funding.

The Chairman advised that in previous cases blue plaques had been funded from Community Chest money.

4. RESOLVED the comments be noted and that the Committee indicate its support in respect of the proposed adoption of the document as supplementary planning guidance.

The Chairman then closed the meeting and thanked everyone for their attendance.

(Signed) P. Tye  
Chairman.

**At a meeting of the DEVELOPMENT CONTROL (NORTH SUNDERLAND) SUB-COMMITTEE held in the CIVIC CENTRE on TUESDAY, 23<sup>RD</sup> NOVEMBER, 2010 at 5.00 P.M.**

## **Present**

Councillor Copeland in the Chair

Councillors Charlton, Francis, E. Gibson, Tye and L. Walton

## **Declarations of Interest**

There were no declarations of interest.

## **Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors Fletcher and D. Wilson.

## **Applications made under the Town and Country Planning Acts and Regulations made thereunder**

The Deputy Chief Executive submitted a report and supplementary report (copies circulated) relating to the North Sunderland area, copies of which had also been forwarded to each Member of the Council upon applications made thereunder.

(For copy report – see original minutes).

### **10/03281/LAP – Replacement of existing pier entrance gates with new artist-designed gates and replacement of existing railings with replica historic railings – Roker Pier Gates, Off Marine Walk, Sunderland**

1. RESOLVED that the application be delegated to the Deputy Chief Executive subject to the five conditions set out in the report.

### **10/03284/LAL – Replacement of existing pier entrance gates with new artist-designed gates, replacement of existing railings with replica historic railings, provision of external seating and replacement hard surfacing – Roker Pier Gates, Marine Walk, Sunderland**

2. RESOLVED that:-
  - i) Members be minded to grant listed building consent subject to the seven conditions set out in the supplementary report; and

- ii) the application be referred to the Secretary of State for Communities and Local Government in accordance with Regulation 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990.

**10/03526/LAL – Repair and restoration of a stonework memorial fountain, including the reinstatement of ball finials and cast bronze lions' heads as originally incorporated on the fountain structure – Roker Park, Roker Park Road, Sunderland**

3. RESOLVED that:-

- i) Members be minded to grant listed building consent subject to the five conditions set out in the supplementary report; and
- ii) the application be referred to the Secretary of State for Communities and Local Government in accordance with Regulation 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990.

### **Town and Country Planning Act 1990 – Appeals**

The Deputy Chief Executive submitted a report (copy circulated) concerning the appeals received for the period of 1<sup>st</sup> October, 2010 to 31<sup>st</sup> October, 2010.

(For copy report – see original minutes).

4. RESOLVED that the report be received and noted.

(Signed) R. COPELAND,  
Chairman.

THE NEW GOVERNMENT GUIDANCE ON THE VALIDATION OF PLANNING APPLICATIONS

REPORT OF THE DEPUTY OFFICE CHIEF EXECUTIVE

1.0 PURPOSE OF THE REPORT

- 1.1 A report was brought to this Committee in July 2010 to inform Committee about the then pending government's new guidance on the validation of planning applications, issued in two documents in March 2010. The guidance also required local planning authorities to review their local list of validation criteria and to support that list with planning policies. The report therefore included the draft revised requirements and the process of public consultation on these.
- 1.2 That public consultation has now taken place. A number of changes to the draft list are now proposed, as a result of the consultation and the purpose of this report is to obtain the committee's endorsement of the amended list of validation requirements which have to be in operation from the end of December 2010.

2.0 BACKGROUND

- 2.1 As with the existing validation list, in order to ensure a clear and consistent approach in the Tyne and Wear Metropolitan area, Development Control Managers and DC Administration Managers of the five Local Planning Authorities in Tyne and Wear came together to devise common arrangements for their Local List of validation requirements and priority checklists to help applicants provide the correct validation information for their particular type of application. This is important in Tyne and Wear where many agents and architects work across the five local authority areas. Accordingly the public consultation, organised by Gateshead Council, covered developers, agents and architects located in Tyne and Wear and beyond, as well as statutory consultees. It included a meeting with developers, architects and agents held on 22<sup>nd</sup> July in the Sunderland Civic Centre Council Chamber. In addition each council contacted those Council services consulted on planning applications.
- 2.2 Once the consultation process was completed the comments were analysed and where appropriate the Local List of validation requirements was amended. The draft amended list is available from Members' Services.

### 3.0 SUMMARY

- 3.1 The remainder of this report concentrates on the changes between the draft version and the final version of the Local List of validation requirements and concludes with a recommendation.
- 3.2 The following paragraphs explain the changes appearing on the Validation Checklist as a result of consultee comments and development control managers reappraising both the content and layout of the list.
- 3.3 The amended version has a new introductory section giving the background to the Government's proposed changes and the CLG Guidance on Validation March 2010. It also contains paragraphs covering variances between authorities in relation to affordable housing (Section 11) and requirements for Travel Plans (Section 29).
- 3.4 There have been improvements to the layout, format and type faces used in the document to make it easier to use. The following paragraphs generally use the section numbers used in the amended version. Sections remaining unaltered have not been included. Sections 1 to 8 cover national requirements and the remainder, 9 to 31, cover local requirements.
- 3.5 Section 6. Correct Fee. An explanatory note has been added about how to calculate the correct fees and the use of external measurements. A table has been added for the use at pre-application stage to note the local requirements which will be applied.
- 3.6 Section 9. Application Plans. Advice on the need to number plans has been added.
- 3.7 Section 11. Air Quality The air quality section has been rewritten to give guidance on need to provide information on current and future situation, without the development and future with the development proposed.
- 3.8 Section 13. Coal Mining Risk Assessment. Has been altered to provide a clearer explanation of the Risk Assessment Areas.
- 3.9 Section 14 Ecological Surveys. An explanation has been added that certain surveys can only be undertaken at certain times of the year.
- 3.10 Section 15. Flood Risk Assessment. A reference has been added to the Environment Agency's web link to help applicants.
- 3.11 Section 22. (of the consultation version) Parking and Service Provision. This section has been deleted and added to the amended section 29. Transport Statements.
- 3.12 Section 23. Planning Statement. A paragraph has been added saying that information can be provided here on employment creation, economic and

regeneration benefits. The need for economic statements for validation purposes has been removed.

- 3.13 Section 26. Sustainability Statement. Retitled to drop reference to Renewables. Explanation of topics to be covered has been improved.
- 3.14 Section 28. Town Centre Uses. The table showing when assessment is required has been simplified.
- 3.15 Section 29. Transport Assessments, Travel Plans, Parking and Highways. This has been rewritten to clarify what requirements are needed in different circumstances and to give an explanation of what a travel plan is. As referred to earlier parking and servicing has been added to this section. A new paragraph has been added which explains the need to provide information on changes to highways and public rights of way if the development proposed will affect these.
- 3.16 Section 30. Tree Survey and/or Statement of Arboricultural Implications. This section has been rewritten to clarify what information is required e.g. species, height and stem diameter plus the need for additional information where the tree is affected by a TPO. Information is also required on the means of protection of retained trees.

#### 4.0 RECOMMENDATION

- 4.1 The Committee is recommended to note and endorse the contents of this report and to note that the new Validation List will be brought into use immediately from 1<sup>st</sup> January 2011.



**THE REVOCATION OF THE REGIONAL STRATEGY ~ UPDATE.****Report of the Deputy Chief Executive****1.0 Purpose of report**

- 1.1 This report updates committee on the recent High Court ruling into the Secretary of State for Communities and Local Government's announcement to revoke Regional Spatial Strategies made in July 2010.

**2.0 Background**

- 2.1 Under the Planning and Compulsory Purchase Act 2004, the Regional Spatial Strategy (RSS) for the North East (adopted in 2008) became part of the 'development plan' for the city. Together with saved policies of the Unitary Development Plan, they collectively form the starting point to determine planning applications unless material considerations indicated otherwise. In addition, the city's own emerging Local Development (LDF) is required to be in general conformity with the RSS.
- 2.3 In July 2010, this committee was informed of the decision by the Secretary of State for Communities and Local Government to abolish all RSSs with immediate effect. Section 79 of the Local Democracy, Economic Development and Construction Act 2009 gives power to the Secretary of State to revoke "*all or any part of a regional strategy*" if considered "*necessary and expedient to do so*". The legal basis for RSS would be fully abolished through the forthcoming "Localism Bill".
- 2.4 The July committee report outlined the implications for this authority for both planning applications and preparing the LDF, confirming that : -
- The saved Unitary Development Plan remained the only 'development plan' for the city to consider planning applications.
  - Evidence to support RSS policies could still be treated as material considerations
  - Local authorities working with communities could determine their own requirements such as setting new housing targets
  - The Regional Planning Body (eg the Association of North East Councils) was no longer a statutory consultee.

**3.0 The High Court Judgement.**

- 3.1 In August 2010, CALA Homes sought judicial review against the revocation. This followed the refusal of its own application for 2,000 homes in Winchester that had been previously identified in the South East RSS.
- 3.2 On 10 November 2010, the judgement upheld the CALA Homes challenge. On the basis of existing legislation, the Judge concluded : -
- Whilst powers exist to revoke an RSS there is an equal requirement, in law, for an RSS to be in place for each region;
  - Revoking an RSS can only be undertaken subject to introducing measures to replace it with another RSS. The Secretary of State therefore cannot abolish all RSSs nationally as a consequence;

- Notwithstanding these two points, the decision to revoke could not have been done without undertaking a Strategic Environmental Assessment as required by European law.
- 3.4 In response to the High Court ruling, the DCLG Chief Planner wrote to all Councils. Whilst acknowledging the RSS again becomes part of the development plan, he advised that since it has been Government's long standing intention to abolish RSS (which will now occur via the emerging Localism Bill) this in itself should be treated as a material consideration in making planning decisions.
- 3.5 However, CALA Homes has subsequently won a temporary High Court injunction against the application of the DCLG letter and its content, pending a full legal hearing into the lawfulness of this advice. A court date is set for 20<sup>th</sup> December 2010.

#### **4.0 Implications for Sunderland.**

- 4.1 The effect of the High Court decision is to re-establish the North East RSS into the city's development plan, subject to outcome of the forthcoming decision in the High Courts against the latest DCLG letter. For the time being, the RSS policies and targets will need to be taken into consideration in planning decisions from now on, until new legislation formally removes the RSS. The Localism Bill is expected to be published early December 2010 which will outline these proposals, but as with all legislative procedures it will take some time to become law.
- 4.2 As previously reported, work has already commenced in terms of re-assessing the evidence which was used to underpin the North East RSS in Sunderland, particularly in terms of both housing and employment land requirements. This work will continue to inform the emerging LDF (alongside that of the RSS).
- 4.3 From a technical perspective, ANEC was a statutory consultee on all major planning applications and LDFs regarding conformity with the RSS. Following the Secretary of State's announcement in July, this role ceased and it is understood the staffing capacity to respond to such consultations no longer exists. It remains unclear as to whether authorities will still be obliged to undertake such consultations. Advice has been requested from the Government Office for the North East.

#### **5.0 Conclusions**

- 5.1 Whilst the revocation of the RSS was noted, it was felt that the vacuum left without clear transitional arrangements could in the short term cause greater uncertainty until such time as the up-to-date suite of planning policies can be delivered at the local level. That said, it is also acknowledged that policies set within the North East RSS were based on a completely different set of economic forecasts than those that are being applied now, where the deliverability of a number of policies needs to be reviewed.

## **6.0 Recommendation**

- 6.1 Committee is recommended to note the contents of this report for information.

## **7.0 BACKGROUND PAPERS**

Parliamentary Statement : Revoking Regional Strategies (from the Secretary of State for Communities and Local Government (6<sup>th</sup> July 2010).

Chief Planning Officer Letter: Revocation of Regional Strategies from the Secretary of State for Communities and Local Government (6<sup>th</sup> July 2010).

Guidance for Local Planning Authorities following the revocation of Regional Strategies (CLG, 6<sup>th</sup> July 2010).

Planning and Highways Committee Report "The Revocation of the Regional Spatial Strategy and Implications for the Planning System" (July 2010).

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The Chief Planning Officer  
Local Planning Authorities in England

10 November 2010

**Chief Planning Officer Letter:**

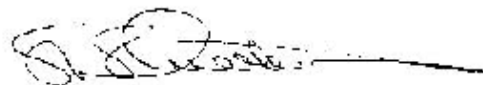
**ABOLITION OF REGIONAL STRATEGIES**

I am writing to you today following the judgement in the case brought by Cala Homes in the High Court, which considered that the powers set out in section 79 [6] of the Local Democracy, Economic Development and Construction Act 2009 could not be used to revoke all Regional Strategies in their entirety.

The effect of this decision is to re-establish Regional Strategies as part of the development plan. However the Secretary of State wrote to Local Planning Authorities and to the Planning Inspectorate on 27 May 2010 informing them of the Government's intention to abolish Regional Strategies in the Localism Bill and that he expected them to have regard to this as a material consideration in planning decisions.

I am attaching the proposed clause of the Localism Bill that will enact that commitment. The Bill is expected to begin its passage through Parliament before Christmas, and will return decision-making powers in housing and planning to local authorities. Local Planning Authorities and the Planning Inspectorate should still have regard to the letter of the 27 May 2010 in any decisions they are currently taking.

I should also draw to your attention that Ministers have signalled they are moving ahead with the New Homes Bonus, which will reward councils for building homes and working with their local communities. A consultation paper on the detail will be published very shortly with the new scheme coming into effect next April, and new homes delivered now will be rewarded under the scheme.



**STEVE QUARTERMAIN**  
*Chief Planner*

Department for Communities and Local Government  
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**1 Abolition of regional strategies**

- (1) Part 5 of the Local Democracy, Economic Development and Construction Act 2009 (regional strategy) is repealed.
  - (2) The regional strategies under Part 5 of that Act are revoked.
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## PLANNING REFORM UPDATE.

## Report of the Deputy Chief Executive

## 1.0 Purpose of report

- 1.1 This report updates committee on the planning reforms introduced to date since the new Coalition Government took office, and on those future reforms that it proposes to bring forward.

## 2.0 Background

- 2.1 Prior to the elections in May 2010, the Conservative Party issued its Green Paper "Open Source Planning" setting out its concept for the future of the planning system. These concepts were largely included in the Coalition Government's combined document *"The Coalition : Our Programme for Government"*.
- 2.2 In October 2010, the Coalition Government issued its White Paper *"Local Growth : Realising Every Place's Potential"* which sets out its new approach to rebalancing the economy and helping drive sustainable growth forward.
- 2.3 The Government sees the planning system as playing a central role in delivering a strong economy and providing for attractive and sustainable environments. However, it claims that the current system is "broken". Government is therefore committed to reforming the planning system so, that it actively encourages growth.
- 2.4 The White Paper identifies that the purpose of the planning system as having three key functions : -
- Giving people more control over the shape, look and feel of their communities including the protection and promotion of important environmental and social interests;
  - Providing sufficient housing to meet demand
  - Supporting economic development by providing infrastructure and using land use planning
- 2.5 Allied to the above, Government sees the respective roles of planners changing. At a recent event Greg Clark (Decentralisation Minister) said:

*"Planners have an awesomely important job to do, but have had their professional judgement curtailed by endless national and regional prescription and guidance, with too little opportunity for genuine planning. Instead, planners have become a lightning rod for people's sense of frustration with the current system, often being seen as agents of imposition for Whitehall's instructions."*

*"Our proposals will change the role of town planners, freeing them to use their professional skills to help local people articulate their vision for their town or village or neighbourhood, and make it a reality.... to restore respect for the profession so that it is properly valued, and never reviled."*

- 2.6 The new government introduced some early reforms which are summarised in full at Annex 1 to this report. Further structural reforms are to be set out in the forthcoming Decentralisation and Localism Bill which is programmed for publication in December 2010 and enactment in November 2011. Secondary legislation will also need to be introduced to take forward further reforms.
- 2.7 For ease, Sections 3 and 4 to this report provides detail currently available to those main areas of planning reform as they apply to both the spatial planning and development management functions.

### **3.0 Planning Reforms to the Spatial Planning System**

#### *Amendments to Planning Policy Statement 3 "Housing"*

- 3.1 As reported to Committee in September 2010, PPS3 sets out the national policy for housing. In June 2010, two key amendments were introduced :-
- The removal of private residential gardens from the definition of previously developed (brownfield) land. Gardens are now classed as greenfield. This change seeks to ensure that private residential gardens are not to be considered as a first priority for housing alongside the more traditional brownfield sites. Although it does not prohibit their development subject to the meeting policies of the saved Unitary Development Plan.
  - The removal of national minimum density target of 30 dwellings per hectare. This allows local authorities adopt a more flexible approach to setting its own density requirements.

#### *The Creation of a National Planning Framework*

- 3.2 Government is committed to delivering the National Planning Framework by April 2012. It is understood this would consolidate and simplify the suite of 25 national statements of national policy (Planning Policy Statements and Planning Policy Guidance Notes and the range of 'daughter' documents). It is expected the Framework will provide simplified guidance setting out standards for sustainable development (environmental, architectural, design, economic and social standards are specified). It is however not clear as to whether the Framework will provide a spatial element by setting national economic and environmental priorities.
- 3.3 Consolidation and updating of these national policies is welcomed. Many are significantly out of date and there is considerable duplication. When read in conjunction with the 'daughter documents' setting out good practise, the combined content is over some 7,000 pages.
- 3.4 On retail developments, the previous government made changes to Planning Policy Statement 4 "Planning for Sustainable Economic Growth" (2009). It removed the 'needs test' that required developers to prove the need for out of town proposals. This government is committed to reintroduce the needs test. It is not clear whether this would be achieved through a partial alteration to PPS4 or through its inclusion within the forthcoming National Planning Framework.

- 3.5 The government, remains committed to maintaining a number of existing national and international land use designations such as the Green Belt and Sites of Special Scientific Interest.
- 3.6 The government is also committed to develop proposals for a new designation to protect green areas of particular importance to local communities. The precise mechanics of how this new local designation will work and the status it will have against other national designations is at present unclear. Clarification is expected in draft form by March 2011 and implemented by April 2012.

#### *The Revocation of the Regional Spatial Strategy*

- 3.7 This was first reported to this Committee in July 2010 and is covered in further detail as a separate agenda item. In short, regional spatial strategies are for the short term to be retained as part of the development plan. They will be abolished via the Decentralisation and Localism Bill.

#### *Development Plans*

- 3.8 The government has maintained its commitment to operating a plan led system in so far as the development plan provides the starting point to consider planning applications. However, it takes the view that the present system of Local Development Frameworks has not worked.
- 3.9 The proposals in the White Paper would suggest a three tier system, that is : -
- The National Planning Framework setting out national policy
  - An overarching Local Development Plan prepared by the local authority. This will provide the key strategic framework on infrastructure, economic growth requirements and setting new housing targets. It would provide the basis for local planning decisions. (This is a similar role to that of the LDF Core Strategy whose present function is to set the broad strategic policies for the level and distribution of development).
  - Neighbourhood Plans are intended to give local communities greater flexibility and freedom to bring forward more development than set out in the Local Development Plan - though it does not presume similar flexibility to deliver less development. Where communities choose not to have a Neighbourhood Plan, the Local Development Plan would guide development in that area. It is understood there would be no statutory requirement to prepare one, just the right to do so.
- 3.10 The precise mechanics of delivering these documents will be set out in the forthcoming Decentralisation and Localism Bill. However the onus will be towards a “bottom up” approach requiring even greater involvement at the community level. Government has already set out some broad statements of intent :
- Procedures to prepare Local Development plans would be streamlined as will the timescales required to deliver them
  - Local Development Plans would still be subject to independent testing by an independent Planning Inspector. Inspectors’ powers are expected to be limited. Presently an Inspector’s recommendations are binding on the local authority. These powers are to be limited to reporting to the Secretary of State direct breaches of national policy and process.
  - If a Local Development Plan is not adopted within a given timeframe, there would be a presumption in favour of sustainable development.

Proposals that comply with the National Planning Framework should be approved. However, it is not clear what status saved policies within existing development plans will have in the event that the new style plans are not delivered.

- Strategies and policies would still require evidential support (based on a full understanding of economic relationships and housing markets across local authority boundaries), consistent with national policy and be deliverable.
- Given that many strategic issues will cut across administrative boundaries, there would be statutory duty to collaborate between local authorities and other public / private bodies (such as infrastructure providers) involved in plan making.

3.11 Less is known around the delivery of delivering Neighbourhood Plans, namely : -

- How neighbourhoods are to be defined
- The processes and independent testing they must pass. One suggestion might be that neighbourhood plans would be 'approved' through a referendum of local people following an independent examination. If the referenda is positive, the authority would be obliged to adopt the plan.
- Who would draw up the plans and what resources are available ? If it is to be prepared by local neighbourhood, and if there is to be some form of independent examination before an Inspector, there would be a requirement for professional input (either by the authority or private sector)
- The relationship between the neighbourhood plan and local development plan – would the local development plan take precedence ?

3.12 One estimate puts the number of neighbourhood plans at anything up to 18,000 across the country. To quote one commentator "*A tidal wave of plans will need to be prepared alongside a massive jump in consultation*".

3.13 These are again points of detail and it is expected will be clarified by the Decentralisation and Localism Bill. However this is a clear signal of a change in emphasis towards more planning for real type exercises and engaging with neighbourhood communities.

#### *Local Authority Incentives and Support for Growth*

3.14 To stimulate economic growth, Government proposes to introduce a range of financial incentives, including : -

- The New Homes Bonus ~ seen as the replacement to the Housing and Planning Delivery Grant, this Bonus would start from 2011 / 12 and would match fund the additional council tax for each new home built or brought back into use for the next six years after the it was built. A consultation document has now been issued on its precise mechanics and is being considered. A separate report will be presented to this committee in due course.
- Business Increase Bonus ~ under this proposal, it would reward local authorities where growth in the business rates yield exceeds a threshold, by allowing them to keep the increase (up to a certain level)
- Tax Increment Finance ~ this would be a new borrowing power to enable authorities to take account of their current income schemes and forecast future income. This would enable them to borrow against



any future additional uplift within their business rates base to fund key infrastructure and other capital projects.

- Community Infrastructure Levy ~ This was confirmed by the previous Government in April 2010 whereby authorities can (should they wish) set rates for development to pay towards infrastructure. Pre-election there was considerable speculation as to whether this Levy would continue or be revised in another format. In November, Government confirmed the continuation of the Levy, subject to the following modifications that require additional legislative changes :
  - The local authority giving a local community group a proportion of the levy raised from a new development so they can spend this on their preferred local facilities
  - Giving more control to authorities in setting the levies (subject to independent examination though again, the Inspector's role and ability to make changes will be limited)
  - Allowing authorities to set flexible payment deadlines such as paying by instalment.

3.15 Government has also confirmed that there will be no further significant changes to the current rule around planning obligations (Section 106 Agreements). These will continue to be available to fund affordable housing and will remain scaled back so they directly relate to the development proposed.

#### *Infrastructure Planning Commission & National Policy Statements*

- 3.16 The Planning Act 2008 introduced three major changes for nationally significant infrastructure projects (such as major offshore windfarms and nuclear power stations) :
- Decisions on applications would be made by an Infrastructure Planning Commission (IPC) and not ministers or local planning authorities
  - The IPC would examine applications in line with new procedures based on more informal hearings. Previously, long and adversarial inquiries were the primary way of determining such applications. For example, the Terminal 5 inquiry for Heathrow lasted 5 years.
  - National Infrastructure Statements would set out the overarching framework to which applications must comply. These are to be prepared following public consultation and parliamentary scrutiny. There are to be 12 National Policy Statements, detailing Government policy on different types of infrastructure development, covering the following issues :
    - Energy ~ Overarching Energy; Renewable Energy; Fossil Fuels; Oil and Gas Supply and Storage; Electricity Networks; and Nuclear Power.
    - Transport ~ Ports, Transport Networks (including rail and roads) and Aviation.
    - Water, waste water treatment and hazardous waste
- 3.17 Government has now announced that the IPC will be replaced by a new Major Infrastructure Planning Unit based within the Planning Inspectorate. The final planning decision would be made by Ministers based upon the recommendations of this new Unit. Details of the process and the formal dissolution of the IPC will be announced through the Decentralisation and Localism Bill.

- 3.18 Government has confirmed the retention of National Policy Statements, though they would in future be ratified by Parliament. These National Statements are presently at different stages of preparation, though Government intends to publish the full workplan in December 2010.

*The National Infrastructure Plan*

- 3.19 In October, Government published the first National Infrastructure Plan outlining the Government's vision for the future of UK economic infrastructure. The Plan outlines the scale of the challenge facing infrastructure and the major investment that is needed to underpin sustainable growth in the UK. It focuses on the networks and systems – in energy, transport, digital communications, floodwater, waste management and in science – that provide the infrastructure on which the economy depends. There is a commitment to publish a more detailed version of the plan by the end of 2011, setting out the long-term investment needs and priorities for economic infrastructure for the UK, along with the priority actions to deliver them. Two key elements of the National Infrastructure Plan are to :
- establish a common set of planning assumptions, for example economic growth forecasts, population growth forecasts, impacts of climate change;
  - identify relevant constraints, including establishing a framework for assessing overall affordability; and
- 3.20 It is presently not clear what the relationship will be between the National Infrastructure Plan, National Policy Statements and the National Planning Framework.
- 3.21 At the local level, authorities are encouraged to take the lead in compiling Local Infrastructure Plans setting out how authorities intend to deliver infrastructure that will support the delivery of their local development plans. Under the existing system, the preparation of Infrastructure Delivery Plans has become a quasi statutory requirement to evidence that policies and proposals are deliverable. Work is progressing on taking this document forward which will also form the baseline evidence for taking forward the Community Infrastructure Levy.

#### **4.0 Planning Reforms to Development Management**

*The Town and Country Planning (Development Management Procedure) (England) Order 2010*

- 4.1 This came into force on 1st October 2010. Prior to that date procedures relating to the making, consultation on, publicity for and determination of applications were the subject of the Town and Country Planning (General Development Procedure) (England) Order 1995 and a number of amendments to this Order, which have all now been revoked in full. The Government wanted to make amendments to the procedures, the most important of which are detailed below, but also took the opportunity to change the title of the order partly to avoid long standing confusion with the Town and Country Planning (General Permitted Development) (England) Order and partly to reflect the new approach towards proactive development management rather than reactive development control.

- 4.2 While the new order re-enacted most of the procedures in the old order, a number of changes have been brought in to the procedures to reflect recent changes in legislation. In particular :
- Design and Access Statements. When national and local validation lists of what is needed to be submitted to make a planning application valid were introduced in 2008, Design and Access Statements were required for all but 3 types of application. The exemption to this requirement has been extended so that now 9 types of application no longer need to be supported by such a statement. The most important of these are applications for engineering or mining works, change of use, section 73 applications, and applications to extend time limits on the implementation of a permission, fences and other means of enclosure, extensions to houses not in a designated area, alterations of existing buildings and the installation of plant or machinery (both subject to size limitations) and development of new buildings on operational land (subject to size limit of 100cu m).
  - Consultations specifically for applications under section 73 to vary or remove conditions and to grant a replacement permission subject to a new time limit. In both cases the consultations are at the discretion of the Local Planning Authority.
  - Decision notices on applications must now include for both approvals and refusals summaries of the reasons for the decision and the policies on which the decision was based.

#### *Houses in Multiple Occupation*

- 4.3 In April 2010 the Town and Country Planning (Use Classes) (Amendment) (England) Order introduced a new use class for small scale houses in multiple occupation by splitting the old class C3 dwelling houses into 2 separate classes C3 dwelling houses and C4 houses in multiple occupation. A related amendment to the legislation in April 2010, namely the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2010 (2010/654) made a change of use from C4 to C3 permitted development.

- 4.4 A further change to the permitted development rights (2010/2134), with far greater implications, came into power in October 2010. This made a change of use from a dwelling house to a house in multiple occupation (for up to 6 people) permitted development. Many Local Planning Authorities, Sunderland included, have in the past strictly controlled such changes because they can have major impacts on the character of a residential area and pose concerns over on street parking. The means of controlling these changes, through the need to obtain planning permission, has therefore now been removed. This is a major concern to many Local Planning Authorities and several are attempting to limit the effect by the use of Article 4 Directions which can be used to require planning applications for matters which would otherwise be permitted development.

#### *Implementation of Penfold Review Recommendations on the Review of Non Planning Consents*

- 4.5 Ministers will consider how consents might be streamlined and simplified to reduce the burden on businesses.

#### *Government White Paper Local Growth: Realising Every Place's Potential*

4.6 The White Paper puts forward a number of possible changes Development Management process and procedures.

- Fast Track Permissions/Community Right to Build ~ Reference is made to the Council's adopting neighbourhood plans (outlined at paragraph 3.9) which will be fast tracked so urgent projects can short cut the present system. It is not, however, clear whether this is a reference to the already announced Community Right to Build. Nevertheless, unless this right is subject to sites being accepted in the local development plan, ideally developed in conjunction with local communities there will be conflict and, particularly in rural areas, this could be around the sustainability of a chosen site.
- Developer Duty to Consult. ~ At present Sunderland City Council requires such consultation on major applications before they can be validated. The proposal is therefore acceptable in principle, but at present it is not known whether this will apply just to major applications or to applications for particular uses. In Scotland there has been for many years an obligation on developers to undertake neighbour consultations prior to the submission of applications.
- Abolishing the Pre-determination Rule ~ At present Councillors must avoid expressing an opinion on a development proposal prior to it coming to Committee for determination, in order to avoid any decision being challenged on the grounds of lack of transparency in the decision process. The change proposes that councillors will be able to have free discussions on an application, but must be prepared to listen to arguments and evidence before reaching a decision. Such a change could still leave decisions open challenge in such events.
- Local Discretion on Application Fees ~ Proposals for decentralising planning application fees have been published for consultation. An accompanying research report suggests that at the moment fees are about 10% below associated costs. If the proposals are taken forward LPAs will be able to set their own fees from April 2011 to obtain the real cost of handling applications from those who benefit from the permission, but not to such a level as to produce profits on the process. Proposals also include widening the scope of fees, choosing whether to allow a "free go", for instance for revised applications and to charge higher fees for retrospective applications.
- Local Development Orders ~ Local Development Orders have already been introduced via the Planning and Compulsory Purchase Act 2004. These Orders can be made by the planning authority to extend permitted development rights for certain types of development without the need to apply for planning permission. Nationally, only one LDO has been adopted. The High Wycombe LDO covers a small part of its town centre. Time limited to three years, this particular Order permits the change of use of ground floor premises to a specified range of uses without the need to apply for planning permission. The Bill may therefore introduce some form of incentive or coercion to make use of them.
- Voluntary Agreements ~ This would cover developers reaching voluntary agreements to compensate immediate neighbours for loss of amenity associated with the development. This proposal appears to

be based upon property rights rather than planning criteria and there will be difficulty in defining who is an immediate neighbour and who is not. In addition, loss of amenity could be wider than immediate neighbours and the mechanism for enforcing the agreement is unclear.

- 4.8 The White Paper is silent on the issue of third party right of appeal and recent Government statements indicate that it is unlikely to be in the Bill. However, it could reappear as an amendment during the passage of the Bill, as there are pressure groups keen on the introduction of such appeals. Nevertheless, they are a potential source of delay, cost and uncertainty which do not sit well against the Government's stated intent to speed up the development process.

## **5.0 Conclusions**

- 5.1 This Government has set out clear intentions that it wishes radically to reform the planning system to remove what it perceives to be unnecessary bureaucracy and as far as possible return as much of the decision making as practical to the local level. This runs parallel with its wider 'Big Society' programme of putting more opportunity and power into peoples' hands. In essence, it's this Government's view that communities presently feel disenfranchised from the planning process and have naturally developed a 'NIMBY' mentality towards new development. However, it remains to be seen whether greater community engagement and involvement in the planning process will in fact make communities more pro-development.

- 5.2 Clearly, much is expected from the emerging Decentralisation and Localism Bill in terms of providing the fine detail as to how many of these proposed initiatives will actually work in practise. It is understood the Bill's publication date has been put back to "early December". Following its eventual publication a report will be presented to this Committee for consideration.

## **6.0 Recommendation**

- 6.1 Committee is recommended to note the contents of this report for information.

## **7.0 BACKGROUND PAPERS**

Report to Planning and Highways Committee "*The Revocation of the Regional Spatial Strategy and Implications for the Planning System*" (July 2010).

Report to Planning and Highways Committee "*Government's Amendments to Planning Policy Statement 3, (Housing) and implications for the Planning System*" (September 2010)

Report to Planning and Highways Committee "*The Revocation of the Regional Spatial Strategy ~ Update*" (December 2010).

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## Annex 1 ~ Coalition Government Announcements to date on reforms to the Planning System

<b>November</b>	
<b>29 November:</b>	Following Cala Homes' second legal challenge, a court has placed a temporary block on the government's claim that its plans to abolish RSS must be regarded as a material consideration in planning decisions.
<b>23 November</b>	Housing Minister, Grant Shapps announced plans for the reform of the HCA into a smaller enabling body. It includes a 50 percent cut in running costs and a radical reorganisation of regional boundaries.
<b>19 November</b>	CALA Homes have launched a new legal challenge against the government's insistence that the ruling against the abolition of Regional Strategies changes little.
<b>18 November</b>	Decentralisation Minister, Greg Clark set out further detail on how neighbourhood plans and the government's wider planning reforms will operate. He described the Localism Bill as "imminent".
	Decentralisation Minister, Greg Clark confirmed the community infrastructure levy will be continued. It will be reformed, with a proportion of the funds raised being passed directly to the local neighbourhood.
<b>17 November</b>	Planning Minister, Bob Neill has rejected a parliamentary call to mandate planning inspectors to refuse wind farm schemes which generated unanimous community opposition.
<b>15 November</b>	A consultation on proposals for changes to planning application fees in England was published. The closing date for responses is 7 January.
<b>12 November</b>	CABE announced it will be wound up in its current form by March 2011. They are now working with Government and others to try to find a way to ensure the advice CABE provides remains available.
	A consultation seeking views on the implementation of the New Homes Bonus was published. The closing date for responses is 24 December.
<b>10 November</b>	Communities Minister, Eric Pickles has responded to the High Court ruling that he acted unlawfully in revoking the system of regional strategies in England. Steve Quartermain has written to Chief Planning Officers, stating the letter of 27 May announcing the revocation should continue to be used as a material consideration.
<b>8 November</b>	CLG published its Business Plan 2011-2015, detailing its policy timetable. It includes the publication of the new national planning framework by April 2012; and that funding will be in place to help town and parish councils to develop neighbourhood plans by April 2011.
<b>6 November</b>	Speaking at the RTPi, Politicians in Planning Conference, Planning Minister, Bob Neill explained that electoral wards and parish councils are likely to form the basis of neighbourhood plan boundaries.
<b>3 November</b>	Business Minister, Mark Prisk in response to the Penfold Review, announced new plans to streamline development consents regimes for businesses in order to encourage development and stimulate economic growth.
<b>October</b>	
<b>29 October</b>	Environment Minister, Caroline Spelman has published a letter sent to MP's outlining its intention to fundamentally reform the public forestry estate, with diminishing public ownership and a greater role for private and civil society partners, in response to speculation that 374,000ha of land overseen by the Forestry Commission is set to be sold off.
<b>28 October</b>	White Paper on Local Growth: realising every place's potential was published by the Department of Business, Innovation and Skills. It promised a new "streamlined planning system" along with 24 local enterprise partnerships (LEPs).
<b>25 October</b>	Communities Minister, Eric Pickles has been accused at the High Court of unlawfully scrapping regional housing targets in pursuit of the government's 'Big Society' initiative. A judgement is expected later this week.
	Prime Minister, David Cameron announced the National Infrastructure Plan. Nationally significant infrastructure projects will be considered by the new Major Infrastructure Planning Unit, (formerly the IPC), with a final decision by ministers. Details will be announced by CLG by the end of 2010.
<b>20 October</b>	The future of the Commission for Architecture and the Built Environment (CABE) is uncertain after DCMS withdrew £5 million in funding.
	Housing Minister, Grant Shapps wrote to local authorities informing them of the CSR settlement for housing. It includes £100 million as part of the national

	<p>affordable housing programme to bring empty homes back into use.</p> <p>A letter from Communities Minister, Eric Pickles to local authority Chief Executives indicated that there is money for the implementation of open source planning. In years one and two of the CSR period this is in the form of a grant, in years three and four it is rolled into formula grant. 2011-12 £5m, 2012-13 £10m, 2013-14 £15m, 2014-15 £20m.</p> <p>As part of the CSR, it was announced that more than £900 million has been earmarked for the New Homes Bonus over the next four years, with £200 million allocated in the first year. A consultation on the scheme will be launched next month.</p> <p>Chancellor George Osborne announced details of the Comprehensive Spending Review 2010 (CSR) in Parliament. It includes a cut in revenue funding to local authorities from Government of 26 per cent in real terms between 2010-11 and 2014-15.</p> <p>CLG confirmed that third party rights of appeal will not be included in the Decentralisation and Localism Bill.</p>
<b>18 October</b>	DECC has announced a consultation on the revised draft National Policy Statements for energy infrastructure.
<b>14 October</b>	<p>CLG have published a consultation on proposals to make changes to the General Permitted Development Order (GPDO) to give a permitted development right for change of use planning permission for schools development.</p> <p>Cabinet Office Minister, Francis Maude, announced the full list of quangos under review. It includes the retention of the Environment Agency and Natural England, but the future of CABE and the Sustainable Development Commission remains under review.</p>
<b>13 October</b>	Small Businesses Minister, Mark Prisk reiterated a statement made in a letter to town halls in June that said some of the RDAs' responsibilities would be led by central government.
<b>12 October</b>	Communities Minister, Andrew Stunell announced has outlined a new "fair deal" for Gypsies and Travellers. Following consultation, the government intends to commence Section 318 of the Housing and Regeneration Act 2008, designed to extend tenancy rights for travellers in authorised local authority traveller sites by including them in the Mobile Homes Act 1983.
<b>6 October</b>	Housing Minister, Grant Shapps confirmed that the Homes and Communities Agency (HCA) is to escape the Governments cull of quangos, and will continue to operate in a slimmed down form.
<b>5 October</b>	A CLG spokesperson confirmed that the Home on the Farm rural housing initiative is to be "set alongside" Community Right to Build.
<b>4 October</b>	Transport Minister, Phillip Hammond has announced the Government's preferred option for the high speed rail route will be Y-shaped, with two separate corridors. A consultation on the route will take place early next year.
<b>3 October</b>	Speaking at the Conservative Party Conference Communities Minister, Eric Pickles again suggested that local authority planning departments could be merged. He said, "Councils should share services, work across boundaries to drive down costs and protect front line services".
<b>1 October</b>	Changes to planning law surrounding partially implemented outline planning permissions came into effect through the Town and Country Planning (Development Management Procedure) Order 2010. A letter outlining the changes was sent to all Chief Planning Officers (pdf) and guidance on Greater Flexibility for Planning Permissions has been published.
<b>September</b>	
<b>28 September</b>	Communities Minister, Bob Neill announced a consultation on proposals to streamline three sets of regulations covering tree preservation orders in England.
<b>22 September</b>	<p>Housing Minister, Grant Shapps has lowered the threshold for referendum approval of projects proposed through his Right to Build scheme from the original proposal of 90 percent, down to 75 percent.</p> <p>Local Transport Minister, Norman Baker announced plans for a new Local Sustainable Transport Fund to challenge local transport authorities outside London to develop packages of measures that support economic growth and reduce carbon in their communities</p>
<b>7 September</b>	Housing Minister, Grant Shapps announced amendments to regulations for houses in multiple occupation, which will come into effect on 1 October. It is accompanied by a letter to Chief Planning Officers.

	The Government confirmed it has received 56 local enterprise partnership proposals. They will be considered in detail ahead of the publication of the White Paper on sub-national economic growth and the introduction of the Localism Bill.
<b>August</b>	
<b>29 August</b>	Communities Minister Eric Pickles announced the Government's intention to revoke Planning Circular 01/06 and Circular 04/07, relating to planning for Gypsy and Travellers subject to necessary impact assessments.
<b>13 August</b>	Communities Minister, Eric Pickles announced the Audit Commission is to be abolished.
<b>10 August</b>	Housing Minister, Grant Shapps has announced that the Place Survey, due to be conducted this Autumn will not go ahead.
<b>9 August</b>	A consultation on proposals revoking four sets of rules about Environmental Impact Assessments, replacing them with a streamlined set of regulations has been launched.
	The New Homes Bonus is announced. It will aim to give local communities who agree to growth additional funding to spend as they wish.
<b>July</b>	
<b>29 July</b>	Commons Select Committee launched on the Government's plans for localism and decentralisation of public services.
<b>28 July</b>	Commons Select Committee launched on Abolishing Regional Spatial Strategies.
	Commons Select Committee launched on Transport and the Economy.
<b>27 July</b>	Housing Minister, Grant Shapps set out plans to allow more flexible approaches to achieving zero carbon homes, including contributions to community projects to provide energy such as district heating and wind turbines.
<b>23 July</b>	Housing Minister, Grant Shapps set out a vision to protect and preserve rural village life together with The Community Right to Build leaflet, a Background paper and FAQs.
<b>22 July</b>	Communities Minister, Eric Pickles announced the plan to abolish the 8 Regional Government Offices.
<b>8 July</b>	CLG Structural Reform Plan announced.
<b>6 July</b>	Communities Minister, Eric Pickles wrote to Chief Planning Officers on the revocation of regional strategies.
<b>June</b>	
<b>29 June</b>	National Housing and Planning Advice Unit is scrapped.
	Joint letter to local authorities and business leaders from Communities Minister, Eric Pickles and Business, Innovation and Skills Minister, Vince Cable outlined plans for Local Enterprise Partnerships.
	The abolition of the Infrastructure Planning Commission was confirmed. It will be replaced by the Major Infrastructure Planning Unit within the Planning Inspectorate.
<b>25 June</b>	Comprehensive Area Assessments to be abolished.
<b>18 June</b>	Education Minister, Michael Gove stated the Government's commitment to making it easier to secure sites for new schools.
<b>17 June</b>	Announcement by Communities Minister, Eric Pickles that Regional Local Authority Leaders' Boards are to be swiftly abolished, following the revocation of RRSs.
	Housing Minister, Grant Shapps announced proposals for changes in legislation to enable councils to have greater flexibility to manage concentrations of Houses in Multiple Occupation (HMOs) shared housing in their area.
<b>10 June</b>	Housing Planning Delivery Grant for 2010-11 is cut.
<b>9 June</b>	Decentralisation Minister, Greg Clark announced a reissue of PPS3: Housing with amendments removing private residential gardens from the definition of previously developed land and removing the indicative minimum density.
<b>May</b>	
<b>27 May</b>	Communities Minister, Eric Pickles sent a letter to all Chief Planners outlining the abolition of regional strategies.



**REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES**

**OBJECTION TO THE PROPOSED REINTRODUCTION OF SUNDAY AND BANK HOLIDAY PARKING CHARGES AT ST MARY'S AND SUNNISIDE CAR PARKS**

**1.0 PURPOSE OF THE REPORT**

- 1.1 This report is to inform the Committee of an objection that has been received to the proposed reintroduction of parking charges on Sundays and Bank Holidays at St Mary's and Sunnyside car parks.

**2.0 BACKGROUND**

- 2.1 In July 2009, to assist local businesses during difficult trading times, parking charges on a Sunday and Bank Holidays at St Mary's and Sunnyside car parks were revoked to encourage an increase in visitors to the city. During this period there was not a significant overall increase of visitors to the city centre and at the Cabinet meeting held on 19<sup>th</sup> May 2010 it was recommended to reintroduce charges on Sundays and Bank Holidays at St Mary's and Sunnyside car parks of 50p per hour up to a maximum of £1 all day.

**3.0 PROPOSAL**

- 3.1 It is proposed to reintroduce charges at both St Mary's and Sunnyside car parks on a Sunday and Bank Holidays and the additional income accrued will assist fund the parking service.
- 3.2 The work will involve varying the current Off Street Parking Places Order, altering software and amending signing. It is anticipated that these costs will be approximately £4,500 with the anticipated increase in parking income being in the region of £52,000 for a full year.
- 3.3 The charges payable on days other than Sundays and Bank Holidays at both St Mary's and Sunnyside car parks will remain unaltered.

**4.0 CONSULTATIONS**

- 4.1 The proposed variation to the current Order was formally consulted using the approved consultee list. The proposal was also advertised in the local press on 14<sup>th</sup> October 2010. The consultation period ended on 8<sup>th</sup> November 2010.

## 5.0 OBJECTION RECEIVED

- 5.1 An objection has been received to the proposal which reads "I urge whoever is responsible for this decision not to re-introduce parking charges on Sundays/Bank Holidays for Sunderland City Centre. The net income is estimated at less than £50k, which does not justify discouraging people to visit the town centre. It is madness to consider such a disincentive at a time when we should be encouraging folk to come to Sunderland.

I live in Sunderland and will not be affected by the decision, but this is a step back in terms of community engagement and should be avoided at all costs".

## 6.0 CONSIDERATION OF OBJECTION

- 6.1 The car parks affected by the proposal to reintroduce parking charges on a Sunday and Bank Holidays is restricted to St Mary's and Sunnyside car parks only. Should any motorist wish to avoid paying for parking at St Mary's and Sunnyside car parks then they may relocate to any of the pay and display car parks in the city centre which at the present time continues to be free on a Sunday and Bank Holidays.
- 6.2 Both these car parks have achieved "safer" parking status and as such have an excellent security record. In addition, both car parks have comprehensive CCTV installation with patrolling guards and barrier controlled access and egress. It is considered that the facilities available compared with the proposed parking charge of 50p per hour up to a maximum of £1 all day on a Sunday and Bank Holidays provides value for money.

## 7.0 RECOMMENDATIONS

- 7.1 It is recommended that
- (i) The formal objection received during the statutory consultation process opposed to the reintroduction of parking charges on a Sunday and Bank Holidays at both St Mary's and Sunnyside car parks be not upheld.
  - (ii) The objector be notified accordingly.

## 8.0 BACKGROUND PAPERS

- 8.1 Decision of the Executive Director of City Services  
Consultation documents  
Copy of the email of objection dated 1<sup>st</sup> November 2010