

<b>COMMITTEE:</b>	<b>Cabinet</b>
<b>DATE:</b>	<b>10 April 2003</b>
<b>SUBJECT:</b>	<b>Proposed Modifications to the Revised Deposit Draft Eastbourne Borough Plan 2001-2011 (further report).</b>
<b>REPORT OF:</b>	<b>Director of Planning, Regeneration and Amenities.</b>
<b>Ward(s):</b>	Langney
<b>Purpose:</b>	To consider the implications of not accepting the inspector's recommendation in respect of land adjacent to the Langney Centre, Kingfisher Drive.
<b>Contact:</b>	Dinah Elliott, Local Plan Officer Telephone 01323 415251 or internally on extension 5251.
<b>Recommendations:</b>	To agree to make no modification to the draft Borough Plan in respect of land adjacent to the Langney Centre, Kingfisher Drive.
<b>1.0</b>	<b><u>Background</u></b>
1.1	At the last Cabinet meeting of 13 March 2003 a further report on the proposed housing allocation on land adjacent to the Langney Shopping Centre, Kingfisher Drive was requested.

1.2	The site is allocated in the Adopted Borough Plan 1998 for a new branch library and residential development. As the branch library now occupies a unit of the shopping centre the site was included in both the First Deposit and Revised Deposit versions of the draft Borough Plan as a housing allocation. The publication of the First Deposit Draft Borough Plan coincided with a planning application for 18 flats (later revised to 14 flats) which was dismissed on appeal on design grounds , although the inspector accepted the principle of the site's suitability for residential development.	
1.3	Some 70 objections to the allocation in the draft Borough Plan were considered by Mr P Jolly, the inspector undertaking the inquiry into the draft Borough Plan, and an informal hearing was heard on 25 June 2002 attended by one local resident, representatives of the Sunbury Farm Residents Association and Councillor David Tutt. The inspector considered the concerns raised by objectors but recommended that no change should be made to the Plan in response to these objections (The relevant extract from his report is appended to this report).	
<b>2.0</b>	<b><u>The Main Issues</u></b>	
2.1	<p>Objections to the allocation have revolved around the following main issues:</p> <ul style="list-style-type: none"> <li>· The development is not needed;</li> <li>· It is inappropriate development;</li> <li>· The site should be used for community purposes;</li> <li>· Adverse effect on road safety;</li> <li>· Risk of waterlogging and sewerage problems;</li> <li>· Noise and pollution;</li> <li>· Effect on adjoining residents;</li> <li>· Site should remain as open space and its development would detract from the pond and amenity space behind the Langney Centre.</li> </ul>	
2.2	In his report the inspector considered each of these issues but concluded that this site is, in principle, suitable for residential development.	

2.3	<p>Two planning matters should be highlighted in respect of this site:</p> <ul style="list-style-type: none"> <li>· Planning Policy Guidance Note: 3 (Housing) (PPG3) which emphasises that residential development should be in sustainable locations, with the re-use of land and buildings within the built-up area being preferred to greenfield development. This site performs extremely well on the PPG3 criteria and is not regarded as having any infrastructure constraints that would prevent it coming forward for development. However if it were minded to delete this site from the draft Plan then the 12 units proposed would be subsumed in the housing "windfall" requirement.</li> <li>· Community uses: objectors considered that this is an ideal site for a doctor's surgery but consultation with the Health Authority, throughout the Plan preparation process, has consistently indicated that they do not have plans for a development at the Langney Centre. However it should be noted that in considering development proposals a number of policies within the draft Plan are taken into account. Therefore any proposal for a community use on this would take into account policy LCF19 which indicates that sites on the edge of district shopping centres are suitable for such uses. The housing allocation, per se, does not, therefore, preclude a community use coming forward.</li> </ul>	
3.0	<b><u>Other Considerations</u></b>	
3.1	<p>There is a long standing commitment to residential use on this site and the Council would require sound <u>planning</u> reasons for not proceeding with the allocation for housing. The evidence prepared by officers for the Borough Plan Inquiry demonstrated that there are strong planning reasons in favour of this allocation, and this case was confirmed by the inspector hearing the Inquiry. To delete this allocation without sound <u>planning</u> reasons will leave this Council open to challenge and have financial, legal and human rights implications. These challenges may be through the statutory procedure governing the preparation of development plans or through the development control process.</p>	
3.2	<p>The Development Plan Procedure:</p> <p>There is discretion within the development plan procedure for the Council not to accept an inspector's recommendation in respect of a specific proposal but the Council is required to set-out clear reasons for not doing so. However the statutory procedure specifically prescribes that at the modification stage objections can be made to the decision of the Council not to accept the recommendation of the inspector and this may occasion a further inquiry into the Plan with all the attendant financial costs and delay to the adoption of the Plan. Whilst a further inquiry is at the Council's discretion, there is guidance about the circumstances under which it may be necessary and there could be recourse to High Court challenge if interested parties considered that the Council has not complied with the statutory requirements.</p>	

3.3	There are particular concerns that objections may be made to a decision not to accept the inspector's recommendation on the grounds of inconsistency of approach, effectively using the objection as a lever to re-introduce other sites considered at the Inquiry back into the development plan process.	
3.4	<p>Development Control Considerations:</p> <p>It needs to be recognised that residential proposals for this site will not go away even if the site is allocated for an alternative use. The decisions of both the inspector undertaking the s.78 appeal in respect of the development of this site for flats and the inspector hearing the inquiry into the Borough Plan have accepted the principle of housing development on this site. Therefore it would be extremely difficult to resist any housing proposal that came forward in the future if the detail of the scheme was acceptable on planning grounds. Moreover there is a risk of costs being awarded against the Council if an appeal is allowed against refusal of planning permission and the refusal reasons cannot be substantiated.</p>	
<b>4.0</b>	<b><u>Consultations</u></b>	
4.1	The draft Borough Plan has been the subject of extensive consultation. Outstanding objections were considered by an independent inspector who has made recommendations to the Council. For the Council not to accept his recommendation in respect of one site could be perceived as calling into question his report as a whole, and undermine the value of independent scrutiny which was valued by those who made representations on the draft Plan.	
<b>5.0</b>	<b><u>Implications</u></b>	
5.1	Financial Implications: it is estimated that an unexpected cost of about £20,000 would be needed for a further local plan inquiry for this site. (This estimate does not take into account any other further objections requiring reconsideration which could escalate this cost).	
5.2	Human Rights Implications: the statutory development plan procedure seeks to protect human rights. The Council should be aware that inconsistency of approach in respect of development sites may have human rights implications.	
<b>6.0</b>	<b><u>Conclusion</u></b>	

6.1	This report has considered the implications of not accepting the inspector's recommendation in respect of land adjacent to the Langney Centre, Kingfisher Drive. Officers have a number of concerns about the implications of deleting this housing allocation and are unable to recommend a modification to the draft Plan in respect of this site.
Dinah Elliott  Local Plan Officer	
<p><b>Background Papers:</b></p> <p>The Background Papers used in compiling this report were as follows:</p> <p>Eastbourne Borough Plan 1998;</p> <p>First Deposit draft Eastbourne Borough Plan 2001-2011 (February 2001);</p> <p>"First Deposit of the Reviewed Borough Plan", report to Cabinet 10 January 2001;</p> <p>"Response to Public Consultation on First Deposit Draft", report to Cabinet 26 September 2001.</p> <p>To inspect or obtain copies of background papers please refer to the contact officer listed above.</p>	

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**Appendix A: Extract from the Inspector's Report into the draft Eastbourne Borough Plan 2001-2011.**

**Kingfisher Drive: Adjacent to Langney Shopping Centre**

**Objections**

86/5222, 87/5224, 90/5244, 92/5246, 93/5247, 106/5260, 107/5261, 109/5263, 112/5266, 115/5269, 116/5270, 117/5271, 119/5273, 122/5276, 124/5278, 125/5279, 126/5280, 127/5281, 128/5282, 129/5283, 130/5284, 131/5285, 132/5286, 134/5288, 136/5290, 138/5292, 141/5295, 144/5298, 145/5303, 146/5300, 147/5301, 149/5303, 152/5306, 188/5342, 189/5343, 191/5345, 195/5349, 196/5350, 197/5351, 198/5352, 199/5353, 202/5356, 203/5357, 202/5356, 203/5357, 204/5358, 205/5359, 207/5361, 209/5363, 210/5364, 213/5367, 214/5368, 220/5374, 223/5377, 224/5378, 225/5379, 226/5380, 229/5383, 231/5385, 232/5386, 233/5387, 234/5388, 236/5390, 238/5392, 239/5393, 240/5394, 241/5395, 242/5396, 351/5639, 359/5685, 380/5949.

**Summary of main objections**

- **Adverse noise and nuisance and loss of a quiet neighbourhood.**

- **Potential for crime and unsocial behaviour.**
- **Increased traffic congestion and road safety problems.**
- **Problems with parking and access to the church: all existing footpaths should be maintained.**
- **Risk of flooding and sewage problems**
- **Loss of privacy and overshadowing**
- **Loss of open space**
- **Flats would be too dominant and out of keeping with surrounding bungalow development: it would block out views of the church and shops**
- High density development would be inappropriate
- Development of sheltered housing would be more appropriate
- The site should be used for a health centre, community centre or library.

#### **Inspector's reasoning and conclusions**

6.1 The site is a relatively flat area of some 0.24 hectares of maintained grassland that lies immediately to the south of a high brick retaining wall that marks the boundary of the Langney shopping centre car park. To the west beyond a grass bank with railings is Kingfisher Drive with an estate of bungalows on the far side of the road. To the south is a slip road, known as Sandpiper Walk, leading to a small car park for St Barnabas United Church.

6.2 The existing residential development beyond the church is a mix of two-storey housing. The site is presently vacant but is designated in the adopted Borough Plan for a library and residential development. The site is allocated solely for residential use under this policy with a minimum estimated yield of 12 dwellings.

6.3 Most of the objectors, including the Sunbury Farm Residents Association, raise issues about the perceived consequences of development that would need to be carefully considered at the planning application stage rather than addressing the principle of land use allocation. This may have been largely motivated by the application for a development of 14 flats dismissed on appeal in January 2002, on the grounds of failing to respect the character and appearance of the area.

6.4 Looking at the principle of land use, the site is in a very sustainable location close to the district shopping centre with good public transport services. In my view, housing on the site would be compatible with the character of the area surrounding the Centre that is predominantly residential. The Council have prepared a

Concept Plan for the site in consultation with those responsible for the provision of infrastructure services.

6.5 The Council confirmed that the County Council do not intend to develop the site for a library and are looking instead to extend into an additional unit within the shopping centre when resources become available. The Health Authority Primary Care Group has stated that the Langney Centre does not feature in future plans for new developments to provide services in the area.

6.6 Councillor Tutt is concerned that developing the site for housing would eliminate the last remaining opportunity for a community facility within this area. He intends to challenge the view of the Health Authority but provides no evidence of a need in this specific location that could not be adequately provided from a health centre elsewhere in the locality.

6.7 The needs of the people on the Birds and Kent estates and the proportion of elderly people and young families are likely to be known by the Health Authority. Whilst I recognise the suitability of the site for community use as well as for housing, I find nothing to persuade me that the site should be reserved for community use for an unidentified facility at some time in the future.

6.8 The objectors are concerned that access for vehicles to St Barnabas Church and the use of footpaths would be impeded by development of the site. However, the County Highways Authority have no objections on grounds of highway safety and the concept plan shows how vehicular and pedestrian access would be provided for existing users and to provide access to the site for development. Access during construction would be a matter to be resolved the planning stage but there is no evidence of any insurmountable problems.

6.9 With regard to the risk of flooding, I note that there are no objections from the EA and the Council's Concept Plan shows a finished floor level for new development of 2.9m OD with garden levels at least 2.3m OD. This is in line with the requirements of Policy US3 in the Plan. I have dealt with the general concerns over the risk of flooding associated with development within the Willingdon Levels Catchment Area in response to objections to Policy US3. In these circumstances, I consider the requirements for surface water drainage for the site can be achieved without increasing the risk of flooding elsewhere in the surrounding area or within the catchment area as a whole.

6.10 Development of the site would result in the loss of a relatively small area of open space but I do not consider the loss would cause unacceptable harm. This area of land is not formally recognised as open space with public access and the Council say that it was not conceived as an area of open space in the original design for the Langney Centre. I am also aware that there is a public amenity area close by with attractive walks around a well- landscaped large pond.

6.11 Having regard to all these factors, I consider the site should remain allocated for housing in the Plan. The detailed concerns of objectors over the impact of any development on residential amenities would need to be considered under Policy H020. The question of the density and type of housing would also need to be considered at the planning stage.

6.12 However, I consider the Council's estimate of a minimum of 12 dwellings is realistic. I do not share the objectors' view that some form of bungalow development would be appropriate, given the proximity of the high boundary wall to the car park and its dominant impact on the site.

## **RECOMMENDATION**

I recommend no modification to the Plan in response to these objections.