



---

## SCRUTINY BOARD (REGENERATION)

---

Meeting to be held in the Civic Hall, Leeds on  
Tuesday, 28th February, 2012 at 10.00 am

A pre-meeting will take place for ALL Members of the Board  
in a Committee Room at 9.30 am

---

### MEMBERSHIP

#### Councillors

|                   |   |                                   |
|-------------------|---|-----------------------------------|
| B Atha            | - | Kirkstall;                        |
| D Collins         | - | Horsforth;                        |
| P Ewens           | - | Hyde Park and<br>Woodhouse;       |
| P Grahame         | - | Cross Gates and<br>Whinmoor;      |
| J Harper          | - | Armley;                           |
| G Hussain         | - | Roundhay;                         |
| M Iqbal           | - | City and Hunslet;                 |
| T Murray          | - | Garforth and<br>Swillington;      |
| J Procter (Chair) | - | Wetherby;                         |
| R Pryke           | - | Burmantofts and<br>Richmond Hill; |
| G Wilkinson       | - | Wetherby;                         |
| Mr G Hall         | - | Co-optee (Non-voting)             |

---

*Please note: Certain or all items on this agenda may be recorded*

---

**Agenda compiled by:**  
**Stuart Robinson**  
**Governance Services**  
**Civic Hall**  
**LEEDS LS1 1UR**  
**Tel: 24 74360**

**Principal Scrutiny Adviser:**  
**Richard Mills**  
**Tel: 24 74557**

# A G E N D A

| Item No | Ward/Equal Opportunities | Item Not Open |  | Page No |
|---------|--------------------------|---------------|--|---------|
| 1       |                          |               | <p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25* of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded).</p> <p>(* In accordance with Procedure Rule 25, notice of an appeal must be received in writing by the Head of Governance Services Officer at least 24 hours before the meeting).</p>  |         |
| 2       |                          |               | <p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p><b>RESOLVED –</b> That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p> <p><b>No exempt items or information have been identified on the agenda</b></p> |         |

3

### **LATE ITEMS**

To identify items which have been admitted to the agenda by the Chair for consideration.

(The special circumstances shall be specified in the minutes.)

4

### **DECLARATIONS OF INTEREST**

To declare any personal / prejudicial interests for the purpose of Section 81 (3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct.

5

### **APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

To receive any apologies for absence and notification of substitutes

6

### **MINUTES OF THE PREVIOUS MEETING**

1 - 10

To confirm as a correct record the minutes of the meeting held on 17<sup>th</sup> January 2012.

7

### **PROVISION OF ADDITIONAL INFORMATION REGARDING LEEDS KIRKGATE MARKET**

11 - 16

To consider a report of the Head of Scrutiny and Member Development on the provision of additional information regarding Leeds Kirkgate Market.

8

### **TOWN AND VILLAGE GREENS**

17 - 94

To consider a report of the Head of Scrutiny and Member Development on the process for the registration of land as town and village greens.

|    |  |   |           |
|----|--|---|-----------|
| 9  |  | <p><b>RECOMMENDATION TRACKING</b></p> <p>To consider a report of the Head of Scrutiny and Member Development on recommendation tracking which sets out the progress made in responding to the recommendations arising from the previous Scrutiny review of Housing Growth in Leeds.</p> | 95 - 144  |
| 10 |  | <p><b>FINAL DRAFT MINUTES - WORKING GROUP ON AFFORDABLE HOMES - 16TH JANUARY 2012</b></p> <p>To receive a copy of the final draft minutes of the Working Group on Affordable Homes held on 16<sup>th</sup> January 2012.</p>  | 145 - 148 |
| 11 |  | <p><b>WORK SCHEDULE</b></p> <p>To consider a report of the Head of Scrutiny and Member Development on the Board's work schedule for the remainder of the year.</p>  | 149 - 192 |
| 12 |  | <p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>Tuesday 27<sup>th</sup> March 2012 at 10.00am in the Civic Hall, Leeds (Pre meeting for Board Members at 9.30am).</p>  |           |

# Agenda Item 6

## SCRUTINY BOARD (REGENERATION)

TUESDAY, 17TH JANUARY, 2012

**PRESENT:** Councillor J Procter in the Chair

Councillors B Atha, D Collins, P Grahame,  
R Grahame, J Harper, T Murray and  
R Pryke

Mr G Hall – Co-opted Members

### **62 Chair's Opening Remarks**

The Chair welcomed everyone to the January meeting of the Scrutiny Board (Regeneration).

### **63 Late Items**

The Chair agreed to accept a late item of business in relation to a report on the process for the registration of land as town and village greens (Agenda Item 9) (Minute 69 refers).

The report was not available at the time of the agenda despatch due to a delay in the report clearance process.

In addition to the above document, a copy of the Consultant's report entitled 'Investment and Modernisation Strategy for Leeds Kirkgate Market – December 2011' prepared by Quarterbridge Project Management Ltd was circulated for the information/comment of the meeting (Agenda Item 7 (a)) (Minute 68 refers). The Consultant's report was not circulated with the agenda as it had not been released as a public document at the time the agenda for today's meeting had been despatched.

It was noted that copies of the above documents had been made available on the Council's website immediately on receipt and prior to today's meeting.

### **64 Declarations of Interest**

The following personal declarations of interest were made:-

- Councillor R Grahame in his capacity as a member of GMBATU trade union and as a Director of East North East Homes ALMO (Agenda Item 8) (Minute 70 refers)
- Councillor B Atha in his capacity as ward member for Kirkstall in supporting residents who wish to register land as a new town or village green under the provisions of Section 15 of the Commons Registration Act 2006. (Agenda Item 9) (Minute 69 refers)

**65 Apologies for Absence and Notification of Substitutes**

Apologies for absence were received on behalf of Councillors P Ewen, G Hussain, M Iqbal, K Mitchell and G Wilkinson.

Notification had been received for Councillor P Grahame to substitute for Councillor K Mitchell and for Councillor R Grahame to substitute for Councillor G Hussain.

**66 Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of the meeting held on 19<sup>th</sup> December 2011 be confirmed as a correct record.

**67 Matters Arising from the Minutes**

a) Review of Strategic Housing Land Availability Assessment (SHLAA) (Minute 58 refers)

Mr G Hall informed the meeting that a copy of the 2011 Leeds Strategic Housing Land Availability Assessment update was now available on the Council's website with parts 1, 2 and 3 of the 2011 report.

At the request of the Chair, the Board's Principal Scrutiny Adviser agreed to e mail the Board with a link to the website on this issue.

**68 Kirkgate Market Issues**

a) Consultation Report on the Future of Kirkgate Market

Referring to Minute 47 of the Scrutiny Board (Regeneration) meeting held on 29<sup>th</sup> November 2011, the Head of Scrutiny and Member Development submitted a report on the availability of the Consultant's report on the future of Kirkgate Market.

The Chair reported that as a consequence of his discussions with the Executive Board Member for Development and the Economy, the Consultant's final report entitled 'Investment and Modernisation Strategy for Leeds Kirkgate Market – December 2011' which had been prepared by Quarterbridge Project Management Ltd had been released as a public document and circulated as supplementary information for discussion at today's meeting. This was in advance of the Executive Board meeting which was to consider this matter on 10<sup>th</sup> February 2012.

The following representatives were in attendance and responded to Members' queries and comments:-

- David Outram, Chief Officer, Public Private Partnership Unit, Resources
- Craig Taylor, Public Private Partnership Unit, Resources
- Cath Follin, Head of City Centre and Markets, City Development
- Sue Burgess, Manager, Leeds Markets, City Development
- Councillor G Harper, Lead Member, Development and the Economy

- Liz Laughton, Chair of National Markets Traders' Federation (NMTF) Leeds (Kirkgate Branch)
- Michele Hocken, National Market Traders' Federation (NMTF) (Kirkgate Branch)
- Simon Jones, Consultant, Leeds Markets (Kirkgate Branch)

The Chair outlined that the purpose of the meeting was now for the Board Members to comment on the Consultant's final report and to make any recommendations or observations prior to it being considered at the Executive Board meeting on 10<sup>th</sup> February 2012. The Chair made it clear to the market traders that the Council had not formulated any position at this stage on any of the Consultant's proposals.

The Chair invited David Outram, Chief Officer, Public Private Partnership Unit, Resources Directorate as Chair of the Project Board to provide the meeting with background information on the Consultant's report with specific reference to the sections relating to the Client brief; Executive summary and action list; size of the future market and the options available.

In summary, the Board made reference to the following issues:-

- clarification as to the terms of reference and brief provided to the Consultant's by the Directorate
- concern that Members thought that the Executive Board had wanted the Consultant to come forward with a range of options for the future management and operation of the market not as a single option based on a Limited Liability Partnership
- support for the Council retaining ownership of Kirkgate market and for it being run as an arms length company along the same lines as the Grand Theatre Board of Management, ALMOs or the Leeds Arena
- concern at the proposal to grant a 99 year lease to the Limited Liability Partnership with the possibility of extending this for a further period
- clarification of the Limited Liability Partnership and the role of Elected Members within this process
- clarification of the scheme and funding criteria

At the request of the Chair, the Board adjourned discussions of this item at 10.40am in order to discuss the item regarding the process for the registration of land as town and village greens.

The Board reconvened discussions of this item at 11.05am and the Chair invited further comments from Board Members.

In summary, the Board made reference to a number of further issues including:-

- clarification of paragraphs e.12 (contingent liabilities) and g.23 (modernisation works) and whether the traders were in agreement with the views of the Consultant
- clarification of the availability of a contingency plan i.e. removal of asbestos etc
- the need to consider all management options
- the potential loss of income to the Council if a Limited Liability Partnership was progressed
- whether or not market traders would have a say on where they were relocated
- the importance of traders having a say in all management issues in view of their continuing investment in the market

The Chair then invited Liz Laughton, Michelle Hocken and Simon Jones to present their initial views on the contents of the Consultant's report.

In their submission, the Board specifically noted the following major concerns and omissions:-

- no impact assessment had taken place
- no social impact study had taken place
- no advice had been sought from NABMA

In addition to the above comments, Simon Jones reported on the outcome of his initial findings in relation to the Consultant's report. He made specific reference to the following issues:-

- tenants reselection process and traders being offered new contracts
- disruption to trade and subsequent relocation of tenants
- concerns expressed about the Consultant's report being released to the press which refers to eviction notices and the upset this had caused in the market  
*(The Chair responded and confirmed that it was in the best interests of the Council and all parties concerned for the report to be released in full and without further delay or censorship to ensure transparency of process)*
- outcome of discussions following a recent meeting between the Consultant and market traders

In concluding, the market traders expressed their grave concerns about the Consultant's report in developing the future vision of Kirkgate Market and requested the Board to recommend to the Executive Board at their meeting on 10<sup>th</sup> February 2012 that this issue be deferred to enable further discussions to be undertaken between interested parties.

The Chair summarised and proposed a number of observations being made to the Executive Board on 10<sup>th</sup> February 2012 and on being put to the Board it was



## **RESOLVED –**

- a) That the contents of the report, together with the receipt of the Consultant's report on the future of Kirkgate Market be received and noted.
- b) That arising from detailed discussions undertaken at the meeting, this Board conveys the following observations to Executive Board prior to consideration of the Director of City Development's report on the Consultant's report at their meeting on 10<sup>th</sup> February 2012:-

(i) The Board considered whether the report of the Consultant's Quarterbridge Project Management Ltd complies with the Executive Board brief and intentions. Members concluded that the Consultant's report does not meet the brief as it does not consider a range of management models, but concentrates only on that of a Limited Liability Partnership which according to the Consultant's report will be supported by potential investors, preserve the Council's tax position and ensure speed of establishment. Members thought that in accordance with the resolution of the Executive Board meeting on 27<sup>th</sup> July 2011 it was looking to consider a range of options for the management of Kirkgate Market.

(ii) Members of the Scrutiny Board (Regeneration) had a number of concerns and issues regarding ownership and operation of Kirkgate Market:-

- The Scrutiny Board does not believe that a lease to a Limited Liability Partnership of 99 years with an option to extend for a further 25 years was in the best interests of the Council. The Members were concerned that the Council could be replicating the mistakes made with that of the Corn Exchange
- The proposals in the Consultant's report had serious implications for traders. The report states that their proposals will require a tenant reselection process. Re-selected tenants would be offered an agreement for lease in return for surrendering their existing agreements and at the same time may be allocated new positions in the market to improve use-zoning and sightlines. A note of a meeting traders had with the Consultants on 21<sup>st</sup> November 2011 to be submitted to the Executive Board
- Referring to paragraphs e.11 and e.12 of the Consultant's report, Scrutiny Board was concerned that the Council should not simply hand over assets to a body which wants to be autonomous from democratic control
- The Consultant's report states that modernisation works referred to in paragraph g.23 were still too early to define, but Members had concerns about the costs of including tensile canopy roofs for the

open market which it was proposed to be relocated on to the 1976 site once it was demolished

- (iii) Members referring to paragraph h.3 consider that there were options (for example an arms length company) available to the Council to increase capital injection without supporting a Limited Liability Partnership and Executive Board should consider further the options available to it in this regard.
- (iv) Paragraph h.4 states that investors will be looking to reduce service charge costs and increase rents. The Scrutiny Board believes this could be achieved without entering a Limited Liability Partnership.
- (v) The consultant's report states that it has taken legal advice from the same law firm which was acting on behalf of adjacent developers. Members want assurances that there was not a serious conflict of interest as a consequence.

(Councillor P Grahame joined the meeting at 10.25am during discussions of the above item)

- b) Provision of additional information regarding Leeds Kirkgate Market  
Referring to Minute 47 of the Scrutiny Board (Regeneration) meeting held on 29<sup>th</sup> November 2011, the Head of Scrutiny and Member Development submitted a report on additional information regarding Kirkgate Market.

The following representatives were in attendance and responded to Members' queries and comments:-

- Cath Follin, Head of City Centre and Markets, City Development
- Sue Burgess, Manager, Leeds Markets, City Development

**RESOLVED** –That the contents of the report be noted.

- 69 The Process for the Registration of Land as Town and Village Greens**  
Referring to Minute 60 of the meeting held on 19<sup>th</sup> December 2011, the City Solicitor submitted a report on the process for the registration of land as town and village greens.

The following representatives were in attendance and responded to Board Members' queries and comments:-

- Caroline Allen, Head of Development and Regulatory, Legal Services
- Joel Levine, Legal Officer, Legal Services

Prior to discussing this item, the Board noted that at the next meeting in February there was an intention to bring a further report on the issue looking at specific case studies.

In summary, specific reference was made to the following issues:-

- clarification of the legal fees incurred in relation to three specific applications within the Kirkstall ward and the importance of retaining a clear divide between the Council's role as Commons Registration Authority for town and village greens and the City Development Directorate's role as land owner  
*(The City Solicitor responded and outlined the costs incurred to date)*
- reference was made to the fact that the City Development Directorate was opposing these three applications and clarification was sought as to whether there was any downside in the Directorate withdrawing their objections and allowing the three applications to proceed and for the applicants to present their case to the appropriate plans panel  
*(The City Solicitor responded and stated that this would be addressed in the joint report coming before the Board in February 2012)*
- clarification of the process in relation to objections received from landowners and whether there were any previous examples available

Following discussions, Councillor B Atha requested that the Board invite the Chief Officer and appropriate Executive Board Member for City Development to attend a future meeting to explain why they had rejected this Board's proposal to submit a late response to Defra based on a submission made by the Open Space Society.

Councillor Atha then proposed that the Board consider approving the following recommendations:-

- that the City Development Directorate withdraw its opposition to the three specific applications within the Kirkstall ward to allow the residents to make the case or not to the appropriate Plans Panel
- that it would be unnecessary to engage legal advisers to assist the Plans Panel in considering these three applications when they came before Panel for determination

**RESOLVED –**

- a) That the contents of the report be noted.
- b) That consideration of the above recommendations be deferred pending submission of a joint report on this issue to its February meeting to include the City Development Directorate's specific reasons for its opposition to the three specific applications within the Kirkstall ward to enable the Board to take an informed view.
- c) That the joint report include details of other sites where applications are outstanding for Town and Village Green status.
- d) That the joint report outline alternative methods for protecting and preserving green space.

(Councillor J Harper left the meeting at 10.40am during discussions of the above item)

(Councillor B Atha left the meeting at 10.50am during discussions of the above item)

## **70 Financial Health Monitoring for City Development Directorate**

The Head of Scrutiny and Member Development submitted a report on the financial health monitoring for the City Development Directorate.

Appended to the report were copies of the following documents for the information/comment of the meeting:-

- Report of the Director of Resources – Initial Budget Proposals – Executive Board – 14<sup>th</sup> December 2011
- City Development Directorate: 2011/12 Budget – Period 7 Report
- Report of the Director of Resources – Financial Health Monitoring 2011/12 – Month 8

The following representatives were in attendance and responded to Members' queries and comments:-

- Ed Mylan, Chief Officer, Resources and Strategy, City Development
- Simon Criddle, Head of Finance, City Development

In summary, specific reference was made to the following issues:-

- clarification if additional advertising on litter bins, street furniture etc had been exhausted by the department  
*(The Chief Officer, Resources and Strategy responded and informed the meeting that this issue had not been ruled out during 2012/13)*
- clarification as to whether the implications of the Localism Bill had been taken into consideration
- the need to focus on the continuation of ongoing areas of work around Neighbourhood planning, the Community Infrastructure Levy, the decline in income from planning applications and car parks
- the number of major schemes being implemented by the Directorate and whether they would be completed on time
- clarification of the other budget pressures in relation to the Olympics, Joint Service Centre costs, reduction in Arts Grants and fees and income in Highways with particular reference to bus lane cameras

### **RESOLVED –**

- a) That the contents of the report and appendices be noted.
- b) That this Board notes the projected financial position of the City Development's Directorate after eight months of the financial year 2011/12 and the initial budget proposals for 2012/13, together with the budget details of Environment and Neighbourhoods which were relevant to this Board's responsibilities.
- c) That the Board's Principal Scrutiny Adviser be requested to follow up the two separate issues raised by Councillor R Grahame in relation to the number of externally provided residential and fostering placements

in Children's Services and on the required savings in council tax benefits of £5.6m arising from Welfare Reform.

(Councillor P Grahame left the meeting at 12.45pm during discussions of the above item)

**71 Work Schedule**

The Head of Scrutiny and Member Development submitted a report providing Members with a copy of the Board's current draft work schedule. The Executive Board minutes of 4<sup>th</sup> January 2012, together with the Forward Plan of Key Decisions for the period 1<sup>st</sup> January 2012 to 30<sup>th</sup> April 2012 were also attached to the report.

**RESOLVED-**

- a) That the contents of the report and appendices be noted.
- b) That the Executive Board minutes of 4<sup>th</sup> January 2012, together with the Forward Plan of Key Decisions for the period 1<sup>st</sup> January 2012 to 30<sup>th</sup> April 2012 be noted.
- c) That the Board's Principal Scrutiny Adviser be requested to revise the work schedule to incorporate the recommendations made at today's Board meeting.

**72 Date and Time of Next Meeting**

Tuesday 28<sup>th</sup> February 2012 at 10.00am in the Civic Hall, Leeds (Pre-meeting for Board Members at 9.30am)

(The meeting concluded at 12.50pm)

This page is intentionally left blank

## Report of Head of Scrutiny and Member Development

### Report to Scrutiny Board (Regeneration)

Date: 28<sup>th</sup> February 2012

### Subject: Provision of additional information regarding Leeds Kirkgate Market

|  |                              |  |
|--|------------------------------|--|
| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

### Introduction

1. At the last Board meeting the attached report of the Director of City Development providing additional information regarding Kirkgate Market was noted but not discussed due to the pressure of other business on the agenda.
2. The Chair has requested that this matter be discussed fully at today's meeting to give Members a proper opportunity to question and comment on the information the Board had requested on lettings issues in Kirkgate market.

### Recommendations

3. Members are asked to comment on the Director of City Development's report and to consider what, if any, further scrutiny the Board wishes to undertake on this matter.

### Background documents

4. None used

This page is intentionally left blank



**Report of the Director of City Development**

**Report to Scrutiny Board (Regeneration)**

**Date: 17<sup>th</sup> January 2012**

**Subject: Provision of additional information regarding Leeds Kirkgate Market**

|  |                              |  |
|--|------------------------------|--|
| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

**Summary of main issues**

1. At its meeting on 29<sup>th</sup> November 2011 Scrutiny Board asked for further information on the following points:
  - i) The impact vacant stalls have on the service charges applied to stallholders.  
There is no impact.
  - ii) The total annual estimated loss of income from the 78 vacant units submitted to the Board. The lost income is £709.8k per annum.
  - iii) Confirmation that the list of vacant stalls submitted to the Board was accurate. It was.

**Recommendations**

Members are asked to note the additional information provided.

**1 Purpose of this report**

- 1.1 This report provides further information on three queries raised by Scrutiny Board at its meeting on 29<sup>th</sup> November 2012.

**2 Background information**

- 2.1 Following the provision of additional information on lettings requested by Scrutiny Board, the Board requested further additional information at its meeting on 29<sup>th</sup> November on:
- i) the affect vacant stalls have on the service charges applied to stallholders;
  - ii) the total estimated loss of income from vacant units listed in the appendix submitted to the Board;
  - iii) the number of vacant stalls. Reference was made at the meeting on 29<sup>th</sup> November to a list of vacant stalls which had been provided to market traders by the Market Information Office which differed from the list provided to the Board. Confirmation was sought as to which list was accurate.

### **3 Main issues**

- 3.1 **The impact vacant stalls have on the service charges applied to stallholders.** The number of vacant units does not impact on the service charge that tenants pay. Once the costs for running the Market have been finalised they are divided by the total lettable space to give a rate per square foot. The tenants are then charged at that rate multiplied by the size of their stall. For example over the last two years the vacancy rates for the end of March for each of these years were:
- 2009/10 – 12.35%
  - 2010/11 – 13.29%
- but the service charge remained the same.
- 3.2 **Loss of income from the empty units.** The annual loss of income from the 78 vacant units is £709.8k; this is a combination of lost rent and service charge.
- 3.3 **The number of vacant stalls.** Reference was made at the meeting on 29<sup>th</sup> November 2011 to a list of vacant stalls which had been released to the market traders which differed from the list provided to the Board and confirmation was sought as to which list was accurate. Both lists were correct – the list to Scrutiny was prepared three or four weeks before the meeting in order to go through the clearance of papers. The list provided to the tenants by the information centre was more recent. Members should also note that there are often more stalls that appear to be vacant than are advertised in the information centre as immediately available. This may be because there are outstanding works required in them, or they are being let for storage or a tenant has ceased trading but their notice period has not yet expired.

### **4 Corporate Considerations**

#### **4.1 Consultation and Engagement**

- 4.1.1 Not applicable – provision of further information only.

#### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 No implications

### **4.3 Council Policies and City Priorities**

4.3.1 No implications

### **4.4 Resources and Value for Money**

4.4.1 The information provided highlights the loss of potential income from vacant stalls.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The report refers, although not in detail, to confidential information provided to the Scrutiny Board at the meeting on 31<sup>st</sup> October 2011 under Access to Information Procedure 10.4 (3).

### **4.6 Risk Management**

4.6.1 Not applicable

## **5 Conclusions**

5.1 The information provided addresses the outstanding queries from Elected Members at the meeting of Scrutiny Board (Regeneration) on 29<sup>th</sup> November 2011 relating to the number of vacant units, the impact on the service charge and income revenue.

## **6 Recommendations**

6.1 Members are recommended to note the information provided.

## **7 Background documents**

7.1 Kirkgate Indoor Market Lettings Policy and Process.

This page is intentionally left blank

**Report of Head of Scrutiny and Member Development**

**Report to Scrutiny Board (Regeneration)**

**Date: 28<sup>th</sup> February 2012**

**Subject: Town and Village Greens**

|  |   |
|--|---|
| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

**1.0 Introduction and Background**

1.1 At the last Board meeting Members considered the attached report of the City Solicitor Detailing the process for the registration of land as town and village greens.

1.2 Reference was made to the fact that the City Development Directorate was opposing three applications in Kirkstall Ward and clarification was sought as to whether there was any downside in the Directorate withdrawing their objections and allowing the three applications to proceed and for the applicants to present their case to the appropriate Development Plans Panel.

1.3 Following discussions, Councillor B Atha requested that the Board invite the Chief Officer and appropriate Executive Board Member to attend a future meeting to explain why they had rejected this Board's proposal to submit a late response to Defra based on a submission made by the Open Space Society.

1.4 Councillor Atha then proposed that the Board consider approving the following recommendations:-

- that the City Development Directorate withdraw its opposition to the three specific applications within the Kirkstall ward to allow the residents to make the case or not to the appropriate Development Plans Panel
- that legal services cease the engagement of an outside lawyer in respect of these three applications in order to save costs

1.5 The Board was advised to seek a further joint report from the City Solicitor and

Director of City Development on this issue before making any specific recommendations.

- 1.6 Members subsequently deferred consideration of this matter pending the submission of a joint report on this issue at today's meeting and requested that this include the City Development Directorate's specific reasons for its opposition to the three applications within the Kirkstall ward to enable the Board to take an informed view. Members also requested that the joint report include details of other sites where applications are outstanding for Town and Village Green status.

## **2.0 Joint Report of the City Solicitor and Director of City Development**

- 2.1 The joint report of the City Solicitor and Director of City Development on this matter is attached for the consideration of the Board.

## **3.0 Recommendations**

- 3.1 The Board is asked to comment on the joint report of the City Solicitor and Director of City Development and determine on the evidence presented to it what, if any, recommendations the Board wishes to make to the Executive Board on this issue.

## **4.0 Background documents**

- 4.1 None used

**Report of** the City Solicitor

**Report to** Scrutiny Board (Regeneration)

**Date:** 17 January 2012

**Subject:** The process for the registration of land as town and village greens

|  |                              |  |
|--|------------------------------|--|
| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

### Summary of main issues

1. Section 15 of the Commons Act 2006 sets out the statutory criteria that must be satisfied in order for a village green application to be successful.
2. The function of determining village green applications lies with the Council as Commons Registration Authority, and where there are objections to an application the decision is taken by the relevant Plans Panel. The function is a quasi-judicial one and the determination of applications must be made strictly on the evidence and cannot be based on what the decision maker considers to be the best outcome.
3. There is no prescribed statutory procedure setting out the method by which such applications must be determined, but it is essential that applications are dealt with in a manner that complies with the rules of natural justice.

### Recommendations

4. Members are asked to note the contents of this background report, and to advise officers of any specific matters that they wish to see addressed in the forthcoming report to the February Scrutiny Board.

## **1 Purpose of this report**

- 1.1 This Board has indicated that it wishes to scrutinise the way in which the Council currently handles village green applications from receipt to determination, and as part of this review the Board has asked to review one or more case studies relating to previously determined applications.
- 1.2 This report is intended to serve as a background paper which outlines both the statutory provisions under which village green applications must be assessed and the current practice of the Council in handling village green applications.
- 1.3 It is intended to bring a further report to the February meeting of this Board which will examine one or more case studies in respect of previously determined applications. Members are also asked to consider whether there are any other matters which they wish to see addressed in that report.

## **2 Background information**

- 2.1 Section 15 (1) of the Commons Act 2006 provides that:

Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2) (3) or (4) applies

Applications will ordinarily be made under the provisions of Section 15(2) of the Act

This subsection applies where—

- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years, and
- (b) they continue to do so at the time of the application

- 2.2 It is also possible for applications to be made under either

- i) Section 15(3) where a minimum 20 year period of use ceased before the time of the application but after 6 April 2007 and the application is made within 2 years of the date that the use came to an end, or
- ii) Section 15(4) where a minimum 20 year period of use ceased before 6 April 2007 and the application is made within 5 years of the date that the use came to an end

- 2.3 Each of the criteria set out in Section 15(2) must be satisfied in order for a village green application to be successful. The criteria are considered in more detail below:

- 2.3.1 **Use by a significant number of inhabitants of the locality or neighbourhood within a locality**



An application may either relate to use by a significant number of inhabitants of a 'locality' or alternatively of a 'neighbourhood within a locality'.

A locality has to be an area known to law. It can be an administrative area of a city or borough, a ward, a parish (either administrative or ecclesiastical) or even an ancient manor.

A neighbourhood is an area with a sufficient degree of cohesiveness and that requirement for cohesiveness is not simply satisfied by drawing a line on a plan.

The registration authority has to be satisfied that the claimed user had been by the inhabitants of an area that could be properly described as a "locality" or "neighbourhood within a locality". Whilst it is not necessary to show user exclusively by the inhabitants of the locality or neighbourhood within a locality that use must be predominantly by local inhabitants.

The question of 'significant number' has been held to be a matter of impression. In *R (Alfred McAlpine Homes Limited v Staffordshire County Council (2002))* it was said that the number need not be considerable or substantial, but was a matter of impression for the decision-maker on the evidence and what mattered was that the numbers involved had to be sufficient to indicate that it is general use by local people rather than occasional use by individuals as trespassers.

### **2.3.2 Use of the application site as of right**

The activities undertaken on the land must have taken place; without resort to force; without secrecy; and without any express or implied licence or permission from the landowner. The use must be "as of right" meaning that the right has become established by the use of the land, as opposed to "by right" where rights to use the land have been granted by the landowner.

### **2.3.3 Use of the application site for lawful sports and pastimes**

The 2006 Act contains no definition of the phrase "lawful sports and pastimes" but in order to pass the test for registration purposes it may be reasonable to presume that the "sports and pastimes" must be (i) lawful; (ii) definite; (iii) and engaged in by more than isolated individuals.

The House of Lords, in *R-v-Oxfordshire County Council ex parte Sunningwell Parish Council (1999)*, rejected the argument that the sports and pastimes need to be communal, or include formal sports or organised events, in order to justify registration. Informal modern activities such as dog walking and playing with children are said to be as relevant for this purpose as traditional ones such as maypole dancing. So long as evidence is available of a clear pattern of recreational use by local inhabitants it does not matter what types of lawful sports and pastimes are indulged in by the inhabitants.

### **2.3.4 Use of the application site over a period of 20 years**

An application would need to be accompanied by witness statements evidencing that use of the application site (of a nature that meets the various tests referred to above) has taken place for a period in excess of 20 years

### **2.3.5 Continuing Use**

For the purpose of Section 15(2) (b) witness statements accompanying the application would also need to confirm that the use of the application site continued to take place at the date of the application. In this regard, use is considered to continue if permission to use the land is given by a landowner in circumstances where 20 or more years use “as of right” has already taken place.

## **3 Main issues**

- 3.1 The determination of an application to register land as a new a town or village green involves the taking of a quasi-judicial decision. The decision maker cannot make its decision based on what it thinks would be the best outcome, but must base its decision strictly on the evidence and take into account only the material considerations and ignore all irrelevant matters. It is a complex area of law which is demonstrated by the number of cases which have reached the House of Lords (now the Supreme Court) over recent years.
- 3.2 There is no set method by which an application has to be determined; the legislation is silent as to the procedure to be followed for the determination of applications. However, it is essential that application are dealt with in a manner that complies with the rules of natural justice and that evidence relating to an application is properly tested prior to the taking of any decision. Where an application is contentious in nature and the evidence requires testing, some form of oral hearing will in practice be necessary. Many authorities, including Leeds, will appoint an independent inspector to hold a non-statutory inquiry to test the evidence and report back to the decision making body.
- 3.3 Whilst all decisions made by the Council are susceptible to legal challenge, decisions concerning village green applications may be more so in view of the imprecise nature of certain elements of the statutory test referred to above.

## **4. Current Practice for Processing Village Green Applications**

- 4.1 Applications to register land as a new town or village green under the provisions of Section 15 of the Commons Registration Act 2006 are submitted to and administered by the Council in its statutory role as Commons Registration Authority.
- 4.2 Legal Services and Planning Services currently administer applications received in this capacity in accordance with the following procedure.
- 4.3 Following receipt of an application, officers within Legal Services carry out an initial high level review as to whether the content of the application together with any supporting documentation is sufficient on the face of it to justify proceeding further.

- 4.4 This process involves checking that the application form has been completed and signed correctly in accordance with statutory requirements and assessing whether in general terms sufficient information and supporting evidence appear to have been provided.
- 4.5 At this preliminary stage no conclusive decision is taken as to whether the above criteria have been met. If it is considered, however, that there is sufficient evidence to make out an arguable case that the statutory tests have been met, authorisation will then be sought from the Chief Planning Officer to formally advertise the application.
- 4.6 If little or no evidence in relation to the use of the land has been provided by way of witness statements, or there are any discrepancies the applicant will be requested to provide further information. If such information is not forthcoming, Legal Services will consult with the Chief Planning Officer with a view to rejecting the application.
- 4.7 Assuming the application is taken forward; notice of the application is posted on site and advertised in the Yorkshire Post or other local newspaper. This notice must give a minimum period of 6 weeks for the making of objections or other representations in support of the Order and gives detail of where the full application can be viewed.
- 4.8 A copy of the full application is also sent to the owner of the land and any other party holding an interest. In addition the Chief Planning Officer and Members for the Ward within which the land is located will be notified. In the event that the land is partially or fully owned by the Council a full copy of the application and accompanying documentation will also be sent to the Director of the owning Department, the Director of City Development and the Chief Planning Officer.
- 4.9 Following the expiration of the objection period, any objections received are forwarded to the applicant for comment. Any comments from the applicant in this regard are in turn forwarded to the objectors for consideration. This process is repeated as necessary until neither party has any further new material comments to make.
- 4.10 In circumstances where there are no objections received to such an application, then, in accordance with the current scheme of delegation the application can be determined by the Chief Planning Officer. Where there are objections however, then the application must be reported to the relevant Plans Panel for determination. Current practice is to obtain a decision from the Plans Panel in the first instance as to the procedure that should be followed in order to determine the application.
- 4.11 Where there is conflicting evidence in respect of one or more of the criteria that must be satisfied, then, the Panel are generally recommended to approve the holding of a non statutory public inquiry chaired by an independent Inspector, to examine the evidence submitted by the parties, and to prepare a report and recommendation for the Plans Panel's consideration.

- 4.12 The report looking at case studies to be prepared for the next Board meeting will provide more detail about how this aspect of the process has operated in practice. The length of such inquiries does depend generally upon the extent of conflicting evidence and also the amount of evidence and number of witness statements submitted.
- 4.13 Whatever the mechanism for considering the evidence, the decision itself remains with the Plans Panel to either grant or reject the application.
- 4.14 Once the application has finally been determined by Plans Panel, all interested parties will be notified of the decision. If the application has been accepted the Register of Town and Village Greens will be amended accordingly.

## **5 Corporate Considerations**

### **5.1 Consultation and Engagement**

- 5.1.1 None

### **5.2 Equality and Diversity / Cohesion and Integration**

- 5.2.1 No implications

### **5.3 Council policies and City Priorities**

- 5.3.1 This background report has no direct implications for any council policies or city priorities

### **5.4 Resources and value for money**

- 5.4.1 None

### **5.5 Legal Implications, Access to Information and Call In**

- 5.5.1 None

### **5.6 Risk Management**

- 5.6.1 No issues arise from this background report

## **6 Conclusions**

- 6.1 This report is a background paper provided in advance of a report to the February Board which will look in more detail at one or more example case studies of previous applications determined by the Council.

## **7 Recommendations**

- 7.1 Members are asked to note the contents of this background report, and to advise officers of any specific matters that they wish to see addressed in the forthcoming report to the February Scrutiny Board.

**8 Background documents**

8.1 None

This page is intentionally left blank

**Report of** the City Solicitor and the Director of City Development

**Report to** Scrutiny Board (Regeneration)

**Date:** 28 February 2012

**Subject:** The process for the registration of land as town and village greens

|  |   |  |
|--|---|--|
| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):Kirkstall and Weetwood   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| Are there implications for equality and diversity and cohesion and integration?  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In?  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |

### Summary of main issues

1. The function of determining village green applications lies with the Council as Commons Registration Authority, and Section 15 of the Commons Act 2006 sets out the statutory criteria that must be satisfied in order for a village green application to be successful.
2. Where the land in question is in the ownership of the Council then it also has a different and distinct role and responsibility as landowner. In particular, where the land comprises playing fields or green spaces currently managed by the Council's Parks and Countryside service the potential registration of this land as town or village green may have implications for the broader public use and management of that land.
3. Where there is a dispute as to the facts supporting an application and therefore as to whether the statutory test has been made out, this should be tested through an inquiry process involving oral evidence and cross examination. The rules of natural justice oblige the Council to undertake a fair hearing and to ensure that all the relevant evidence is before the decision maker. It follows that where the Council as landowner has relevant material and evidence that should be before the decision maker as it would if presented by a third party landowner.

4. This approach is relevant to the three as yet undetermined village green applications relating to the Butcher Hill and West Park playing fields and land at Old Farm Drive.

## **Recommendations**

Members are asked to note the contents of this report, and to comment as appropriate on the current arrangements that the Council has for determining town and village green applications

### **1 Purpose of this report**

- 1.1 At its meeting on 19 December 2011 Scrutiny Board requested a report on the Council's process for dealing with applications for the registration of land as town and village greens. A background report was presented to the Board at its meeting on 17 January 2012 setting out the legislative context and outlining the current procedure the Council follows for considering such applications.
- 1.2 This report builds on the previous report and considers the current procedures in more detail with a particular focus on the different roles of the Council where it is both the Commons Registration Authority and landowner for land which is the subject of a town or village green application, and how it manages these two different functions in parallel. As specifically requested by the Board, this report touches on the role of the Council as landowner in respect of three current applications within the Kirkstall and Weetwood wards. It assesses the role of the Council as landowner as part of the decision making process, considers what this adds to the process and the potential implications that would flow if the landowner did not play an active part in the decision making proceedings. This is considered in respect of the process of determining the applications. Given the fact that these applications are currently undetermined, it would not be appropriate to attempt to review the evidence that might be put forward as part of that process as to do so could prejudice the requirement for a fair hearing in due course.
- 1.3 In order to provide an overall picture, this report also provides information about the number of village green applications received since 2004 and looks at a case study of an application previously considered. At the request of the Board, it also outlines alternative measures for protecting and preserving greenspace.

### **2 Background information**

- 2.1 Section 15 of the Commons Act 2006 provides that any person may apply to have land registered as a town or village green where a significant number of inhabitants of a locality or neighbourhood have, for a period of at least twenty years, indulged 'as of right' (i.e. without permission, force or secrecy) in lawful sports and pastimes (which would include activities such as dog walking, informal games and community events such as fetes and flower shows).



- 2.2 The determination of an application to register land as a new town or village green involves the taking of a quasi-judicial decision. The decision maker cannot make its decision based on what it thinks would be the best outcome, but must base its decision strictly on the evidence and take into account only the material considerations and ignore all irrelevant matters. It is a complex area of law which is demonstrated by the number of cases which have reached the House of Lords (now the Supreme Court) over recent years.
- 2.3 As outlined in the previous report to the Board, there is no fixed procedure for determining applications to register Town or Village Greens. However, where the evidence is in dispute, or where for example, the Council has more than one role (i.e. as landowner and commons registration authority) it is particularly important to demonstrate that the Council has considered the application in an impartial, transparent and independent way. Therefore, there is considerable merit in holding a public hearing or inquiry. A public hearing is not the same as a public meeting and the purpose of the hearing is to enable a proper airing of the evidence both for and against the application, and for the parties to put forward their views as to what conclusions should be drawn from the totality of the evidence.
- 2.4 Such an inquiry/hearing can either be conducted by an inspector (in practice often a barrister specialising in this area of law) which is the current practice at the Council or alternatively the Plans Panel itself could potentially fulfil this role (as Plans Panel West has indicated it wishes to do in respect of the three applications at Butcher Hill playing fields, West Park playing fields and land off Old Farm Drive). The inquiry process requires an appropriate degree of procedural discretion to ensure all parties have a fair hearing taking into account principles of natural justice, administrative law and human rights (to the extent that they are engaged). It is inevitable that the inquiry process involves the hearing of live evidence not just an examination of written statements and the challenge of that evidence through cross examination and through questions from the 'inspector'. The key principles are therefore fairness, openness and impartiality.
- 2.5 Prior to the Plans Panel taking on the role of the 'inspector' there is a considerable amount of information that it must become familiar with in addition to the relevant statutory test and the case law that accompanies it. Officers will be recommending to the Plans Panel that before Members hold the three inquiries they first instruct officers to prepare and deliver a programme of training which covers the legislation and case law, the requirements that must be met if the hearing is to be seen as being fair and techniques of questioning and cross examination as methods of extracting and testing evidence beyond those usually used in determining planning applications.
- 2.6 Ensuring that all parties have had a fair hearing and that the statutory tests are properly understood and applied is key. Particularly so given the implications that flow from registration of land as town or village green.
- 2.7 Land which has been registered as a town or village green receives considerable statutory protection that effectively means that the land cannot be developed. For instance, section 12 of the Inclosure Act 1857 makes it a criminal offence to undertake any act which causes injury to the land or which interrupts the use and enjoyment of the land as a place of exercise and recreation, whilst section 29 of the

Commons Act 1876 makes it a public nuisance to inclose the land or to erect any structure other than for the better enjoyment of the land as a town or village green.

2.8 There is a great deal of legal uncertainty as to the rights that would arise as a result of the registration of land as town or village green and how these would coexist or override the rights of the owner of the land to manage and use the land in the way they would wish to in the future. This is highlighted in the Defra publication "Management and Protection of registered town and village greens", published in January 2010 (Appendix 1) which sets out some of the frequently asked questions that arise when considering town and village greens. However the following principles have been established by the courts:-

- The right to enjoy lawful sports and pastimes on a green does not extend to the public at large but is only exercisable by inhabitants of the locality or the neighbourhood within the locality in which the green is situated
- As registration confirms a 'right' to use the green for lawful sports and pastimes this means that the right can be exercised free of charge
- Local; inhabitants have a right to take part in any lawful sport or pastime on the green, not just those activities which were enjoyed during the period of use which led to the green being registered

2.9 Since 2004, the Council has received a total of eleven applications for town or village green registration. Four of these are currently undetermined, (namely the three applications referred to in this report which Plans Panel West has decided to convene its own inquiry to consider and a further application relating to Pit Hill Churwell in respect of which Plans Panel East has decided to appoint an independent inspector and hold a non statutory inquiry). In respect of the remainder, three were withdrawn or not proceeded with, one was rejected without a hearing and one was registered without objection. Non statutory inquiries were held into the other two applications following which the Plans Panel determined to reject one application and register one.

2.10 A case study is attached to this report as Appendix 2 which outlines the process in relation to a village green application for land off Highbury Mount at Meanwood that was considered by way of a non statutory inquiry. Also attached is a copy of the relevant Plans Panel report and the Inspector's report. Although this is clearly specific to its own facts, this does give some idea of how the process works in practice and also the level of detail contained in the Inspector's report and hence the thoroughness of the examination of the evidence required. This inquiry involved 90 written statements, 8 witnesses for the applicant and 6 for the objector. The Hearing lasted 2 days plus ½ day site visit following which the Inspector produced a 47 page report for Members consideration and determination.

### **3 Main issues**

#### **The different roles of the Council in respect of town and village green**

- 3.1 The Council has three distinct roles in respect of town and village green. Namely:-
- As Commons Registration Authority – The Council has the statutory responsibility for registering common land or town or village green. The function of considering applications for registration lies with the Chief Planning Officer, unless objections are received in which case such applications are to be determined by the relevant Plans Panel. The function is quasi-judicial in nature and decisions on applications must be taken strictly on the evidence – there is no discretion as to the preferred outcome.
  - As Landowner/manager of parks and greenspace – The Council has a much broader responsibility to ensure that its land is utilised in the wider public interest and in respect of existing parks and greenspace that this is maintained and made available for the wider public good in accordance with the Council's overall policy and strategy
  - As Planning Authority – The Council does not have a direct role in respect of town and village greens, but does have a role in respect of the provision of 'greenspace'. The UDP contains a number of designations aimed at protecting greenspace (N1) and protected playing pitches (N6).
- 3.2 The scheme of delegation approved by the Council separates out the functions of the Council as landowner which are exercised by the Director of City Development (in conjunction with the Director of the Service in whom the land is vested if that is different) and as Commons Registration Authority exercised by the Chief Planning Officer and Plans Panel.

### **The current procedure and the role of the Council as landowner**

- 3.3 The procedure allows for the landowner to object, where it considers that the legal tests are not met for registration. In that regard, in accordance with the Council's current procedure, the ability to 'object' and put forward evidence applies to the Council as landowner in the same way as it does where the landowner is a third party.
- 3.4 It is essential that applications are dealt with in a manner that complies with the rules of natural justice and that evidence relating to an application is properly tested prior to the taking of any decision. Where the Council is also the landowner and has relevant evidence which is material to the consideration and 'testing' of the application, then it could be considered incumbent on the part of the Council to ensure that the information is before the decision maker. Not to do so could result in an erroneous decision being made, which once made cannot readily be revised or revoked.

### **The role of the Council as owner of land which is currently subject to three current undetermined applications for village green in the Kirkstall and Weetwood wards**

- 3.5 Although it would not be appropriate for this report to rehearse the representations that the Council as landowner may wish to make to the Plans Panel when it

determines the village green applications in due course, at the request of this Board, this report seeks to set out the reasons why the Council has taken the view that it should make such representations.

- 3.6 The current applications relate to the Butcher Hill and West Park playing fields situated in the Kirkstall and Weetwood wards respectively and an area of public greenspace at Old Farm Close in the Kirkstall ward.
- 3.7 Butcher Hill Playing Fields are located in the Kirkstall Ward, and include approximately 6 hectares of land managed by Parks and Countryside as public open space. The site is designated as green space where policy N1 applies and as Urban Green Corridor where policy N8 applies. It also lies with the Green Belt where policy N32 applies. The site functions primarily as a recreation ground and includes 2 full size football pitches and 1 mini football pitch marked out on the site with accompanying posts during the football season.
- 3.8 West Park Playing Fields are located in the Weetwood Ward and include approximately 15 hectares of land managed by Parks and Countryside. The majority of the site is designated green space where policy N1 applies. The north eastern part of the site is designated as protected playing pitch where policy N6 applies. The entire site is within an Urban Green Corridor where policy N8 applies. The south eastern part of the site is also designated as Leeds Nature Area (Morris Wood). The site functions primarily as a recreation ground and includes 2 full size football pitches, and 1 mini football pitch marked out on the site with accompanying posts during the football season.
- 3.9 Old Farm Close is an area of public green space of approximately 1.5 hectares located in the Kirkstall Ward, and is managed by Parks and Countryside. The site is an area of local green space with no formal recreation facilities and is designated as green space where policy N1 applies.
- 3.10 The Council as landowner considers that it has relevant evidence which refutes the evidence put forward in support of these applications and demonstrates that the legal tests for registrations are not met. All three application sites are currently available for public use and are actively managed by Parks and Countryside. The playing fields both include full size and mini football pitches and are hired out to a range of different teams, often to people who fall outside of the proposed registration boundaries.
- 3.11 As highlighted earlier in this report, there is much uncertainty as to the implications of registration and the effect of this on the future use and management of registered greens. This uncertainty is considered below in respect of the registration of these three applications:-
- Firstly it is clear that the rights to use land which has been registered as a town or village green will only be exercisable by people who live in the local community. As Defra state, “the right to enjoy lawful sports and pastimes on a green does not extend to the public at large, but is only exercisable by inhabitants of the locality in which the green is situated.” Currently, the Council provides public open space on an equal basis for all the people of Leeds. Officers would therefore recommend that care is taken when considering

applications to register Council public open space as a town or village green, given that this will impact upon the rights which people have to use the land and that the effect of this change over the long term is difficult to predict with certainty.

- Registration of Council land as a town or village green could impact on the way that it is managed by the Council and the way in which the Council sometimes charges for use of it, particularly for organised team sports and events. Defra states that “Inhabitants of the locality within which a green is situated have the right to use that green for lawful sports and pastimes. By definition any right can be exercised free of charge.” Given that the Council charges for pitch hire and sometimes for the use of land for events, registration may alter the way in which the Council charges in the future and its freedom to do so.
- The Council may not be able to undertake works to land that has been registered as a town or village green with the freedom that it does now. Members will be aware that the Council has placed fences around public open space on an increasingly frequent basis to prevent unauthorised vehicular access. In addition, sports team also often need spectator rails to be erected to ensure that they comply with the relevant sporting governing body standard. However, if Council land is registered as a town or village green then any such proposals will need to be considered in the context of the rights of local inhabitants to use the land for lawful sports and pastimes and as such the Council may not have the same freedoms to undertake works that it does now.

3.12 The Council as landowner considers that, given these parcels of land are already available for and are actively in public use, and can be managed and developed going forward as part of the Council’s Parks and Green Space strategy, the uncertainty that would arise as a result of registration is a significant factor in the decision to make representations. A further relevant factor is the relative permanency of town and village green status. Basically, once land has been registered as a town or village green, it can only be deregistered with the approval of the Secretary of State and then only if the owner of the land makes replacement land available (which will itself then be registered as a town or village green).

3.13 In view of the above the Council as landowner considers that the long term impact of the registration of Council land as a town or village green both in respect of any current issues that arise with respect to the management and provision of public open space, but also to how they may develop in the future and the level of uncertainty that this brings are all pertinent to the decision to make representations.

### **The implications of the approach taken by the Council as landowner in relation to future applications in relation to Council owned land**

3.14 The Council’s Parks and Countryside service currently manages approximately 4,000 hectares of parks and green space. This includes 7 major parks, 62 community parks and 95 recreation grounds, as well as 155 hectares of local green space, which include 144 playgrounds and 500 sports facilities ranging from

skateboard parks to golf courses, all of which play host to approximately 600 events a year. In addition, the service also manages 96 allotment sites, 812km of public rights of way and 156 nature conservation sites, as well as 22 cemeteries and 3 crematoria.

- 3.15 All parks and green spaces are managed in accordance with the national standard, namely in line with Green Flag criteria. The Parks and Green Space strategy, which was endorsed by Executive Board in 2009, has a key priority for all community parks to reach Green Flag standard by 2020.
- 3.16 The three sites referred to in paragraph 3.6 are typical of many parks and green spaces throughout Leeds, and officers are of the opinion that there is the potential for further applications in the future. Indeed, the Open Spaces Society is actively encouraging local communities to 'get a green' by seeking to register land as a town or village green as part of the new neighbourhood planning system.
- 3.17 It is therefore important to have regard to the potential for the Council's approach in relation to these three applications to be seen as a precedent for other registration applications.

### **Alternative means of protection of greenspace**

- 3.18 There are a number of alternative means of protecting existing greenspace where this is land in the Council's ownership, including the following:-
- The Council formally dedicates the land as public open space. The Council would be able to continue to manage the land as it does now but would not be able to dispose of it without consulting with the general public and taking into account any representations that they might have.
  - The Council leases the land to local residents for use for community/recreational purposes. Residents would need to establish a community organisation or similar body to take a lease of the land. It may be possible for the Council to reserve rights to continue to use the land for existing purposes such as football pitches and to retain the income from such use. It is also possible that Park & Countryside could continue to manage and maintain the land under a contractual arrangement with the community body.
  - The Council sets up a recreation ground/open spaces charity to manage and maintain the land. It is envisaged that the land would be transferred or leased to the charity and that the trustees of the charity would include local ward members for the land concerned. As with a lease to a community body, it is possible that Parks & Countryside could continue to manage and maintain the land under a contractual arrangement with the charity. An existing charity such as Wades, could also be considered.
- 3.19 In addition, the draft National Planning Policy Framework (NPPF) proposes that a new designation of land as Local Green Space should be introduced into the plan making process through both local and neighbourhood plans. The draft document proposes, in summary, that the designation should be used in circumstances where

the green space is in reasonably close proximity to a centre of population or urban area, is demonstrably special to a local community, is local in character and doesn't overlap with Green Belt. The effect of such designation would be to rule out new development other than in very special circumstances, but the designation is not intended to provide any rights to 'use the land', simply to protect it.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 The Executive Members for Development and Economy and Leisure have been consulted on this issue.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 No implications

### **4.3 Council policies and City Priorities**

4.3.1 The Greenspace Strategy for the Council outlines how the Council intends to manage and develop greenspace in the city over the long-term. The potential for existing public open space to be designated as a Town or Village Green, would have implications for the ongoing implementation of this strategy due to the impact that such a change could have on the respective rights of the Council and users.

### **4.4 Resources and value for money**

4.4.1 None

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 None

### **4.6 Risk Management**

4.6.1 The principal risk highlighted in this report is the potential uncertainty over the implications of Town and Village Green status over the long term.

## **5 Conclusions**

5.7 Leeds City Council undertakes a range of roles in relation to this issue, Commons Registration Authority, Landowner and Planning Authority. Given the relative permanency of Town and Village Green status and the importance given to the public open space for all the people of Leeds, it is recommended that careful consideration is given to the long-term consequences of Town and Village Green Status being granted to existing public open space.

## **6 Recommendations**

Members are asked to note the contents of this report, and to comment as appropriate on the current arrangements that the Council has for determining town and village green applications

## **7 Background documents**

### **7.1 Report to Scrutiny Board (Regeneration) of 17 January 2012**



## **CASE STUDY NO. 1**

### **VG APPLICATION 202 – Highbury Mission Land Meanwood**

On 21 April 2005 an application was submitted to the Council as Registration Authority by Mr. G Mann of 8 Sandfield Garth Leeds LS6 4JL and Ian Oldroyd of 5 Highbury Close Leeds LS6 4HA. for the registration of Land off Highbury Mount, Leeds, 6 as a Town or Village Green

A site visit revealed that the site was an open area of open overgrown and unkempt grass land at the rear of St. Oswald's Mission Church, Highbury Mount Leeds, 6. It was triangular in shape, sloping from the south-west of the site adjoining the church down to the north-east corner of the site. A cobbled unadopted road formed the boundary of the eastern side of the site. A track which appeared to be an access road to redundant farm buildings forms the northern boundary of the site. A path forming part of Leeds Definitive Footpath No79 ran along the western boundary of the site, but is overgrown and indistinguishable from the remainder of the application site.

There were two well trodden paths running across the site from the north-east to the south-west corner which did have any status as public rights of way.

The majority of the land which is the subject of the application as shown edged black on the attached plan lay the ownership of Ripon and Leeds Diocesan Board of Finance ("the Church"). The Council was the owner of a small area, being vested in the Council for Educational purposes. Part of the site also formed Leeds Definitive Footpath No 79.

On the 10th May 2005 notice of the application was sent to Education Leeds and the Director of Development having an interest in the matter and to the Ripon and Leeds Diocesan Board of Finance.

On the 13th May 2005 notices were duly affixed to various lighting columns in the immediate locality. On the same date notice was duly published in the Yorkshire Post

No objection was received on behalf of the Council but a formal letter of objection from the Church dated 23<sup>rd</sup> June 2005 was submitted to the Council. As a consequence of the advertising process 57 letters of objection were received from members of the public and the vicar of St. Chad's.

The parties were given the opportunity to comment on each others representations and in October 2005 confirmation was received that neither party had nothing further to add.

The Church objected to the application on the basis of those who used the land did so in the knowledge that it was owned by the Church and that the Church was content to allow local people to walk on the land and for children to play. The suggestion made in letters of objection is that the extent of the use made of the land was said to be exaggerated. The Church also indicated that from time to time it had

authorised the use of the land by certain individuals and/or organisations for specific purposes. Additionally the Church provided evidence of a response for permission made by the local residents association to hold an event on the 8<sup>th</sup> August 2004 which the Church refused on public liability, health and safety issues.

A Report was presented by the Assistant Chief Executive (Corporate Governance) to Plans Panel (West) on 17 May 2007 recommending that members agree that in view of the circumstances outlined a non statutory public hearing be called with a view to undertaking a further and more detailed examination of the issues raised and that following the receipt of the Inspector's report a further report be submitted to members with a view to a determination being made in respect of the application.

This recommendation was accepted and a barrister, Alun Alesbury was appointed as an independent Inspector. A pre-hearing meeting to settle the procedure for the hearing was held on 11 July 2007. The hearing was held on 16 and 17 October 2007 at Meanwood Working Mens Club

Following the hearing the Inspector submitted a Report to the Registration authority on 6 February 2008, which concluded as follows

1. Accordingly my conclusion is that the Applicants have not, on the balance of probabilities, made out a case that the application site, or any part of it, has been used for not less than 20 years (ending on 28<sup>th</sup> April 2005) by a significant number of the inhabitants of the neighbourhood I have identified, to indulge in lawful sports and pastimes as of right.
2. Without prejudice to the generality of that conclusion I also specifically find that in respect of what I shall briefly call the church's land, any claim of use of that land 'as of right' for the requisite period would (on the evidence) as a matter of law be defeated by the express refusals of permission to use that land which were clearly conveyed to the local inhabitants in 2004.
3. It follows that my recommendation to the City Council as Registration Authority must be that the application should be rejected, and no part of the application site added to the register of town or village greens maintained by the Council.

On 15 May 2008 a Report was presented by to Plans Panel West recommending that the application be rejected on the basis of the Inspector's Findings. This recommendation was followed by Members

The total costs of the application were £31,535.70 (disbursements £25626.80 and Officer Time of Registration Authority (£5908.90)

## **Background Documents**

Report to Plans Panel West 17 May 2007

Report to Plans Panel West 15 May 2008



**REPORT OF DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES  
REPORT TO PLANS PANEL (WEST)**

**DATE : 15TH MAY 2008**

**SUBJECT : APPLICATION TO REGISTER LAND AT Highbury Mount Leeds 6 AS A TOWN OR VILLAGE GREEN UNDER THE PROVISIONS OF SECTION 13 OF THE COMMONS REGISTRATION ACT 1965 – INSPECTORS REPORT**

|   |   |   |
|---|---|---|
| <p><b>Electoral Wards Affected :</b></p> <p style="text-align: center;"><b>WEETWOOD</b></p> | <p><b>Specific Implications For :</b></p> <p>Ethnic Minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled People <input type="checkbox"/></p> |   |
| <p><b>Executive Board Decision</b> <input type="checkbox"/></p>                             | <p><b>Eligible for Call In</b> <input type="checkbox"/></p>   | <p><b>Not eligible for Call In</b> <input type="checkbox"/><br/>(details contained in the report)</p> |

**1. PURPOSE OF REPORT**

- 1.1** For Members to consider the Inspector’s report attached hereto concerning the public inquiry held at Meanwood Working Men’s Club on the 16<sup>th</sup> and 17<sup>th</sup> October 2007 regarding the application made by Dr. Graham Mann and Mr. Ian Oldroyd under the provisions of section 13 of the Commons Registration Act 1965.
- 1.2** For Members to determine if the report of the Inspector should be accepted and the application made by Dr. Mann and Mr. Oldroyd to register land at Highbury Mount (The Highbury Mission Land) be rejected.

**2. BACKGROUND INFORMATION**

- 2.1** On the 17th May 2007 the Plans Panel considered a report concerning the above application and determined that in view of the circumstances outlined a public inquiry be called with a view to undertaking a further and more detailed examinations of the issues raised.
- 2.2** Alun Aylesbury (barrister) with experience of such matters was appointed as Inspector for the public inquiry and at a pre-inquiry hearing held on the 11<sup>th</sup>

July 2007 he informed all parties present of the manner in which the inquiry would be conducted.

- 2.3** On the 16<sup>th</sup> and 17<sup>th</sup> October 2007 a public inquiry was held at Meanwood Workingmen's Club and on the 18<sup>th</sup> October the Inspector undertook an official site visit.
- 2.4** Attached is the Inspectors report following the public inquiry and the official site visit for members consideration.
- 2.5** The Council is the Registration Authority for the registration for Town and Village Greens and must take the decision whether to register or reject an application. The Panel has delegated authority to approve registration or refusal but is not obliged to accept the Inspector's report. The Panel will, however, need to give full consideration to the Inspector's comments on the law and facts when reaching its decision and would need to give reasons for its decision either in adopting the Inspector's report or in disagreeing with it.
- 2.6** Members should note and consider:
  1. Having read the report of the Inspector and with particular reference to his conclusion and recommendation, Legal Officers consider that he has undertaken a thorough inquiry in relation to all the relevant aspects of both the village green application and the objections thereto. He has painstakingly considered all the evidence and submissions that have been presented to him and in reaching his conclusions has taken into consideration all the appropriate legal provisions.
  2. In relation to the use of the land the Inspector finds on balance that the evidence does not support the claim of a continuing use by local inhabitants for 'lawful sports and pastimes' over the relevant 20 year period. The Inspector believes and finds that for most of that period such use as there was would have been very sporadic and limited, and not at all such as to amount to a general assertion of a right to use the field for such purposes. (Page 44)
  3. The Inspector concludes again on balance the applicants have not made a case that the application site, or any part of it, has been used for not less than 20 years by a significant number of the inhabitants of the neighbourhood to indulge in lawful sports and pastimes.
  4. The Inspector's recommendations to the Council as Registration Authority are that the application should be rejected and that no part of the application site added to the register of town and village greens maintained by the Council.

### **3. RECOMMENDATION**

Members are recommended to accept the report of the Inspector and determine that the application made by Dr. Mann and Mr. Oldroyd to register land at Highbury Mount (The Highbury Mission Land) as Town or Village Green be

rejected and no part of the application site be added to the register of town or village greens maintained by the Council.

**Background Papers:**

Public Inquiry File 864533

Application File 864525

IR






ORDNANCE SURVEY MAP REFERENCE:

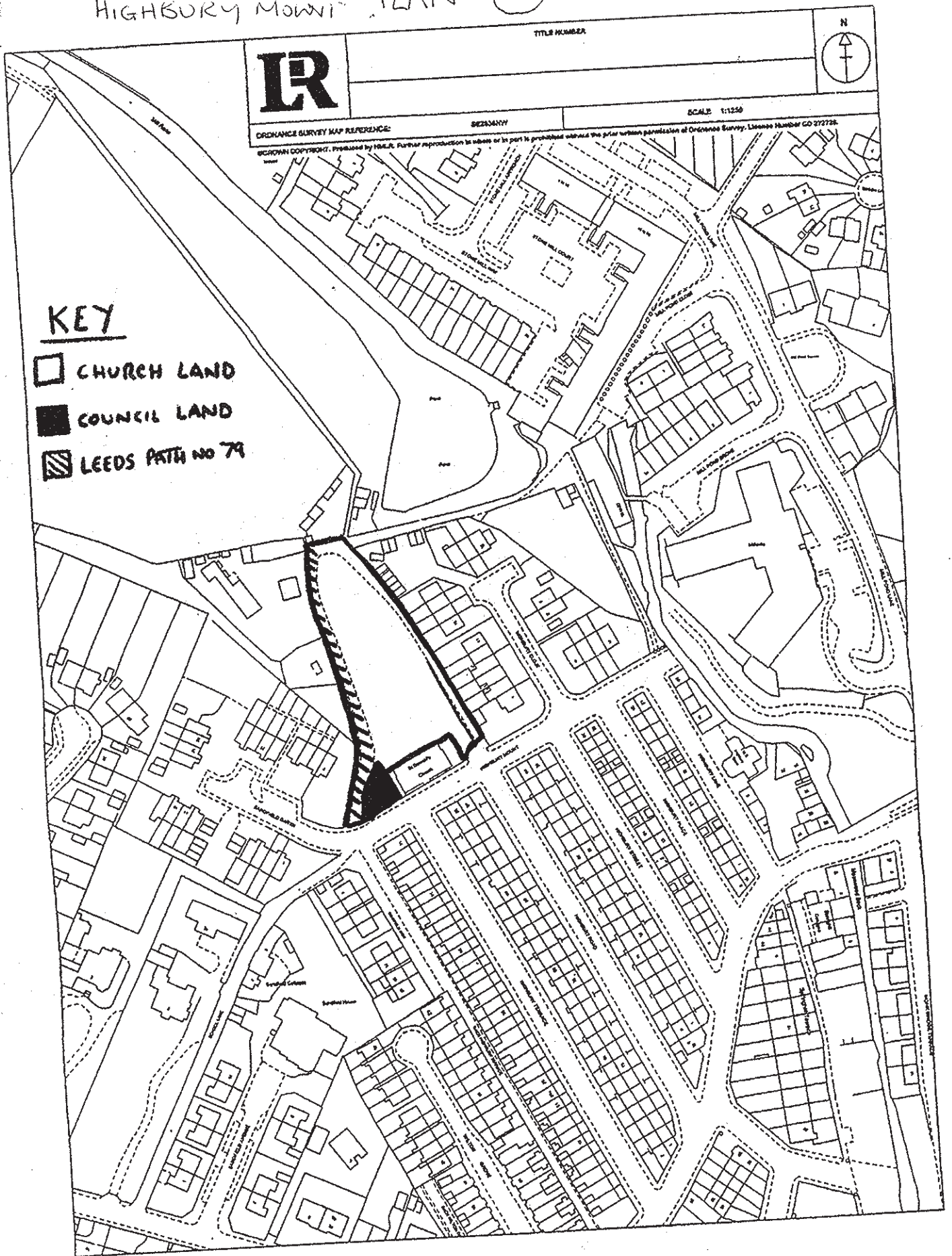
SE2304177

SCALE 1:1250

©CROWN COPYRIGHT. Produced by HM Land Registry. Further reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. License Number G0 272728.

**KEY**

-  CHURCH LAND
-  COUNCIL LAND
-  LEEDS PATH NO 79



**RE: LAND KNOWN AS THE Highbury Mission Land  
Off Highbury Mount, Leeds 6**

**COMMONS REGISTRATION ACT 1965**

**REPORT OF THE INSPECTOR**

**MR ALUN ALESBURY, MA, Barrister at Law**

**into**

**AN APPLICATION TO REGISTER THE Highbury Mission Land**

**as a**

**TOWN OR VILLAGE GREEN**

## **CONTENTS**

- 1. Introduction**
  - 2. The Applicants and Application**
  - 3. Split Ownership**
  - 4. The Objectors**
  - 5. The Pre-Hearing Meeting**
  - 6. Site visits**
  - 7. The Hearing**
  - 9. THE CASE FOR THE APPLICANTS – Evidence**
  - 8.5 Oral Evidence**
  - 8.92 Other Evidential Material**
  - 9. The Submissions for the Applicants**
  - 10. THE CASE FOR THE OBJECTORS – Evidential Material**
  - 11. Submissions for the Objectors**
  - 12. DISCUSSION AND CONSIDERATION**
  - 13. CONCLUSION AND RECOMMENDATION**
- Appendix I -       Appearances at the Hearing**
- Appendix II       -       List of Documents produced in evidence**



## 1. Introduction

- 1.1. I have been appointed by Leeds City Council, in its capacity as Registration Authority, to consider and report upon an application dated 28<sup>th</sup> April 2005 and made to the City Council, for the registration as a Town or Village Green under the Commons Registration Act 1965 of land known as the Highbury Mission Land, close to Highbury Mount, Leeds 6, which is within the City Council's area.
- 1.2. I was in particular appointed to hold a Public Local Hearing into the application, and to hear and consider evidence and submissions, in support of the application and on behalf of the objectors to it. However I was also provided with copies of the original application, and all the material (including letters and statements) provided in support of it; the objections duly made to it; and further correspondence and exchanges in writing from the parties. Save to the extent that any aspects of it may have been modified by the relevant parties in the context of the Public Hearing, I have had regard to all of that earlier material in compiling my Report and recommendations.
- 1.3. In the period between the making of the application in this case, and the holding of the Public Hearing, Parliament passed the ***Commons Act 2006***, whose ultimate purpose when fully in effect is wholly to repeal and replace the Commons Registration Act 1965, including all of its provisions relating to town and village greens. Substantial parts of the 2006 Act have now been brought into effect in England pursuant to Statutory Instruments made in the latter months of 2006, and in 2007. These include many of the provisions relating to the registration of Town and Village Greens. However, under ***Article 4(4) of the Commons Act 2006 (Commencement No 2, Transitional Provisions and Savings) (England) Order 2007*** SI No. 456, it is provided that where an application is made to a registration authority before 6<sup>th</sup> April 2007, pursuant to Section 13(b) of the Commons Registration Act 1965, and not determined before that date, the registration authority shall continue to deal with the application as though Section 13(b) had not been repealed [which it otherwise has been]. I drew this matter to the attention of the parties at the Public Hearing and they were content that the application should still continue to be dealt with under the 1965 Act. That is the basis on which I produce this Report.

## 2. The Applicant and Application

- 2.1. The Application dated 28<sup>th</sup> April 2005 was made pursuant to the Commons Registration (New Land) Regulations 1969, and Section 13 of the Commons Registration Act 1965 by Dr Graham Mann and Mr Ian Oldroyd, who were both local residents (although Mr Oldroyd has, since the date of the application, moved to another address which is less local albeit still within the same general sector of northern Leeds).
- 2.2. The application form claimed that the Highbury Mission Land had become a town or village green because it had been “*used by local residents without let or hindrance for informal recreation for more than 20 years*”. It also asserted that the land had become a town or village green on 2<sup>nd</sup> January 2005. However at the Public Hearing it was agreed on all sides that since the decision of the House of Lords in the case of ***Oxfordshire County Council v Oxford City Council*** [2006] 2 WLR 1235 it had become clear that the period which needs to be considered in order to make good (or not) a village green claim is that of 20 years up to the date of the application, i.e. in this case 28<sup>th</sup> April 2005. It was further agreed between all parties at the Hearing that I (and the City Council as Registration Authority) should consider the application as being amended to claim the use for informal recreation for a period of not less than 20 years up to that date. Once again, this is the basis on which I address matters in this Report.
- 2.3. The application was accompanied by 90 witness statements (some written in letter form), and also a plan of the Highbury Mission Land (Plan A), a “*Locality map*” (with an area marked by a circle), an aerial photo with the Mission Land marked in red, and several copied photographs of the land and people on it at various times. Another 11 supporting statements were sent to the registration authority at a later date (and provided to me).

## 3. Split Ownership

- 3.1. Although the area covered by the application (as shown on Plan A) is not particularly large, it is in at least two ownerships. The main part of the land, an elongated, approximately triangular, finger of rough grassland and other vegetation running roughly

NNW from behind the former St Oswald's Church, is in the freehold ownership of the Ripon and Leeds Diocesan Board of Finance (as trustees).

- 3.2. Along the entire eastern edge of that land (but still included in the application site) is a strip of land consisting principally of an unmade up track capable of being used by vehicles as well as pedestrians. Its precise status in terms of public (or indeed private) rights was unclear. It lies between the Diocesan Board's land and the rear boundaries of properties in Highbury Close. No-one at my Hearing (or in writing) claimed to own it; it is not shown as included within the Diocesan Board's documents of title, which I saw. On the other hand neither was it a part of the land to which the evidence of 'town or village green' uses really related. I consider the evidence in later sections of this Report.
- 3.3. To the immediate west of St Oswald's (former) church, and included in the application site is a small area of land, with a frontage to Highbury Mount, currently heavily overgrown, which is in the ownership of Leeds City Council itself, held for education purposes.
- 3.4. Immediately to the west of that, but this time running northwards up the entire western boundary of the application site (and within it), is another strip of land which is apparently also in the ownership of the City Council. It is principally the route of Leeds public footpath No.79, and strips of land either side, including the mostly well vegetated (and treed) western boundary of the whole application site. Some of the evidence suggested that the footpath, which is now visible as such on the grass, was once more of a made up track, possibly with stone setts or similar. Unlike the track along the east side of the site, mentioned above, this western strip is not currently distinguishable visually from the bulk of the site in the ownership of the Diocesan Board.
- 3.5. Leeds City Council in its capacity as landowner has not objected to the present application in respect of its part of the land. I consider the evidence later, but would express the preliminary view that (unlike some other cases) this is not really a situation where there are two distinct parcels of land, and evidence which might justify the registration of one but not the

other as town or village green. Certainly as between the Diocesan Board land and the City Council land, the view I reached on the evidence is that the two ownership areas effectively ‘stand or fall together’ as far as this application is concerned, and none of the parties at the Hearing sought to suggest otherwise.

#### **4. The Objectors**

- 4.1. Objection was duly made to the application on behalf of the Ripon & Leeds Diocesan Registry, on behalf of the Diocesan Board of Finance. 57 other letters of objection were received by the City Council (as registration authority) including, but (clearly) not limited to the Rev’d Barry Overend, the Vicar of St Chad’s, Far Headingley, in which Church of England parish the application site lies, and to which the former mission church of St Oswald was until fairly recently (as the evidence related) a subsidiary place of worship.
- 4.2. In the event ‘the Objectors’ were collectively represented as one case at the Hearing, effectively on behalf of the Diocesan Board, but calling witnesses who had in fact submitted individual objections (i.e. among the 57).

#### **5. The Pre-Hearing Meeting**

- 5.1. In order to secure the smooth running of the eventual Hearing itself, on 11<sup>th</sup> July 2007 I held a Pre-Hearing Meeting at the Meanwood Working Men’s Club, which is reasonably close to the application site. It was attended by the Applicants, and representatives of the Objectors, and some other interested persons. At the Pre-Hearing Meeting a considerable number of matters were agreed between myself and the parties in relation to the procedure to be adopted at the Hearing, and the production and exchange before the Hearing of any further material to which the parties would wish to refer at the Hearing. Since those provisions were for the most part observed, and no issues arose from them, it is unnecessary to comment on them any further.
- 5.2. A matter which I myself raised at the Pre-Hearing Meeting was that since the question of use by the inhabitants of a ‘locality’, or a ‘neighbourhood within a locality’, can be highly relevant to

the law of town and village greens, I would welcome the parties' further views on the most appropriate identification of any relevant locality or neighbourhood in this case.

## **6. Site visits**

6.1. I paid an informal visit to the application site (having told the parties that I intended to do so) on the day of the Pre-Hearing Meeting, in order to familiarise myself with its location, general character and extent. Subsequently, after the end of the Hearing itself, I made a formal site visit, on 18<sup>th</sup> October 2007, in the company of representatives of the Applicants and the Objectors. In addition to the whole of the application site and its immediate surroundings, including the residential area known as 'the Highburys', we looked at various pieces of land, and footpaths, extending towards the north, which had been referred to in evidence.

## **7. The Hearing**

7.1. The Hearing was held over the two days of 16<sup>th</sup> and 17<sup>th</sup> October 2007 in the hall of Meanwood Working Men's Club.

7.2. By express agreement of both main parties (i.e. the Applicants and the Objectors) given at the Pre-Hearing Meeting, all of the oral evidence to the Hearing was given on oath.

7.3. I report on the evidence, and the submissions of the parties in later sections of this Report.

## **THE CASE FOR THE APPLICANTS**

## **8. Evidence**

8.1. The evidence produced in support of the Applicants' case consisted of the 90 statements and supporting material submitted with the original application, the 11 slightly later written statements, the oral evidence of the Applicants' witnesses at the Hearing, and a small amount of other documentation.

8.2. As noted above, the Applicants submitted 90 witness statements with the application, and a further 11 at a later date. I have read

all of them, and have taken them into account in forming the views which I have on the balance of the evidence.

- 8.3. However I made it clear to the parties, both at the Pre-Hearing Meeting and during the Hearing itself, that it is inevitable that more weight will be accorded to evidence which is given, in person, by a witness, in this instance on oath, who is then subject to cross-examination, and questions from me, than will be the case for simple written statements where there is no opportunity for challenge or questioning. The question arose at the Pre-Hearing Meeting of how many oral witnesses the parties intended to call and I indicated that it was a matter for the parties themselves to decide, but that they would be well-advised to call a representative sample or selection of persons who could, they felt, convincingly cover in their evidence the whole of the period the Hearing was likely to be interested in, and all of the evidential issues which were likely to arise. Both main parties (i.e. Applicants and Objectors) expressed themselves content with this approach, and in the event the Applicants called a total of 8 oral witnesses including the two Applicants themselves, each of whom had been responsible, solely or jointly, for one of the original 90 written statements.
- 8.4. As mentioned previously, I have read all of these statements, and the subsequent ones. Having regard to the considerations I have discussed in the preceding paragraphs of this section, I do not think it is necessary for me to summarise in this Report all the evidence contained in those written statements. They are broadly consistent with the tenor of the evidence given by the oral witnesses, and nothing material stands out as being particularly worthy of having special attention drawn to it in this Report. In any event all of these written statements are available to the Registration Authority as supplementary background material accompanying this Report, and may be referred to as necessary.

## The Oral Evidence for the Applicants

*What follows is not intended to be a verbatim transcript of all that was said, but a summary of the main points addressed by each witness.*

- 8.5. **Dr Graham Mann**, one of the Applicants, of 8 Sandfield Garth, Leeds 6, gave evidence (as well as making submissions, which I summarise later). He had been jointly responsible, with Ms Lisa Mulherin, who I understood to be his partner, for one of the original statements submitted to the Council with the application (Council ref no.76).
- 8.6. Dr Mann said he and his partner had lived at 8 Sandfield Garth since August 1998. They had been drawn to its semi-rural environment, while still having easy access to urban facilities. The Highbury Mission Land, also known as ‘Highbury Field’, and the mature hedgerow running along its NW boundary were integral to that attraction.
- 8.7. Since 1998 he and his partner had enjoyed chatting with friends and neighbours on the field, blackberrying, snowballing and photographing the landscape. He said they had also attended an annual bonfire on the field with other local residents.
- 8.8. He and his partner frequently walk across the land and watch birds and bats, which thrive there. Many other local residents walk their dogs there daily, and children use the green open space to play, or build swings in the trees.
- 8.9. Horses have grazed on the land throughout the period since 1998; other wildlife is seen.
- 8.10. The field has always been openly accessible for local residents to use throughout the time since 1998. It is possible to see the field from the upstairs back windows of his house – you can see over the hedge onto the land.
- 8.11. In cross-examination as to his reference to ‘annual bonfires’ Dr Mann said there had indeed been a number of them, some organised by the Highbury Residents Association, and publicised in its newsletter. In general firewood would be placed on the land by people living in the Highburys.

- 8.12. The Highbury Residents Association was formed in 2004. There had been some bonfires between 1998 and 2004, but informal not organised – there was no association to organise them – but not every year between 1998 and 2004.
- 8.13. Children had made swings in the trees at the top (SW) corner of the land, near the church.
- 8.14. To me Dr Mann explained that he had been vice-chair of the Highbury Residents Association (“HRA”) for the whole time of its existence – and likewise Mr Ian Oldroyd its Chair.
- 8.15. The HRA does not have a membership list; people do not pay to belong. The HRA distributes a newsletter to every house in the neighbourhood, and when it holds meetings people are invited to attend.
- 8.16. Such meetings may for example have included a talk on local history. The HRA’s aim is to improve the local environment, and people have alerted it to planning applications. Its meetings are 3 or 4 times a year.
- 8.17. The HRA Newsletter comes out every few months; various people have contributed, but Dr Mann has tended to edit it and put it together.
- 8.18. HRA meetings have been held at Highbury Cricket Club, but more recently at the Meanwood Institute, and two public meetings at Meanwood Methodist Church.
- 8.19. One of the public meetings was for discussion about the Highbury Mission Land following a planning application in respect of it, and some other planning applications, on which there was opportunity to comment. The other was about Houses in Multiple Occupation. There are usually 15 – 20 people at HRA meetings, but it is sometimes down to 5 or 10.
- 8.20. The HRA was formed spontaneously. A sign had been placed on a part of the mission field, on the corner by the church, saying something like ‘Tayman Holdings – Keep Out’. Neither the church nor the Council claimed to know anything about it, so it was decided to form an Association.



- 8.21. ***Mrs Tracy Ann Cooper***, currently of 10 Moor Grange View, had submitted a written statement (Council ref no. 26) jointly with her husband. She and her husband currently own 1 Highbury Lane and the adjoining 37 Monkbridge Road (a shop). They had previously lived at 6 Highbury Terrace from 1984, then moved to 9 Highbury Road only about 1 year later.
- 8.22. In their statement Mr & Mrs Cooper pledge their support to the Highbury Residents Association ‘for the saving of St Oswald’s Church and surrounding field’.
- 8.23. On moving to the area Mr & Mrs Cooper were delighted by the close presence of “*the Mission*” (i.e. the application land), an area allowing them to benefit from open land for leisure and recreation, and leading to the beautiful Meanwood Park. Their son was born in 1986. On moving to the larger house at 9 Highbury Road they still benefited from the close community, the Mission land, and the close access to the park.
- 8.24. The Mission land has been used by her family and neighbours for over 20 years. Her child and neighbours’ children played there; they walked their dog there, community bonfires are held there, children can sledge or build dens, there is fruit picking in the autumn, and socialising with neighbours in the summer; and it is part of the ‘Meanwood Valley Trail’. Her son had been taught to ride his bike on the unmade road by the church. Horses frequently graze the land, and it is used to exercise them. No restrictions have been faced by residents in all this time.
- 8.25. In cross-examination Mrs Cooper said she personally had attended only two community bonfires on the land, around 1990 to 1992. She was not aware that the church, as owners, had been concerned about illegal dumping on the land, and had not participated in organised clean-ups of the field. She could not see the field from where she lived.
- 8.26. She told me she had stopped living in the Highburys in 1998.
- 8.27. ***Ms Judith Elinor Scott*** (statement Council ref no.5) has lived at 17 Brookfield Road, Meanwood since 1990, with her husband and 3 children, and has lived in the area for some 10 years longer.

- 8.28. She has been walking to Meanwood Park using the Meanwood Valley Trail ever since she has lived in Leeds (about 30 years).
- 8.29. She said Highbury Field has always been used by local people, to her knowledge, for community gatherings, children to play safely, and pet exercise; also in the winter for safe sledging. Since her children were small she had always brought them to play on the field, on the way to the park, or just to look at the horses or run down the slope. She herself had used the area for bird watching. As a parent helper at Bentley School, she knew they would make regular school trips via the field to the park, stopping at the field on the way to look at grasses, insects or tethered horses (if there).
- 8.30. There have never been any restrictions on people using the field, or notices. The annual barbecue and bonfire is a good example; she had attended the bonfire on more than one occasion.
- 8.31. In cross-examination Mrs Scott said that the community gatherings she was aware of had been mostly unstructured ones – people putting wood on the fire and then just attending.
- 8.32. It was mostly when her children were small that she took them to Meanwood Park; from when her family moved, in about 1990, and then she had another baby. They would walk through the area, along the unmade road and the allotment path. These trips would be about weekly, usually weekend trips. Once her children were older they would go on their own.
- 8.33. During the times she had been with them, her children would get off their bikes and explore Highbury Field, and run down the slope; they were more wary if horses were there.
- 8.34. The Bentley Primary School trips to Meanwood Park had been annual ones, in summer, to look at insects – “*minibeasts*”. The route would use the unmade track at the bottom of Highbury Field.
- 8.35. She had never seen illegally dumped rubbish or garden waste on the land; nor had she been involved in any ‘clean-ups’ of the land.

- 8.36. She thought the barbecues had seemed rather more organised than the bonfires on the land. They were generally held not on the sloping part, but nearer the flat part. She conceded that the bonfires may not have been annual events, and that where she lived was ‘a little bit separate’ from where Highbury Field is.
- 8.37. To me Mrs Scott explained that the ‘flat part’ of the land she had referred to was up towards the allotments (i.e. north) end, although she herself had never actually attended a barbecue on the land. She could not recall whether the bonfires had been towards the top or bottom of the land, but she had personally attended them a couple of times.
- 8.38. Her third child was born in 1990. But even when her children did not need her to go with them she would go up with other, younger children, especially to look at the horses, or go to the allotments. She was not sure when she had last seen a horse on the land.
- 8.39. In more recent times, up to April 2005, she would walk past the land about once a week, perhaps walking her dog; about once every month to 6 weeks she would go up there with other children from Brookfield Road, where there is a close neighbourhood community. Part of her contribution to that community is to take neighbouring children out as well as her own.
- 8.40. *Mr John Hardy Kilburn* (statement Council ref no. 38) had moved into 14 Highbury Road in 1984, with his girlfriend who one year later became his wife. Their two children, Emily and Beth, had grown up on the street.
- 8.41. Houses in the Highburys have little or no gardens; the land behind the Mission had been the children’s safe playground, away from parents, yet in shouting distance. When his children were young there were some 10 – 15 other children in Highbury Road. They would all spend time playing on the mission field, and meet children from the other local streets.
- 8.42. His daughter Beth (he said) remembered making rope swings in the trees above the Mission, while Emily remembers making

hideouts in the long grass; both remember sledging down the field.

- 8.43. When his children were small he was a keen birdwatcher, and spent many hours on the field doing that; other local residents would graze their horses and goats; children would be given rides on the horses.
- 8.44. He (Mr Kilburn) had understood the mission field had been left to "*the children of Meanwood*". Local residents have always held their annual bonfire and 'clean up day' there.
- 8.45. In cross-examination Mr Kilburn said he had been to the bonfire about 5 or 6 times, and attended the clean up twice – these latter being in more recent years. The bonfires however were over a 20 year period.
- 8.46. He understood his daughter's rope swings had been on the side of the site; the sledging was down the slope nearer to the church (south) end, where the slope is steeper.
- 8.47. His children were born in 1985 and 1988, and some of the Applicants' bundle of photographs showed them on the land in the 1980s. Later the children went out and played there by themselves. So in all his children had played out on the mission land from about 1985 to 2000, when Beth was 12.
- 8.48. Children would play either on the grass or on the unmade track; where it was would depend on the activity.
- 8.49. To me Mr Kilburn explained that he now thought he had attended the 'clean-up' 3 times. It is done every year. The first time he got involved was about 3 - 4 years ago, when the Council placed a skip there. The 3 times he had participated have been since the Highbury Residents Association ("HRA") was formed. Mr Kilburn is active in the HRA.
- 8.50. The bonfire he has attended 5, 6 or 7 times, of which two have been in the HRA period. However he had seen a bonfire on the land every year since 1985 – certainly seen the bonfire built if not burnt.

- 8.51. He personally did not really go onto the field with the children to play; the children would go though.
- 8.52. As for the horses on the land, people in the stables had horses there, and children would be given rides from time to time. He had seen that happening 3 or 4 times, and heard of it at other times. Broadly speaking that happened in the less recent past, say up to 2000. He has a photo of one child feeding a goat there; that was early on, in about 1986. Typically there would be just one horse on the land, occasionally two. It seemed obvious that the horses were associated with the nearby stables.
- 8.53. It was when Mr Kilburn first started bird watching that he would go to the land – for a couple of years he did quite a lot of bird watching there – around 1990-92.
- 8.54. The barbecues on the land have all been during the last 4 years or so, the HRA period. In addition to all he had mentioned before, Mr Kilburn has regularly gone past the land while out running over the last 20 years.
- 8.55. Evidence was then given by *Ms Jennifer Ward* (Statement Council ref no. 50) of 26 Highbury Terrace. She said that her statement (dated January 2005) was a letter originally written in connection with a planning application on the land. Ms Ward has lived at her present address since 1982.
- 8.56. Over the years she has been a part of, and witnessed, the use of ‘Highbury Field’ for the local community. This included: children playing (including making dens); grazing of horses from the nearby stables; the Hollin Lane Allotment Association have used the area for their annual show for many years; it has long been used for a local bonfire. People walk their dogs and pick elderberries.
- 8.57. In cross examination she could not recall the particular proposal her January 2005 letter had related to [it had been suggested to her that there was no planning application at that time].
- 8.58. Children’s’ dens had been along the top (west) side of the land, among the elders. She was not aware that a gentleman called Harry Jackson had paid to graze horses on the land.

- 8.59. The Allotment Association's show had in fact been mainly at the church, not out on the field, but people would often sit outside on the field at that time.
- 8.60. Ms Ward has an allotment and walks there a lot, via the land. She always *goes* via the unmade track and *comes back* via the western path through the field. Dog walkers also use both paths equally.
- 8.61. Horse riders going to Meanwood Park would come through the Highburys, alongside the mission field, and then along by the allotments. From her house she can see the church and part of the field.
- 8.62. In re-examination she said that the horse kept on the land would be on the grassy part, rather than the path. Usually there was a horse there in summer. Most of the horses would be from the stable which is on the left looking north from the church.
- 8.63. Very little rubbish is generally dumped on the land. What there is would generally be smaller items, not big things like three piece suites.
- 8.64. Dogs taken on to the land are by no means always on a lead; a lot of dog walkers congregate on the land to talk, because the allotment path is too narrow. She has seen people using the land for ball throwing.
- 8.65. The horse tether is moved from time to time to keep the grass short on different patches. Children do pat or stroke the tethered horse, but obviously they are very careful.
- 8.66. To me Ms Ward confirmed that walkers would use either path, but horses would *not* use the western footpath. It was occasionally that horses would pass along the (eastern) unmade-up track. However horses are often taken out of the stables near to Highbury Field.
- 8.67. Her own use of the mission field would be that in summer she was there most days, when visiting her allotment; also she does pick elderflower and elderberries from alongside the top (western) path. In winter she would go to her allotment every weekend.

- 8.68. She thought there must have been a couple of years without a bonfire. It was nice to see them, though she had never been involved in organising them. She had been to the more formal one last year (2006). The bonfire is somewhere towards the middle of the field.
- 8.69. *Ms Andrea Oz* (Council Statement No. 72) lives with her husband at 2 Sandfield Garth. She had (in late 2007) been there for about 6 years. Like Jenny Ward, her written statement had been prepared in early 2005, and was prompted by a *proposed* development at that time. She is quite an active member of the Highbury Residents Association (HRA).
- 8.70. She herself, over the last 6 years, has used Highbury Field for walking, socialising, children's parties, children's play area; blackberry and elderberry picking; bird, bat and deer watching; and snowballing. Over 9 years or so, since she first moved to the Meanwood area, she had seen the land being used for other informal purposes by local residents, including: horse grazing, dog walking, chatting, children playing, blackberry picking, using as a right of way, bonfires, and as a wheelbarrow route to the allotments.
- 8.71. In cross-examination Ms Oz explained that elderberries are in the hedgerow all the way down (on the left), while blackberries are mainly to the right of the western footpath. Deer she had seen twice on the land, from her own house windows, once about 3 years ago, the other about 18 months ago.
- 8.72. She had seen a heron when walking from her previous house – once in the beck, and once in the middle of the mission field.
- 8.73. As for her observation of dog-walkers, those from Sandfield Garth tend to use the western path; others meet on the unmade road on the east side, and then walk through to Meanwood Park, and then back. However others let their dogs run round on Highbury Field itself. Probably about 80% pass through, and 20% use the field itself.
- 8.74. As for children, she regularly sends her own daughter, sometimes with nieces and nephews, out onto the field to play, and her daughter (now 14) often sits in the field, with friends.

Other children are on there just about every day, some building dens.

- 8.75. Harry Jackson used sometimes to use the western footpath with his horse and cart; apparently there used to be cobbles underneath the grass, and a drystone wall beside it.
- 8.76. Bonfires have been organised affairs since the HRA came into existence, however Ms Oz had noticed them on the field before that. She was 90% sure there had been one every year she had known the land. No-one had been leafleted; people from the Highbury Mount area just came out. She had seen people standing round the bonfire, or occasionally taking chairs to sit around it.
- 8.77. In re-examination Ms Oz explained that the best blackberry patch was more at the back of the church; she had seen someone tipping paint debris on the blackberries right by the right of way.
- 8.78. Her own daughter would not go out on to the field by herself, but would with a friend. Horses are usually grazed on the land every day, especially when the grass is long. They are from "*Bev's stables*", because Bev has no land with her stables. The horses are on a tether, in a central position on the land, and children do go up to them.
- 8.79. Dogs are sometimes on a lead on the land, sometimes let loose. Some owners do both. Of the ones who let their dogs off to 'go to the toilet', local residents do tend to clean up after their animals.
- 8.80. To me Ms Oz said that from her house she can see through to the land a bit in summer, more in winter, when there is a long view over the land. In summer it is more a view through the hedge of the closer parts. There are some visible remains of drystone wall on the left (west) of the footpath.
- 8.81. *Mrs Mary Elizabeth Bernadette Oldroyd* gave evidence (Statement Council Ref No. 18). She currently lives at No. 183A Stonegate Road, but from 1978 to 2006 had lived at 5 Highbury Close.



- 8.82. One of the reasons she and her husband bought their previous house was the St Oswald's field, which she understood had been bequeathed to the children of the Highburys. Her son, who was seven in 1978, could play on the field and always be in sight. There was then no fence at the rear of the Highbury Close properties, only a low wall. Her son and his friends, and neighbouring children from the Highburys, all spent many happy hours playing on the field.
- 8.83. There was always a bonfire and many people from the Highburys would come to enjoy it. Mrs Oldroyd's son has grown up and moved on, but she and her husband are foster carers, and (as of 2005) their foster children still continued to play on and enjoy the land.
- 8.84. In cross-examination Mrs Oldroyd said she knew the church owned the land, but had been told it was for the benefit of the children. She had never asked permission to use it.
- 8.85. Bonfires had usually been on a part in the middle of the land where it flattens out a bit. She personally had helped children make bonfires there in a number of years.
- 8.86. Where children played would depend on the particular activity, eg cricket would be played towards the flatter end at the north end. Other activities would be all over. When her son was small she could sit in the garden and watch the children in all parts of the field – and the same for her foster children. They had a back extension, where they lived, and she constantly saw people on the field.
- 8.87. There has sometimes been rubbish on the land, and it has been cleaned up. A man from the church used to come round and clean up, about once a year, as far back as 1978. His name was Alfie (or Alf) Johnson; she thought perhaps he did the clean-up off his own bat, rather than as organised by the Church, though she knew he was a churchwarden; her son had been a choirboy.
- 8.88. In re-examination she said that children used to play on the land the whole time she was living at Highbury Close – mostly on the field itself rather than the track. They would ride bikes on the track, but anything else would be all over the field. She could see part of the field from her old house, not the whole of

it. She thought local people could use the field as of right; she had never heard of anyone asking permission. She would encourage her children to play on the field.

- 8.89. At a later stage in the Hearing evidence was given by **Mr Ian Oldroyd**, husband of Mrs Oldroyd, and one of the two applicants. As with his wife, he now lives at 183A Stonegate Road, but had lived at 5 Highbury Close from June 1978 to June 2006.
- 8.90. Mr Oldroyd's oral evidence related to a particular incident in July 2004, leading to the letter of 29<sup>th</sup> July 2004 from the Rev'd Barry Overend, Vicar of St Chad's, Far Headingley, in respect of which Mr Overend's initial recollection was that Mr Oldroyd had telephoned him [though he later, with the aid of a file note he had found, confirmed that he – Mr Overend – had initiated the call].
- 8.91. Mr Oldroyd said that he had not (in July 2004) telephoned Mr Overend; Mr Overend rang him. Mr Overend had picked up from somewhere the point that Highbury Residents Association planned to hold an event on the field on 8<sup>th</sup> August 2004. Mr Overend said he would not give permission for the event to take place on the land. He (Mr Oldroyd) had said he was not asking for permission, and nor would he ever. It was quite a heated conversation.

### **Other Evidential Material**

- 8.92. In addition to the previously submitted written statements referred to earlier, and other documents and photographs produced at the time of the application or in response to the objections, the Applicants produced for the Hearing a map of the area (with some supporting documentation), marked to show the addresses of those who had supported, and those who had objected to the Application. They also produced a further folder of photographs showing various uses of the land by local residents. At the Hearing itself they assisted by producing copies of a number of editions of the Highbury Residents Association's Newsletter.

## 9. The Case for the Applicants – Submissions

### Initial Submissions

- 9.1. The Highburys neighbourhood has always had a distinct community, ever since the houses were built in the late 1800s.
- 9.2. St Oswald's chapel was built in 1889 for the residents of the Highbury neighbourhood. A local history booklet explains how the mission field behind the church came to pass to the diocese from the wife of a former vicar of St Chad's. There has been a long held local belief that it had been bequeathed to the children of the Highburys as a place to play on. Indeed one of the supporting statements (Mr & Mrs Greaves, No.4) said that in the 1960s there had been a sign saying it was a children's play area. A similar recollection, on the part of a Mr Peter Hobson, had appeared in a recent Yorkshire Evening Post article (of which a copy was provided by the Applicants).
- 9.3. With the houses in the area having small or no gardens, it was natural that the field had served as a safe local green, even though its sloping, bumpy nature made it less suitable for organised games like football or cricket, which tended to be played in Meanwood Park. However the evidence of over 100 supporting statements backs up the long use of the field by children for informal recreation. This use by children is the main evidence the field is used as a village green.
- 9.4. However the field is not just a children's play area. The evidence shows it is well used by adults of the Highburys for: dog-walking, blackberrying in season, summer picnics, barbecues and parties, and bonfire night celebrations. The wildlife living on and passing through the land is a further draw.
- 9.5. Generations of Highbury residents have used the land as thus described. Throughout the relevant 20 year period the uses have been open, unrestricted, and without the need for permission.
- 9.6. The Highbury Residents Association was founded in May 2004, with the aims of protecting and enhancing the area. The map provided, showing the addresses of supporters and objectors, shows that the supporters (of the Application) cluster densely in

the Highbury area, while of the objectors, only 2 are from the Highbury neighbourhood, while most are from a long way away. The suspicion is that many of the latter were prompted to object by a letter circulated by the Vicar of St Chad's (Mr Overend) urging them to do so. Many of the objections are on irrelevant grounds, notably the financial implications for the church.

### **Other submission material**

- 9.7. The letter from the Applicants of 30<sup>th</sup> July 2005, at an earlier stage in the proceedings, in reply to the written objections, was accompanied by quite a lengthy series of comments, in the nature of submissions, on all those objections. I have read all that commentary, and taken it into account in my consideration of this matter, but it does not seem to me appropriate or necessary to summarise all that earlier material (which is already before the Council) here.

### **Closing submissions**

- 9.8. The case has been made in the evidence, which demonstrates the requisite 20 year use; the number of people who have so used the land is significant enough to meet the criteria in the Act.
- 9.9. At no point was permission asked for to use the land. The evidence shows there was never any approach from the HRA (Highbury Residents Association) to the Rev'd Mr Overend to ask permission to use the land.
- 9.10. The cancelled event (in summer 2004) was not cancelled because permission was denied, but because it may have saved St Chad's a great deal of trouble if a claim had been made against them.

## **THE CASE FOR THE OBJECTORS**

### **10. Evidence**

- 10.1. As noted above, the objections to the application were from the Ripon & Leeds Diocesan Registry, on behalf of the Diocesan Board of Finance, and 57 other objectors, who included the

Rev'd Barry Overend, Vicar of St Chad's, Far Headingley. Many of the written objections were at least partly evidential in nature; I have read all of them, but as with the case of the letters supporting the application, I do not feel it is appropriate or necessary to summarise their contents here. I would however draw attention to the fact that a significant number of them were at least partly (and sometimes wholly) directed at the point that confirmation of village green status on the land would have adverse financial implications for the church. I agree with the submissions of the Applicants that this is a matter which is wholly irrelevant to the present application.

- 10.2. Some of the objection letters were accompanied by other documents which came to be referred to during the Hearing, and these will be mentioned at the appropriate places in the summary of the oral evidence which follows – as will the small number of additional documents produced by the Objectors for the Hearing itself.

#### **The Case for the Objectors – the oral evidence**

- 10.3. *Mrs Lorraine Banning* (objection letter ref. 20), of 12 Highbury Terrace, told me that she had lived in the Highburys since 1984, and was a regular attendant at St Oswald's Church, Highbury Mount, which closed in 2002. During all that time she had seen hardly any community use of the land in question. Until quite recently the land was far too badly overgrown to be of use to anyone. She had never seen children playing there, or known of functions there, organised by local residents. The only part she had seen used was the footpath alongside, to Meanwood Park.
- 10.4. There was one occasion after the church closed down when some people, who had hitherto shown no interest in the land, partially cleared it and held a private barbecue. She opined that this had been done merely to make it appear that the land had been in use. Since then the land had been overgrown again.
- 10.5. In cross-examination Mrs Banning said that her house was at the Monkbridge Road end of Highbury Terrace, so she could not see the field from it. However she regularly passes the field, about 3 or 4 times a week.

- 10.6. She had never been to a bonfire on the field, or seen one, or been invited to one. She is not very interested in bonfires. The land had generally been overgrown, to a height of several feet, until it was cleared when the church closed down. She was referring to the majority of the field, though she recognised that was not the case at the times some of the photos were taken. The reality was probably that more often than not the field was overgrown, but just cleared on odd occasions. She did see the field at least on every Sunday, when she attended St Oswald's Church. She was aware that a horse had often been on the field, eating some of the grass.
- 10.7. She did vaguely recall the circular letter from the Vicar (the Rev'd Mr Overend) being handed out in 2005, urging people to object to the village green application, and saying it would deprive the church of income. However she had written her own letter (in 2005) because she had her own personal knowledge of the field.
- 10.8. Mrs Banning told me that she had never had any children. Entry to the lower rooms at St Oswald's (where meetings were held) was on the right-hand (eastern) end of the church building. One got a clear view over the field from there.
- 10.9. Up until about 6 years ago she used regularly to take walks along the paths by the field – about once a week in summer. More recently she has tended to see it while in a vehicle along Highbury Mount.
- 10.10. *Miss Elizabeth Johnson* (Objection ref no.17) lives at 3 Grovewood, but had lived at 43 Highbury Road from 1956 until October 2001. For over 15 years she had been a member of St Oswald's Church Committee, and as such had been fully aware of the issues of dumping (of rubbish) on the mission land, which were regularly brought up at meetings.
- 10.11. During her period living in Highbury Road she had frequently walked along the back of Highbury Close (beside the field), because her family had an allotment on the Holkin Lane site, and for walking through to the Meanwood side.
- 10.12. She did not recall seeing children playing football or other games on the field. In fact the children used to play on the track

at the end because the field was always long, full of nettles, and uneven.

- 10.13. There was a local man, Harry Jackson, who grazed a horse on the field and gave a regular donation to the church. He also used to cut the nettles down.
- 10.14. The blackberries on the land are accessible from the public right of way, not the body of the land. She was never aware of any organised community events on the land. There have been no organised church bonfires there in the last 20 years. The church used to organise 5<sup>th</sup> November bonfires on the land in Miss Johnson's youth, some 30-40 years ago.
- 10.15. In cross-examination she said that you could see the field from her former house in Highbury Road. She was on the St Oswald's Church Committee until it closed in 2002; she is still a PCC member at St Chad's.
- 10.16. She used to visit her family's allotment once a week in summer; it was about 5 minutes walk from the end of the mission field to the allotment.
- 10.17. She thought the nettles she recalled were visible in one of the photos of a bonfire, and accepted it was true to say that perhaps *part* of the land was typically full of nettles.
- 10.18. She definitely did not recall children playing football on the field; they played at the end, where the track 'turn-round' is, not on the triangular field itself. They would usually be kicking a ball or playing tig or something like that. Children might have walked across the field, but she had not seen them playing there.
- 10.19. In addition to the blackberries alongside the right of way, there were elderberries alongside Harry Jackson's land (on the western boundary). She could not recall seeing any bonfire on the land in the last 20 years.
- 10.20. To me, Miss Johnson said that when she was living in the Highburys she would see the land every day, when going to work, during the period 1985 – 2001. She was also on the St Oswald's Committee for most of that period; it met in the

downstairs meeting room, about 8 times a year; you can see the mission land clearly when you go to the committee room.

- 10.21. Apart from the visits to the allotment, or occasional visits to the Meanwood Park side, she would also see the land when going for a walk, for recreation.
- 10.22. The church used to organise bonfires on the land when she was a child – a teenager up to 14/15 or so, but then they died off. Subsequently she was not aware of any proper organised bonfires; there might have been informal ones. During the winter she would not pay particularly close attention to this, although she would make occasional visits to the allotments even in winter.
- 10.23. ***Christopher Geoffrey Holmes*** (Objection reference 45) lives at 480 Spen Lane, in the Lawnswood area. Previously, from 1982 to 1985, he had lived at 42 Bentley Lane, in Meanwood, quite close to the Highburys. He had friends who lived at Wilton Grove, and Highbury Terrace, where they met regularly to walk into Meanwood Park and the valley trail. This meeting to walk from Highbury Terrace into the Park continued from 1985 to 1995, after moving from Meanwood to Lawnswood.
- 10.24. Mr Holmes has two young boys, born in 1996 and 1999. He and his wife regularly took them to the playground and for walks around the Meanwood Park area, from 1996 to 2006, including visits to Highbury Terrace. He had not seen any activity on the mission land, or evidence of the local community using it as a recreational space.
- 10.25. In cross-examination Mr Holmes said that back in 1982-5 his walks would start from Bentley Road, walking through the mission field area to get to Meanwood Park. On average this would be once a fortnight. After 1985 it would have been about monthly that he and his friends met to do the walk – more in summer than winter. It was for about 5 minutes of that walk that you could see the mission field.
- 10.26. It was from the letter handed out at St Chad's that he had learnt of the application to register the field as a village green.



- 10.27. To me he explained that in the post-1985 period his meeting with friends to walk would have been *on average* once a month – in summer it could be fortnightly, but correspondingly less in winter. They would always meet at the Highburys because his friends there had a big room – and she was the best cook!
- 10.28. The walks would always be in the Meanwood direction. He did recall seeing dogs on the mission field. He would keep his children on the path, for example, because of the dogs using the field as a toilet.
- 10.29. Typically the walks would use the unmade road on the lower side of the field. He had never seen bonfires on the land, and had no recollection of seeing bonfire piles there. He personally could not recall seeing a horse grazing the land – he remembered seeing horses at the nearby stables. The walks were usually circular, so only in one direction would they usually pass the mission land.
- 10.30. The *Reverend Barry Malcolm Overend* is the Vicar of St Chad's, Far Headingley, and lives at St Chad's Vicarage in Otley Road (Objection Ref no. 42). I should perhaps record here that in this instance, and for fairly obvious reasons, as well as receiving a copy of Mr Overend's original written objection, with attachments, and his oral evidence, Mr Overend has been involved in considerable further correspondence etc, relating to the village green application, and the circumstances leading up to it. Much of this was then referred to during the course of Mr Overend's oral evidence at the hearing, and I have taken all of it into account in forming my views on his evidence, insofar as it was made available to me and the other parties to the hearing.
- 10.31. The Rev'd Mr Overend said he had been Vicar of St Chad's, Far Headingley, since January 1987. He had therefore had long and close association with St Oswald's Church (which was in his parish) and its surrounds. He estimated he had made in excess of 2000 visits to the St Oswald's vicinity over 20 years, and only once had he seen the field being used for recreational purposes. That occasion was the erection of a child's den on the field, immediately prior to a public meeting in September 2005 [outside the period these proceedings are concerned with]. He had never seen a ball being kicked or thrown, a kite being flown, or a picnic being held there. Following her marriage,

one of his daughters had lived in Sandfield Garth, adjacent to the field, from 2001 – 3, and on his frequent visits to her house he had seen no evidence of recreational usage of the land. Had such usage been as regular as now claimed he would have expected to have seen or heard evidence of it on at least some of his professional and family visits. The unkempt nature of the field, in his view, mitigated against recreational usage.

- 10.32. With his original objection he had enclosed letters from the two previous incumbents of St Chad's Parish, the Rev'd Roger Robinson from 1970-81, and the Rev'd Canon Brian Abell from 1982-1986. Together with Mr Overend's evidence, this showed (he said) that there had been no consistent public usage of the land, but only occasional usage with implicit and explicit permission from St Chad's PCC.
- 10.33. In both July 2004 and October 2004 permission for public usage of the land was (in writing) withheld by St Chad's PCC, and a very clear statement was made to the Chairman of the Highbury Residents Association to the effect that this is private property, not public open space. (This refers to letters of 29<sup>th</sup> July 2004 and 15<sup>th</sup> October 2004, both addressed to Mr Ian Oldroyd).
- 10.34. That the Parochial Church Council could and did expressly withhold its permission for usage of this land was acknowledged in the Highbury Residents Association Newsletter (Volume 1, Issue 2 of October 2004), in which it was stated that the community clean-up of the mission land [preparatory to a planned barbecue which in the event took place elsewhere] had to be cancelled after permission was denied by the owners of St Oswald's church. The fact that the residents sought and were denied permission for usage was an acknowledgement on their part that free and unrestricted access had not been allowed.
- 10.35. Mr Overend also spoke of an exchange in June 2006 [outside the relevant 20 year period] when Mr Oldroyd and Dr Mann had requested St Chad's PCC to cut back the grass because "*it is custom and practice for us to use the land for recreational purposes, however the grass on the land has not been cut back this year and it is approaching the point where it could become difficult for us to continue this tradition*". In his reply Mr Overend had pointed out this was the first such request ever

received; it was therefore obvious that in the previous 19 years, when the grass was also left uncut, the field would have been regarded as unsuitable for recreational use, as indeed it always had been.

- 10.36. Further, at a Public Meeting at St Chad's Parish Centre in September 2005, when the PCC outlined its proposals to landscape part of the field, local residents objected on the ground that they preferred its wilderness nature as a wildlife habitat.
- 10.37. For the last 20 years the field has not been suited to playing ball games; it is uneven terrain with uncut grass. The tethering of a horse, under a nominal payment arrangement with its owner, has been the only method of grass control employed.
- 10.38. There is considerable written evidence in both St Chad's PCC minutes, and those of St Oswald's Church Committee, of an ongoing problem of residents using the field as a tip for domestic rubbish. He quoted examples, e.g. from 27<sup>th</sup> April 1987: "*suggested that the field be cleared then a letter go to the houses overlooking the field pointing out that it has been cleaned again and asking that they report ... anyone they see dumping on the field*". From 25<sup>th</sup> April 1994: "*Mr Harry Jackson and a man from the stables have cleared and burnt the rubbish from the field*". From 1<sup>st</sup> September 1997: "*dumping of rubbish and chopped down tree by local resident ...*"
- 10.39. Prior to very recent times, attempts to encourage the residents to assist in clearing the land had met with no success. The St Oswald's Church Committee minutes show: 30<sup>th</sup> June 1986 – "*Field clearance. Poor turn out. All committee members*". 15<sup>th</sup> June 1987 – "*Field cleared by a few of the Committee members*".
- 10.40. It is only (said Mr Overend) since the future of the field has been in contention that the PCC has been approached by residents with a view to using the field for community events. The first approach, to his 20 year knowledge, was that in July 2004, when the residents expressed their intention to hold a Community Clean-Up and Barbecue on the land on 8<sup>th</sup> August 2004.

- 10.41. On advice from the Ripon Diocesan Registrar, the PCC refused permission for the Clean-Up and Barbecue on Health and Safety grounds. That decision was conveyed to Mr Oldroyd in Mr Overend's letter of 29<sup>th</sup> July 2004 [already referred to]. The event was duly cancelled, and the barbecue relocated. The subsequent circular [Newsletter] from the Highbury Residents' Association stated, under the headline 'HRA – Aims & Objectives': "*On August 8<sup>th</sup> the Highburys came together at Highbury Cricket Club for a community barbecue*", and explained [as referred to above] that the 'clean-up' on the mission land earlier in the day "*had to be cancelled after permission was denied by the owners ...*"
- 10.42. Then in October 2004 Mr Oldroyd wrote [to Mr Overend] to say that residents were intending to hold a Bonfire Night celebration on the field. The PCC again withheld its permission, as was communicated to Mr Oldroyd in Mr Overend's letter of 15<sup>th</sup> October 2004. Mr Overend believed that, like the barbecue, the bonfire event was then cancelled.
- 10.43. During the past 20 years as Vicar, Mr Overend had never been asked to advertise in the church, or the Parish Magazine, any community event on the St Oswald's field. His four children had grown up in the parish, and he had never been asked to bring them along to any community event on the field.
- 10.44. A further barbecue was proposed for 18<sup>th</sup> June 2005 [outside the relevant period], and again permission was denied.
- 10.45. In cross-examination, the Rev'd Mr Overend said that his estimate of 2000 visits to the neighbourhood referred to the neighbourhood as the Objectors had sought to define it. This included making visits to properties in the Highburys. All the visits would have been for a purpose – about two thirds to visit people's houses, one third to go to St Oswald's church.
- 10.46. Usually on visiting a house he would not see the field, but on some such visits he would go and look at the field because of the rubbish problem on it, or for other reasons. He estimated that probably on one third of his visits he would have looked at the field.

- 10.47. When his daughter lived in Sandfield Garth for two years from 2001-3 he would visit her about once a week, so about 100 times over the two years. His trips to St Oswald's church would usually be on Sunday mornings, but there were visits at other times, e.g. to go to St Oswald's Committee meetings.
- 10.48. His daughter had lived at No. 15 Sandfield Garth, which is in the end block (of houses), from which the mission field is not visible.
- 10.49. The '2000 visit' estimate was the professional visits. As a family the Overends had also visited the field reasonably often, walking the Meanwood Trail, probably about 10 times in total. The family has dogs. These visits would be additional to the 2000 estimate.
- 10.50. The arrangement with the horse grazing the field lasted a long time, with Mr Jackson paying £5 per annum to the church to do that. It stopped when he died, about 4 to 6 years ago, at a guess. Mr Overend was aware that other horses had grazed the field since then. He thought they belonged to Beverley Seymour, but was not aware that she had ever asked permission. His assumption was that any horse there prior to Harry Jackson's death was his horse, covered by the arrangement.
- 10.51. The grass was normally overgrown except where the horse grazed it. The rest would be unkempt. However the horse would graze in different places when its tether was moved, as a measure of grass control.
- 10.52. But at any given time 90% of the field would be unsuitable for recreational purposes, e.g. ball games, or running around. In his view, the photographs produced tended to show people standing around, or walking round the edge.
- 10.53. After the minutes quoted from 1987 and 1997, letters were sent to local residents, saying they were not at liberty to dump rubbish on the field. It was made clear people were not free to do as they wish over the field.
- 10.54. To Mr Overend's knowledge, the first time the PCC was ever approached with any request to use the field was in July 2004, leading to his letter to Mr Oldroyd of 29<sup>th</sup> July 2004. [Mr

Overend at first thought that Mr Oldroyd had telephoned him, but subsequently, following the finding of a note in his files, he accepted that he had in fact first telephoned Mr Oldroyd, having become aware that the Residents Association proposed to hold a ‘clean-up’, followed by a barbecue, on the land, in the way explained by Mr Oldroyd in his evidence to the Hearing. N.B. the proposal to hold the clean-up, followed by a barbecue, on the land had been announced in the Highbury Residents’ Association Newsletter, Volume 1, Issue 1, circulated in July 2004 – a copy of which was produced to the Hearing].

- 10.55. Mr Overend’s letter of 29<sup>th</sup> July 2004 had told Mr Oldroyd that the Church Council was “*very surprised that the Residents’ Association felt able to plan an event on private property*”, and refused permission for the event. It also said that any further proposals concerning the church land must be brought to the attention of the PCC in advance. The letter did not threaten legal action.
- 10.56. The subsequent HRA Newsletter (Volume 1, Issue 2 of October 2004) shows that by implication permission had been asked to use the field, and clearly says the event was cancelled because permission was denied.
- 10.57. Mr Overend accepted that the Association had not actually asked for permission – they stated their intent. But he had denied permission, and the event did not happen. Mr Overend said he would not have expected the event to be cancelled if it had really been the custom and practice to hold it there in the past.
- 10.58. Then there was a letter of 10<sup>th</sup> October 2004 from Mr Oldroyd, referring back to the July letter, about the intention to hold a November bonfire on the field. Mr Overend had written back on 15<sup>th</sup> October 2004, on behalf of the PCC, denying permission, and again pointing out that the field was not a public open space, but private property.
- 10.59. The proposed community bonfire was cancelled. Mr Overend accepted that a fire had been lit, because there was a patch burnt out on the ground – but that was a bonfire lit by *Mrs* Oldroyd, he had understood from a telephone conversation. His understanding was that he had withheld permission, but a

bonfire did then take place, which was not a residents' group bonfire; he believed it was one for which Mrs Oldroyd had accepted responsibility. The planned, larger one for residents did not take place, as permission had been withheld.

- 10.60. Mr Overend did not at all believe or accept that bonfires had previously taken place as an annual event on the land. If they had happened at all in the previous 20 years, they would have been very rare in his view.
- 10.61. There was a later proposal for a Residents' Association barbecue on the land in June 2005 [outside the relevant period], which led Mr Overend to write a letter to Ms Mulherin (Association Secretary) to deny permission. Mr Overend was not aware if that event had taken place; he rather thought it had not.
- 10.62. Mr Overend reiterated his view that the planned November 2004 Residents' Association bonfire had been cancelled, to be replaced by a lesser, non-HRA event. He understood Mrs Oldroyd to have accepted this on the phone – she had not wished to implicate other members of the HRA. He did not know who attended the bonfire which actually happened. However it would have been quite clear from the telephone conversations which took place that permission was required.
- 10.63. In re-examination Mr Overend said that the newly provided batch of 'HRA' photographs, particularly one showing high vegetation with two young girls sitting in it, were typical of the state of the field during summer periods.
- 10.64. The *Rev'd Kingsley Dowling* was called to give evidence. He had been curate of St Chad's from January 1999 to May 2001, and had had pastoral responsibility for St Oswald's church.
- 10.65. During his time there he made many visits to the church for services (which took place every Sunday) and meetings, and to the local community for pastoral visits. On no occasion did he recall seeing children playing or family activities on the adjacent grassed area. On occasions he had to walk on that area surrounding the church, and found it to be very uneven ground with lots of debris.

- 10.66. In cross-examination Mr Dowling said he would usually visit the Highburys by car – he made many such visits – but you could see the land as you drove. Also, when going to services he would park his car on the hill, and usually see the land from where he had parked. It is not possible to see the land from the interior of the church. He used to attend evening meetings in the meeting room, from the access to which it is possible to see the land.
- 10.67. There were a number of troublesome incidents at St Oswald's. An area of York stone paving was stolen. He used regularly to walk all round the church building to make sure it was secure. Accordingly every visit of his to the church would involve seeing the field; he would invariably look round to make sure everything was in order; this would be at least 2 or 3 times a week, it was very regular. These visits would be either for a church service, or a meeting, or occasional coffee mornings.
- 10.68. Mr Dowling told me the curate's residence had been in Becket's Park (not in close proximity to St Oswald's). His checking up on the building of St Oswald's had been a matter of routine. It was on a weekly basis that he would walk right round the church to inspect it. He would sometimes walk further out onto the field, for example when rubbish had been left there. It was not easy ground to walk on; lots of bricks and the like had been left there.
- 10.69. *Mrs Hilary Taylor* was the last witness. (Objection Ref No.10). She lived at 26 Drummond Avenue, Headingley, very near St Chad's Church, and had done so since 1994.
- 10.70. Between 1986 and 1994 she had lived at Moor Park Villas, which backs on to Sandfield Garth and Highbury Mount. During that time she regularly walked past St Oswald's and the Mission Land on the way to Meanwood Park, with her children. It was the easiest route, e.g. with a pram. They would walk along the track at the bottom, rather than actually across the site. This was because that area was eerily deserted; the ground was very rough, uneven and overgrown with long grass, nettles and brambles. There was also a lot of garden rubbish and other tipped items; for example a fireplace which had been left under a hedge at the top of the site. She did not feel that this was a pleasant or safe place to be, particularly with young children.



- 10.71. She never on any occasion saw any local residents or their families using this land, even at weekends or during the school holidays.
- 10.72. In cross-examination Mrs Taylor said she thought she had heard about the village green application via the church.
- 10.73. The frequency of her walks past the site would depend on the time of year and the needs of her family; there was a period when it was daily. During the later period of living locally, she and her family would go via that route to the park at least once a week. She always used the lower track; she never considered walking across the grass, because of its appearance, with long grass and rubbish – the whole area appeared to be overgrown. Nettles, specifically, were probably more at the edges where the hedge was – and there were brambles around the hedge.
- 10.74. She did remember seeing a horse on the land on some occasions, but not most of the time; her recollection was that the horse was not particularly effective at keeping the grass down.
- 10.75. To me Mrs Taylor confirmed that her evidence only related to the period 1986 – 1994; she did not recall any noticeable differences or changes on the land in those eight years.
- 10.76. Her period of going past daily had only been for 2-3 months. More typical was going there at least once a week, sometimes more. However this would be through the winter as well as in the summer months. She had no recollection during her period of living locally of ever seeing bonfires on the land, or piles got ready for a bonfire.

### **Other evidential material**

- 10.77. In addition to the previously submitted written statements, referred to earlier, and various items of correspondence, much of which has been mentioned in the evidence I have already recorded, the Objectors produced for the Hearing an Analysis of the written statements in support of the application; a map showing the boundaries of the ecclesiastical parish of St Chad's, Far Headingley; a copy Deed of Conveyance relating to the land of April 1947; and a copy of a planning permission for the

conversion of St Oswald's church to 3 residential flats, with associated parking and landscaping, of 15<sup>th</sup> August 2006.

- 10.78. I ought perhaps to record here also that among the items produced earlier by the Ripon & Leeds Diocesan Registry was a Statutory Declaration, dated 8<sup>th</sup> November 2003, by Mrs Francesca Mary Johnson, of 3 Grovewood, Grove Lane, Headingley, Leeds (aged 77 in 2003).
- 10.79. In general what the declaration said was consistent with (and thus effectively repetitive of) other sworn evidence given at the Hearing itself. However in her declaration Mrs F M Johnson did additionally record that for the previous forty years at least the Church had accepted responsibility for grass-cutting and general maintenance of the Land from time to time, and that for a number of years the Land was used as a playing field for children associated with the Church. She recalled also that social events organised by the Church were held there on Bonfire Nights over a period of at least ten years.

## THE CASE OF THE OBJECTORS - SUBMISSIONS

### 11. Opening Submissions

[ *I do not here record various pieces of factual information given in opening which were confirmed in other evidence* ].

- 11.1. On the question of **Locality**, the Objectors submit that it should be taken to be the ecclesiastical parish of Far Headingley St Chad.
- 11.2. As for “*neighbourhood within a locality*” (if relevant), the Objectors saw themselves as in basic agreement with the area identified by the Applicants, except that the Applicants had included properties on the south side of Monkbridge Road (from which 5 of the supporting statements had been received), at a point where that road itself is the southern boundary of the ecclesiastical parish. With that minor quibble the issue of a potential “*neighbourhood*” was agreed; the area concerned is generally known as the Highburys and comprises a total of over 300 properties.

- 11.3. Contrary to a popular belief widespread among some residents of the Highburys, the land behind St Oswald's Church had *not* been left to "*the children of the Highburys*" by the widow of a former Vicar (Mrs Stables), as the documentary evidence showed. It had been conveyed in 1947 to the Diocesan Board, on behalf of the St Chad's PCC, by the Stables Trustees, "*for any ecclesiastical purposes*", as defined.
- 11.4. Of the 97 statements lodged in support of the village green application, nearly two thirds were from residents within the 'neighbourhood' as defined by the Objectors. It was notable that 55% of the statements (and 56% of those from within the 'neighbourhood') contained observations objecting to development on the land, and/or of the church building itself.
- 11.5. Over half of the statements were from supporters who had lived at the address, or in the area, for less than 20 years, or whose statement is silent on the length of residence.
- 11.6. Analysis was provided of the activities claimed to have been 'taken part in' on the land, and of claimed 'activities seen', according to the statements. Of the 'activities seen', horse grazing was by far the most reported activity; indeed a significant proportion of statements only record observing horse grazing. Walking is the next most recorded 'activity seen', followed by children playing.
- 11.7. Of the claimed activities 'taken part in', walking was the highest (with and without dogs), again followed by children playing. When taken together, the most commonly recorded activities 'taken part in' were walking, with blackberry/elderberry/ elderflower picking. These are activities most likely to have been accomplished by incidental use of the rights of way – Leeds Path No. 79 at the top, and the track at the bottom. The significant number of statements referring to walking through to the allotments, to Meanwood Park or beyond, tends to confirm that it was the footpath or track, rather than the main body of the land, that were being used.

### **Closing Submissions**

- 11.8. The Objectors' position on Locality and Neighbourhood remained as in their opening statement.

- 11.9. On matters relating to claimed *Use* of the land, matters could be broken down into their elements. As to *elder or blackberry picking*, Mrs Oz's evidence had been that they are found by the path at the top, or by the corner of the church building, not on the body of the field. Thus access had been from the path, or from Highbury Mount, or a short deviation from those, except for one occasion when contractors had deposited paint on the nearer bushes.
- 11.10. As to *walking*, much of the oral evidence had referred to walking through the site, to the allotments, Meanwood Park or beyond, including the use of the Meanwood Valley Trail and the Dales Way. Mrs Oz had also said that 80% of dog walkers used one or other of the tracks; Jenny Ward had said dog walkers used both paths equally.
- 11.11. As to *bonfires*, Miss Johnson's evidence was that there had been no church-organised bonfire events from about the late 1970s. Others had spoken of bonfires 20 to 25 years ago. Mr Kilburn said he had been 5 to 7 times over a 20 year period, 2 of which were since the Highbury Residents Association was formed. Mrs Cooper said she had attended only 2 bonfires, in the period around 1990-92.
- 11.12. As for *barbecues*, the photographs submitted by the applicants showed one close to the track at the rear of Highbury Close, on a small cleared area of field, with very long grass on the rest of the field.
- 11.13. *Wildlife watching*: Mrs Oz's evidence was that she did it from her house, through her picture window, or from her garden – not from the field itself.
- 11.14. The Objectors' witnesses had given evidence about the general state of the field between 1985 and 2005. There was little evidence of recreational use over that period, sustained over the whole land by a significant number of people from the relevant neighbourhood.
- 11.15. There was a lot of evidence of a continual problem with *rubbish dumping* on the land, as shown by the PCC or St Oswald's committee minuted references to this, given in evidence by the

Rev'd Mr Overend. It was plain that any 'clean-up' was left to church members. Even Mr Kilburn had said that there had been a general build-up of garden rubbish opposite the houses.

11.16. As for *permission*, the evidence was clear as to what had happened in 2004. There had been a denial of permission, and the Highbury Residents' Association Newsletter reported that the summer event was cancelled due to refusal of permission by the landowner.

11.17. Thus in conclusion, the evidence produced by the Applicants, at the Hearing and otherwise, and their submissions, do not meet the tests for registration as a town or village green under the 1965 Act.

## 12. DISCUSSION AND CONSIDERATION

12.1. As noted in Section 1 of this Report above, it is a matter of agreement between all parties that this application must be determined under the relevant provision of the *Commons Registration Act 1965*, even though those provisions have been repealed by the *Commons Act 2006* for the purpose of 'new' applications for village green registration made from April 2007 onwards.

12.2. Consequently the formal position is that, in order to add the 'Highbury Mission Land' to the Register of Town and Village Greens, the City Council as Registration Authority must be satisfied that, as at the date of the application in April 2005, the land fell within the definition contained in *Section 22(1A) of the 1965 Act*:

*"Land ... on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and ... continue to do so"* [i.e. continued to do so in April 2005]

12.3. As for the law, the City Council must determine the application on a proper and correct understanding of the law. As for the facts, I take the position to be that where they are in dispute, they should be determined on the balance of probability, but the

onus to prove the required factual basis is essentially on the applicants. I do not understand any of this to be in dispute.

- 12.4. I indicated in Section 3 above the preliminary view that this did not appear to be a case where it was likely that different conclusions would be reached in respect of the parts of the application site which are in separate ownerships, in spite of the fact that the City Council itself, as owner of part of the land, had not objected to the application. None of the parties to the Hearing argued that the respective ownership parcels should be considered and treated separately. There was a very important element of the evidence, which I discuss later, which really only applied to the bulk of the site which belongs to the Ripon & Leeds Diocesan Board but, as will be seen, my eventual conclusion has indeed been that the two separately owned areas do in reality ‘stand or fall’ together.

### **Locality and Neighbourhood**

- 12.5. This is not, perhaps fortunately, a case where there has been any significant dispute between the parties on this topic, even though they had initially put forward slightly different views. No time was spent at the Hearing arguing about this aspect of the matter.
- 12.6. Having regard to my understanding of the law in this field, and to the evidence, I prefer the views put forward on behalf of the Objectors as to what might be the most appropriate ‘locality’ and ‘neighbourhood within a locality’ to identify in this case. The apparent requirement for a ‘locality’ to be an area known to the law suggests to me that the ecclesiastical parish of St Chad, Far Headingley, would be the most appropriate to identify as being the potentially relevant locality in this case. It is clearly defined (much more so than the circle on the map which the Applicants had originally suggested), and the great majority of the claimed users of the application site came from within it. It appears to me that the only legally possible alternative as a ‘locality’ (as the law seems to stand) is likely to be the whole of the City of Leeds. That does not appear to me to be at all appropriate, and in any event no one argued for it.
- 12.7. There is no doubt, in my view, that if registration were to take place in this instance, it would be on the ‘neighbourhood within

a locality' basis. Both main parties at the Hearing stage appeared to be agreed on this, and put forward extremely similar suggestions as to what the potentially relevant 'neighbourhood' might be. I prefer the Objectors' suggestion because (unlike the Applicants', which was shown on a plan they produced for the Hearing) it actually is wholly within the 'locality' which I conclude is the most appropriate one to identify. It is also entirely consistent with the evidence, in that the claimed users of the application site do indeed (by a very large majority) come from within it.

12.8. Thus, were this to be a case where registration was to take place, I would conclude that the relevant 'neighbourhood' (which is quite appropriately to be referred to as 'the Highburys' – and commonly is) should be identified as the area which lies between (and is partly bounded by) School Lane to the west, and the Monkwood Beck to the east, including within it the houses on the north side of Monkbridge Road between those points, and the whole of the following streets:

- Highbury Lane
- Highbury Place
- Highbury Street
- Highbury Road
- Highbury Terrace
- Wilton Grove
- Sandfield Avenue
- Sandfield View
- Sandfield Garth
- Highbury Mount
- Highbury Close

12.9. As noted previously I was told, and have no reason to doubt it, that this 'neighbourhood' contains over 300 residential properties. It also has, in my view, a generally cohesive character which justifies the term 'neighbourhood'.

### **User as of right for [the relevant] 20 years**

12.10. In this case there are two distinct sub-issues under this heading which are in dispute. The first is whether the evidence supports the claim that there really has been user of the right kind, by a significant number of the inhabitants of the neighbourhood,

during the whole of the relevant period of 20 years, ending in April 2005. The second is whether any such use has been ‘as of right’ for the whole period, in the sense in which the law understands that term.

- 12.11. I should say that there was no real dispute at the Hearing that the types of use *claimed* by the evidence supporting the application were for the most part inherently capable of being use for ‘lawful sports and pastimes’, although there was an issue whether a significant part of the claimed use might not really have been activities incidental to the use of the rights of way on or adjacent to the land.
- 12.12. I should perhaps say that it seems to me that the quite extensive evidence about the tethering of a horse, or occasionally horses, on the land is not of any real assistance to the decision. Most of the evidence about this seemed to relate to the tethering of a horse for grazing by a Mr Harry Jackson, a nearby smallholder, in respect of whom the evidence is clear that he had some sort of licence agreement, in return for a small payment, with the church as owners of the land. There is a claim that in the latter years (from about 1992 onwards) another horse or horses were grazed there from time to time by a Ms Beverley Seymour, one infers without payment. I do not see how this in itself can add weight to a claim based on lawful sports and pastimes ‘of the inhabitants’, though I can see that the reasonably regular presence of a horse or horses may have had some effect in keeping the grass down so that other activities could more conveniently take place on the land.

### **Use over the full 20 year period**

- 12.13. It has to be accepted that it is always difficult to make a judgment based on balance of probability when there is a significant amount of evidence, including in particular that given on oath and subject to cross-examination, from two groups of clearly well-meaning people, as well as all the written statements lodged supporting or objecting to the application. I have also had to bear in mind that a significant amount of the ‘evidence’ one way or the other, particularly in terms of the written material, has come from persons who were also (or in some cases solely) either expressing views in opposition to the principle of any development taking place on the mission field,



or conversely deploring the fact that registration as a green might deprive the church of the opportunity to realise some money from one of its assets. I have ignored such considerations.

- 12.14. I have also noted the interest in the case taken by the local Member of Parliament for Leeds North West, Mr Greg Mulholland MP, including a letter from him dated 20<sup>th</sup> September 2007, expressing support for the application. I am sure Mr Mulholland will readily accept that he is not in a position to put anything forward which relates to the legal or evidential criteria which apply in a case like this. Accordingly I have been unable to take his support into account in reaching my conclusions and recommendation on the application.
- 12.15. I do not propose in this report to set out any kind of minute analysis of all the large volume of evidence which has been contributed. I have read and taken into account all of the written statements, and have every carefully considered all of the oral evidence which was given, on oath, at the Hearing. What I propose to do is to indicate the conclusions I have come to, on the balance of probability, having fully considered the totality of all that written and oral evidence, giving reasons where it seems to me to be appropriate.
- 12.16. In my view, from such evidence as there was of the more distant past, it is clear that at some point well before 1985, probably back in the 1970s and earlier, there was a period when the church itself used to organise local ‘social’ activities on its land consisting of the ‘Mission Field’, including the regular holding of organised November bonfires, and possibly other social events and the encouragement of local children to use the land as a playing field. I believe that what may be termed a ‘folk memory’ of that earlier state of affairs survives and colours what some of the older members of the local community say they recall about past use of the land.
- 12.17. However, on the balance of probability, the evidence overall strongly suggests to me that at some point, probably in the 1970s, and almost certainly no later than about 1980, that sort of church-organised or church-encouraged activity on the land ceased, and the site went into a period of becoming extremely overgrown and neglected. No doubt there were underlying

social reasons behind this, but I am not in a position to go into them.

- 12.18. I found particularly convincing the evidence of Mrs Hilary Taylor, who had lived in the vicinity (just outside the ‘neighbourhood’ I have identified) during the period 1986-94, and had particular reasons to pass the land regularly at all seasons during that period. She considered the land, particularly the upper parts, “*eerily deserted*” during that period; the ground was “*very rough, uneven and overgrown with long grass, nettles and brambles*”. There was also a lot of garden rubbish and other tipped items. This evidence is corroborated by the reference in PCC and Church committee minutes during that period (and other evidence) to the serious problem of rubbish dumping on the land.
- 12.19. I also found convincing a large part of the evidence of Miss Elizabeth Johnson, who had lived in Highbury Road for a very long period until late 2001. I was particularly persuaded by her evidence that during the relevant period children would tend to play, particularly ball games and the like, on the flat area where the unmade track (continuation of the line of Highbury Road) broadens out at its northern end near the stables, rather than on the overgrown, sloping and uneven ground of the main part of the application site.
- 12.20. That area of the track is in fact technically part of the application site, but I do not believe that it would be appropriate to register it by itself as ‘town or village green’, because I see the use there as being incidental to the track’s probable status (and certain use) as a right of way, rather in the way that children might traditionally have played in the street, or on quiet country lanes.
- 12.21. I accept that there will have been periods, whether through horse-grazing or otherwise, when at least some of the vegetation on the main part of the land will have been kept shorter – indeed a few of the (mostly undated) photographs I was shown were suggestive of this. However I was not convinced by the evidence that this really led to a significant level of use of the site between 1985 and fairly well past 2001, such that a reasonably prudent and observant landowner would or could

have been aware that village green-type rights were being asserted.

- 12.22. I also conclude from the evidence that, children being what they are, there will probably have been some small-scale incursion of children on to the main part of the application site to make dens and the like, in spite of the somewhat forbidding and overgrown state of the site which I am persuaded frequently prevailed from the 1980s (at least) through to the early years of the present decade. However I do not believe that use was on a scale anywhere near sufficient to amount to an assertion by local inhabitants of a right to use the land generally for sports and pastimes.
- 12.23. I also accept that it is probable that informal (rather than organised) local bonfires did take place on the land on a small number of occasions during the earlier years of the 20 year period, possibly around 1990 to 1992, but again I am not persuaded, on the balance of probability, that this was anything like enough to amount to an (implicit) assertion of a general right to do so.
- 12.24. Another witness whose evidence I found particularly convincing was the Rev'd Kingsley Dowling, the former curate who had specific responsibility for St Oswald's. Although his evidence related to only a comparatively short part of the relevant period, from January 1999 to May 2001, he had had very particular reason to scrutinise the surroundings of St Oswald's Church carefully, on an extremely regular basis. He saw no sign of the claimed regular occurrence of children playing or family activities on the land during the whole of the time of his curacy.
- 12.25. I am aware that in concluding that certain witnesses were particularly convincing I run the risk of offending others, particularly those whose evidence was contrary to the tenor of my findings on the balance of probabilities. I did not in general conclude that witnesses were deliberately telling me untruths, but that there has been a certain tendency in some witnesses to 'run together' in their minds what I have described as the local 'folk memory' of church-organised or encouraged events on the land in the more distant past, and the undoubted resurgence of local activity on and interest in the land which has come in the

present decade, with the circumstances leading to the formation of the Highbury Residents' Association, and since its formation. In doing so they rather seemed to me to gloss over the intervening period of general neglect and disuse (apart from some rough grazing) which I have concluded prevailed through most of the 1980s and 90s.

- 12.26. I do note with interest that the second edition of the HRA Newsletter (Volume 1, issue 2), published in October 2004, made much of the fact that it was in that year that the previously overgrown right of way on the land (the footpath on the western side) was cut back by the Council (presumably the City Council), following lobbying by local residents. This, although not a decisive point in itself, seems to me to be more consistent with the evidence of witnesses like Mrs Taylor, Miss Johnson, Mr Dowling and others, who recall that the land was mostly neglected and overgrown for many years, than with those who assert that the field was continuously, and widely, and openly used by local inhabitants during the 20 year period 1985-2005.
- 12.27. In conclusion then (on this aspect) I find on the balance of probabilities that the evidence, when considered overall, does not support the claim of a continuing use by local inhabitants for 'lawful sports and pastimes' over the relevant 20 year period. I believe, and find, that for most of that period such use as there was would have been very sporadic and limited, and not at all such as to amount to a general assertion of a right to use the field for such purposes.

#### **'As of right'**

- 12.28. It is generally understood that the law requires that a use claimed to be 'as of right' must be "*nec clam, nec vi, nec precario*" – not done in secret, nor by force, nor with permission. I did not receive submissions specifically addressed to this maxim, neither party being legally represented at the Hearing. I must indicate however that it is my understanding of the law in this field that to qualify as continuous use for lawful sports and pastimes, such use, as well as not being carried on *with* permission from the landowner, also must not be carried on in the face of express prohibition or denial of consent so to use the land. In reality this seems to me to be an aspect of the "*nec vi*" principle.

- 12.29. My conclusion on the evidence is that the circumstances which occurred in July/August 2004 did amount to an express assertion of right by the landowner, and denial of permission to use the land. Although it eventually became clear (and agreed) that Mr Oldroyd, as chairman of the Highbury Residents' Association, had not initially asked the Vicar (Mr Overend) for permission to use the field (for the proposed clean-up and barbecue), it is completely clear that Mr Overend pointedly denied permission so to use the land (on behalf of the PCC), and strongly asserted the right so to deny – Mr Overend's letter of 29<sup>th</sup> July 2004.
- 12.30. What is more, the proposed events actually were cancelled as a result of that denial of permission by the landowner, a fact which was clearly reported, in more than one place, in the Highbury Residents' Association Newsletter, Volume 1, Issue 2. Dr Mann's evidence was that that newsletter is routinely delivered to every household in the neighbourhood.
- 12.31. The view which I have reached is that once that prohibition, or denial of permission, was delivered on behalf of the landowner, and particularly when news of it was disseminated to the whole neighbourhood, any further use of the land without permission by local people cannot have been 'as of right', even if it took place. Both the denial of permission, in late July 2004, and the general dissemination of news of it (in October 2004) were well within the 20 year period for which the Applicants have to show 'as of right' use in order to succeed.
- 12.32. Furthermore the Revd. Mr Overend's letter of 29<sup>th</sup> July 2004 specifically requested that any further proposals concerning the church land must be brought to the attention of the PCC. That request was in fact acceded to, in that Mr Oldroyd as 'Chair of the HRA' wrote to Mr Overend on 10<sup>th</sup> October 2004, referring to the 'previous correspondence in July this year', in connection with the proposal to hold a November bonfire on the land. Once again Mr Overend, on behalf of the PCC, denied permission for the event – his letter of 15<sup>th</sup> October 2004, in which he again asserted that the field is private property, not a 'public open space'.

- 12.33. What then actually happened is slightly unclear on the evidence. On the balance of probabilities I incline to accept the Revd. Mr Overend's understanding given in evidence that the originally planned, larger 'Residents Association' event did not take place, but that a smaller 'private' bonfire for which Mrs Oldroyd took responsibility was nevertheless lit on the land. I note that Volume 1, Issue 3 of the HRA Newsletter (published December 2004) records that "*On November 5<sup>th</sup> a group of Highbury residents and children gathered together around a small bonfire ... Over the years residents have had many such parties although this year's was an intimate little gathering*".
- 12.34. I do not see how, in the face of these events which came to pass in 2004, the Applicants can possibly succeed in their claim of local use 'as of right' through to April 2005, at least insofar as the land owned by the church is concerned.
- 12.35. The church (which I use as a convenient short-hand for the ecclesiastical landowners) clearly, and in the event publicly, asserted their rights over the land as private property – and the need to obtain permission from them before any activities could be carried out on the land.
- 12.36. It might perhaps be said (though no one actually argued this) that the church only prohibited and/or denied permission for certain organised activities, and did not expressly say anything about other claimed areas of use by local people, e.g. the walking (with or without dogs), blackberrying, children playing etc. However my findings on the evidence are that such activities were either incidental to use of the rights of way, or (as extensively discussed previously) so trivial and sporadic, looking at the 20 year period as a whole not to amount to any general assertion by the local inhabitants of a right to use the land for recreation.
- 12.37. As foreshadowed above, I accept that the findings which flow from the church's denial of permission to use its land in 2004 do not apply to the smaller portion of the application site which belongs to the City Council. However the City Council's land is essentially a former track (now technically a footpath) and its verges, and the small and heavily overgrown plot of a former educational building immediately to the west of the old St Oswald's church. In respect of the 'track' land, my conclusion

on the evidence is that it does not really show anything more than use incidental to that of the public footpath as such (during such times as it has been reasonably passable). It is also subject to my general conclusion earlier that the evidence does not (on balance) clearly demonstrate the requisite 20 years of use during the relevant period. As for the small, overgrown plot there was not really evidence about any significant local use of it at all, except for a reference to picking blackberries there once when bushes nearer the path had been spoiled by inconsiderately tipped paint debris. None of this amounts, in my view of the balance of the evidence, to a case for the registration of the City Council's own land within the application site.

### 13. CONCLUSION AND RECOMMENDATION

- 13.1. Accordingly my conclusion is that the Applicants have not, on the balance of probabilities, made out a case that the application site, or any part of it, has been used for not less than 20 years (ending on 28<sup>th</sup> April 2005) by a significant number of the inhabitants of the neighbourhood I have identified, to indulge in lawful sports and pastimes as of right.
- 13.2. Without prejudice to the generality of that conclusion I also specifically find that in respect of what I shall briefly call the church's land, any claim of use of that land 'as of right' for the requisite period would (on the evidence) as a matter of law be defeated by the express refusals of permission to use that land which were clearly conveyed to the local inhabitants in 2004.
- 13.3. It follows that my recommendation to the City Council as Registration Authority must be that the application should be rejected, and no part of the application site added to the register of town or village greens maintained by the Council.

**ALUN ALESBURY**

6<sup>th</sup> February 2008

2-3 Gray's Inn Square  
London WC1R 5JH

## APPENDICES

### APPENDIX I – APPEARANCES AT THE HEARING

- THE APPLICANTS - Dr Graham Mann  
of 8 Sandfield Garth, Leeds, LS6 4JL
- Mr Ian Oldroyd  
Of 183A Stonegate Road, Leeds, LS6

(Both applicants appeared in person, and both gave evidence)

They called additionally:

Mrs Tracy Ann Cooper  
Ms Judith Elinor Scott  
Mr John Hardy Kilburn  
Ms Jennifer Ward  
Ms Andrea Oz  
Mrs Mary Elizabeth Bernadette Oldroyd

### FOR THE OBJECTORS

Mr Michael Willison, Member of St Chad's Parochial Church Council; and  
Mr Christopher Milestone, Churchwarden, St Chad's, Far Headingley

They called:

Mrs Lorraine Banning  
Miss Elizabeth Johnson  
Mr Christopher Geoffrey Holmes  
The Rev'd Barry Malcolm Overend, Vicar of St Chad's  
The Rev'd Kingsley Dowling  
Mrs Hilary Taylor



## **APPENDIX II – LIST OF DOCUMENTS PRODUCED IN EVIDENCE TO THE HEARING**

[does not include notes of submissions, the Application and its supporting material and statements, the original objections, letters between and from the parties in 2005, or notes of oral witness statements produced for the Hearing].

### **1. *By the Applicants***

- (i) A map of Far Headingley and Meanwood showing the distribution of addresses of those who wrote statements in support of the application, and those who wrote statements of objection, and also showing a suggested boundary for a ‘Neighbourhood within a Locality’; together with a supporting schedule of names and addresses.
- (ii) A bundle of photographs showing various uses of the land by local residents, with some press cuttings.
- (iii) Volume 1, Issues 1 and 3 of the Highbury Residents’ Association Newsletter (Issue 2 had already been provided as part of an objection).

### **2. *By the Objectors***

- (i) Opening Statement (partly submission, but containing factual analysis of the content of the statements in support of the application, and some other evidential material).
- (ii) Plan showing boundary of ecclesiastical Parish of St Chad, Far Headingley.
- (iii) Copy correspondence (each way) from 2004/5 between the Rev’d Barry Overend and either Mr Ian Oldroyd or Ms Lisa Mulherin.
- (iv) Letter 14<sup>th</sup> August 2002, with plan, from Leeds City Council to the St Chad’s Parish Office, showing boundary of City Council’s land in the area.
- (v) Copy conveyance of land of 7<sup>th</sup> April 1947.
- (vi) Copy planning permission of 15<sup>th</sup> August 2006 for residential conversion of former St Oswald’s Church, with accompanying plan.

### **3. *By Leeds City Council (as Registration Authority)***

- (i) Letter of Mr Greg Mulholland MP, dated 20<sup>th</sup> September 2007.

This page is intentionally left blank

## Report of the Head of Scrutiny and Member Development

### Report to Scrutiny Board (Regeneration)

**Date:** 28<sup>th</sup> February 2012

### **Subject: Recommendation Tracking**

|  |                              |  |
|--|------------------------------|--|
| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

### Summary of main issues

1. This report sets out the progress made in responding to the recommendations arising from the previous Scrutiny review of Housing Growth in Leeds.
2. This follows the report of the Director of City Development to the Executive Board on 2<sup>nd</sup> November 2011 which also summarised the progress made in responding to the 12 recommendations arising from the Scrutiny review.
3. The Scrutiny recommendation tracking system allows the Scrutiny Board to monitor progress and identify completed recommendations; those progressing to plan; and those where there is either an obstacle or progress is not adequate. The Board will then be able to take further action as appropriate.

### Recommendations

4. Members are asked to:
  - Agree those recommendations which no longer require monitoring;
  - Identify any recommendations where progress is unsatisfactory and determine the action the Board wishes to take as a result.

## **1 Purpose of this report**

- 1.1 This report sets out the progress made in responding to the recommendations arising from the previous Scrutiny review of Housing Growth within Leeds.

## **2 Background information**

- 2.1 Following its review of Housing Growth, the Regeneration Scrutiny Board published its final report and recommendations on 11<sup>th</sup> October 2011. A copy of this report is attached as appendix 3.
- 2.2 The Scrutiny recommendation tracking system allows the Board to monitor progress and identify completed recommendations; those progressing to plan; and those where there is either an obstacle or progress is not adequate. The Board will then be able to take further action as appropriate.
- 2.3 This report follows the report of the Director of City Development to the Executive Board in November 2011 which also summarised the progress made in responding to the 12 recommendations arising from the Scrutiny review.

## **3 Main issues**

- 3.1 A standard set of criteria has been produced to enable the Board to assess progress. These are presented in the form of a flow chart at Appendix 1. The questions in the flow chart should help to decide whether a recommendation has been completed, and if not whether further action is required.
- 3.2 To assist Members with this task, the Principal Scrutiny Adviser has given a draft status for each recommendation. The Board is asked to confirm whether these assessments are appropriate, and to change them where they are not. Details of progress against each recommendation is set out within the table at Appendix 2.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Where internal or external consultation processes have been undertaken with regard to responding to the Scrutiny Board's recommendations, details of any such consultation will be referenced against the relevant recommendation within the table at Appendix 2.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 Where consideration has been given to the impact on equality areas, as defined in the Council's Equality and Diversity Scheme, this will be referenced against the relevant recommendation within the table at Appendix 2.

### **4.3 Council Policies and City Priorities**

- 4.3.1 This section is not relevant to this report.

### **4.4 Resources and Value for Money**

4.4.1 Details of any significant resource and financial implications linked to the Scrutiny recommendations will be referenced against the relevant recommendation within the table at Appendix 2.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 This report does not contain any exempt or confidential information.

#### **4.6 Risk Management**

4.6.1 This section is not relevant to this report.

### **5 Conclusions**

5.1 The Scrutiny recommendation tracking system allows the Board to monitor progress and identify completed recommendations. Progress in responding to those recommendations arising from the Scrutiny review of Housing Growth within Leeds is detailed within the table at Appendix 2 for Members' consideration.

### **6 Recommendations**

6.1 Members are asked to:

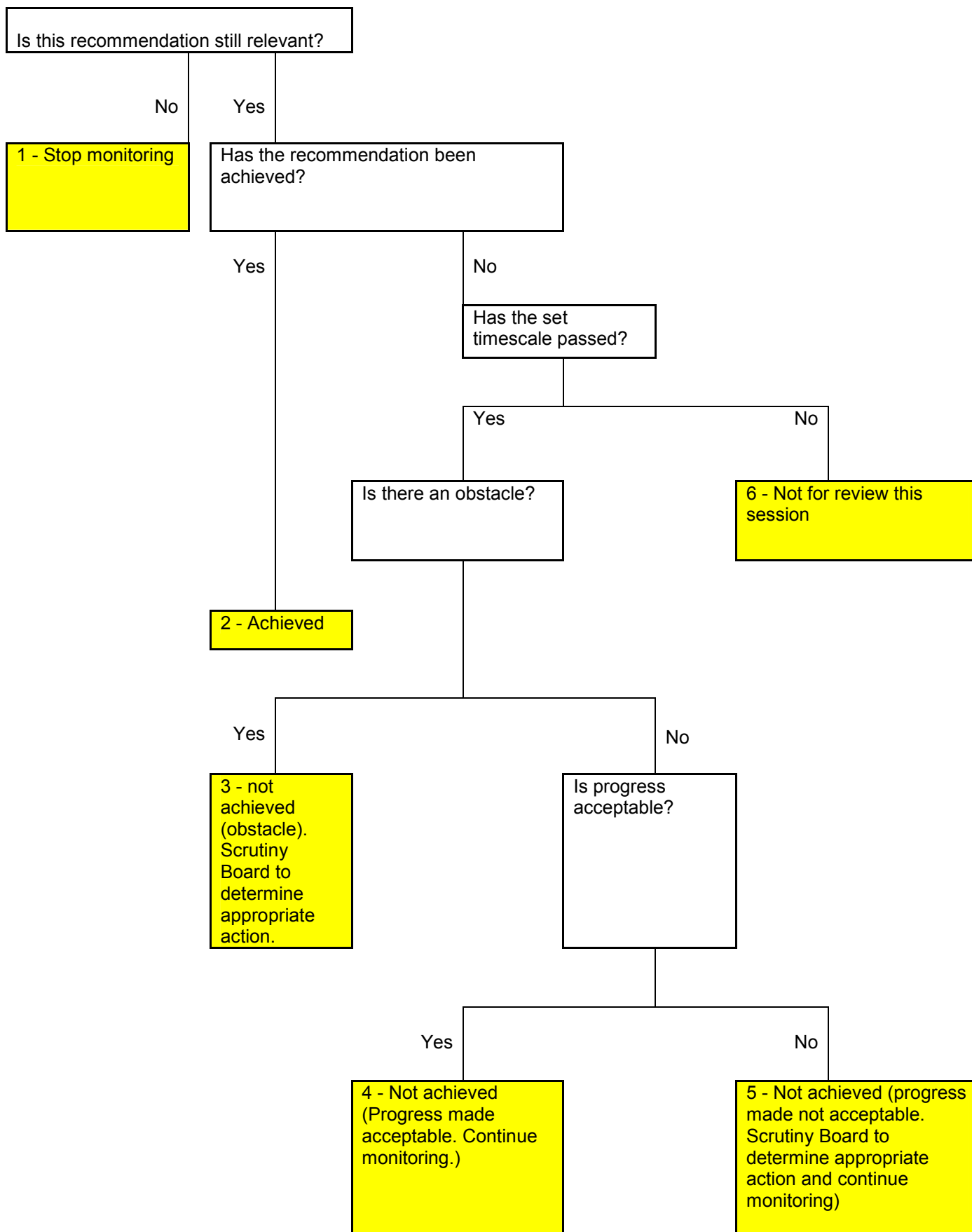
- Agree those recommendations which no longer require monitoring;
- Identify any recommendations where progress is unsatisfactory and determine the action the Board wishes to take as a result.

### **7 Background documents**

7.1 Review of Housing Growth within Leeds – Scrutiny Inquiry Report October 2011.

7.2 Report of the Director of City Development to Executive Board on 2<sup>nd</sup> November 2011 – Progress and comments on Scrutiny Board Inquiry Recommendations.

**Recommendation tracking flowchart and classifications:**  
**Questions to be Considered by Scrutiny Boards**



## Review of Housing Growth in Leeds

Categories

- 1 - Stop monitoring
- 2 - Achieved
- 3 - Not achieved (Obstacle)
- 4 - Not achieved (Progress made acceptable. Continue monitoring)
- 5 - Not achieved (Progress made not acceptable. Continue monitoring)
- 6 - Not for review this session

| Recommendation for monitoring  | Evidence of progress and contextual information  | Status<br>(categories<br>1 – 6)<br>(to be<br>completed<br>by Scrutiny) | Complete |
|--|--|--|----------|
| <p><b>Recommendation 1.</b></p> <p><b>That dependent upon the outcome of the 2011 Census the Executive Board make representations to the Department for Communities and Local Government (DCLG) that in order to achieve greater accuracy in the data provided by the Office for National Statistics a population register should be introduced.</b></p> | <p><b>Formal Response from Executive Board 2<sup>nd</sup> Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p>This will be considered in the light of the outcome of the census. The first of the data is expected to be released in June.</p> | <p><b>4</b></p>  |          |

| <b>Recommendation for monitoring</b>  | <b>Evidence of progress and contextual information</b>  | <b>Status</b><br>(categories 1 – 6)<br>(to be completed by Scrutiny) | <b>Complete</b> |
|---|---|--|-----------------|
| <p><b>Recommendation 2.</b></p> <p><b>That the Director of Environment and Neighbourhoods consider whether there would be an advantage in moving away from the DCLG household model altogether and relying on local data which would be more accurate in determining housing need.</b></p> <p><b>That the Director of Environment and Neighbourhoods report back to this Scrutiny Board on the outcome within 3 months of its report being published.</b></p> | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p>In addition to the SHMA, the Directorate of Environment &amp; Neighbourhoods utilises neighbourhood level Housing Market Assessments to inform housing needs, trends and aspirations within local housing markets. Along with data from the Leeds Homes register (in connection to demand for social housing) this gives a picture of the housing required within individual communities to inform the approach to investment.</p> | 4  |                 |
| <p><b>Recommendation 3.</b></p> <p><b>That the Executive Board oppose the proposal of the National Planning Policy Framework that requires an additional 20% over an above the figure required in the five year supply of housing units to be delivered per annum in the city. Their proposal would mean sites coming forward at an earlier stage and could undermine the Council's policy to develop its Brownfield sites.</b></p>                           | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p>The Council's response to the Draft NPPF was agreed by Executive Board in October and reflected the concern raised by Scrutiny Board.</p>  | 4  |                 |



| Recommendation for monitoring  | Evidence of progress and contextual information   | Status<br>(categories<br>1 – 6)<br>(to be<br>completed<br>by Scrutiny) | Complete |
|--|---|--|----------|
| <p><b>Recommendation 4.</b></p> <p><b>That the Directors of City Development and Environment and Neighbourhoods report back to Scrutiny Board (Regeneration) within three months providing statistics that demonstrate that we will meet the requirements of the National Planning Policy Framework.</b></p>                             | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>That the recommendations of the Scrutiny Board arising from the inquiry (including recommendation 4 on the basis that it relates to the production of monitoring data) be agreed</p> <p><b>Current Position:</b></p> <p>Monitoring information is provided in the Council's Annual Monitoring Report (AMR) approved by the Executive Board in December. Section 4 of the AMR includes a range of information on housing performance.</p> | 2  | Yes      |
| <p><b>Recommendation 5.</b></p> <p><b>That the Director of City Development consider whether through the SHLAA partnership or other mechanism; developers can be encouraged through incentives to deliver on sites where planning approvals have been granted and there are no technical reasons for these not to be progressed.</b></p> | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p>The Council has introduced an interim affordable housing policy, reflecting scheme viability in the current housing market. The policy is time limited as an incentive to early delivery. Consistent with national guidance the Council is willing to reconsider S106 obligations more generally where viability can be demonstrated to be holding back development.</p>                   | 4  |          |

| Recommendation for monitoring   | Evidence of progress and contextual information  | Status<br>(categories<br>1 – 6)<br>(to be<br>completed<br>by Scrutiny) | Complete   |
|---|--|--|------------|
| <p><b>Recommendation 6</b></p> <p><b>That the Director of City Development undertake a fundamental review of the SHLAA partnership by 31<sup>st</sup> December 2011 and before the preparation of the site allocation plan and that a report be submitted to Scrutiny Board (Regeneration) on the outcome.</b></p>  | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p>Completed report submitted to Scrutiny Board on 19th December 2011</p>  | <p><b>2</b></p>  | <p>Yes</p> |
| <p><b>Recommendation 7</b></p> <p><b>That the Leeds City Region Partnership be asked to consider through their work on a City Region Strategy Statement, that where a local authority makes either an over or under provision of new homes above or below locally evidenced targets, that both these circumstances are taken into account in arriving at the overall scale of provision of new homes in the city region. These arrangements for the provision of new homes is to be agreed through the Leaders Board of the Partnership and incorporated into each authorities' Core Strategy in the city region.</b></p> | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p>Report to the Leaders Board (2<sup>nd</sup> Feb) on future arrangements for Spatial Planning in the City Region. This includes exploration of how directive the Partnership wishes to be in regard of strategic planning. The outcome of these deliberations will inform how we progress any further work on how we can 'pool' our collective housing provision</p> | <p><b>4</b></p>  |            |

| Recommendation for monitoring   | Evidence of progress and contextual information   | Status<br>(categories<br>1 – 6)<br>(to be<br>completed<br>by Scrutiny) | Complete |
|---|---|--|----------|
| <p><b>Recommendation 8.</b></p> <p><b>That the Director of City Development</b></p> <ul style="list-style-type: none"> <li>• <b>Continue to make representations to the Secretary of State for Communities and Local Government to count windfall sites within the Council’s five year housing land supply.</b></li> <li>• <b>Seek to establish principles within the Council’s Core Strategy that support this outcome .</b></li> <li>• <b>Seek to include student accommodation within windfall sites.</b></li> <li>• <b>Write to all Members of Parliament providing a clear and uncomplicated explanation of the principle issues of concern so that MPs can continue to press the Leeds case with Ministers, Senior Civic Servants and other interested parties . A copy of the Director’s letter to MPs also to be circulated to all Members of Council.</b></li> </ul> | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p><b><u>City Development Directorate</u></b></p> <p>This was incorporated in the Council,s response on the Draft NPPF. A letter was sent to all Leeds MPs, Greg Clark MP, the LGA, Core Cities, all councilors and CLG.</p> <p>The matter has also be raised in a letter to MPs regarding the revocation of RSS and a letter in January 2012 to Greg Clark MP and the government’s chief planner raises further concern over the 5 yr land supply</p> <p>The approach in the Core Strategy (Executive Board 10<sup>th</sup> February) is to include and justify a windfall allowance.</p> <p><b><u>City Region</u></b></p> <p>Windfall issue raised with Ministers as part of the dialogue on city deals being brokered by the city region partnership. Looking to collate more information about the role of windfall across the city region as part of developing the dialogue</p> | 4  |          |

| Recommendation for monitoring   | Evidence of progress and contextual information   | Status<br>(categories<br>1 – 6)<br>(to be<br>completed<br>by Scrutiny) | Complete |
|---|---|--|----------|
| <p><b>Recommendation 9</b></p> <p><b>(a) That the Directors of City Development and Environment and Neighbourhoods undertake some initial work to identify ways in which the engagement and influence of local communities could be achieved under the Localism Bill.</b></p> <p><b>(b) That Executive Board make appropriate representations concerning the Bill that will require developers to consult with local communities including Town and Parish Councils where developments exceed more than 50 dwellings.</b></p> | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b></p> <p>Executive Board of 2 November 2011 considered a report on neighbourhood planning. The Council agreed to support 4 bids for pilot status for neighbourhood planning in Kippax, Holbeck, Boston Spa and Otley. Support for the pilots is in part intended to provide the opportunity to learn from experience how the process works in different communities. The outcome of the bid is still awaited.</p> <p>The Council responded to the draft regulations on Neighbourhood Planning (Executive Board 4<sup>th</sup> January 2012). However, these regulations did not include arrangements for consultation on planning applications.</p> | <p><b>4</b></p> <p><b>3</b></p>  |          |

| Recommendation for monitoring  | Evidence of progress and contextual information   | Status<br>(categories<br>1 – 6)<br>(to be<br>completed<br>by Scrutiny) | Complete |
|--|---|--|----------|
| <p><b>Recommendation 10.</b></p> <p><b>That the Executive Board</b></p> <ul style="list-style-type: none"> <li>• <b>Support the view that growth and infrastructure provision in the city must go hand in hand with the development of a new business model which incorporates the new Community Infrastructure levy (CIL) and new procedures for determining and developing strategic projects in the city region and support for significant local schemes in Leeds .</b></li> <li>• <b>Agree that 80% of the income to be raised through the CIL be ring fenced for the benefit of local communities with the balance being directed into a general fund to support city and city regional projects.</b></li> </ul> | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Not Agreed and that a further report being submitted to the Executive Board in December 2011 in respect of issues arising from recommendation 10.</p> <p>Executive Board on 14<sup>th</sup> December considered a report giving background information relating to the implementation of the Community Infrastructure Levy.</p> <p>The Executive Board agreed that a Community Infrastructure Levy Charging Schedule be developed as a matter of priority, and that the necessary funding, as set out within paragraph 4.4.2 of the submitted report, be approved. It also asked for further work to be undertaken in relation to all the concerns raised during the discussion, with a further report on such matters being submitted to the Board in due course.</p> <p><b>Current Position:</b></p> <p>The position is as set out above</p> | <p><b>4</b></p>  |          |

| Recommendation for monitoring   | Evidence of progress and contextual information  | Status<br>(categories<br>1 – 6)<br>(to be<br>completed<br>by Scrutiny) | Complete |
|---|--|--|----------|
| <p><b>Recommendation 11.</b></p> <p><b>That the Director of City Development establish a working group comprising appropriate members, officers, developers, representatives of neighbourhoods, HCA and Town and Parish Councils to promote better understanding of each others issues and concerns regarding housing provision in the city.</b></p>  | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b><br/>There has been some discussion on engagement at the annual parish and town councils meeting leading to a review of the Charter. At a more local level early engagement has taken place between officers, parish council representatives, ward members and the developer regarding the major East Leeds Extension development. A consultation forum involving these groups and others is to be established.<br/>In addition there is already a major developers forum on which there is parish council representation</p> | 4  |          |
| <p><b>Recommendation 12.</b></p> <p><b>That the Director of City Development write to the Secretary of State for Communities and Local Government expressing the Board's concerns that the home building industry has an abundance of planning consents but chooses not to implement them whilst pressing the case for the release of Greenfield and Greenbelt sites and thereby neglecting the development of inner city sites where need is greatest.</b></p> | <p><b>Formal Response from Executive Board Nov 2011</b></p> <p>Agreed</p> <p><b>Current Position:</b><br/>This is included in the correspondence referred to under recommendation 8</p>  | 2  | Yes      |

## **Appendix 3**

# **Housing Growth Scrutiny Inquiry Report**



# Introduction and Scope

## Introduction

1. The Executive Board at its meeting on 22<sup>nd</sup> June 2011 asked our Scrutiny Board (Regeneration) to undertake an inquiry to consider the population and household projection information including the land banking practices of developers that will underpin the Core Strategy on housing growth.
2. We agreed to undertake this inquiry as a matter of urgency in order to enable progress to be maintained according to the Core Strategy; with the outcomes of our review being completed in early October and submitted to the Executive Board in November 2011.
3. We established a Working Group comprising all Members of the Board to undertake this inquiry.
4. We co-opted Mr George Hall; former Parish Councillor Barwick-in-Elmet & Scholes Parish Council as a Member of the Scrutiny Board and of the Working Group established for the period of this inquiry, without voting rights.
5. The context of and drivers for the inquiry are:
  - That this matter is included in the City Priority Plan and in the Scrutiny Board's terms of reference approved by Council.
  - The pronouncement by the Secretary of State regarding the intention to abolish regional strategies and in particular the Regional Spatial Strategy (RSS). The RSS required very high housing targets and the requirement of a 5 year land supply of deliverable sites and a series of challenges in the courts.
6. We consider that the scrutiny focus is timely and provides an opportunity to review the population and household projections and the targets for new homes being demanded by the
  - The fact that the Council has been unsuccessful in the latest of the appeals relating to Grimes Dyke, East Leeds determined by the Secretary of State. Little weight was attached to the Government's intention to abolish RSS and hence to the Council's arguments which relied on this change.
  - The Council has been found to have a shortfall in its 5 year land supply.
  - The publication by the Government of the draft National Planning Policy Framework and consultation document on 25<sup>th</sup> July 2011.
  - An update by GVA ; a private company, on the Strategic Housing Market Assessment (SHMA) in May 2011.
  - The Executive Board having agreed to the publication of a housing prospectus to stimulate debate about future housing growth in Leeds earlier this year. Informal consultation with a cross-section of interests will inform the progress of a Core Strategy in order to establish a new housing target and approach to delivery.
  - The Localism Bill





# Introduction and Scope

government and to make recommendations to the Executive Board on this and other relevant issues.

7. We were delighted that Mr S Quartermain, Chief Planner to the Department for Communities and Local Government accepted our invitation to give evidence to our inquiry .
8. We are very grateful to everyone who gave their time to participate in this inquiry and for their commitment in helping us to understand and review this matter.
9. Arising from this inquiry we identified the need to undertake a further specific inquiry on developers and their delivery of affordable homes. This will commence in late autumn 2011.

the key issues for housing growth at this critical time. We have made a number of suggestions and recommendations to the Executive Board which we believe if implemented, would contribute significantly to improving the current process and contribute to a more robust and effective partnership with developers.

## Scope of the Inquiry

10. The scope of this inquiry is to review and report on the following:
  - within the context of national requirements and local evidence, explore the population and household projection information which underpins the emerging Local Development Framework (LDF) Core Strategy.
  - housing and the City Region.
  - on the land banking practices of developers.

## Anticipated Service Impact

11. We hope that the Scrutiny Board has contributed to a better understanding of

### Inquiry on Housing Growth



# Conclusions and Recommendations

## Local Development Process for Housing

12. We were provided with a flowchart which explained the local development process for housing (see flowchart and glossary of terms at the end of our report).
13. It was stated to us that as a consequence of the Planning and Compulsory Purchase Act (2004) Leeds Unitary Development Plan (UDP) will gradually be replaced by a Local Development Framework (LDF).
14. The LDF will set out policies and proposals to guide development in Leeds and will assist in the delivery of the city's Community Strategy, "The Vision for Leeds".
15. The Core Strategy is the principal document within the Local Development Framework. The role of the Core Strategy is to set an overall strategy for the scale, type and distribution of housing in the city. The Core Strategy will set out the Council's vision for the future development of Leeds over the next 20 years.
16. Under the LDF transitional arrangements, policies in the UDP are 'saved' for an initial period of 3 years or until they are replaced by LDF policies and documents.
17. We were informed that the LDF must also take account of national Planning Policy Statements, legislation and regulations, as well as regional and local strategies and plans, such as the Regional Spatial Strategy for Yorkshire and Humber and the West Yorkshire Local Transport Plan 2.
18. We were advised that the Local Development Framework (LDF) is not a single document, but rather a portfolio of documents which can be revised and updated individually. This approach is intended to allow greater flexibility for local authorities in responding to changing circumstances.
19. We learned that the LDF consists of two types of documents:
  - Development Plan Documents (DPDs):*

These are documents which local authorities are required to prepare and are subject to rigorous procedures of community involvement, consultation and independent examination. DPDs include the Core Strategy, site specific allocations of land and where appropriate, Area Action Plans.
  - Supplementary Planning Documents (SPDs):*

SPDs are intended to elaborate upon the policy and proposals in DPDs. They deal with specific issues affecting the whole city or are specific to a particular area. SPDs have a shorter consultation period than DPDs and are not subject to independent examination.
20. We were informed that ideally the Core Strategy would be prepared in advance of other LDF documents. However, due to the desire to progress priority areas for regeneration (identified in the UDP review) through a series of LDF Area Action Plans (the City Centre, Aire Valley Leeds, East and South East Leeds and the West Leeds Gateway) and slippage with regard to the preparation of the Yorkshire & Humber Plan (the Regional Spatial Strategy), this has not been possible. Emerging work on the Core Strategy and issues arising from the early stages of consultation on the Area



# Conclusions and Recommendations

- Action Plans, have been used to inform the preparation of LDF documents in the round.
21. All LDF documents must be informed by an “Evidence Base”. For housing this includes the Strategic Housing Land Availability Assessment (SHLAA) and the Strategic Housing Market Assessment (SHMA). These technical studies are informed by National Guidance namely SHLAA (July 2007) and SHMA (August 2007). The Core Strategy will set out its priorities for where new housing should be built to meet the housing target.
  22. This will be followed by a “Site Allocations” plan to identify a range of sites for land uses including housing. As a consequence of the Cala judgment (see glossary) until the law changes the Core Strategy must be prepared to be in general conformity with the Regional Spatial Strategy (RSS) until it is formally abolished.
  23. We were advised that the Council’s Core Strategy, which will replace the Unitary Development Plan (UDP), is going through the stages of preparation
    - Issues and alternative options (2007)
    - Preferred approach (2009)
    - Publication (Autumn 2011)
    - Submission (Spring 2012)
    - Examination (Summer 2012)
    - Adoption (Autumn 2012)
  24. We noted that the LDF is an evolved process. Firstly the formal submission is signed off by full Council and then sent to the Secretary of State who will then submit it to public examination. After this it will be fact checked before going back to full Council for formal adoption.
  25. We asked officers to explain what the Regional Spatial Strategy (RSS) was and the difficulties which have arisen as a consequence of Government intervention.
  26. Officers informed us that the Yorkshire and Humber Plan is the current Regional Spatial Strategy for the Yorkshire and Humber Region under the UDP. It was issued in May 2008. However, Leeds opposed this strategy.
  27. The current Regional Spatial Strategy includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development, including:
    - § Economic development
    - § Housing
    - § Transport and communications
    - § The environment (including water, minerals and waste, energy generation and use)
    - § Tourism and leisure
    - § Urban and rural regeneration
  28. When the RSS was published the housing target went up for Leeds from an annual average of 1930 units gross to 4740 units per annum. At the same time national guidance required that local authorities could at all times demonstrate the availability of a supply of housing land that is five times the RSS requirement. Not only was there a step change in the requirement but the changing economic climate has meant that sites that might have previously counted towards supply are no longer included as they are now unlikely to be built within the next 5 years. National guidance suggests that where a 5 year supply cannot be demonstrated then proposals should be favorably considered.
  29. The new coalition Government signaled its intent to rapidly abolish RSS and its housing



# Conclusions and Recommendations

targets. The Secretary of State advised local authorities and planning inspectors that they must take this into account as a material consideration. On 6<sup>th</sup> July 2010 the Secretary of State formally revoked RSS in a parliamentary statement.

30. This created an expectation that there was flexibility to set aside regional targets and introduce an alternative that better reflected local circumstances. The Council determined to introduce an interim housing target as a temporary replacement for RSS pending the development of its Core Strategy. However, a judgment stated that:-

*“It would be unlawful for a local planning authority preparing, or a planning inspector examining, development plan documents to have regard to the proposal to abolish regional strategies.”*

31. We then learned there was a judgment against the Secretary of State in November 2010 which determined that his action was unlawful and quashed the action to revoke RSS. There then followed a period of confusion as the Council's position was challenged through a series of court cases stemming from the Council's refusal of planning permission for residential development on a number of greenfield housing allocations and Council appeals against the courts decisions.
32. Officers then referred to the fact that despite changes in the planning context a series of planning inspectors have consistently given weight to national planning priorities with little or no support for any arguments advanced by the Council. Individual inspectors and the Secretary of State have ruled against the Council and were consistent in their

views on the weaknesses of the Council's case.

33. National guidance states that in determining planning applications, local planning authorities should consider whether a 5 year supply of housing land is available. It is clear from the appeal decisions that little or no weight can be attached to the Council's proposed interim target. This has therefore been withdrawn.
34. We then reviewed the evidence on which the annual housing target for Leeds had been based.

## Population and Household Projections for the City & SHMA

35. We met with representatives from the company GVA who were engaged by the Council to update the Strategic Housing Market Assessment (SHMA) on population and household projections in the city. This was published in May 2011. This report represents an update to the 2007 SHMA, utilising secondary data sources and following the methodology set out in the DCLG practice guidance version 2 'SHMA' August 2007. We were informed that their findings of this research will be used to inform the development of the Leeds' Local Development Framework (LDF), including the Core Strategy. We looked at net and gross house building in Leeds (as set out in Appendix 1), stocks of planning permissions and completions of units 1991 to 2011 (Appendix 2) and outstanding capacity at 31<sup>st</sup> March 2011.
36. We challenged the accuracy of the available data and it was pointed out by GVA that there is no population register and that there is a reliance on the ten year census which makes it very difficult to have up to date and



# Conclusions and Recommendations

accurate data. Births, deaths, internal and external migration, immigration and fertility rates have serious implications for the development of future policies. The estimated population of Leeds in 2010 was 797,000. It is predicted using the Department for Communities and Local Government (DCLG) household model that in 2026 the official trend led projection will be 937,000 and in 2033 1 million. **However, the SHMA challenged the national internal migration and emigration figures and as such the SHMA forecasts recommends that the 2026 figure be adjusted down to 868,000 on the local evidence presented.**

## Recommendation 1

**That dependent upon the outcome of the 2011 Census the Executive Board make representations to the Department for Communities and Local Government (DCLG) that in order to achieve greater accuracy in the data provided by the Office for National Statistics a population register should be introduced.**

37. We asked if all authorities use the DCLG household model which allows raw data to be put in for a city. It was explained that there is one household model for each local authority, based on the 2001 census. In Leeds, the SHMA used these figures and calibrated them to local statistics. We were informed that organisations have in the past been reluctant to challenge the Office for National Statistics (ONS) figures, but through the SHMA, it was felt that Leeds needed to challenge the ONS figures as it has more accurate local figures. We noted that in this year's SHMA update, Leeds departed from the DCLG/ONS

model in a number of key areas. We asked if we would be allowed to move away from the DCLG household model altogether and were informed that the SHMA attempted to do this. **We were advised that Greater Manchester moved away from the CLG household model around 5 years ago, and this has never been challenged. It is not known to what extent Greater Manchester has moved away from the CLG model and this should be investigated to see if Leeds needs to take further steps in moving away from the CLG model.**

38. We noted that it was recognised that there are significant demographic changes in the population and that demand for smaller units would increase with an aging population although demand would vary from community to community for a range of reasons. The current stock is 8% one bedroom, 54% two bedroom 27% three bedroom and 10% four bedroom.

## Recommendation 2

**That the Director of Environment and Neighbourhoods consider whether there would be an advantage in moving away from the DCLG household model altogether and relying on local data which would be more accurate in determining housing need.**

**That the Director of Environment and Neighbourhoods report back to this Scrutiny Board on the outcome within 3 months of its report being published.**

39. We asked for the number of current housing starts and what the highest number of starts there had been in any one year. Officers responded that there are currently around



# Conclusions and Recommendations

60/70 unit starts a month. The total need figure recommended in the SHMA which takes into account the economic ambitions of the Council as well as the demographic trends is 4,929 units gross per annum. This includes the draft National Planning Policy Framework (NPPF) recommendation of a 5 year supply plus 20%. The RSS target is currently 4,300 net units a year (there needs to be 4,500 builds to take into account demolitions). In the past year there have been 1,600, the highest was 3,800 (2007/2008); so even in boom years the target has never been met. On this basis we questioned whether the target of 4,500 plus units per annum was realistic when delivery is outside the Council's control and dependent on developers who had to deliver this number of units in the current economic climate.

40. We noted that the number of planning permissions that have been granted are for over 20,000 units which equates to our 5 year supply but building completions in year end 2011 were only around 1,500 units.
41. We noted that the recent appeals have demonstrated how setting a requirement that is not robust and sound will be treated by Inspectors. Nevertheless we feel the target figure using the current business model cannot be achieved and should be challenged.
42. We also noted that the draft National Planning Policy Framework states 'that the Government's key housing objective is to increase significantly the delivery of new homes. Everyone should have the opportunity to live in high quality well designed homes, which they can afford, in a community where they want to live. This means increasing the housing supply, delivering a wide choice of high

quality homes were people want to live widening opportunities for home ownership and creating sustainable inclusive mixed communities including through the regeneration and renewal of areas of poor housing. To enable this the planning system should aim to deliver a sufficient quantity and range of housing consistent with the land use principles and other policies of this framework'. The Government is to introduce a new presumption in favour of sustainable development, so that the default answer to development is "yes".

43. The difficulties faced with the housing appeals and the potential need for a different approach add weight to progress the Core Strategy. The only way for the Council is to effectively establish a new approach that should include a new housing target, phasing links between Brownfield and Greenfield and spatial distribution.
44. We acknowledged that deciding on how many houses are needed and where these are best located should come through a step by step process beginning with a dialogue between communities and house builders and investors based on evidence and principles that are widely agreed and trusted. The Executive Board agreed a consultation prospectus in June 2011. The outcome of this consultation will not be available until October 2011.
45. We noted the Government's Localism Bill identifies how local communities can be involved and help to meet local needs and other strategic housing and employment objectives which requires a change to the current model operated by the Council.
46. We noted that the recent Cala II judgment has confirmed that 'it would be unlawful for a local planning authority preparing, or a Planning Inspector examining, development plan documents to have regard to the



# Conclusions and Recommendations

proposal to abolish regional strategies'. Consequently, in planning the Core Strategy, the Council is working on the basis that the plan will need to be in general conformity with RSS, taking into consideration up to date evidence. From 2004 -2011, Leeds has had a shortfall of house building of 1,216 units, if based on the RSS requirement. There are 15 years left in RSS, which means that an additional 83 units per annum must be added to the annual average if Leeds is to reach the RSS requirement. This brings the annual requirement up to 4,382, and the five year requirement rests at 21,910 units.

47. The 2010 Annual Monitoring Report identified that the five year supply of land which was expected to be built between 2011 - 2016 was 12,466 units. This figure included 2,500 'windfall' units, which inspectors have been reluctant to accept as part of the five year supply. Excluding windfall the five year supply figure for Leeds is approximately 9,966 units.
48. Based on the supply position, the Council's Executive Board agreed to release Phase 2 and 3 housing allocations in the UDP at it's meeting on 22 June 2011, subject to proposals coming forward being acceptable in planning terms. These are greenfield sites that should be attractive to the market if house building starts to recover and provide capacity for up to 7,611 units. In seeking to tackle longer term housing land supply issues, the Council is continuing to progress the Core Strategy with a view to preparing a publication document by December 2011, to establish a new housing target and approach to delivery.

49. We strongly oppose the proposal by the NPPF that requires an additional 20% over and above the figure required in the 5 year supply of housing units to be delivered per annum. This proposal would require sites to come forward at an earlier stage and thereby undermine the Council's policy to develop Brownfield sites in the city.

### Recommendation 3

**That the Executive Board oppose the proposal of the National Planning Policy Framework that requires an additional 20% over an above the figure required in the five year supply of housing units to be delivered per annum in the city. Their proposal would mean sites coming forward at an earlier stage and could undermine the Council's policy to develop its Brownfield sites.**

50. We discussed the possibility of recommending that the total annual build figure be proportionally divided to meet the specific areas of need identified in the SHMA e.g. open market, affordable homes and sheltered accommodation but acknowledge the difficulties this would create. However, we think it would be appropriate to place a requirement on house builders to meet a predicted annual need under each of the SHMA categories.

### Recommendation 4

**That the Directors of City Development and Environment and Neighbourhoods report back to Scrutiny Board (Regeneration) within three months providing statistics that demonstrate that we will meet the requirements of the National Planning Policy Framework.**



# Conclusions and Recommendations

## Strategic Housing Land Availability Assessment (SHLAA)

51. We spent a considerable amount of time examining the development and preparation of SHLAA which was based on National Practice Guidance and aimed to be robust enough to be used as evidence in planning appeals on development proposals and examinations of Local Development Framework documents. We considered a range of documents which had been provided to us to give us some understanding of the nature of the exercise, the methodology and the way the SHLAA Partnership was being expected to operate.

52. We received a briefing paper on the reporting mechanisms that monitor housing development and steps to identify future housing land supply. It was noted that PPS3 requires the Council to look forward and identify where future housing units are to be delivered and this is done by developing a 5 year supply (FYS).

53. We noted that in order for a housing unit to contribute to FYS there must be reasonable certainty that the unit will be completed in the FYS. A housing unit cannot be included in the 5 year FYS solely because it's got planning permission. Therefore an assessment of sites/units beyond planning permission alone is required and this is done through the Strategic Housing Land Availability Assessment.

54. We had concerns as to whether members of the SHLAA Partnership applied rigor to the process and challenged developers when agreeing the sites to be developed and the number

of affordable homes to be included. We suggested that SHLAA accepts whatever the developers tell us. We were told this was not the case and that there was an agreed process and methodology in the approach which is based on trends as to what has been achieved in Leeds to date. Members suggested that it was all about what can be achieved in 5 years time and on past performance only delivering half of what is required. The housing target of 4,300 units per annum has never been met.

55. We asked who the onus was on to complete these planning consents. It was confirmed to us that it was up to the developer to complete the permissions. However in determining the expected number of housing units that will complete in five years, it is supposed to be collaborative between the Council and developers through the SHLAA. It was pointed out that at the recent planning appeals developers were saying that they could not deliver on many of these sites (with planning permission) because of the current economic climate. We suggested the Council should be taking a more robust approach with developers to start on sites where planning approvals already exist. However, we accept that the situation is a challenging one. The Council is very much dependent upon house builders delivering the homes which are needed. It will require the house building industry to work proactively and responsibly in partnership with the Council and other agencies to achieve the targets which are set.

56. Reference was made to the fact that the methodology used in developing the SHLAA partnership was agreed in 2008 at a time before the housing crunch and developers and mortgage lenders had now become much more risk averse. The 2011 update to the SHLAA should address some of these issues

### Inquiry on Housing Growth





# Conclusions and Recommendations

57. We referred to the inquiry at Churchfield Boston Spa where Taylor Wimpey were on record as saying that mortgage lending was not a problem but clearly the Homes and Community Agency (HCA) on the evidence presented to us think this is a significant problem. We asked what evidence was available on this issue? It was suggested that it was first time buyers who were struggling to secure mortgages and as a consequence developers want to build high value properties aimed at those who already have equity in a property and can meet the deposit required by a lender.
58. We asked how many sites that went to appeal have now started. Officers stated to us that in a number of cases detailed plans have come forward, so progress is being made, but no onsite building has begun on any of the sites appealed against. Developers later in this report put their case forward as to why this is a slow process (see paragraph 86 onwards).
59. We asked what is the total number of sites identified in the SHLAA which fall into the category of “Ldf to determine” and what is the total number of dwellings within this category? We also asked which sites have policy constraints or sustainability issues. The details of the officers responses are set out in Appendix 5.
60. We were informed that SHLAA has now included smaller sites in its deliberations but developers seem to be opposed to this change.
61. We heard that since adjustments had been made to the process members of the SHLAA Partnership consider that the process is working as well as it can but the partnership can only take it so far and cannot deliver irrespective of market conditions.
62. We noted that inspectors have accepted the robustness of the SHLAA process.
63. We were concerned that developers are telling the Homes and Community Agency (HCA) that they are not building houses because they cannot sell them. Yet they told inspectors at all the recent housing appeals that it was the lack of land supply that was holding things up and they could sell everything they built. The fact is house builders have potential to build 21,000 dwellings tied up in outstanding planning permissions, which would be almost equivalent to a five year housing supply. We took the view that developers have no intention of building on many of the available sites with planning approval in the short and medium term.
64. We recognised that the new Planning Framework and the Government’s desire to build new homes will make things more difficult for the local authority. It will be difficult to develop some sites unless incentives by way of subsidy can be offered to developers. It is particularly challenging for the Council to deliver many of its objectives for the regeneration of sites and employment when it does not build its own houses
65. We feel that there is considerable mistrust between the Council and developers and question whether SHLAA is robust enough to press developers to deliver on sites where planning approvals are already in place.



# Conclusions and Recommendations

## Recommendation 5

**That the Director of City Development consider whether through the SHLAA partnership or other mechanism; developers can be encouraged through incentives to deliver on sites where planning approvals have been granted and there are no technical reasons for these not to be progressed.**

## Recommendation 6

**That the Director of City Development undertake a fundamental review of the SHLAA partnership by 31<sup>st</sup> December 2011 and before the preparation of the site allocation plan and that a report be submitted to Scrutiny Board (Regeneration) on the outcome.**

66. As Chair of the Scrutiny Board I expressed concern as to how the former Yorkshire and Humberside Regional Assembly had approached its housing strategy compared to the northwest where housing provision was prioritised away from Manchester in towns like Macclesfield which needed substantial regeneration. **This was particularly of concern when cities like Wakefield and Barnsley had offered to build and regenerate over their housing quota to help Leeds meet its targets.** There are also a number of other areas within the Yorkshire and Humberside region that are over their housing quota. We strongly support that Leeds should be allowed to engage with other authorities to help

meet Leeds housing targets. Moreover we understand that the additional housing supply in Wakefield and Barnsley is not being counted in anybody's figures as their core strategies are in 'a different place' to Leeds. We suggest that the Leeds City Regional Partnership should as a matter of urgency agree a method by which over provision of housing supply should be counted and added to authorities who are unable to meet their housing targets in the region.

67. We noted that in North Merseyside they have recognised this issue and have looked at the overall demand in the area, and what proportions can be absorbed by neighbouring authorities. We understand it is not an easy study but it was being relied on to determine core strategies.

## Recommendation 7

**That the Leeds City Region Partnership be asked to consider through their work on a City Region Strategy Statement, that where a local authority makes either an over or under provision of new homes above or below locally evidenced targets, that both these circumstances are taken into account in arriving at the overall scale of provision of new homes in the city region. These arrangements for the provision of new homes is to be agreed through the Leaders Board of the Partnership and incorporated into each authorities' Core Strategy in the city region.**



# Conclusions and Recommendations

## Windfall Sites

68. In considering the conditions applied to the development of a 5 year supply (FYS) referred to earlier in this report we noted that 'windfalls' cannot be included in the FYS.

69. We noted that the term 'windfall' is used differently by different people, and is often used loosely to mean any site which is not allocated in a development plan document. However, we were advised that the relevant national planning guidance (PPS3:Housing) contains a definition of windfalls which makes it clear that windfalls are 'sites which have not been specifically identified as available in the local plan process – they comprise previously developed land that has unexpectedly become available'. This makes it clear that any site which is specifically identified in the development plan making process – such as the SHLAA – is not a windfall. Likewise, sites which come forward within an identified broad location within a settlement are not windfalls either because they are not unexpected. Accordingly, the more comprehensive the coverage of the SHLAA is, the less need, or scope, there is for windfall sites.

70. There are two routes by which land is brought forward for housing development. Either it is identified as allocated for that purpose in development plan documents prepared by the local planning authority, or it is presented through the planning application process by landowners and developers as windfall. Windfall is a regular, mainstream source of supply.

71. Windfall supply overwhelmingly consists of plentiful small brownfield sites. 98% of capacity since 1991 had been on

brownfield sites, 67% of which were under 0.4 hectares. There has been an average of around 100 new windfall sites per year given permission between 2001 and 2008, which has reduced to 45 sites in 2010/11. Small numbers of larger sites, however, account for the bulk of capacity many of which have formerly been in industrial or commercial use.

72. The largest source of windfall is in large urban areas where the scope for change of land use is greater.

73. We noted that in Leeds, windfall has been monitored continuously since the 1980s and for much of this time has been more important than the development plan route as a source of land. Between mid 1991 and mid 2000, before the revision of PPG3, windfall sites already accounted for 56% of new permissions. The brownfield priority introduced in 2000 greatly increased that dominance. In the September 2010 department's report, windfall had generated 88% of new permissions since mid 2000 and 96% since mid 2005, which has now dropped to 86% since mid 2001 and 84% since mid 2006.

74. Annual windfall totals since 1991 are shown in Appendix 4 for sites in the City Centre, in the rest of the main urban area and outside the urban area as defined in the UDP Review. The figures given are for permissions that were live at the reporting date or had been implemented. Dwellings are assigned to the year in which permission was first given on each site. Averages are given for the whole period and for before and after 2001.

75. Appendix 4 shows that since 1991 windfall permissions have averaged 2,401 units per year. The figures before and after mid 2001 are distinctly different. Before mid 2001 windfall averaged ,1150 per year and

## Inquiry on Housing Growth



# Conclusions and Recommendations

afterwards it increased to 3,652 per year, not far short of the RSS dwelling requirement. However, there was quite a sharp drop in the 9 months following June 2008 as a result of the housing market decline which resulted in the year total for 2008/09 as the lowest since PPG3 was published in 2000.

76. Analysis of the figures by area shows that a large part of the post 2001 rise was accounted for by sites in the City Centre. Permissions rose to an average of approximately 1,600 per year in the period 2000 to 2009. This yearly average has now dropped to 1,201 per year for the period 2001 to 2011, which signals a shift away from the City Centre housing proposals.

77. There has also been significant growth in windfall permissions outside the City Centre. In this area, windfall has always been an important feature of the land market, with permissions averaging 865 per year even before 2001. The post 2001 figure stands at 2,451 dwellings but has seen a recent decline having risen to an average of around 2,500 in 2008.

78. We took the view that such windfall sites should count against the Council's annual target for delivery of units per annum.

79. We noted that PPS3 is clear that allowances for windfalls should not be included in the first ten years of land supply unless the Local Planning Authority can provide robust evidence of genuine local circumstances that 'prevent' specific sites from being identified. It would appear from an extract of an inspector's examination of South Oxfordshire Core Strategy in April 2011 that "an allowance has been made for delivery through unallocated sites. Its strategy does not identify specific sites

for 1,060 dwellings representing 24% of the residual outstanding balance of 4,400 after completions and current commitments". The inspector states that "more significantly South Oxford's Core Strategy clearly does not expect or require the future Site Allocations DPD (SADPD) to do so. The total number of windfalls relied upon in years 5 - 10 of the strategy, contrary to PPS3 - appears to be 530.' He goes on to say that 'it is not apparent why specific sites cannot be identified yet 530 windfall sites, including Greenfield sites are relied upon in some of the first ten years'.

80. There was a discussion regarding inclusion of windfall and smaller sites in the FYP. The view was expressed that windfall sites should be included in the 5 year figures. The Co-opted Member stated that SHLAA is now considering smaller sites, but developers are not keen to include these in the SHLAA. We took the view that time could be saved in appeals if smaller sites and windfall sites were included in forecasting, even though this would mean more officer capacity required at the beginning of the process.

81. We referred to the House of Commons Hansard of 5<sup>th</sup> September 2011 where Mr S Andrew MP asked the Parliamentary Under Secretary for Communities and Local Government whether the Minister would look again at counting windfall sites in the Council's five year plan. The Parliamentary Under Secretary responded that "it is certainly proper for local planning authorities to take into account windfall sites, but it is also necessary for every planning authority to ensure that it has sound evidenced based proposals for housing in particular...."

82. Mr A Shelbrooke MP at the same session urged the Minister of State, Department for Communities and Local Government "to work more closely with Councils on publishing more guidance and setting out



# Conclusions and Recommendations

how to build a strong evidence base in order to include windfall sites, so that Leeds City Council can stand up in the planning courts and use the 2.3 years of windfall supply as part of the current five year supply, because at the moment, it is losing on every appeal.”

## **Recommendation 8**

### **That the Director of City Development**

- **Continue to make representations to the Secretary of State for Communities and Local Government to count windfall sites within the Council’s five year housing land supply.**
- **Seek to establish principles within the Council’s Core Strategy that support this outcome .**
- **Seek to include student accommodation within windfall sites.**
- **Write to all Members of Parliament providing a clear and uncomplicated explanation of the principle issues of concern so that MPs can continue to press the Leeds case with Ministers, Senior Civic Servants and other interested parties . A copy of the Director’s letter to MPs also to be circulated to all Members of Council.**

## **Localism Bill**

83. We discussed the implications of the Localism Bill and the involvement of local communities in the planning process and the development of sites within the various wards of the city.

84. We felt very strongly that this should be something that is incorporated into the new business model. We suggested to officers that further work needed to be undertaken in this respect to ensure communities are engaged in and could have some influence on the location of future housing developments within the various wards of the city.

85. We were concerned that the Localism Bill does not require developers to engage with local communities including Town and Parish Councils about many significant proposals which will affect the future of those communities. We raised this with the Government’s Chief Planner who advised us that there was a proposed amendment to the Bill that will make it compulsory for developers to consult with communities for developments of over 250 dwellings. We consider that this number should be substantially reduced and the categories of development widened as even a small development can have a significant effect on a community.

## **Recommendation 9**

- (a) That the Directors of City Development and Environment and Neighbourhoods undertake some initial work to identify ways in which the engagement and influence of local communities could be achieved under the Localism Bill.**
- (b) That Executive Board make appropriate representations concerning the Bill that will require developers to consult with local communities including Town and Parish Councils where developments exceed more than 50 dwellings.**



# Conclusions and Recommendations

## Land Banking

86. Developers told us that they feel that the market in Leeds, or rather the supply of housing in Leeds over recent years, has been skewed by the planning policies of the city in limiting the nature of sites that have been available to come forward. This has led to the recent appeals and the intent to commence development of these sites. They stated that they were just three of a whole range of developers who want to build houses in the city and they feel that there is an underlying demand even in the current conditions and are progressing applications and also involved with the Local Development Framework in terms of long term supply of land as well. They stated that Leeds is the largest district in the region, it is a driver of the region, and it's an area in which they all want to continue to be involved.
87. Developers told us that the nature of Leeds as they see it is a very mixed market, different places, different markets, they're not necessarily interrelated so that if you're developing in one part of the city that has no effect whatsoever on another part of the city. They are quite separate markets and the issue for them at the end of the day is can they sell the houses. They are not house builders but house sellers. They build across the range and it does not matter to them where land is, it's where there's an opportunity, an opportunity to fill and where's there's a market need which in Leeds from the population projections is huge.
88. We were informed that developers take the view that the market is sound, certain market segments are more difficult than others but there is equilibrium within the marketplace at the moment but that

balancing point is significantly lower than it probably was in the beginning of 2005 / 2006. They stated to us that when they work with local authorities and they look at projected housing completion rates they would have budgeted for something like sale rates of one unit per week 5/6 years ago. They are now budgeting for sales at a rate of 0.6 unit a week or 2.4 houses a month which is consistent with a 40% reduction in capacity. That is in part a function of the current market and in part a function of current funding. However, the optimistic note is that the rate of aborted sales, that is those people who commence the sales and then drop out as they change their mind or encounter escalated price or they can't get a mortgage is actually running at a lower level so they have stability but it's stability that is at a level that is about 40% lower than where they were at the peak of the market.

89. We suggested to developers that just in terms of housing supply and the targets that Leeds is expected to fulfil they would agree that there's no hope of achieving those targets of 4,300 houses per annum when nationally there's a 40% reduction in terms of what is being taken up.
90. Developers responded that what has happened with the market over the last few years has been exceptional but housing supply is very much a long term process for them and to take an interest in land to be involved in the planning process; be that in the policy through the Local Development Framework or obtaining planning consents takes some considerable time. When they get consent for a site they told us they don't just build all the houses and expect them to be delivered over a short period of time. They expect that sales rate to gradually increase so that they could build 4,000/4,500 houses per annum and sell them a year as of today, which would be a struggle, but they

## Inquiry on Housing Growth



# Conclusions and Recommendations

could certainly build many more houses in Leeds if they had the right variety of sites.

91. We responded to the developers that there are always concerns amongst politicians that development companies obtain consents, sit on the sites, and don't build them out. We asked what is the scale of their landholdings in the city, and in the region, and of that what's the scale of land that you're sitting on with valid consents?
92. Developers responded that what they want is an opportunity to build but the current process prevents opportunity and as a consequence they have little chance of actually achieving the sort of numbers that are actually needed.
93. We were told that in 2007 Barratt bought David Wilson Homes. The combined output of those two companies at purchase was 22,000 units per year nationwide. To the end of June 2011 they produced 11,000 units. They are therefore operating at half capacity and in 2007 were planning for an increase of 10% per annum. They know that Leeds wants to go up a league but the current process constrains them from achieving the targets which are set. We were told that in terms of their landholding they have five sites in Leeds which are operational, none that are not operational that have not been built on. The total units on the five sites is 1,000 but that's not the annual output because they are producing so many units a year. In the pipeline they have about 250 units of consents where they need to discharge the conditions or seek other approvals. We were told they are not being sat on; they're just going through the process. They feel they could produce 30 market units a year to sell from a site with possibly 6, 7 or even 10 affordable units in that number. Operating from 5, 6 or 7 sites would increase the number of units coming on line. that would be a normal sort of production – if you work generously on 40 units a year, per site then they could deliver 280 units a year which is only a fraction; possibly 10% of the total output of the city.
94. Taylor Wimpey stated that in 2007 they completed 22,000 units per annum nationwide and at their half year results issued at the end of June 2011 we're on a rate of 11,000 a year and take the view that the worst is behind them and confident for the future with an investment structure in place and a programme for future development. They have three sites in current production in Leeds 2 at Middleton and 1 at Pudsey. The two Middleton sites were on loan which were originally owned by the local authority and passed through to a development company, quotes from those sites at the moment are 92 units per annum cumulatively but the Middleton sites do not deliver much social housing so if you were doing it in a normal ratio of social housing and private housing you would be at a higher output.
95. The three sites have 364 units which suggest that they have a 4 year output at current sales rates on those three schemes. They have three schemes which they have outline approval granted at appeal, at Allerton Bywater, Whinmoor which they share with Persimmon, and Boston Spa. The Allerton Bywater approval of reserve matters is imminent and reserve matters are being worked up for Whinmoor. At Boston Spa they don't have to seek approval of reserve matters as it was a full application, in a conservation area. They then follow through with discharge of conditions and commencement on site.



# Conclusions and Recommendations

96. All of those schemes we were told are looking for construction commencement around the beginning of 2012. They have 5 sites in their strategic land bank with regard to Leeds, and if they survive the core strategy process they look to deliver on these sites in 2014/2015. These sites are at Cookridge, East Ardsley, Poole, Otley and the East Leeds Urban Extension. They have one frozen scheme at Greenbank in Leeds which was originally consented for 850 units. The consent has been extended up until 2015 and they are in the process of renegotiation and preparing a fresh planning application for a revised scheme of 500 units.
97. Persimmon Homes stated that like Taylor Wimpey, they have land in East Leeds; in total that could provide around 4000 houses and have perhaps in total interests in this site of just under 30% of that total. They have just one active site in Leeds at the moment in Swarcliffe. They have got applications in or pre-application discussions on a further 4 sites, and total in total about 500.
98. Developers did not accept our charge that they often gain planning consent for sites and then do not develop them. They stated they need outlets to build houses and sell them. The more outlets they have the more opportunity they have to obtain sales. The number of sales they can get off any one site per annum is between 30 and 35 so the more sites you have, the wider the market and the more flexibility and greater choice there is. The commercial imperative is that they can't afford to sit on land and do nothing with it. It becomes an asset and they have to use that asset. They stated that some larger sites because of the infrastructures costs mean that they may sell that land to other developers which can slow down the process. In very large sites part of the site may not be developed for some considerable time as blocks of land are developed in phases. So there will be occasional situations where through different circumstances land isn't developed but they must be rare indeed, so at the moment, even though the market is, as they stated, much quieter than it was there is still a requirement on developers to buy new sites and to bring new sites forward for development.
99. We referred to the substantial landholdings that Taylor Woodrow had for how many years in Cookridge adjacent to the Moseley Woods and all of the farmland that stretches beyond the Moseley Woods which was retained in their ownership for further usage. So in terms of developers owning substantial stretches of land, that is clear to us and indeed are often revealed in the developers annual accounts. So they do own substantial tracks of land in the city. The Council does not build houses and therefore the targets which are set, whatever they might be are dependent on the developers and they have to work in the planning process that applies, in terms of land acquisition and buying land at the right price and submitting planning applications and meeting S106 obligations and the like.
100. Developers responded concerning the land in Cookridge and pointed out that this land is in a protected area of search. There needs to be a differentiation between land in which developers have an interest and land where they apply for planning consent. Undoubtedly developers own land and they have options on a lot of land, and yes they are promoting it for development but they would only bring a proposal forward if they thought there was a good opportunity to receive planning consent. The Council's policy against releasing allocated sites for quite a number of years has only very recently changed after the whole range of





# Conclusions and Recommendations

appeal decisions. They utterly refute the suggestion that where planning consent has been obtained they would sit on it and do nothing. They did accept that they do have land interests beyond land with planning consent, and that's land that they are seeking to bring forward in order to protect and provide a supply for development.

101. It was pointed out to us that there have been three inquiries into land banking nationally: there was the Barker Report, the Calcott Report, and more latterly in 2008 the Office of Fair Trading (OFT). They stated to us that the Office of Fair Trading was not a friend at all of the house building industry, but the OFT concluded on land banking that:

“The homebuilding industry which owns a significant land bank does not appear to systematically hoard land with implementable planning permission.”

102. We referred to the 21,000 live consents in this city that are not being progressed because we suspect that there isn't the liquidity in the mortgage market for people to purchase those homes. As the developers have stated at the outset of our discussions, they are home sellers as opposed to homebuilders and whilst the supply is there in the 21,000, the demand clearly isn't, otherwise as home sellers they would be constructing and selling those 21,000 units.
103. Developers stated to us that many of the 2,1000 units with planning consent are not necessarily implementable. There are 9,800 units with detailed planning consents and of those about 1,900 are actually under construction, but not complete. So if there are 2.5 times more sites with planning consents than there are under construction then a good half

of that 9,800 are actually part of those sites. The rest of them may well be in the process, have got the detailed consent but are discharging conditions. So the vast majority of those detailed consents are not being held up by developers. They suggest that the hold up is the consents in the Leeds city centre, for multi-storey developments, for which there is now no market and substantial replans have got to take place if that land is going to come forward at all.

104. We asked why there had been so little activity on the recent housing appeal sites.
105. Persimmon responded that the first one at Yeadon that was allowed on appeal they are doing the detailed application, as the consent was an outline application. They need a reserved matters application which provides the detail because they can only build off a detailed consent or reserved matters consent, not the outline. So there is a time lag in that process, there are also pre-application discussions with the Council to be had. The Grimes Dyke decision, which was a joint appeal, Persimmon and Taylor Wimpey expect to put a fresh application in by the end of the year. The consents that have been granted aren't consents to build, they're just outline. Yeadon was the first one, and they will be feeding through houses in the next 9 months.
106. Developers referred to the 2,1000 planning consents and their view that a high number are made up of city centre high rise apartments. A PhD student has suggested that of the applicants that submitted applications for the high-rise developments, in the last 3 years 22% of them have gone bankrupt so these will not be delivered. High-rise apartments are the most difficult to sell even before the market crash as people can't borrow money on them. A lot of provision is in high density developments in the city centre as flats.



# Conclusions and Recommendations

107. We pointed out that at the Grimes Dyke inquiry the Inspector noted that Persimmon had a 6.7 year land bank, and at the time the developer did not dispute that.
108. Persimmon responded that at a national level in 2007 they completed 16,000 houses. In 2010 they completed 9,000 houses. When the housing market collapsed, the amount of land they had in 2007 to maintain supply would have been about 3.5 years supply, and the drop in completions, if nothing else changed, has resulted in 6.7 year supply in 2010. It does not mean that they will stop building. They are actively looking for new sites. In 2008 when the market did collapse they did mothball a number of sites they admitted because they weren't selling houses. Now what do they do? Do they keep building houses if they're not being sold? Swarcliffe, was kept running because they were still selling houses.
109. We stated that the fact of the matter is that it is the developers who control the timing of all of those matters discussed and indeed most volume house builders are careful as to when they incur the costs, for purchasing the land, incur the costs of a planning application, incur the costs of discharging those conditions and so it's a known and a recognised model. Our concern is the driver of that model and effectively you can't have it both ways. You can't say your not selling houses and we're home sellers so we will slow the pace of construction and at the same time argue that if we could get another 30 sites lets have them, because the two don't sit together.
110. Developers responded that they are not masters of their own destiny. The

obtaining of planning consent is hard work, and the experience over the last 18 months in Leeds has proven that. Any window of opportunity to get a consent they will take. They are in the market and want more outlets. It was stressed by Persimmon Homes of the three developers they have only one active site in Leeds and are trying to obtain a consent on another four and are wanting to press ahead with an application in East Leeds, that would be a fifth one. They cannot see realistically that they would be in a position to ever have control of 30 sites in Leeds or even 10 sites but they do want to have more outlets. Leeds is the biggest district in Yorkshire, it's one of the most attractive districts in which to build.

111. We asked what's the point of having those additional markets if they are not selling the houses?
112. Developers suggested that we were missing the point in that they used to sell 16,000 houses a year, they now sell 9,000, but they are still selling houses. They are selling them at a slower rate than they want to. They would like to increase the rate of the sales, and in order to maintain the rate of sales and increase the rate of sales they require additional outlets but they won't be selling them at a fantastic rate.
113. We stated that the follow-on position is that in terms of achieving the targets here in Leeds, developers accept that they are the people who have to achieve those targets, because they are the people who are selling the houses, not the city council. We grant the consents and allocate the land, but in terms of achieving those targets, this will not happen because if developers have another thirty sites, by their own admission, they would still be selling houses, but they won't be constructing them in the volume to meet those targets?



# Conclusions and Recommendations

114. Developers responded that they will be selling houses at the rate that the market can cope with but they need a sufficient land supply because of the planning process and the time it takes to obtain the necessary consents and to operate from a number of sites that provide a wide mix of housing and choice
115. We suggested again that in this current climate the volume house builders combined cannot satisfy the targets that might be set because the liquidity simply isn't there in the mortgage market to satisfy that and even at the peak of delivery in this city we were well under the target to be delivered. So if that is the backdrop, no matter what the availability of land is they still can't make the target.
116. A developer responded that Leeds is viewed as strong within the regional economy and therefore has housing need and also has a purchasing power which is better on average of the comparable districts that they operate in. Whilst not putting all their eggs in one basket they would want to invest in Leeds. They would want to maintain their current market share and increase their number of outlets and increase the rate of output and if the rest of the industry replicated that or they have new entrants into the market they could get close to a 4,000 figure, and they looked at their span of management control and the additional resources that they need and the capital availability which they had, and they felt comfortable that they could operate just internally at that sort of level. They accepted that sales in 2008/2009/2010 were poor but if they look at the forward forecasting with regard to demographic growth and relative projection of capital availability and other matters the market models which they see suggests that there will be an uplift in price, and sales rate, kicking in 2012 (South of England), 2013/2014/2015 within Leeds as a strong provincial marketplace.
117. We consider that the experience of Council Members over the years has led to a degree of mistrust and misunderstanding between developers and the Council which needs to be addressed. It supports the proposal in our recommendation 10 of our report for the development a new creative business model that meets our targets and protects the Green Belt wherever possible.
118. We remain concerned despite assurances that there does appear to be a number of consents were developers appear not to be progressing sites and supports our recommendation 5.
119. We discussed employment and business growth, and whether this could match the housing figure targets. It was suggested that the Council should review whether it wished to continue to encourage growth in the city or whether it should discourage expansion which would reduce pressure on its infrastructure and reduce housing demand and provide employment for its existing population. Leeds has traditionally wanted 'everything' – unlimited economic growth which means unlimited housing growth, with a strong focus on highly qualified sectors meaning there is a lack of low paid unskilled work for Leeds residents. It was agreed that there was a lot of contradiction in the city priorities, and that necessary changes and political direction is sometimes not communicated well.



# Conclusions and Recommendations

## Recommendation 10

### That the Executive Board

- **Support the view that growth and infrastructure provision in the city must go hand in hand with the development of a new business model which incorporates the new Community Infrastructure levy (CIL) and new procedures for determining and developing strategic projects in the city region and support for significant local schemes in Leeds .**
- **Agree that 80% of the income to be raised through the CIL be ring fenced for the benefit of local communities with the balance being directed into a general fund to support city and city regional projects.**

120. We subsequently received a joint letter from the developers who gave evidence to us during our inquiry. They consider that there would be substantial value in setting up a working group between the Council, developers and representatives of neighbourhoods and/or parish Councils. We agree that this would be beneficial to all parties concerned to further explore and help us all understand each others concerns.

## Recommendation 11

**That the Director of City Development establish a working group comprising appropriate members, officers, developers, representatives of neighbourhoods, HCA and Town and Parish Councils to promote better understanding of each others issues and concerns regarding housing provision in the city.**

## Land Banking Our View

121. We heard from developers who gave evidence to our inquiry rigorously refute any suggestion that they land banked. They spent a considerable amount of time explaining to us the commercial imperatives they had to get on and build on sites once planning approval had been obtained. They pointed out to us that there had been three national inquiries into land banking (please refer to paragraph 101 of our report) and the latest by the Office of Fair Trading (OFT) found that despite the home building industry owning a significant land bank the industry did not appear to systematically hoard land with implementable planning permission. However, they do control the mechanisms of supply as it can be many months or years before a site is developed and the conditions met and discharged. We feel their approach to be misleading by stating they do not land bank and yet have gone to appeal on 12 recent planning applications in the city which has cost the Council in excess of £1.2m in costs.



# Conclusions and Recommendations

## Recommendation 12

**That the Director of City Development write to the Secretary of State for Communities and Local Government expressing the Board's concerns that the home building industry has an abundance of planning consents but chooses not to implement them whilst pressing the case for the release of Greenfield and Greenbelt sites and thereby neglecting the development of inner city sites where need is greatest.**

## Affordable Homes

125. We received and discussed as part of this inquiry a number of briefing papers on affordable homes and how these are provided and funded in new developments. We concluded that this would be better dealt with as a separate inquiry. We agreed terms of reference for this inquiry at our Board meeting on 27<sup>th</sup> September 2011 which includes the Community Infrastructure Levies (CIL) which will supersede Section 106 agreements.

## Chief Planner DCLG

122. A delegation from our Board met with the Chief Planner for the Department for Communities and Local Government in London on 15<sup>th</sup> September 2011.
123. We expressed our concerns about a range of proposals in the draft National Policy Framework including the default position and the lack of definition of sustainable development, the loss of the presumption in favour of development of brownfield sites and the absence of a windfall allowance in calculating future housing land supply and the consequences of these changes on the Council. We received little comfort from his responses.
124. We did not receive a definition of what the Government means by sustainability nor any reassurance that student accommodation could count in the number of dwellings required to be built as had previously been the case.



# Evidence

## Monitoring arrangements

Standard arrangements for monitoring the outcome of the Board's recommendations will apply.

The decision-makers to whom the recommendations are addressed will be asked to submit a formal response to the recommendations, including an action plan and timetable, normally within two months.

Following this the Scrutiny Board will determine any further detailed monitoring, over and above the standard quarterly monitoring of all scrutiny recommendations.

## Reports and Publications Submitted

Reports of the Director of City Development on Housing Appeals – Implications of the Secretary of States decision relating to land at Grimes Dyke, East Leeds (Executive Board 22<sup>nd</sup> June 2011), High Court decision and Issues arising from the proposed abolition of the Regional Spatial Strategy and regional housing targets (Executive Board 21<sup>st</sup> July 2010)

Letter from the Home Builders Federation dated 16<sup>th</sup> August 2010

Flowchart on the Local Development Framework planning process for housing

A comprehensive map with notations from the UDP which included planning application sites across the city and a map specific to the release of sites in phases 2 and 3

Housing land monitoring published by the City Development Directorate, monthly edition March 2011 issue.

Windfall Allowance South Oxfordshire Core Strategy

Briefing note by Director of Environment and Neighbourhoods on housing delivery and the route by which affordable homes are delivered

Briefing note by Data Team, City Development Directorate on reporting mechanisms for monitoring housing development and steps to identify future housing land supply

Briefing notes by Leeds City Region Partnership on housing and the city region and core strategies

Extract from House of Lords Hansard 7<sup>th</sup> July 2011 on the Localism Bill – Government delay in publishing the draft national planning policy framework

Schedule showing the current position regarding phases 2 & 3 of the greenfield housing appeal sites in Leeds



# Evidence

## Reports and Publications Submitted (continued)

Extract of evidence given by the appellant at the Scarcroft appeal which was allowed by the planning inspectorate

GVA final report Leeds Strategic Housing Market Assessment Update final May 2011

Information on the Leeds Strategic Housing Land Availability Assessments:

Practice Guidance document SO1

Draft agenda SHLAA 8<sup>th</sup> September 2008 document SO2

Project plan document SO3 and Project programme document SO4

Datebase information categories document SO5

Draft terms of reference for the Partnership Group document SO6

Notification letter of a "call to sites" document SO7

Site proposal form document SO8

Mailing list "call to sites" document SO9

Notes of Partnership meeting held on 8<sup>th</sup> September 2008 document S10

Details of various site document S11

Meeting conclusions on sites considered document S12

Agenda Partnership meeting 28<sup>th</sup> April 2009 document S13

Notes of Partnership meeting held on 28<sup>th</sup> April 2009 document S14

Progress on identified sites document S15

Note of the meeting of the Leeds SHLAA held on 5<sup>th</sup> January and 8<sup>th</sup> June 2011

Note of a meeting with the Chief Planner DCLG 15<sup>th</sup> September 2011

Briefing note by the Director of Environment and Neighbourhoods providing examples of affordable housing that had been provided on recent developments.

Briefing note by the Director of City Development on the accumulated money in the commuted sums pot

Briefing note by the Director of City Development on an assessment of the viability check undertaken by the SHLAA to determine when each site was likely to deliver units.

A copy of the personal response of the Co-opted Member to the Director of City Development following an invitation for him to attend a workshop to consider 'Exploring the housing growth in Leeds'.

A House of Commons briefing note to Members of Parliament obtained from the internet on housing targets and planning

A copy of the draft National Planning Policy Framework and Consultation documents which sets out the direction of future national planning policy published on 25<sup>th</sup> July 2011

House of Commons Hansard Debates 5<sup>th</sup> September 2011



# Evidence

## **Witnesses Heard**

Councillor P. Gruen, Executive Board Member, Neighbourhoods, Housing and Regeneration

Councillor R. Lewis, Executive Board Member, Development and the Economy

Councillor N Taggart, current Chair of SHLAA

Councillor B Anderson, former Chair of SHLAA

Mr S Quartermain, Chief Planner, Department for Communities & Local Government

Mr R Laming, Director GVA

Mr A Pollard, GVA

Dr P Bowden (PB), Edge Analytics

Mr N Parkar, Head of Area, Housing

Mr K. George, Group Head of Planning, Taylor Wimpey

Mr J. Kirkam, Strategic Land and Planning Director, Persimmon

Mr R Donson, Group Planning Director, Barratts Homes

Mr Huw Jones, Strategy and Consultancy Manager Representing re'new / Leeds Housing Partnership

Mr S. Speak, Deputy Director of Planning, City Development Directorate

Mr D. Feeney, Head of Forward Planning and Implementation, City Development Directorate

Mr R Coghlan, Planning Policy Team leader, City Development Directorate

Ms C. Addison, Acting Chief Asset Management Officer, Environment & Neighbourhoods Directorate

Ms M. Gjessing (MG), Housing Investment Manager, Environment & Neighbourhoods Directorate

Ms M. Godsell (MG), Affordable Housing Manager, Environment & Neighbourhoods Directorate

Ms C. Walker, Project Manager, Business Intelligence, Planning, Policy and Improvement Directorate

Ms S Morse, Programme Delivery Manager, Environment & Neighbourhoods Directorate

Mr A. Haig, Regional Policy Team, Planning, Policy and Improvement Directorate

Ms L. Peter, Forward Planning & Implementation Team, City Development Directorate

Mr M Brook, Senior Planner, Data, City Development Directorate and Ms R Wasse, Senior Land Manager, Barratt Homes both in attendance





# Evidence

## **Dates of Scrutiny**

28<sup>th</sup> June 2011 Scrutiny Board (Regeneration)

6<sup>th</sup> July 2011 Scrutiny Board (Regeneration) Working Group

13<sup>th</sup> July 2011 Scrutiny Board (Regeneration) Working Group

11<sup>th</sup> August 2011 Scrutiny Board (Regeneration) Working Group

17<sup>th</sup> August 2011 Scrutiny Board (Regeneration) Working Group

15<sup>th</sup> September 2011 Scrutiny Board (Regeneration) Working Group meeting with Chief Planner, DCLG, London

10<sup>th</sup> October 2011 Scrutiny Board (Regeneration)



# Appendix 1

## Net and gross housebuilding in Leeds

| Financial year                       | Gross building* |           |              | Housing loss* | Net building | RSS annual average net additions |
|--------------------------------------|-----------------|-----------|--------------|---------------|--------------|----------------------------------|
|                                      | On PDL          | % PDL*    | Total        |               |              |                                  |
| 2004-5                               | 2704            | 92        | 2924         | 291           | 2633         | 2260                             |
| 2005-6                               | 3555            | 96        | 3694         | 258           | 3436         | 2260                             |
| 2006-7                               | 3428            | 97        | 3538         | 211           | 3327         | 2260                             |
| 2007-8                               | 3515            | 92        | 3833         | 257           | 3576         | 2260                             |
| 2008-9                               | 3787            | 95        | 3976         | 148           | 3828         | 4300                             |
| 2009-10                              | 2341            | 93        | 2518         | 281           | 2238         | 4300                             |
| 2010-11                              | 1408            | 90        | 1564         | 140           | 1379         | 4300                             |
| <b>Total</b>                         | <b>20738</b>    | <b>94</b> | <b>22047</b> | <b>1586</b>   | <b>20417</b> | <b>21940</b>                     |
| <b>Last 4 quarters</b>               |                 |           |              |               |              |                                  |
| Apr - Jun 2010                       | 604             | 96        | 630          |               |              |                                  |
| Jul - Sept 2010                      | 240             | 76        | 316          |               |              |                                  |
| Oct - Dec 2010                       | 244             | 92        | 266          |               |              |                                  |
| Jan - Mar 2011                       | 320             | 91        | 352          |               |              |                                  |
| <b>Annual averages to March 2011</b> |                 |           |              |               |              |                                  |
| Last 10 years                        | 2896            | 94        | 2983         |               |              |                                  |
| Last 5 years                         | 2725            | 91        | 3086         |               |              |                                  |

**Source : Leeds City Development & Regional Spatial Strategy**

\*Gross housebuilding includes new build completions plus the net gain from the conversion of existing dwellings and other formerly non-residential buildings to residential use.

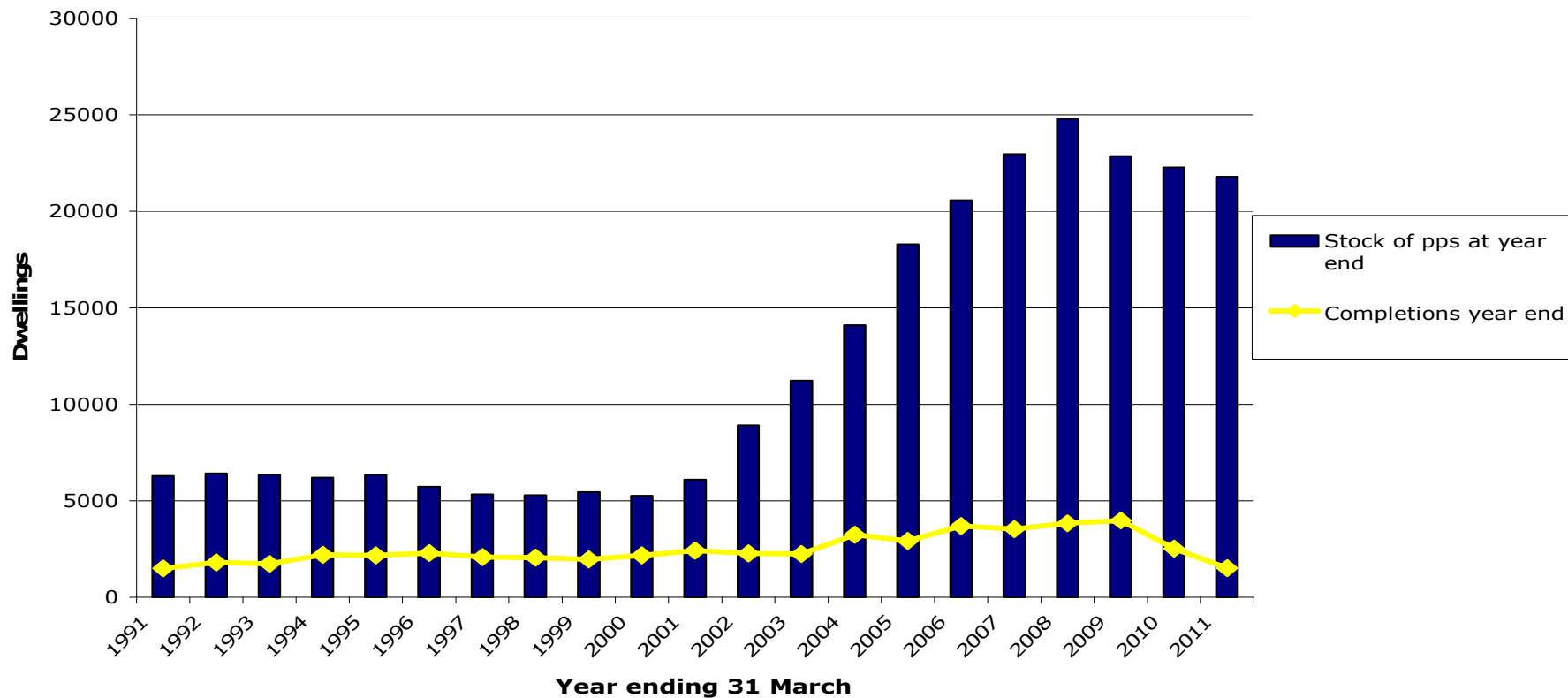
\*PDL is previously developed brownfield land.

\*Housing loss includes dwellings demolished or converted to non residential use.



## Appendix 2

### Stocks of planning permissions and completions 1991-2011





# Appendix 3

## Outstanding capacity at 31 March 2011

| Site              | Planning Permission |             |              | Development Status |                 | Previous Use |             | Total        |
|-------------------|---------------------|-------------|--------------|--------------------|-----------------|--------------|-------------|--------------|
|                   | None                | Outline     | Detailed     | Under con          | Not yet started | B'field      | G'field     |              |
| H4 city centre    | 0                   | 3003        | 2306         | 146                | 5163            | 5309         | 0           | 5309         |
| H4 rest of MUA    | 0                   | 6437        | 5346         | 1246               | 10462           | 11492        | 291         | 11783        |
| H4 outside MUA    | 0                   | 142         | 930          | 155                | 911             | 870          | 202         | 1066         |
| <b>Total</b>      | <b>0</b>            | <b>9582</b> | <b>8582</b>  | <b>1547</b>        | <b>16536</b>    | <b>17671</b> | <b>493</b>  | <b>18158</b> |
| H3-1              | 266                 | 149         | 3160         | 365                | 3210            | 2932         | 643         | 3575         |
| H3-2              | 1641                | 51          | 11           | 0                  | 1703            | 11           | 1692        | 1703         |
| H3-3              | 5659                | 197         | 52           | 7                  | 5901            | 0            | 5908        | 5908         |
| <b>Total</b>      | <b>7566</b>         | <b>397</b>  | <b>3223</b>  | <b>372</b>         | <b>10814</b>    | <b>2943</b>  | <b>8243</b> | <b>11186</b> |
| <b>Total land</b> | <b>7566</b>         | <b>9979</b> | <b>11805</b> | <b>1919</b>        | <b>27350</b>    | <b>20589</b> | <b>8736</b> | <b>29344</b> |



# Appendix 4

## H4 windfall dwelling permissions

| Mid-year         | City Centre  |          |              | Rest of urban area |             |              | Outside urban area |            |             | Outside City Centre |             |              | All locations |             | Total        |
|------------------|--------------|----------|--------------|--------------------|-------------|--------------|--------------------|------------|-------------|---------------------|-------------|--------------|---------------|-------------|--------------|
|                  | Brown        | Green    | All          | Brown              | Green       | All          | Brown              | Green      | All         | Brown               | Green       | All          | Brown         | Green       |              |
| <b>1991-2</b>    | 0            | 0        | 0            | 1048               | 170         | 1218         | 37                 | 99         | 136         | 1085                | 269         | 1354         | 1085          | 269         | <b>1354</b>  |
| <b>1992-3</b>    | 0            | 0        | 0            | 447                | 62          | 509          | 69                 | 43         | 112         | 516                 | 105         | 621          | 516           | 105         | <b>621</b>   |
| <b>1993-4</b>    | 0            | 0        | 0            | 510                | 31          | 541          | 195                | 40         | 235         | 705                 | 71          | 776          | 705           | 71          | <b>776</b>   |
| <b>1994-5</b>    | 7            | 0        | 7            | 478                | 104         | 582          | 35                 | 109        | 144         | 513                 | 213         | 726          | 520           | 213         | <b>733</b>   |
| <b>1995-6</b>    | 21           | 0        | 21           | 327                | 5           | 332          | 145                | 43         | 188         | 472                 | 48          | 520          | 493           | 48          | <b>541</b>   |
| <b>1996-7</b>    | 54           | 0        | 54           | 621                | 163         | 784          | 99                 | 27         | 126         | 720                 | 190         | 910          | 774           | 190         | <b>964</b>   |
| <b>1997-8</b>    | 88           | 0        | 88           | 494                | 30          | 524          | 46                 | 165        | 211         | 540                 | 195         | 735          | 628           | 195         | <b>823</b>   |
| <b>1998-9</b>    | 572          | 0        | 572          | 499                | 184         | 683          | 196                | 56         | 252         | 695                 | 240         | 935          | 1267          | 240         | <b>1507</b>  |
| <b>1999-2000</b> | 1310         | 0        | 1310         | 920                | 31          | 951          | 351                | 0          | 351         | 1271                | 31          | 1302         | 2581          | 31          | <b>2612</b>  |
| <b>2000-1</b>    | 803          | 0        | 803          | 558                | 33          | 591          | 109                | 70         | 179         | 667                 | 103         | 770          | 1470          | 103         | <b>1573</b>  |
| <b>2001-2</b>    | 2532         | 0        | 2532         | 1046               | 228         | 1274         | 760                | 28         | 788         | 1806                | 256         | 2062         | 4338          | 256         | <b>4594</b>  |
| <b>2002-3</b>    | 1506         | 0        | 1506         | 1752               | 120         | 1872         | 152                | 19         | 171         | 1904                | 139         | 2043         | 3410          | 139         | <b>3549</b>  |
| <b>2003-4</b>    | 1006         | 0        | 1006         | 2643               | 17          | 2660         | 453                | 15         | 468         | 3096                | 32          | 3128         | 4102          | 32          | <b>4134</b>  |
| <b>2004-5</b>    | 1887         | 0        | 1887         | 1852               | 8           | 1860         | 896                | 0          | 896         | 2748                | 8           | 2756         | 4635          | 8           | <b>4643</b>  |
| <b>2005-6</b>    | 1274         | 0        | 1274         | 1639               | 64          | 1703         | 264                | 12         | 276         | 1903                | 76          | 1979         | 3177          | 76          | <b>3253</b>  |
| <b>2006-7</b>    | 1562         | 0        | 1562         | 1922               | 13          | 1935         | 124                | 0          | 124         | 2046                | 13          | 2059         | 3608          | 13          | <b>3621</b>  |
| <b>2007-8</b>    | 1433         | 0        | 1433         | 2873               |             | 2873         | 90                 | 11         | 101         | 2963                | 11          | 2974         | 4396          | 11          | <b>4407</b>  |
| <b>2008-9</b>    | 92           | 0        | 92           | 2129               | 74          | 2203         | 47                 | 9          | 56          | 2176                | 83          | 2259         | 2268          | 83          | <b>2351</b>  |
| <b>2009-10</b>   | 714          | 0        | 714          | 2220               | 14          | 2234         | 26                 | 25         | 51          | 2246                | 39          | 2285         | 2960          | 39          | <b>2999</b>  |
| <b>2010-11</b>   | 5            | 0        | 5            | 2774               | 11          | 2785         | 45                 | 134        | 179         | 2819                | 145         | 2964         | 2824          | 145         | <b>2969</b>  |
| <b>2011-12*</b>  | 0            | 0        | 0            | 79                 | 0           | 79           | 0                  | 0          | 0           | 79                  | 0           | 79           | 79            | 0           | <b>79</b>    |
| <b>Total</b>     | <b>14866</b> | <b>0</b> | <b>14866</b> | <b>26831</b>       | <b>1362</b> | <b>28193</b> | <b>4139</b>        | <b>905</b> | <b>5044</b> | <b>30970</b>        | <b>2267</b> | <b>33237</b> | <b>45836</b>  | <b>2267</b> | <b>48103</b> |



## Appendix 4

### Annual Averages

|                  |      |   |      |      |    |      |     |    |     |      |     |      |      |     |             |
|------------------|------|---|------|------|----|------|-----|----|-----|------|-----|------|------|-----|-------------|
| <b>1991-2001</b> | 286  | 0 | 286  | 590  | 81 | 672  | 128 | 65 | 193 | 718  | 147 | 865  | 1004 | 147 | <b>1150</b> |
| <b>1991-2011</b> | 743  | 0 | 743  | 1338 | 68 | 1406 | 207 | 45 | 252 | 1545 | 113 | 1658 | 2288 | 113 | <b>2401</b> |
| <b>2001-2011</b> | 1201 | 0 | 1201 | 2085 | 55 | 2140 | 286 | 25 | 311 | 2371 | 80  | 2451 | 3572 | 80  | <b>3652</b> |

\*to 31<sup>st</sup> March 2011

The sites are grouped by Review plan policy below.

|             |   |
|-------------|---|
| <b>H4</b>   | Unallocated sites with permission in the City Centre                            |
| <b>H4</b>   | Unallocated sites with permission in the rest of the Main & Smaller Urban areas |
| <b>H4</b>   | Unallocated sites with permission outside the Main & Smaller Urban areas        |
| <b>H3-1</b> | Phase 1 allocations   |
| <b>H3-2</b> | Phase 2 allocations   |
| <b>H3-3</b> | Phase 3 allocations   |



# APPENDIX 5

## SHLAA

### Statistics Provided in Response to Questions detailed in paragraph 60 of this report

Total sites and dwellings in LDF to determine category = 500 sites, 136251 dwellings. This compares with 44 sites 1729 dwellings for "no", 347 sites 19560 dwellings for "yes" and 26 sites 3784 dwellings for "yes with physical issues"

Of the total SHLAA sites (917) and dwellings (161,324) we have the following totals for different categories:

- Green Belt 313 sites, 88137 dwellings
- Special Landscape Area 71 sites, 17992 dwellings
- Urban Green Corridors 50 sites, 13871 dwellings
- UDP Minerals protection areas 6 sites, 789 dwellings
- Natural Resources & Waste DPD protection areas 1 site, 0 dwellings
- Public Transport Accessibility (meets RSS minimum standard) 603 sites, 105632 dwellings
- Nature Conservation (near SEGI, LNAs etc), 26 sites, 16831 dwellings

#### Flood Risk

- Zone 2 33 sites, 6707 dwellings
- Zone 3ai 47 sites, 6732 dwellings
- Zone 3aii 28 sites, 6585 dwellings
- Zone 3b 9 sites, 155 dwellings

#### Greenspace

- N1 40 sites 7184 dwellings
- N1a 3 sites 123 dwellings
- N5 15 sites, 4581 dwellings
- N6 32 sites, 2234 dwellings

#### Access to facilities (1 bad, 4 good)

- zone 1 55 sites, 8393 dwellings
- zone 2 21 sites 2858 dwellings
- zone 3 470 sites 98395 dwellings
- zone 4 358 sites 44058 dwellings

Of the total SHLAA sites that are LDF to determine (500) and dwellings (136251) we have the following totals:

- Green Belt 268 sites, 85911 dwellings
- SLA 62 sites, 17710 dwellings
- UGC 35 sites, 12167 dwellings
- UDP Minerals 2 sites, 789 dwellings
- NR&W Minerals 0 sites, 0 dwellings
- Public Transport Accessibility 284 sites, 83108 dwellings
- Nature Cons 18 sites, 15899 dwellings

#### Flood Risk

- Z2 30 sites 6645 dwellings
- Z3ai 35 sites 6022 dwellings
- Z3aii 26 sites 6523 dwellings
- Z3b 3 sites 149 dwellings

#### Greenspace

- N1 20 sites 4168 dwellings
- N1a 3 sites 123 dwellings
- N5 13 sites 4521 dwellings
- N6 17 sites 1493 dwellings

#### Accessibility zones (1 = bad, 4 = good)

- Z1 35 sites 7491 dwellings
- Z2 13 sites 2018 dwellings
- Z3 316 sites 93038 dwellings
- Z4 129 sites 27682 dwellings



## Glossary

|            |   |
|------------|---|
| Cala Homes | A legal challenge in the High Court (see Executive Board report 22 <sup>nd</sup> June 2011 for details) |
| CIL        | Community Infrastructure Levy   |
| DCLG       | Department for Communities and Local Government   |
| DPDs       | Development Plan Documents  |
| FYS        | Five year housing supply  |
| GVA        | The company who updated the 2007 SHMA   |
| HCA        | Homes and Community Agency  |
| LDF        | Local Development Framework   |
| NPPF       | National Planning Policy Framework  |
| ONS        | Office for National Statistics  |
| RSS        | Regional Spatial Strategy   |
| SHLAA      | Strategic Housing Land Availability Assessments   |
| SHMA       | Strategic Housing Market Assessment   |
| SPDs       | Supplementary Planning Documents  |
| UDP        | Unitary Development Plan  |



The Development Plan

DEVELOPMENT PLAN DOCUMENTS

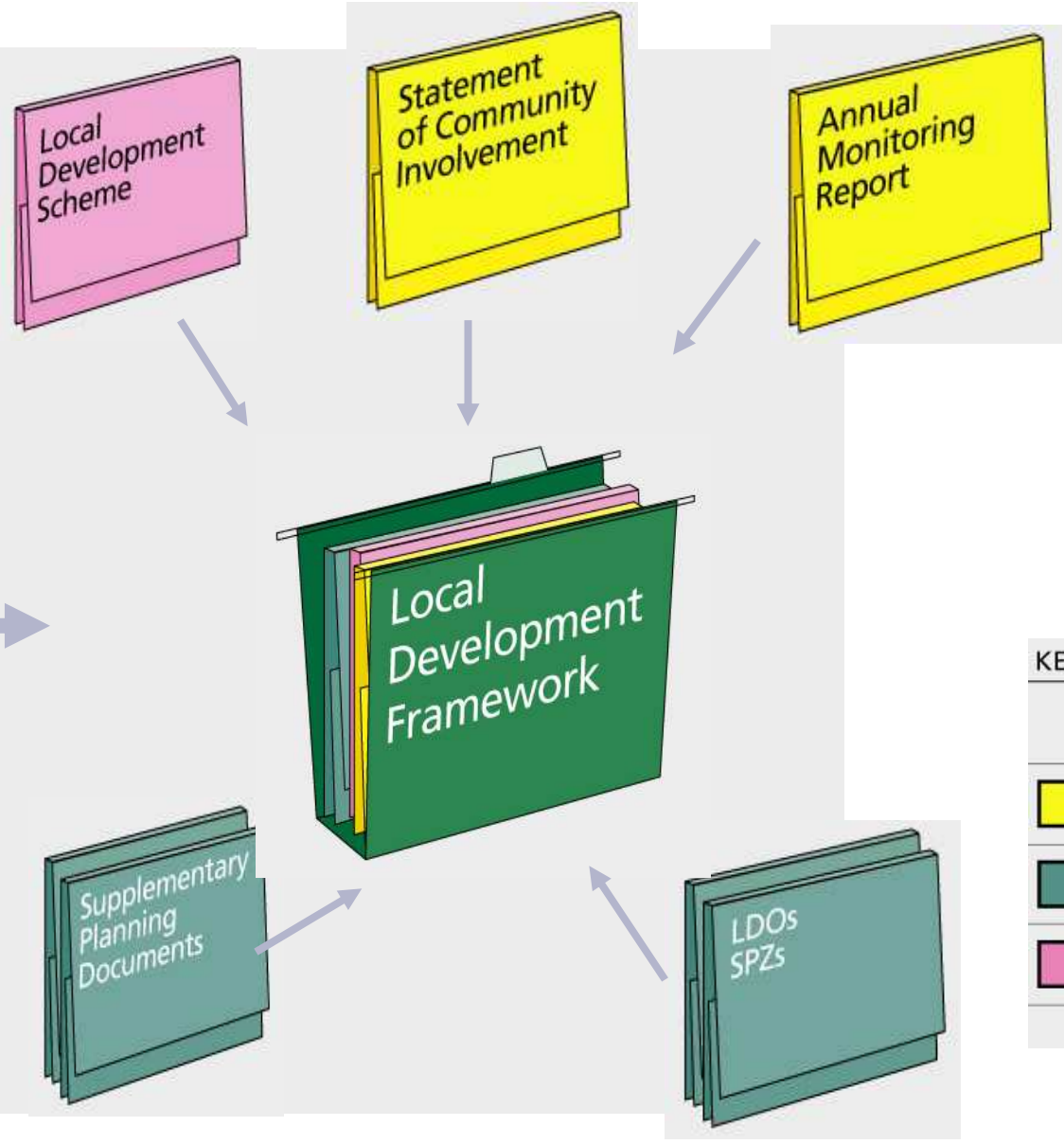
Adopted Proposals Map


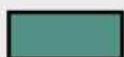

Core Strategy

Site Specific Allocations

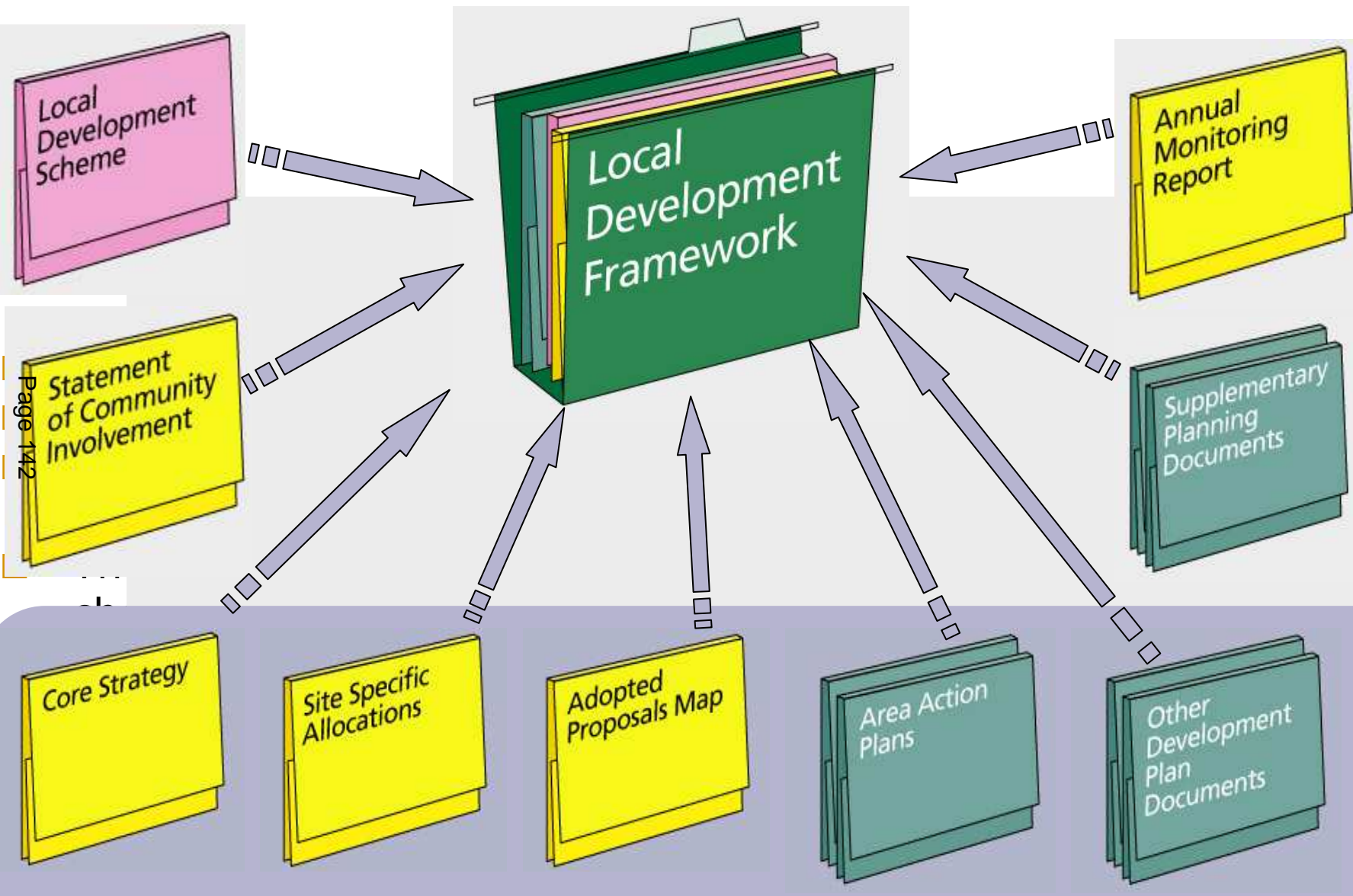
Area Action Plans

Other Development Plan Documents



| KEY   |              |
|---|--------------|
|  | Required     |
|  | Optional     |
|  | Project Plan |

The Local Development Framework





This page is intentionally left blank

**Meeting of Scrutiny Board (Regeneration) Working Group  
Held on 16<sup>th</sup> January 2012 at 2pm in Committee Room 2, Civic Hall**

**Inquiry to consider Affordable Housing by Private Developers**

**Present:**

Councillor J Procter (Chair)  
Councillor T Murray  
Councillor R Pryke  
Councillor P Grahame  
Councillor D Collins  
Mr George Hall, Co-opted Member

**Others in Attendance**

Councillor P Gruen, Executive Board Member, Neighbourhoods Housing and Regeneration  
Ms M Gjessing (MG), Housing Investment Manager, Environment and Neighbourhoods  
Mr M Sellens (MS), Head of Planning Services, City Development Directorate  
Directorate  
Mr R Mills (RM), Principal Scrutiny Adviser, Resources Directorate

**Apologies**

Councillor G Hussain , Councillor G Wilkinson, Councillor M Iqbal and Councillor P Ewens. The following officers were unable to attend today's session due to a Development Plans Panel meeting: Ms N Yunis (NY), Planning Policy, affordable housing , City Development Directorate and Mr R Coghlan (RC), Planning Team Leader, City Development Directorate

**Substitute**

Councillor P Grahame was attending the meeting as substitute for Councillor K Mitchell.

- |            |  |               |
|------------|--|---------------|
|            |  | <b>Action</b> |
| <b>1.0</b> | <b>Welcome, Introductions and Chair's Comments</b>   |               |
| 1.1        | The Chair welcomed everyone to the meeting. He stated that the main purpose of this session was to consider the further information requested at the last meeting on the role of the City Development and Environment and Neighbourhood Directorates in the delivery of affordable homes in the city.  |               |
| <b>2.0</b> | <b>Note of the Last Meeting</b>  |               |
| 2.1        | The note of the meeting of the Working Group held on 9 <sup>th</sup> November 2011 on Affordable Housing and Private Developers was received as a correct record.  |               |
| <b>3.0</b> | <b>Interim Recommendation by the Scrutiny Board</b>  |               |
| 3.1        | It was noted that the Executive Board on 4 <sup>th</sup> January 2012 had re-considered the Scrutiny Board's interim recommendation on Affordable Housing to reinstate the 2008 affordable housing targets in relation to Greenfield sites.  |               |
| 3.2        | The Chair reported that the Executive Board had decided that the existing 2011 Interim Affordable Housing policy targets as agreed by Executive Board in May 2011 be retained. However it had asked that a monitoring report on the progress of the revised policy be received by the Board in Summer 2012. It also clarified that the implementation period is 2 years from the date of the decision to grant planning permission, subject to Section 106 obligations in order to secure the early delivery of affordable housing and that at the end of 2 years if not implemented, the percentage of affordable housing would revert to whatever the policy is at the time. |               |

3.3 The Executive Board also highlighted the fact that those Greenfield sites which are granted at appeal with higher levels of affordable housing, and where lower levels of affordable housing is sought in accordance with the interim policy, regard is had to the content of the overall Section 106 package together with local priorities, in consultation with Ward Members and local communities.

3.4 Members stated that they were disappointed with this outcome and because of the seriousness of the situation would continue to raise their concerns with all Members of the Council.

3.5 Members made reference to the need to look more closely at the financial viability of developers delivering affordable homes in the city including the cost of building homes excluding abnormals e.g. land costs. Members also wanted to determine whether the Council's approach is robust enough in examining the financial viability of developments to require affordable homes to be provided. It was pointed out that this would be considered at the next meeting of the Working Group.

MG/MS

#### **4.0 Additional Information Requested at the Last Meeting**

##### **(i) Greenfield Housing Appeal Sites**

4.1 Members discussed a position statement with regard to Greenfield Housing Appeal sites in Leeds as at 7<sup>th</sup> December 2011. It was reported that since that date a number of other Greenfield sites had come forward where developers were pursuing proposals and applications.

##### **(ii) Verbal Report on Habitability**

4.2 Members received a verbal report on habitability in Leeds and discussed concerns that there is not a minimum build standard for affordable homes. Members referred to the fact that some new affordable homes particularly flats did not meet standards set by the Homes and Community Agency (HCA) although it was accepted that this happened infrequently.

4.3 The Working Group requested a copy of the design and quality standards used by the Homes and Community Agency.

MG/RM

4.4 Reference was made to the pressure on developers to reduce building costs and it was suggested that all Section 106 agreements for affordable homes should include a clause that requires developers to build to the HCA standard and that this be considered as a recommendation in the Scrutiny Board's final report and recommendations.

MS

4.5 The Working Group discussed the importance of having a mix of affordable homes within a development whenever possible.

##### **(iii) House Prices**

4.6 The Working Group received information on house prices and turnover by ward derived from the Leeds Neighbourhood index as an indication of the housing market across the city.

##### **(iv) Leeds Homes Register**

4.7 The Working Group considered a background paper on the Leeds Homes Register (LHR) by ALMO area.

4.8 Members noted that at 30<sup>th</sup> September 2011, there were 27,328 households on the LHR. These were broken down by categories of housing need. Over the last 5 years the number of new applications registered on the LHR has been on average 15,445 per annum.

- 4.9 The Working Group highlighted the fact that the majority of customers on the LHR are classed as having low or no housing need (85%). On 30<sup>th</sup> September 2011, 3,937 customers fell within the category of priority need (14%) with the remainder classed to be in low or no need.
- 4.10 Members noted that on 30<sup>th</sup> September 2011, 57% of households on the LHR require a one bed property, 29% a two bed property, 10% a three bed property and 3% a four bed or more property. This evidence directly contradicts the evidence given by developers during the Board's previous inquiry on housing growth that the main demand for homes in the city was for three, four and five bedrooms. Although it was felt that the large number of people on the council housing waiting list requesting 1 bed properties seems contrary to the developers' position that larger houses are needed, it was recognised that applications on the LHR are on the basis of housing need (i.e. a single person household is registered for a one bed) not what they would like. Many of these applicants will be low income households, perhaps elderly or forming as a result of relationship breakdown.
- 4.11 The Working Group made reference to the GVA report considered in the previous inquiry on housing growth and suggested that data may be inaccurate and outdated. MG agreed to check what it says about the need and waiting list data for social housing and come back to the Board if there are any issues of concern. MG

#### **(v) Rent Levels**

- 4.12 Members considered a background paper on rent levels in the city. The report gave an analysis of the differentials that exist between the affordable, social and market rents by ward. The analysis showed that both Council and housing association rents are consistent across the city, however market rents vary considerably.
- 4.13 It was noted that average Council rents were £65.00 per week and Housing Association rents £67.00 per week. Using an average price for all property sizes market rents in Roundhay for example were £157.00 per week compared with East End Park which were £98 per week.
- 4.14 Members discussed under this item and the LHR item the reasons why people wanted Council accommodation and clearly rental costs was an important factor in their decision making.

#### **(vi) The Community Infrastructure Levy**

- 4.15 Members noted a report of the Director of City Development on the Community Infrastructure levy in the Leeds context and consultation response to the Government's draft regulations for reform. This report was considered by Executive Board on 14<sup>th</sup> December 2011 which resolved
- (a) That the background information relating to the implementation of the Community Infrastructure Levy in Leeds be noted.
  - (b) That a Community Infrastructure Levy Charging Schedule be developed as a matter of priority, and that the necessary funding, as set out within paragraph 4.4.2 of the submitted report, be approved.
  - (c) That further work be undertaken in relation to all the concerns raised during the discussion, with a further report on such matters being submitted to the Board in due course.

- 4.16 The Chair referred resolution (c) of the Executive Board's decision and to the Scrutiny Board's recommendation that a "meaningful proportion" for local communities should be 80% of the CIL. It was important that a "meaningful proportion" should be pressed for as local communities will expect an equitable and transparent process which provides benefits to the community if they accept a housing development in its area.

RM

- 4.17 It was agreed that Scrutiny Board consider the further report to Executive Board on this matter in due course.

#### **(vii) Commuted Sums Update and Methodology**

- 4.18 The Working Group received a paper which provided a breakdown of commuted sums for affordable housing from private developers and set out the methodology as to how the commuted sum required for affordable housing is calculated.

- 4.19 Members expressed the view that developers do not shoulder the actual cost of affordable homes and continue to make a profit on these dwellings. The Chair stated that the next session will focus on financial issues and; in particular; whether the Council's approach is robust enough in examining the financial viability of developments to require affordable homes to be provided and identify building costs.

MG

#### **(viii) Leeds City Council and Other Authorities - Approach to Benchmark Figures**

- 4.20 Members noted that the approach used by Leeds City Council is set out in the 'Affordable Housing Policy Guidance Note Annex – Housing Needs Assessment Update – revision April 2011'. The annex is updated annually. A developer is expected to sell the agreed number of sub market and social rented affordable houses to a housing association at benchmark figures. This ensures the units remain in perpetuity. Members discussed the formulas used by Sheffield, Nottingham, Manchester, Kirklees and Bradford Councils which were detailed in the report.

- 4.21 The Working Group commented on the fact that Kirklees Council's social rent sale price for houses is £588 per metre<sup>2</sup> (maximum sale price of a developer to a Housing Association) and for flats £698 per metre<sup>2</sup> compared with Leeds of £520 per metre<sup>2</sup> for both houses and flats. A view was expressed that this differential was a barrier to the viability of affordable property in Leeds.

### **5.0 Stock and Quality Maintenance and Rent and Price Setting**

- 5.1 Members received and noted a report setting out the Registered Providers' approach to maintaining the quality of their stock and to rent setting.

### **6.0 Next Meeting of the Working Group**

- 6.1 Members and witnesses will be contacted regarding the date and time for the next session of this inquiry.





Report author: Richard Mills  
Tel: 24 74557

**Report of Head of Scrutiny and Member Development**

**Report to Scrutiny Board (Regeneration)**

**Date: 28<sup>th</sup> February 2012**

**Subject: Work Schedule**

|  |   |
|--|---|
| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

**Summary of main issues**

1. A draft work schedule is attached as appendix 1. The work schedule has been provisionally completed pending on going discussions with the Board. The work schedule will be subject to change throughout the municipal year.
2. Also attached as appendix 2 and 3 respectively are the latest minutes of Executive Board and the Council's current Forward Plan relating to this Board's portfolio.

**Recommendations**

4. Members are asked to:
  - a) Consider the draft work schedule and make amendments as appropriate.
  - b) Note the Executive Board minutes and Forward Plan

**Background documents**

5. None used

This page is intentionally left blank

**Scrutiny Board (Regeneration) Work Schedule for 2011/2012 Municipal Year Appendix 1**

| <b>Schedule of meetings/visits during 2011/12</b>  |  |  |  |
|--|--|--|--|
| <b>Area of review</b>  | <b>June</b>  | <b>August</b>  | <b>September</b>   |
| <b>Green space – promotion, protection, management</b>   |  |  | Consider potential scope of review<br>SB 28/06/11 @ 10am   |
| <b>Housing growth challenge both in terms of brownfield &amp; Greenfield development, private and affordable</b> | Consider potential scope of review<br>SB 28/06/11 @ 10am | Agreed terms of reference for an Inquiry on Housing Growth<br><br>Working Groups met 6 <sup>th</sup> and 13 <sup>th</sup> July, 11 <sup>th</sup> and 17 <sup>th</sup> August and 15 <sup>th</sup> September 2011 | Consider draft final report and recommendations Housing Growth   |
| <b>Provision of Affordable Housing by Developers</b>   |  |  | Consider draft Terms of Reference on affordable Housing by developers  |
| <b>Board initiated piece of Scrutiny work (if applicable)</b>  |  |  |  |
| <b>Budget &amp; Policy Framework</b>   | To consider any areas for scrutiny                       | To consider any areas for scrutiny   |  |
| <b>Recommendation Tracking</b>   | None this session  | Not this session   | To consider progress in implementing Scrutiny Board recommendations following publication of its report on Kirkgate Market in May 2011 |
| <b>Performance Monitoring</b>  | None this session  | None this session  | None this session  |

Page 154

Key: SB – Scrutiny Board (Safer and Stronger Communities) Meeting

WG – Working Group Meeting

**Scrutiny Board (Regeneration) Work Schedule for 2011/2012 Municipal Year Appendix 1**

| Area of review   | Schedule of meetings/visits during 2011/12   |  |   |
|--|--|--|---|
|  | October  | November   | December  |
| <b>Green space – promotion, protection, management</b>   | Town and Village Greens and Green Space Designations Initial Report  |  |   |
| <b>Housing growth challenge both in terms of brownfield and Greenfield development, private and affordable</b> | Final Report on Housing Growth approved by Board on 10 <sup>th</sup> October 2011                              |  |   |
| <b>Condition of private sector housing</b>   |  | First meeting held on 9 <sup>th</sup> November 2011 re Boards Inquiry on Affordable Housing and Private Developers   | Inquiry on Affordable Housing and Private Developers<br>Meeting of the Working Group 19 <sup>th</sup> December 2011   |
| <b>Board initiated piece of Scrutiny work (if applicable)</b>  | Leeds Bradford Airport Taxis access<br>Town and Village Greens and Green Space designations<br>Kirkgate Market | Breakdown of Costs re provision of a taxi rank on Whitehouse Lane<br><br>Details on Vacant Stalls Kirkgate Market<br><br>East Leeds Regeneration Board Commissioning of Reports 3/10 | East Leeds Regeneration Board Invite Mr M Dean, Head of Leeds Initiative to talk on the remit of the new ELRB<br>Taxi Rank Whitehouse Lane Details of advice and guidance re standard of road |
| <b>Budget &amp; Policy Framework Plans</b>   |  |  |   |
| <b>Recommendation Tracking</b>   |  | Report back on Depts response to Executive Board on Housing Growth inquiry   |   |
| <b>Performance Monitoring</b>  | None   | None   | Quarter 2 performance report<br>SB 19/12/11 @ 10 am   |

Page 152

**Scrutiny Board (Regeneration) Work Schedule for 2011/2012 Municipal Year Appendix 1**

| Area of review   | Schedule of meetings/visits during 2011/12  |   |   |
|--|---|---|---|
|  | January 2012  | February 2012   | March 2012  |
| <b>Green space – promotion, protection, management</b>   | Report on process of dealing with applications for Town and Village Green Status  | Report on case studies - process of dealing with applications for Town and Village Green Status   |   |
| <b>Housing growth challenge both in terms of brownfield and Greenfield development, private and affordable</b> |   |   |   |
| <b>Condition of private sector housing</b>   | Affordable Housing and private developers Inquiry Working Group meeting held on 16 <sup>th</sup> Jan 2012   | Affordable Housing and private developers Inquiry Working Group to be confirmed as soon as report on Institutional Investment is made available | Affordable Housing and private developers Inquiry Working Group |
| <b>Board initiated piece of Scrutiny work (if applicable)</b>  | Kirkgate Market report on affect vacant stalls have on service charge and estimated loss of income as a consequence of vacant stalls and Consultants Report on Future of the Market | Resubmit Jan report on Kirkgate Market lettings as time restraint prevented proper discussion of this item                                      |   |
| <b>Budget &amp; Policy Framework Plans</b>   | Budget Report   |   |   |
| <b>Recommendation Tracking</b>   |   |   |   |
| <b>Performance Monitoring</b>  | None this session   | None this session   | Quarter 3 performance report<br>SB 27/03/12 @ 10 am             |

Page 153

Key: SB – Scrutiny Board (Safer and Stronger Communities) Meeting

WG – Working Group Meeting

**Scrutiny Board (Regeneration) Work Schedule for 2011/2012 Municipal Year Appendix 1**

**Schedule of meetings/visits during 2011/12**

| <b>Area of review</b>  | <b>April 2012</b>  | <b>May 2012</b>   |
|--|--|-------------------|
| <b>Green space – promotion, protection, management</b>   |  |                   |
| <b>Housing growth challenge both in terms of brownfield and Greenfield development, private and affordable</b> |  |                   |
| <b>Condition of private sector housing</b>   | Final Report and Recommendations on completion of the Board's inquiry on affordable housing and private developers |                   |
| <b>Board initiated piece of Scrutiny work (if applicable)</b>  |  |                   |
| <b>Budget &amp; Policy Framework Plans</b>   |  |                   |
| <b>Recommendation Tracking</b>   |  |                   |
| <b>Performance Monitoring</b>  | None this session  | None this session |

Page 154

Key: SB – Scrutiny Board (Safer and Stronger Communities) Meeting

WG – Working Group Meeting

## EXECUTIVE BOARD

FRIDAY, 10TH FEBRUARY, 2012

**PRESENT:** Councillor K Wakefield in the Chair

Councillors J Blake, A Carter, M Dobson,  
R Finnigan, S Golton, P Gruen, R Lewis,  
A Ogilvie and L Yeadon

### 183 Late Items

There were no late items as such, however, it was noted that 2 pages which due to a printing error had been omitted from paper copies of the agenda, had been circulated prior to the meeting for consideration (Minute No. 197 referred).

In addition, with the agreement of the Chair, a response to agenda item 13 entitled, 'Deputation to Council: 16<sup>th</sup> November 2011: National Federation of the Blind', from the Leeds Branch of the National Federation of the Blind had been circulated to Board Members at the meeting for their consideration (Minute No. 187 referred).

### 184 Declarations of Interest

Although no declarations of interest were made at this point in the meeting, declarations were made at later points in the meeting (Minute Nos. 190 and 201 referred respectively).

### 185 Access to Background Papers

In responding to enquiries which had been recently raised, the Chief Executive confirmed that all statutory requirements had been fulfilled with respect to Background Papers on the current Executive Board agenda, but emphasised that further work would be undertaken into how the referencing of such background documents could be improved in the future.

### 186 Minutes

**RESOLVED** – That the minutes of the meeting held on 4<sup>th</sup> January 2012 be approved as a correct record.

## ADULT HEALTH AND SOCIAL CARE

### 187 Deputation to Council 16th November 2011 - National Federation of the Blind

The Director of Adult Social Services submitted a report responding to the deputation made to Council on 16th November 2011 by the Leeds Branch of the National Federation of the Blind. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

With the agreement of the Chair, a response received from the Leeds Branch of the National Federation of the Blind had been circulated to Board Members at the meeting for their consideration.

Clarification was provided by the Director of Adult Social Services that the reference within Appendix 2 to the submitted report should read as 'Action for Blind People' and not 'Action for the Blind'.

Having responded to Members' enquiries regarding the transfer of information which had occurred between contractors, the Executive Member for Adult Health and Social Care together with the Director of Adult Social Services assured the Board that dialogue would continue with all relevant parties in order to address the concerns which remained in respect of this issue.

In concluding the discussion, it was requested that Scrutiny Board (Health and Wellbeing and Adult Social Care) continued to be involved in the resolution of this matter, and that Executive Board Members, together with Group Leaders were kept informed of any further developments.

**RESOLVED –**

- (a) That the contents of the submitted report be noted;
- (b) That the actions currently being undertaken by Adult Social Care and Leeds Vision Consortium to address the points raised by the Deputation be noted.

**RESOURCES AND CORPORATE FUNCTIONS**

**188 Financial Health Monitoring 2011/12 - Month 9**

The Director of Resources submitted a report setting out the Council's projected financial health position after nine months of the financial year. The report reviewed the position of the budget after eight months and commented on the key issues impacting on the overall achievement of the budget for the current year. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

Members highlighted the positive impact of the one-off sources income received by the Council during the financial year upon the current budgetary position.

In responding to a Member's specific enquiry, the Director of Environment and Neighbourhoods undertook to provide the Member in question with a briefing on an ongoing litigation matter within Housing.

In conclusion, the Board paid tribute to the robust management of the budget which had taken place throughout the current financial year.

**RESOLVED –** That the projected financial position of the authority after the three quarters of the financial year be noted.



## 189 Revenue Budget 2012/13 and Capital Programme

### (A) Revenue Budget and Council Tax 2011/2012

Further to Minute No. 154, 14<sup>th</sup> December 2011, the Director of Resources submitted a report on the proposals for the City Council's Revenue Budget for 2012/2013, on the Leeds element of the Council Tax to be levied in 2012/2013 and on Council House rents for 2012/13, which had been prepared in the context of the Council's initial budget proposals agreed by Executive Board in December 2011, the Local Government Finance settlement and the results of the budget consultation. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

Whilst introducing the report, the Chair paid tribute to all of those who had been involved in preparing the Council's budgetary proposals.

In responding to Members' enquiries, the Board received an update in respect of the current position regarding shared services with other local authorities, and an undertaking was given that a briefing note would be provided to Group Leaders on this matter. In addition, the Board also received clarification with regard to the Capital Receipts Incentive Scheme, which was to confirm that the scheme did not apply to the sale of assets already assumed within the Capital Programme. It was also confirmed that the budget proposed did not reduce current Area Management funding.

Members welcomed the proposed Council Tax freeze for 2012-13 and requested that representations were made to the Government regarding the need for such funding from the Government to continue into future years.

The Board highlighted the significant achievement that despite the Council's reduced workforce in recent years, there had been no enforced redundancies. The Chief Executive then paid tribute, both to those employees who had left the authority in recent years and also to those who remained.

Members discussed the proposed increase in the proportion of the Council's budget which was dedicated to Children's Services and Adult Social Care and also considered the impact of the increasing number of schools becoming academies upon the budget.

### **RESOLVED -**

- (a) That Council be recommended to approve the Revenue Budget for 2012/2013 totalling £563,114,000, as detailed and explained within the submitted report and accompanying papers, with no increase in the Leeds' element of the Council Tax for 2012/13.
- (b) That in respect of the Housing Revenue Account, Council be recommended to: -

- (i) approve the budget at the average rent increase figure of 6.82%;
- (ii) increase the charges for garage rents to £6.93 per week;
- (iii) increase service charges in line with rents (6.82%).

(B) Capital Programme Update 2011-2014

The Director of Resources submitted a report setting out the updated draft capital programme for 2011-2014, which included forecast resources for that period. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

**RESOLVED –**

- (a) That the following be recommended to Council:
  - (i) That the capital programme, as attached to the submitted report, be approved;
  - (ii) That the Executive Board be authorised to approve in year amendments to the capital programme, including transfers from and to the reserved programme in accordance with Financial Procedure Rules; and
  - (iii) That the proposed Minimum Revenue Provision (MRP) policies for 2012/13, as set out within 3.7 of the submitted report and as explained at Appendix E, be approved.
  - (iv) That the updated capital approval delegations in Financial procedure Rules, as shown in Appendix F to the submitted report, be approved.
- (b) That approval be given to the list of land and property sites, as shown within Appendix D to the submitted report, being disposed of in order to generate capital receipts for use in accordance with the MRP policy.
- (c) That the Director of Resources be authorised to manage, monitor and control scheme progress and commitments to ensure that the programme is affordable.

(C) Treasury Management Strategy 2012-2013

The Director of Resources submitted a report setting out the Treasury Management Strategy for 2012/2013 and outlining the revised affordable borrowing limits under the prudential framework. In addition, the report also provided a review of strategy and operations in 2011/2012. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

## **RESOLVED –**

- (a) That approval be given to the initial treasury strategy for 2012/13, as set out within Section 3.3 of the submitted report, and that the review of the 2011/2012 strategy and operations, as set out within Sections 3.1 and 3.2 of the submitted report, be noted.
- (b) That it be noted that the changes to CIPFA's Treasury Management Code of Practice and cross sectoral guide and Prudential Code of practice have been adopted and implemented by the Council.
- (c) That Council be recommended to set the borrowing limits for 2011/12, 2012/13, 2013/14 and 2014/15, as set out within Section 3.4 of the submitted report.
- (d) That Council be recommended to set the treasury management indicators for 2011/12, 2012/13, 2013/14 and 2014/15 as set out within Section 3.5 of the submitted report.
- (e) That Council be recommended to set the investment limits for 2011/12, 2012/13, 2013/14 and 2014/15 as set out within Section 3.6 of the submitted report.
- (f) That Council be recommended to adopt the revised Treasury Management Policy Statement.

(The matters referred to in parts A(a), A(b)(i) to (iii), B(a)(i) to (iv) and C(c) to (f) being matters reserved to Council were not eligible for Call In)

(Under the provisions of Council Procedure Rule 16.5, Councillor A Carter required it to be recorded that he abstained from voting on the decisions referred to within minute Nos. 189(A) and 189(B))

### **190 Welfare Reform Strategy**

The Director of Resources submitted a report setting out the overall strategy for ensuring that customers, service providers and stakeholders were prepared for, and able to respond to, the issues and requirements arising from the welfare reform programme. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

The Board welcomed the proactive approach which was being taken to ensure that all parties were prepared for the implications arising from the introduction of the welfare reform programme.

Following several detailed enquiries, officers undertook to provide a briefing on related matters to any Board Member who wanted one.

Members highlighted the increased demand which had already been experienced on some Council services as a result of the programme, emphasised the important role which could be played by Area Committees in

Draft minutes to be approved at the meeting  
to be held on Wednesday, 7th March, 2012

this area and received details on the likely impact of the welfare reforms upon young people.

**RESOLVED –**

- (a) That the welfare reform strategy be approved.
- (b) That updates on progress with the strategy be received in due course.
- (c) That a welfare reforms' communications strategy to deliver timely, targeted information to customers and stakeholders, from March 2012, be supported.
- (d) That the proposal to work with Area Committees in order to ensure that the strategy reflects and meets needs at a local level, be supported.
- (e) That activity to ensure face to face services fully support customers and service users in meeting the requirements of Universal Credit, be supported.
- (f) That the exploration of opportunities to get involved with pilots around Universal Credit delivery where the Council would be able to add value and localise delivery arrangements, be approved.

(Councillor A Carter declared a personal interest in this matter, as his step-daughter was in receipt of benefits and would potentially be affected by the change in legislation)

**191 State of the City Report and Full Council Meeting**

The Assistant Chief Executive (Customer Access and Performance) submitted a report providing the background to the State of the City report and detailed the key cross cutting issues arising from the it, with recommendations to refer relevant issues to Leeds Initiative Board and/or the Strategic Partnership Boards. The report also reviewed the first State of the City Full Council meeting which took place on 7<sup>th</sup> December 2011 and which made recommendations for this to become an annual event. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

Members generally supported the principle of the State of the City Council meeting, but a view was put forward that further thought was needed in respect of the format used in future.

**RESOLVED –**

- (a) That, based on the issues highlighted in the State of the City report, particularly those relating to deprivation:-
  - i) a quality and completeness check be undertaken to ensure that each of the Strategic Partnership Boards have actions in place to address the relevant issues;

Draft minutes to be approved at the meeting  
to be held on Wednesday, 7th March, 2012

- ii) the outcome of this work be reported back to the Leeds Initiative Board.
- (b) That an overview of progress on deprivation and poverty related issues across the city be reported to the Leeds Initiative Board after the 2011/12 year end, and through the publication of the next State of the City Report in the Autumn of 2012.
- (c) That a special additional Full Council meeting be held annually (a provisional date of 28 November has been set for 2012) to consider the State of the City report, with the active involvement of partners and with a number of changes being incorporated into the 2012 meeting based on feedback from participants:
  - the question session is dropped to allow further time for the seminar sessions;
  - the seminar themes are better integrated to reflect the issues highlighted in the State of the City report;
  - there is greater Member engagement in the preparation and design of the event; and
  - consideration is given to further ways to support members getting more involved in key strategic issues affecting the city.
- (d) That the key messages from the break-out sessions be shared with Members, partners and colleagues across the Council.

## **CHILDREN'S SERVICES**

### **192 Annual Standards Report (Primary)**

The Director of Children's Services submitted a report providing an overview of the performance of primary schools at the end of the academic year 2010-2011, as demonstrated through statutory national testing and teacher assessment. In addition, the report also outlined the action taken by the Council to fulfil its responsibilities to support, monitor, challenge and intervene as necessary. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

In responding to Members' enquiries, emphasis was placed upon the pivotal role of the Leeds Education Challenge and assurances were given in respect of the initiative's communications strategy.

**RESOLVED** – That the following be endorsed and supported:-

- (a) The progress which has been made at all key stages and in those areas that need further improvement;
- (b) The future provision of support, challenge and intervention in Leeds to ensure that progress continues to be made;

- (c) The centrality of the Leeds Education Challenge in securing improvement.

**193 Annual Standards Report (Secondary)**

The Director of Children's Services submitted a report summarising the progress achieved in secondary school improvement in Leeds, with a particular focus upon the outcomes achieved by pupils in 2011. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

Responding to Members' enquiries, assurances were provided on the momentum of change and focus being placed upon the educational element of Children's Services.

Following Members' questions, the Board received an update on the actions being taken to improve attainment levels within mathematics and also on the causal factors of the varying attendance levels amongst different ethnic groups.

**RESOLVED** – That the following be endorsed and supported:-

- (a) The progress which has been made, specifically in areas that need further improvement;
- (b) The future provision of support, challenge and intervention in Leeds to ensure that progress continues to be made;
- (c) The centrality of the Leeds Education Challenge in securing improvement.

**194 Half Yearly Adoption Agency Report**

The Director of Children's Services submitted a report detailing the work of Leeds City Council Adoption Service from April 2011 to September 2011 inclusive. The report considered the activity of the service in relation to the implementation and progression of children's care plans, the service offered to those seeking to adopt, in addition to those affected by adoption through the provision of adoption support. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

**RESOLVED** –

- (a) That the contents of the submitted report be noted.
- (b) That the work of the Adoption Team continue to be supported in order to ensure that adopted children receive the best possible support.

**ADULT HEALTH AND SOCIAL CARE**

**195 Leeds Local Account**

The Director of Adult Social Services submitted a report introducing the Local Account of Adult Social Care Services for its citizens. The report provided an explanation of the new responsibilities placed upon Councils, whilst detailing

the Local Account's contribution towards enhancing local accountability to the public, and as a tool to supporting sector led service improvement. In addition, the report provided a summary of the main areas of achievement of Adult Social Care and indicated areas of service identified within the Leeds Local Account as requiring further development in order to sustain or improve performance. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

**RESOLVED –**

- (a) That the content of the submitted report, together with the attached Local Account for Leeds, entitled 'Living Life Your Own Way', be noted.
- (b) That the statement by the LINK, as appended to the submitted report, on their perspective of the Council's progress and the extent to which local people have been actively engaged in prioritisation and planning, be noted.
- (c) That the areas for improvement, as set out within the attached Local Account be referred to the Scrutiny Board (Health and Wellbeing and Adult Social Care) for their oversight of performance.

**DEVELOPMENT AND THE ECONOMY**

**196 Leeds (River Aire) Flood Alleviation Scheme**

The Director of City Development submitted a report providing an update on the progress of proposals to provide flood defences for the city. In addition, the report sought approval to a phased approach to providing flood defences, the aim being to complete Phase 1 to achieve a 1 in 75 year Standard of Protection for the city centre area (between Leeds Station and Knostrop Weir), by the end of 2015. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

The Board welcomed the phased approach which had been proposed and emphasised the vital importance of an effective flood alleviation scheme for both the city and the regional economy. In addition, Members highlighted the inflexible nature of the criteria applied by DEFRA to flood alleviation and requested that representations were made to DEFRA on this matter.

**RESOLVED –**

- (a) That it be acknowledged that the original comprehensive flood defence scheme, costing £188,000,000 (whole life costs at 2011 figures), which would provide a 1 in 200 year standard of flood protection, will not be funded in the near future.
- (b) That in light of resolution (a) above, approval be given to a phased approach to providing flood defences as the most pragmatic way forward at this time, with the aim being to complete Phase 1 to achieve a 1 in 75 year Standard of Protection for the City Centre area, from Leeds Station to Knostrop Weir by the end of 2015.

- (c) That, should it be affordable and practicable, elements of Phase 1, as outlined within paragraph 3.9 of the submitted report, be progressed at the earliest opportunity.
- (d) That it be agreed that Leeds City Council, as lead Local Flood Authority, working with partners, should lead and procure further work to develop proposals and to secure funding in order to progress Phase 1, currently estimated by the Environment Agency at £75,800,000.
- (e) That Leeds MPs continue to liaise proactively with Defra and the Environment Agency in order to support Leeds City Council in its ambition to progress a flood defence project for the city by providing minimum match funding, seconding technical staff and sharing all relevant technical information.
- (f) That expenditure of £500,000, made available from the Council's Capital allocation of £10,000,000 to progress the recommendations of the submitted report, including further feasibility and associated work, be authorised.
- (g) That the phased approach, as highlighted within paragraph 3.9 of the submitted report be agreed, subject to detailed technical assessment.

#### **197 LDF Core Strategy - Publication Document**

The Director of City Development submitted a report presenting the Core Strategy, together with the sustainability appraisal report and other relevant supporting documents, for the purposes of public consultation and the formal invitation of representations. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

Two pages from this report, which due to a printing error had been omitted from paper copies of the agenda, had been circulated to Board Members prior to the meeting for their consideration.

Responding to Members' enquiries, the Board received clarification in respect of Protected Areas of Search (PAS) sites. In addition, having emphasised the importance of local community and local Ward Member input within the consultation process, the Board received reassurances in respect of such matters.

Members' concerns regarding the projected population growth forecasts, and the basing of the proposed strategy on such forecasts were acknowledged, however, emphasis was placed upon the need for a Core Strategy to be established, which would be done using the most up to date statistics available.

The Chief Executive emphasised the extent to which pre-consultation had already taken place during the compilation of the strategy. It was noted that during such consultation, the issue of windfalls, the importance of local distinctiveness and the need for further co-operation and communication

Draft minutes to be approved at the meeting  
to be held on Wednesday, 7th March, 2012



between developers and the locality, were all matters which had been highlighted.

**RESOLVED** – That the publication of the Core Strategy, together with the sustainability appraisal report and other relevant supporting documents, for the purposes of public consultation and the formal invitation of representations, be approved.

(The Development Plan Document is prepared within the context of the LDF Regulations and statutory requirements, and as the DPD is a Budgetary and Policy Framework document, the matters referred to within this minute were not eligible for Call In)

(Under the provisions of Council Procedure Rule 16.5, Councillor Finnigan required it to be recorded that he voted against the decisions referred to within this minute)

**198 Refurbishment of Street Lighting on the A659 High Street, Boston Spa**

The Director of City Development submitted a report advising of the background to the proposed scheme for the refurbishment of street lighting on High Street, Boston Spa, and which sought approval to continue with the installation of the latest scheme proposals, which were in accordance with British Standards for the design of road lighting, but contrary to local community representatives wishes. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

**RESOLVED** – That the installation of the latest scheme proposals for High Street, Boston Spa, which is in accordance with British Standards for the design of road lighting, but contrary to local community representatives wishes, be approved.

**199 Leeds Bradford International Airport Taxi Access**

Further to Minute No. 95, 12<sup>th</sup> October 2011, the Director of City Development submitted a report responding to the recommendations made by the Scrutiny Board (Regeneration) following its inquiry into the full design option for the provision of a taxi facility on Whitehouse Lane at Leeds Bradford International Airport. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

In considering this matter, Members highlighted the need to secure a more flexible and inclusive approach towards taxi access at the airport and urged for an holistic and satisfactory resolution, befitting the airport's status. In this regard, Members made reference to the Forecourt Management Plan. The recommendations made by Scrutiny Board (Regeneration) were noted and it was highlighted that such recommendations could be revisited, should the need arise.

**RESOLVED –**

- (a) That the contents of the submitted report, together with the response made to the Scrutiny Board (Regeneration) report and comments, be noted.
- (b) That the Scrutiny Board (Regeneration) recommendations arising from their review of the design option previously prepared for providing a taxi facility on Whitehouse Lane at Leeds Bradford International Airport be noted.

**200 Consultant's Report on the Future of Kirkgate Market**

The Head of Scrutiny and Member Development submitted a report requesting that consideration was given to the major concerns of the Scrutiny Board (Regeneration) regarding the consultant's report on the future operation and management of Kirkgate Market. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

On behalf of the Board, the Chair thanked Scrutiny Board (Regeneration) for the work which it had undertaken on this matter. This was followed by Councillor J Procter, Chair of the Scrutiny Board, attending the meeting to present the Board's findings and key concerns.

**RESOLVED –** That the comments and observations of Scrutiny Board (Regeneration) on the consultant's proposals for the future operation and management of Kirkgate Market, be noted.

**201 Kirkgate Market Strategy and Capital Works**

The Director of City Development submitted a report providing an update on the strategy for Kirkgate Market, the recommendations of Quarterbridge Project Management Ltd. on the future management and ownership model for the market, its optimum size and various other matters which would secure its future. In addition, the report also detailed the capital maintenance works programmed for the market, whilst also outlining proposals for progressing some of the recommendations from the consultant's report regarding the replacement of some areas of the market and the refurbishment of other halls, together with proposed further consideration of the market's future management and ownership. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

In considering the consultant's recommendations, the Board noted that such recommendations did not commit the Council to a single course of action and that all such recommendations would not be accepted as a matter of course. Responding to Members' comments and concerns, assurances were provided that the market would remain within Council ownership, that it was viewed as a great asset to the city and that it needed to adapt in order to meet the new challenges from within retail sector. Clarification was also given to the Board following enquiries in respect of a perceived conflict of interest regarding the consultants.

**RESOLVED –**

- (a) That the recommendations from market specialists, Quarterbridge Project Management Ltd. be noted.
- (b) That the Council's commitment to ensure a sustainable future for Kirkgate Market be reaffirmed.
- (c) That agreement in principle be given to the market being reduced by 25% and to proceed with a full feasibility study for a modern extension to replace the 1976, 1981 and George Street shops halls and for the refurbishment of 1904 and 1875 halls.
- (d) That agreement be given to retaining the open market and relocating it, following the redevelopment of the indoor market, so that it remains adjacent to the indoor market.
- (e) That agreement be given to hypothecate a proportion of the markets surplus in 2012/13 as a contribution towards the potential revenue and capital costs of redevelopment and refurbishment and to the injection of a scheme into the capital programme, in order to enable a full feasibility study to be undertaken.
- (f) That officers be requested to report back on the outcome of the feasibility study in order to advise the Board on the scope, scale and financial implications of the redevelopment and refurbishment proposals.
- (g) That officers be instructed to explore the advantages and disadvantages of a commercial partnership against the option of the market remaining in the Council's sole ownership and management.
- (h) That officers be instructed to consider further the feasibility of implementing other matters recommended by Quarterbridge.

(Under the provisions of Council Procedure Rule 16.5, Councillor A Carter required it to be recorded that he abstained from voting on the decisions referred to within this minute)

(Councillor Golton declared a personal interest in this item, due to his involvement in the Markets Forum, and also as due to his family being frequent shoppers at the market)

**NEIGHBOURHOODS, HOUSING AND REGENERATION**

**202 Towards More Integrated Locality Working 2: An Early Review of the Environmental Services Delegation**

Further to Minute No. 199, 30<sup>th</sup> March 2011, the Assistant Chief Executive (Customer Access and Performance) submitted a report providing an early stage review of the delegation of environmental services and which articulated the views of Elected Members across the ten Area Committees, as reported

Draft minutes to be approved at the meeting  
to be held on Wednesday, 7th March, 2012

by the three Area Support Teams. The report lent heavily on a range of discussions at environmental sub groups, tasking meetings, Area Committee meetings, ward meetings, the views of the Environmental Champions and from the Area Committee Chairs' Forum meeting. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

Members welcomed the progress which had been made in this area, but emphasised the need to ensure that there was sufficient resource available to undertake the delegated provision and the importance of a cohesive approach to be taken between directorates. In addition, Members highlighted the benefits that a performance management tool may have in respect of the effectiveness of the service.

**RESOLVED –**

- (a) That the gradually improving confidence of Elected Members in the delegated service be welcomed.
- (b) That activities which will do more to embed the service locally, be endorsed.
- (c) That the constitutional amendment, as shown within Appendix 1 to the submitted report be approved.
- (d) That officers be authorised to set out and agree with Area Committees other appropriate delegations for a further service level agreement in respect of Ginnel/Gully Cleansing and Graffiti.

**203 Housing Revenue Account Self Financing and Business Plan**

The Director of Environment and Neighbourhoods submitted a report presenting for approval the Housing Revenue Account (HRA) Business Plan. In addition, the report provided details of the key findings, priorities and principles contained within the Plan. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

The Board welcomed the proposals regarding the more structured, longer term strategy for rent increases. In addition, Members requested that a programme of housing stock improvements was considered which would ultimately lead to 'component decency' being achieved, whilst Members were assured that work continued in order to ensure that any budgetary shortfall experienced by an ALMO would be addressed equitably.

In conclusion, it was suggested that as this matter progressed, a Member seminar on this issue was scheduled.

**RESOLVED –**

- (a) That the HRA Business Plan, as appended to the submitted report, be approved.

- (b) That the key priorities and actions, as set out within the Plan, be approved.
- (c) That the rent strategy outlined for the next 5 years be approved in order to deliver essential investment.
- (d) That approval be given to ALMO cash reserves being utilised as required, in order to sustain the essential investment standard.

**204 Investment in Affordable Housing in Leeds**

The Director of Environment and Neighbourhoods submitted a report which provided an overview of affordable housing delivery in Leeds since 2008, detailed the context for ongoing discussions about investment, and moving forward, outlined the proposed approach to the delivery of priorities for affordable housing investment in Leeds. In determining this matter, the Board took into consideration all matters contained within the accompanying report.

Members welcomed the number of affordable housing units which had been delivered as part of the Affordable Homes Programmes and considered the levels of new residential schemes established via Section 106 agreements.

**RESOLVED –**

- (a) That the affordable housing investment which Leeds has been successful in attracting over the period since 2008 be noted.
- (b) That investment in affordable housing delivery in Leeds be directed towards identified gaps and meeting the priorities, as identified within the Leeds Housing Investment Plan (LHIP).

**DATE OF PUBLICATION:** 14<sup>TH</sup> FEBRUARY 2012

**LAST DATE FOR CALL IN  
OF ELIGIBLE DECISIONS:** 21<sup>ST</sup> FEBRUARY 2012

(Scrutiny Support will notify Directors of any items called in by 12.00 p.m. on 22<sup>ND</sup> February 2012)

Draft minutes to be approved at the meeting  
to be held on Wednesday, 7th March, 2012

This page is intentionally left blank

Appendix 3



**FORWARD PLAN OF KEY DECISIONS  
Relating to Scrutiny Board (Regeneration)**

1 February 2012 – 31 May 2012

## **What is the Forward Plan?**

The Forward Plan is a list of the key decisions the Authority intends to take during the period 1 February 2012 – 31 May 2012. The Plan is updated monthly and is available to the public 14 days before the beginning of each month.

## **What is a Key Decision?**

A Key decision, as defined in the Council's Constitution is an executive decision which is likely to:

- result in the Authority incurring expenditure or making savings over £250,000 per annum, or
- have a significant effect on communities living or working in an area comprising 2 or more wards

## **What does the Forward Plan tell me?**

The Plan gives information about:

what key decisions are coming forward in the next four months  
when those key decisions are likely to be made  
who will make those decisions  
what consultation will be undertaken  
who you can make representations to



## **Who takes key decisions?**

Under the Authority's Constitution, key decisions are taken by the Executive Board or Officers acting under delegated powers.

## **Who can I contact?**

Each entry in the Plan indicates the names of all the relevant people to contact about that particular item. In addition, the last page of the Forward Plan gives a complete list of all Executive Board members.

## **How do I make contact?**

Wherever possible, full contact details are listed in the individual entries in the Forward Plan. If you are unsure how to make contact, please ring Leeds City Council and staff there will be able to assist you:

**Leeds City Council - Telephone: 0113 2474357**

## **How do I get copies of agenda papers?**

The agenda papers for Executive Board meetings are available five working days before the meeting from:

Governance Services, Civic Hall, Portland Crescent, Leeds, LS1 1UR

Telephone: 0113 2474350

Fax: 0113 3951599

Email: [cxd.councilandexec@leeds.gov.uk](mailto:cxd.councilandexec@leeds.gov.uk)

On occasions, the papers you request may contain exempt or confidential information. If this is the case, it will be explained why it will not be possible to make copies available.

### **Where can I see a copy of the Forward Plan?**

The Plan can be found on the Leeds City Council Website [www.leeds.gov.uk](http://www.leeds.gov.uk). The Plan is regularly updated and for legal reasons is formally published on a monthly basis on the following dates:

#### **2011/12**

|                                 |                                |
|---------------------------------|--------------------------------|
| 16 <sup>th</sup> June 2011      | 17 <sup>th</sup> December 2011 |
| 15 <sup>th</sup> July 2011      | 17 <sup>th</sup> January 2012  |
| 17 <sup>th</sup> August 2011    | 15 <sup>th</sup> February 2012 |
| 16 <sup>th</sup> September 2011 | 16 <sup>th</sup> March 2012    |
| 17 <sup>th</sup> October 2011   | 16 <sup>th</sup> April 2012    |
| 16 <sup>th</sup> November 2011  |                                |

### **About this publication**

For enquiries about the Forward Plan of Key Decisions please:

E-mail: [cxd.councilandexec@leeds.gov.uk](mailto:cxd.councilandexec@leeds.gov.uk) or telephone: 0113 247 4357

Visit our website [www.leeds.gov.uk](http://www.leeds.gov.uk) for more information on council services, departments, plans and reports.

This publication can also be made available in Braille or audio cassette. Please call: 0113 247 4357

If you do not speak English and need help in understanding this document, please phone: 0113 247 4357 and state the name of your language.

We will then make arrangements for an interpreter to contact you. We can assist with any language and there is no charge for interpretation.

(Bengali):-

যদি আপনি ইংরেজীতে কথা বলতে না পারেন এবং এই দলিলটি বুঝতে পারার জন্য সাহায্যের দরকার হয়, তাহলে দয়া করে 0113 2243462 এই নম্বরে ফোন করে আপনার ভাষাটির নাম বলুন। আমরা তখন আপনাকে লাইনে থাকতে বলে কোন দোভাষীর (ইন্টারপ্রিটার) সাথে যোগাযোগ করব।

(Chinese):-

凡不懂英語又須協助解釋這份資料者，請致電 0113 22 43462 並說明本身所需語言的名稱。當我們聯絡傳譯員時，請勿掛斷電話。

(Hindi):-

यदि आप इंग्लिश नहीं बोलते हैं और इस दस्तावेज़ को समझने में आपको मदद की जरूरत है, तो कृपया 0113 224 3462 पर फ़ोन करें और अपनी भाषा का नाम बताएँ। तब हम आपको होल्ड पर रखेंगे (आपको फ़ोन पर कुछ देर के लिए इंतज़ार करना होगा) और उस दौरान हम किसी इंटरप्रिटर (दुभाषिए) से संपर्क करेंगे।

(Punjabi):-

ਅਗਰ ਤੁਸੀਂ ਅੰਗਰੇਜ਼ੀ ਨਹੀਂ ਬੋਲਦੇ ਅਤੇ ਇਹ ਲੇਖ ਪੱਤਰ ਸਮਝਣ ਲਈ ਤੁਹਾਨੂੰ ਸਹਾਇਤਾ ਦੀ ਲੋੜ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰ ਕੇ 0113 22 43462 'ਤੇ ਟੈਲੀਫ਼ੋਨ ਕਰੋ ਅਤੇ ਅਪਣੀ ਭਾਸ਼ਾ ਦਾ ਨਾਮ ਦੱਸੋ. ਅਸੀਂ ਤੁਹਾਨੂੰ ਟੈਲੀਫ਼ੋਨ 'ਤੇ ਹੀ ਰਹਿਣ ਲਈ ਕਹਾਂ ਗੇ, ਜਦ ਤਕ ਅਸੀਂ ਦੁਭਾਸ਼ੀਏ (Interpreter) ਨਾਲ ਸੰਪਰਕ ਬਣਾਵਾਂ ਗੇ.

(Urdu):-

اگر آپ انگریزی نہیں بولتے ہیں اور آپ کو یہ دستاویز سمجھنے کیلئے مدد کی ضرورت ہے تو براہ مہربانی اس نمبر 0113 22 43462 پر فون کریں اور ہمیں اپنی زبان کا نام بتائیں۔ اس کے بعد ہم آپ کو لائن پر ہی انتظار کرنے کیلئے کہیں گے اور خود ترجمان (انٹر پریٹر) سے رابطہ کریں گے۔

**LEEDS CITY COUNCIL**

**FORWARD PLAN OF KEY DECISIONS**

For the period 1 February 2012 to 31 May 2012

| <b>Key Decisions</b>  | <b>Decision Maker</b>                      | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>   | <b>Documents to be Considered by Decision Maker</b>               | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|--|----------------------------------|--|---|--|
| Morley Conservation Area<br>To amalgamate and extend the Morley Town Centre and Morley Dartmouth Park Conservation Area into the Morley Conservation Area and adopt the Morley Conservation Area Appraisal and Management Plan as non-statutory planning guidance | Chief Planning Officer                     | 1/2/12                           | Ongoing consultation since May 2008 with the local community, Ward Members, Morley Town Council and Other bodies | Report and Morley Conservation Area Appraisal and Management Plan | Director of City Development<br>phil.ward@leeds.gov.uk   |
| Environment and Neighbourhoods Directorate, Strategy and Commission Division restructure<br>Approval to implement restructure proposals   | Director of Environment and Neighbourhoods | 1/2/12                           | With members of staff affected and relevant trade unions   | Decision reports and appendices                                   | bridget.emery@leeds.gov.uk   |

| <b>Key Decisions</b>  | <b>Decision Maker</b>                      | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b> | <b>Documents to be Considered by Decision Maker</b>                     | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|--|----------------------------------|------------------------------|---|--|
| Request to invoke the first 12 month extension for the existing 3(+1+1) Service Level Agreement with Adult Social Care Learning Disabilities for the Independent Living Project (ILP) Services. | Director of Environment and Neighbourhoods | 1/2/12                           |                              | Report to be presented to the Delegated Decision Panel in November 2011 | neil.evans@leeds.gov.uk  |

| <b>Key Decisions</b>   | <b>Decision Maker</b>                             | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b> | <b>Documents to be Considered by Decision Maker</b>           | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|--|---|----------------------------------|------------------------------|---|--|
| <p>Request to extend the current Supporting People contract with St. Anne's Community Services for the Holdforth Court hostel service and the Alcohol Floating Support Service for 12 months; this is maximum contract extension period. The total annual con</p> <p>Authorisation to extend the current Supporting People contract with St. Anne's Community Services for the Holdforth Court hostel service and the Alcohol Floating Support Service for 12 months, this is maximum contract extension period. The total annual contract value is approximately £382,279.98.</p> | <p>Director of Environment and Neighbourhoods</p> | <p>1/2/12</p>                    | <p>n/a</p>                   | <p>Report to be presented to the Delegated Decision Panel</p> | <p>neil.evans@leeds.gov.uk</p>   |

| <b>Key Decisions</b>   | <b>Decision Maker</b>                      | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>   | <b>Documents to be Considered by Decision Maker</b>   | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|--|--|----------------------------------|--|---|--|
| Request to waive Contracts Procedure Rule 13 to enter a contract with Foundation for a period of 1 year<br>Approval to waive Contracts Procedure Rule 13 to enter into a contract with Foundation for a period of 1 year | Director of Environment and Neighbourhoods | 1/2/12                           | Quality Assessment was undertaken during the life of the current contract and involved detailed consultation with staff, clients and key stakeholders. | Report to be presented to the Delegated Decision Panel prior to decision being taken              | sandra.twitchett@leeds.gov.uk  |
| Request to invoke Contracts' Procedure Rule 25.1 to enter into the 6 month extension period to the existing 12(+6) month contract with Northern Life Care (trading as UBU)   | Director of Environment and Neighbourhoods | 1/2/12                           |  | Report to be presented to the Delegated Decision Panel prior to decision being taken              | sandra.twitchett@leeds.gov.uk  |
| The structure of the new Regeneration Programmes Division in the Environment and Neighbourhoods Directorate.<br>Approval of the proposed new structure, as contained in the report of the Chief Regeneration Officer.    | Director of Environment and Neighbourhoods | 1/2/12                           | October 2011 (preliminary);<br>November 2011 (formal)  | Report of the Chief Regeneration Programmes Officer to the Delegated Decision Report & Appendices | christine.addison@leeds.gov.uk   |



| <b>Key Decisions</b>   | <b>Decision Maker</b>                      | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b> | <b>Documents to be Considered by Decision Maker</b>   | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|--|--|----------------------------------|------------------------------|---|--|
| Request to enter into a 12 month contract with Touchstone for the Accommodation Based Service and Floating Support Service at an annual value of £448,228.   | Director of Environment and Neighbourhoods | 1/2/12                           |                              | EIA Screening Document  | luke.myers@leeds.gov.uk  |
| Request to enter into a 12 month contract with Leeds Irish Health & Homes for a housing related support service.   | Director of Environment and Neighbourhoods | 1/2/12                           |                              | Consultation with service users and stakeholders has been carried out as part of the Mental Health sector review. | sarah.best@leeds.gov.uk  |
| Request to invoke Contracts' Procedure Rule 25.1 in order to enter into the 1 year extension period to the existing 2(+1) year contract with Riverside ECHG for the Bracken Court and Floating Support Service | Director of Environment and Neighbourhoods | 1/2/12                           |                              | Report to be presented to Delegated Decision Panel  | neil.evans@leeds.gov.uk  |

| <b>Key Decisions</b>   | <b>Decision Maker</b>  | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>   | <b>Documents to be Considered by Decision Maker</b> | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|--|------------------------|----------------------------------|--|---|--|
| Headingley Hill, Hyde Park and Woodhouse Moor Conservation Area<br>To approve the Headingley Hill, Hyde Park and Woodhouse Moor Conservation Area and Management Plan as non-statutory planning guidance | Chief Planning Officer | 1/2/12                           | Ongoing consultation with local community, Ward Members and other bodies | DDN Report  | philip.ward@leeds.gov.uk   |

| <b>Key Decisions</b>  | <b>Decision Maker</b>                             | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b> | <b>Documents to be Considered by Decision Maker</b>     | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|---|----------------------------------|------------------------------|---|--|
| <p>Recommendations and outcomes arising from the Strategic Sector Review for the future provision of housing related support services for Homeless People.</p> <p>Authorisation from the Director of Environment and Neighbourhoods to implement the recommendations and outcomes of the Strategic Sector Review for the future provision housing related support services for Homeless People.</p> | <p>Director of Environment and Neighbourhoods</p> | <p>1/2/12</p>                    | <p>n/a</p>                   | <p>Report to be presented to the Commissioning Body</p> | <p>neil.evans@leeds.gov.uk</p>   |

| <b>Key Decisions</b>  | <b>Decision Maker</b>                      | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b> | <b>Documents to be Considered by Decision Maker</b>               | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|--|----------------------------------|------------------------------|---|--|
| Recommendations and outcomes arising from the Strategic Sector Review for the future provision of housing related support services for Young People. Authorisation from the Director of Environment and Neighbourhoods to implement the recommendations and outcomes of the Strategic Sector Review for the future provision housing related support services for Young People. | Director of Environment and Neighbourhoods | 1/2/12                           | n/a                          | Report to be presented to the Commissioning Body and the Director | neil.evans@leeds.gov.uk  |
| Request to invoke the 1 year contract extension to the 2 (+1) year contract held with Great Places for the Resettlement Support Service at an annual value of £367,000.   | Director of Environment and Neighbourhoods | 1/2/12                           |                              | EIA screening document  | luke.myers@leeds.gov.uk  |

| <b>Key Decisions</b>  | <b>Decision Maker</b>  | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>                                | <b>Documents to be Considered by Decision Maker</b>                           | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|--|----------------------------------|---|---|--|
| CLG Single Homeless Funding   | Director of Environment and Neighbourhoods                               | 1/2/12                           | None  | None.   | rob.mccartney@leeds.gov.uk   |
| Investment in Affordable Housing in Leeds<br>To note the contents of the report and approve in principle approach to considering future investment of affordable housing in Leeds | Executive Board<br>(Portfolio: Neighbourhoods, housing and regeneration) | 10/2/12                          |   | The report to be issued to the decision maker with the agenda for the meeting | maggie.gjessing@leeds.gov.uk   |
| Neighbourhood Investment Fund<br>Approval to establish a Neighbourhood Investment Fund for Leeds  | Executive Board<br>(Portfolio: Neighbourhoods, Housing and Regeneration) | 10/2/12                          | With Ward Members, local Communities and other stakeholders | The report to be issued to the decision maker with the agenda for the meeting | james.rogers@leeds.gov.uk  |
| Kirkgate Market<br>Agree optimum size and future redevelopment of Kirkgate Market   | Executive Board<br>(Portfolio: Development and the Economy)              | 10/2/12                          | With members and tenants                                    | Executive Board Report  | cath.follin@leeds.gov.uk   |

| <b>Key Decisions</b>   | <b>Decision Maker</b>                                       | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>   | <b>Documents to be Considered by Decision Maker</b>                           | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|--|---|----------------------------------|--|---|--|
| Leeds River Aire Flood Alleviation Scheme<br>To consider options for a phased approach to make recommendations   | Executive Board<br>(Portfolio: Development and the Economy) | 10/2/12                          | None prior to Exec Board   | The report to be issued to the decision maker with the agenda for the meeting | Gary Bartlett, Chief Highways Officer<br>gary.bartlett@leeds.gov.uk  |
| Core Strategy Publication Draft<br>Authority to go out to public consultation  | Executive Board<br>(Portfolio: Development and the Economy) | 10/2/12                          | CLT/LMT/relevant Executive Members   | The report to be issued to the decision maker with the agenda for the meeting | David Feeney, Head of Forward Planning and Implementation<br>david.feeney@leeds.gov.uk                       |
| Refurbishment of Street Lighting in High Street Boston Spa<br>To consider the proposal to install a minimal lighting scheme on the High Street, Boston Spa | Executive Board<br>(Portfolio: Development and the Economy) | 10/2/12                          | Internal Officers, Ward Members and Boston Spa Parish Council have already been consulted. | The report to be issued to the decision maker with the agenda for the meeting | andrew.molyneux@leeds.gov.uk   |
| Hydro Project - Options Appraisal<br>Authority to spend approval   | Executive Board<br>(Portfolio: Development and the Economy) | 10/2/12                          | Environment Agency, British Waterways, Recreational Users (canoeists, anglers etc)         | The report to be issued to the decision maker with the agenda for the meeting | david.outram@leeds.gov.uk  |

| <b>Key Decisions</b>  | <b>Decision Maker</b>  | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>            | <b>Documents to be Considered by Decision Maker</b>    | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|--|----------------------------------|---|--|--|
| HRA Self Financing and Business Plan<br>To agree the HRA Business Plan  | Executive Board<br>(Portfolio: Neighbourhoods, Housing and Regeneration) | 10/2/12                          | Strategic Governance Board, ALMO Boards | Government's HRA Self Financing proposals              | John Statham<br>john.statham@leeds.gov.uk  |
| Review of commissioned housing related support services for people with mental health problems  | Director of Environment and Neighbourhoods                               | 1/3/12                           |   | Report to be presented to Delegated Decision Panel     | neil.evans@leeds.gov.uk  |
| Request to enter into the first 1 year extension period to the existing 3(+1+1) year service level agreement with Adult Social Care Mental Health for the three Transitional Housing Unit services, the Sustainment Team Floating Support Service and the | Director of Environment and Neighbourhoods                               | 1/3/12                           |   | Report to be presented to the Delegated Decision Panel | neil.evans@leeds.gov.uk  |

| <b>Key Decisions</b>  | <b>Decision Maker</b>                                    | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b> | <b>Documents to be Considered by Decision Maker</b>                           | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|--|----------------------------------|------------------------------|---|--|
| Request to enter into a Supporting People contract with St. Anne's Community Services for the St. Anne's Mental Health Floating Support Service at a total contract value of approximately £311,526.44 per annum. | Director of Environment and Neighbourhoods               | 1/3/12                           |                              | EIA Screening   | simon.griffiths@leeds.gov.uk   |
| Asset Management Plan (including Community Asset Strategy and Carbon and Water Management Plan)<br>Approval Required  | Executive Board (Portfolio :Development and the Economy) | 7/3/12                           | Equality Impact Assessment   | The report to be issued to the decision maker with the agenda for the meeting | colin.mawhinney@leeds.gov.uk   |



| <b>Key Decisions</b>  | <b>Decision Maker</b>  | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>  | <b>Documents to be Considered by Decision Maker</b>                           | <b>Lead Officer</b><br>(To whom representations should be made and email address to send representations to) |
|---|--|----------------------------------|---|---|--|
| Local Development Order 1: Solar Panels on Non-domestic Buildings<br>To approve Local Development Order 1: Solar Panels on Non-domestic buildings | Executive Board<br>(Portfolio: Development and the Economy)              | 7/3/12                           | There will be a formal period of consultation of at least 28 days before the LDO can be adopted. The Secretary of State must also be consulted. | The report to be issued to the decision maker with the agenda for the meeting | paul.bingham@leeds.gov.uk<br>rowena.hall@leeds.gov.uk  |
| Lower Kirkgate THI Stage 2 bid details and match funding<br>Approve bid details and match funding   | Executive Board<br>(Portfolio: Neighbourhoods, Housing and Regeneration) | 7/3/12                           | Consultation completed May 2011   | The report to be issued to the decision maker with the agenda for the meeting | franklin.Riley@leeds.gov.uk  |

## **NOTES**

Key decisions are those executive decisions:

- which result in the authority incurring expenditure or making savings over £250,000 per annum, or
- are likely to have a significant effect on communities living or working in an area comprising two or more wards

### **Executive Board Portfolios**

### **Executive Member**

|   |                            |
|---|----------------------------|
| Resources and Corporate Functions       | Councillor Keith Wakefield |
| Development and the Economy             | Councillor Richard Lewis   |
| Environmental Services                  | Councillor Mark Dobson     |
| Neighbourhoods Housing and Regeneration | Councillor Peter Gruen     |
| Children's Services                     | Councillor Judith Blake    |
| Leisure                                 | Councillor Adam Ogilvie    |
| Adult Health and Social Care            | Councillor Lucinda Yeadon  |
| Leader of the Conservative Group        | Councillor Andrew Carter   |
| Leader of the Liberal Democrat Group    | Councillor Stewart Golton  |
| Leader of the Morley Borough Indep      | Councillor Robert Finnigan |

In cases where Key Decisions to be taken by the Executive Board are not included in the Plan, 5 days notice of the intention to take such decisions will be given by way of the agenda for the Executive Board meeting.

**LEEDS CITY COUNCIL**

**BUDGET AND POLICY FRAMEWORK DECISIONS**

| <b>Decisions</b>   | <b>Decision Maker</b> | <b>Expected Date of Decision</b> | <b>Proposed Consultation</b>   | <b>Documents to be considered by Decision Maker</b>                       | <b>Lead Officer</b>  |
|--|-----------------------|----------------------------------|--|---|--|
| Vision for Leeds   | Council               | To be confirmed                  | Via Executive Board, all Scrutiny Boards                             | Report to be issued to the decision maker with the agenda for the meeting | Assistant Chief Executive (Planning, Policy and Improvement) |
| Council Business Plan  | Council               | July 2013                        | Via Executive Board, all Scrutiny Boards                             | Report to be issued to the decision maker with the agenda for the meeting | Assistant Chief Executive (Policy, Planning and Improvement) |
| Development Plan documents   | Council               |                                  | Via Executive Board, Scrutiny Board (Regeneration)                   | Report to be issued to the decision maker with the agenda for the meeting | Director of City Development                                 |
| Plans and alterations which together comprise the Development plan | Council               |                                  | Via Executive Board, Scrutiny Board (Regeneration)                   | Report to be issued to the decision maker with the agenda for the meeting | Director of City Development                                 |
| Housing and Regeneration City Priority Plan                        | Council               | July 2013                        | Via Executive Board, Scrutiny Board (Regeneration), Leeds Initiative | Report to be issued to the decision maker with the agenda for the meeting | Director of Environment and Neighbourhoods                   |

| Decisions | Decision Maker | Expected Date of Decision | Proposed Consultation                             | Documents to be considered by Decision Maker | Lead Officer |
|-----------|----------------|---------------------------|---|--|--------------|
|           |                |                           | Board, Housing and Regeneration Partnership Board |  |              |

**NOTES:**

The Council's Constitution, in Article 4, defines those plans and strategies which make up the Budget and Policy Framework. Details of the consultation process are published in the Council's Forward Plan as required under the Budget and Policy Framework.

Full Council ( a meeting of all Members of Council) are responsible for the adoption of the Budget and Policy Framework.