



CABINET REPORT

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| Report Title | Response of Cabinet to The Recommendations of Overview & Scrutiny Committee 1 (Partnerships, Regeneration, Community Safety & Engagement) – West Northants Development Corporate & Partnership Working with Northampton Borough Council |
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AGENDA STATUS: **PUBLIC**

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| Cabinet Meeting Date: | 8 th July 2009 |
| Key Decision: | YES |
| Listed on Forward Plan: | YES |
| Within Policy: | YES |
| Policy Document: | NO |
| Directorate: | Planning, Regeneration & Development |
| Accountable Cabinet Member: | Richard Church |
| Ward(s) | N/A |

1. Purpose

- 1.1 To consider the recommendations of Overview & Scrutiny Committee 1 as set out in their report to Cabinet dated 25th February 2009 and to respond accordingly.

2. Recommendations

- 2.1 That Cabinet support and accept the broad thrust and direction (more particularly as set out in Recommendation 2.2 below) of the Recommendations from Overview and Scrutiny Committee 1 and thank Committee for their report on this important matter.
- 2.2 Cabinet is recommended to respond to Overview & Scrutiny Committee 1 as follows: (numbers relate to groupings i. to vi. as set out in para. 3.1.1.)

1. That recommendation 1 (Appendix 1) is accepted and that Cabinet instructs officers to prepare a comprehensive and constructive response to the Secretary of State on the review of WNDC to take place during 2009, in accordance with the terms of reference of that review; the objectives set down by Overview and Scrutiny Committee and having regard to Paras 3.2.5 to 3.2.8. of this report.
2. That Cabinet recognises that there has been an improvement in the working relationship and partnership arrangements between NBC and WNDC. However, that this improved relationship is still maturing and should not be taken for granted and that officers be instructed to prepare an annual review and report on the achievements of the two organisations working in partnership.
3. That the improvement in communications between the two organisations be noted and that this should be covered in the annual review and report to Cabinet.
4. Cabinet are asked to note that:-
 - (i) Officers are already working with our partners in West Northamptonshire to produce a Joint Core Strategy and a report outlining the emergent strategy will be presented to the West Northamptonshire Joint Strategic Planning Committee on the 6th July for the purpose of public consultation. Overview and Scrutiny Committee One's concerns in this respect are already being met.
 - (ii) Cabinet instruct Officers to write to WNDC to record our appreciation for their involvement in the plan making process to date and request that they continue to ensure senior representation at strategic plan making meetings.
5. That Cabinet and Members of Overview and Scrutiny Committee One will receive a further briefing on the Environmental Health Consultancy service to WNDC in due course.
6. That Cabinet notes the improvements that have taken place to date in the consideration of WNDC planning applications and the way in which WNDC considers the corporate response to these applications by the Planning Committee. This will, however, also be kept under review and will be included in the annual review and report.

3. Issues and Choices

3.1 Report Background

The review of the relationship and working arrangements between Northampton Borough Council and West Northants Development Corporate have been part of the work of the O&S1 for sometime. The purpose of the review was to establish how well WNDC is performing and how the partnership is working to deliver the re-generation, planning and growth of objectives for the Town.

- 3.1.1. O&S1 reported their findings to Cabinet on the 25th February 2009, together with 23 recommendations, which can be grouped as follows:
- i. The statutory remit of WND, including their planning powers and the composition of the Board and Committees
(Recommendations: 1, 4, 11, 12, 13, 1, 18, 22 and 23)
 - ii. Partnership working and necessary resources
(Recommendations: 2, 3, 5, 6, 7, 10, 14 and 15)
 - iii. Effective communications
(Recommendation: 8)
 - iv. Effective engagement of WND in the plan-making process
(Recommendations: 9, 16 and 17)
 - v. The Environmental Health consultancy service to WND
(Recommendation: 21)
 - vi. NBC Representations to WND on planning applications
(Recommendation: 20)
- 3.1.2. WND was established under powers contained in The Local Government, Planning and Land Act 1980 in 2004. The Act sets out the functions, activities and powers of The Development Corporation. Its Constitution is set out in Schedule 26 of the Act, together with associated Regulations. The planning functions of the WND are set out in the West Northamptonshire Development Corporation (Planning Functions) Order 2006.
- 3.1.3. The Act and the 2006 Order establish the parameters within which WND operates and the chain of responsibility through the Secretary of State to Parliament.
- 3.1.4. The Act sets out that the object of a UDC shall be to secure the regeneration of its area (Sec. 136) and sets out the means by which the UDC will achieve its objectives.
- 3.1.5. In preparing its response to O&S1 Cabinet should also be aware that:
- i. Section 140 requires that the Development Corporation prepare a Code of Practice as to how it will consult with the relevant local authorities about the exercise of its powers and that this code be reviewed from time to time, and
 - ii. WND is a local planning authority for the purpose of Part 3 of the 1990 Town & Country Planning Act (as amended) by virtue of the 2006 Order. That is, that the WND has certain development control powers, but is not the plan making authority, and
 - iii. The Secretary of State is to undertake a review of the UDC every five years.

3.2 Issues

- 3.2.1. As a result of the evidence received, O&S1 reached a number of conclusions, which were set out in the report to Cabinet of the 25th February 2009 – Appendix 1. In essence, the Committee concluded that there is significant evidence that the working relationship between NBC & WNDC has improved and is continuing to improve. However, the Committee found that there continues to be a variable approach to partnership working and that there is still room for improvement.
- 3.2.2. This report consider the recommendations of O&S1 under the headings set out in paragraph 3.1.1. above, which are reflected in the six recommendations.
- 3.2.3. The Statutory Remit of the WNDC and The 5 Year Plan:

On the 22nd June, CLG launched its 5 year review of the three Urban Development Corporations (UDC's), London Thames Gateway, Thurrock and West Northamptonshire (WNDC).

The review will look at how well each UDC has performed since they were established in 2005; individual local circumstances and whether changes locally or regionally affect the rationale for a UDC, the impact of the changing national context, particularly the establishment of the Homes and Communities Agency and whether greater freedoms might enable the UDC to operate more efficiently and effectively. As part of the review, CLG has published a consultation paper on which it encourages responses. A copy of the consultation paper will shortly be available on the Department's web page – <http://www.communities.gov.uk>. Responses should be received by the 18th September 2009.

O&S1 recommended that NBC should be planning to input into the WNDC review in a constructive way, (Recommendation 1). It is considered that this recommendation should be adopted by Cabinet and that officers be instructed to work towards a comprehensive and constructive submission to the Secretary of State on behalf of the Council. The submission to the Secretary of State should deal with the following matters; and those detailed in paras. 3.2.5 to 3.2.8:-

- (a) A redefined and refocused role for WNDC as the Local Delivery vehicle and it's relationship with the Borough and District Councils given its function to secure the regeneration of this area
 - (b) The role of WNDC as a Development Control authority for the purposes of Part III of The Town & Country Planning Act (as amended), and whether such a role is appropriate.
- 3.2.4 The 5 year review of WNDC will give the constituent local authorities which comprise West Northamptonshire the opportunity to seek changes to the existing arrangements, in particular to review the functions, activities and powers of the UDC. These are set out in Appendix 2. It should be noted,

however, that the function of the WNDK is to secure the regeneration of its area.

3.2.5 Since the WNDK was established in 2004 the policy agenda has shifted with the adoption of Regional Spatial Strategy for the East Midlands in March 2009. The emphasis is now much more on the delivery of the growth agenda for homes and jobs to 2026 and beyond, together with the infrastructure required to support it. The life-span of WNDK is limited to a further five years. Given this, some doubt may be cast on whether or not a body such as WNDK, with no apparent long-term future and with its current split focus on delivery and regulation, is the appropriate body to deliver investment and growth in West Northamptonshire over the next 20 years and beyond.

3.2.6 The 5 year review will also consider WNDK's planning powers under Part III of The Town & Country Planning Act. There is no doubt that the planning powers granted to WNDK in 2006, particularly as they relate to Northampton, have proved to be a distraction to the organisation from its main function as a regeneration agency. It is inappropriate and unnecessary for WNDK to be the determining authority for all minor applications in the town centre. This gives rise to complex, procedural and technical problems as well as a democratic deficit in the Town. The split in planning powers between NBC and WNDK gives rise to unnecessary procedural problems, which sometimes cannot be reconciled.

3.2.7 It is, therefore, considered that the Borough Council, together with its partner authorities in West Northamptonshire, should work with WNDK to review its role with a view to re-focussing the organisation on its core functions and objectives as part of the Secretary of State's 5 year Review.

3.2.8 This review of its role will need to include positive proposals for change which should include:

- A narrower focus of the role of WNDK to delivering investment and regeneration
- Changing the boundaries of its operational area and its functions within those boundaries
- Introducing democratic accountability e.g. revising its standing orders so that NBC Councillors, as Board Members, are able to sit on WNDK's Northampton Planning Committee.
- A managed and speedy transfer of WNDK's planning powers back to Northampton Borough.
- A clear focus on Infrastructure funding and delivery
- Mechanisms and processes for joint delivery of major projects, between the partner local authorities, including the sustainable urban extensions required to deliver growth.

3.2.9 Partnership Working:

It is considered that over the last six months and since much of the original evidence was collected by O&S1, that there has been a step-change in the relationship between NBC and WNDK in terms of partnership working. This

is partially due to changes in senior management in both organisations, but is also due to other organisational changes, particularly within NBC, which has resulted in a more focussed approach to regeneration and the growth area status.

- 3.2.10 In particular, it is considered that this has resulted in significant clarification of the roles and responsibilities of the two organisations. An example of this is the successful joint approach by NBC together with WNDC, NCC and NEL for funding for the proposed Marina in Becketts Park.

NBC, WNDC with NCC and others (e.g. EMDA and NEL) are also working collaboratively on an Economic Impact Assessment concerned with key town centre projects and on a car parking study and a development proposal in St Johns following the joint launch of a master plan for the St Johns, Angel Street and Bridge Street areas last summer.

- 3.2.11 However, this improvement in Partnership working should not be taken for granted and it is considered that there is merit in an annual review and report to Cabinet on the achievements of the two organisations working in partnership. This review and report would cover the matters included, amongst others, in O & S1 Committee's Recommendations 2, 3, 5, 6, 7, 10, 14 and 15. It is to be hoped that WNDC's Board would support such a joint report and that it be prepared together.

3.2.12 Effective Communication

Members and officers from both organisations have been discussing more effective communications and ways of promoting Northampton on a Team Northampton approach. As part of this, both organisations are jointly producing a prospectus to promote Northampton as a vehicle for attracting inward investment.

- 3.2.13 This prospectus is currently at an early stage of development and will be considered by Cabinet in due course.

3.2.14 Effective Engagement of WNDC in the Plan-making Process:

The two principal LDF documents currently in the course of preparation are the Joint Core Strategy for West Northamptonshire and the Central Area Action Plan.

- 3.2.15 The West Northamptonshire Joint Strategic Planning Committee (WNJSPC) was established by the West Northamptonshire Joint Committee Order 2008. The Committee met in October 2008 and WNDC was invited to sit on the Committee as an observer. Officers from WNDC also attend the Officer Programme Board which advises the Committee and are invited to attend all working groups, including the officer charettes and Member workshops. It is considered, therefore, that WNDC is fully engaged and able to influence in the plan preparation process

3.2.16 Officers of the WNDC are also fully engaged in the plan-making process for the CAAP and attend the regular workstreams meetings together with other key stakeholders such as the County Council. These meetings have reinforced collaborative working, enabled the CAAP process to meet challenging timelines and by agreement aligned on-going WNDC workstreams with the plan making process..

3.1.17 It is expected that during the course of 2009, in the run-up to the publication of the Pre-Submission, drafts of both the WNJCS and the CAAP, that WNDC will be an integral part of the process. Further action on this point is not, therefore, required.

3.2.18 The Environmental Health Consultancy Service

This is currently being reviewed and a further report will be submitted on this in due course. However, as part of the re-organisation of the Planning Department, comprehensive representations are being sent on individual planning applications to WNDC through the reports to Planning Committee. This is discussed below.

3.2.19 NBC Representations to WNDC on Planning Applications:

There is no doubt that this has been a problematical area. There are a number of factors which have, in the past, led to NBC officer reports to the Planning Committee being unsatisfactory, particularly in the level of detail they contain. WNDC is a local planning authority for the purposes set out in the 2006 Planning Functions Order. NBC is a non-statutory consultee, albeit that it is the local planning for related matters, including enforcement, listed buildings, conservation areas and tree preservation orders.

3.2.20 It is intended that robust and comprehensive representations will be made to the Secretary of State on the extent and managed removal of WNDC planning powers and related matters as part of the 2009 review as set out in Para 3.2.6. above.

3.2.21 In the meantime, officers from NBC and WNDC have been working together to improve the way in which NBC is consulted upon and responds to planning applications where WNDC is the determining authority. In particular, officer discussions have resulted in NBC officers being invited to attend case conferences and project meetings on strategic applications. As part of that, NBC will receive more information on proposals, so reports to Planning Committee will be more robustly founded.

3.2.22 O&S1 raised, in particular, the issue of how WNDC responds to representations made by Planning Committee, including the imposition of conditions. Officers also consider that this consideration should be extended to developer obligations under Section 106 Agreements.

- 3.2.23 It is intended that reports to NBC Planning Committee, in particular the resolution and recommendations to WNDC must be worded in order to avoid ambiguity. Changes to the structure and wording of Planning Committee reports have already been made to mitigate this. It is considered that this, together with the closer involvement of officers at all stages in the consideration of applications and being more pro-active in the relationship with WNDC will, in large part, resolve this issue. However, it must be borne in mind that WNDC is a local planning authority and has the right to make its own judgement on planning matters. There is no guarantee, that even with closer working, the two organisations will always agree on all matters.

4. Implications (including financial implications)

4.1 Policy

Consolidating the improved working relationship with WNDC will add value to plan/policy making process and provide a firm foundation for further investment bids and project delivery.

4.2 Resources and Risk

The necessary officer resource has been included in the Planning Department Service Plan for 2009/10, including responding to the review of WNDC by the Secretary of State. The posts of Development Control Manager and Principal Planning Officer (Major Projects) have now been successfully appointed and this will enhance the expertise and capacity in the existing Development Control team. However, there is a risk that more involvement in the consideration of strategic planning applications will stretch staffing resources within Development Control given the number of posts being held vacant. This will be closely monitored by the Head of Planning.

The transfer of DC powers back to NBC 2010/2011 will require an increase in Officer expertise and capacity which will mean the release of posts currently held vacant and consequently extra costs to the Council, only some of which will be offset by increased fee income.

Deletion of Regeneration posts in the 2009/2010 budget review, will have a limiting effect on our input into WNDC led projects, but our resource will be targeted where we can add greatest value.

4.3 Legal

There are no immediate legal implications, however the transfer of DC powers may require changes to regulations and primary legislation.

4.4 Equality

Better engagement between NBC and WNDC, particularly in regard to the consideration of planning applications and the regeneration of the Town Centre will be beneficial to all sectors of the community.

4.5 Consultees (Internal and External)

Consultation has taken place with the Chief Executive, Heads of Regeneration & Development and Public Protection.

4.6 How the Proposals deliver Priority Outcomes

Improving partnership working with WNDC will meet Corporate Priority CPO3 – A confident ambitious and successful Northampton, in particular the priority outcomes of developing a vibrant and viable Town Centre, regeneration of key sites and enhanced reputation and regional influence. It will also meet CPO4 – Partnership and Community Engagement.

4.7 Other Implications

There are no other implications.

5. Background Papers

5.1 Report to Cabinet from O&S1 dated 25th February 2009 together with Appendix 1.

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For ease of delivery, the following series of recommendations are grouped in specific areas:-

Northampton Borough Council (NBC)

The Task and Finish Group recommends to Cabinet:-

1. That NBC should be planning to input into the forthcoming review of WNDC in a constructive way to achieve the following objectives:
 - i. the return of relevant Development Control powers to NBC
 - ii. a refocusing of WNDC on its core objectives
 - iii. greater democratic accountability of WNDC and the planning process to local people
 - iv. agreement of clear protocols regarding NBC and WNDC's respective roles.
2. That the Council helps WNDC by providing support, by pressing Central Government and other agencies to act in a way that supports the sustainability of growth. For example, if WNDC needs to lobby to get the right infrastructure improvements, NBC could assist, as could other Local Authorities.
3. That Cabinet instructs Officers to advise and support WNDC using its professionally qualified officers, particularly in Regeneration, Engineering, Commercial Property and Housing. Improved co-ordination and partnership approaches would benefit both WNDC and the Council's effectiveness.
4. That NBC supports WNDC in its bid for adequate funding for the right infrastructure improvements.
5. That Cabinet ensures the Council has sufficient resources to appoint appropriately qualified professionals to enable effective Partnership working to focus on developing plans more quickly and project delivery.
6. That Cabinet considers offering NBC office space, where feasible, to help integrate WNDC and NBC Officers towards improved joint working.
7. That Cabinet instructs Officers to identify the Town Centre Strategic Board and other such bodies that WNDC and NBC representatives attend and identify where there are gaps in attendance. That NBC agree with WNDC which meetings WNDC are expected to attend.
8. That Cabinet instructs Officers to create an effective Communications Protocol and promote the projects widely to encourage interest from all types of investor in the community.

9. That Cabinet instructs Officers to work with Daventry District Council and South Northants to develop and agree a Local Development Framework (LDF) for West Northamptonshire to provide proper spatial planning for the area and to protect against speculative development.
10. That more joint project teams are created, in addition to joint Project Boards, which have been fairly successful in the last year.

Key Planning Powers

11. That Cabinet instructs NBC Officers to approach WNDC to develop a better co-ordinated Development Control service with WNDC. This should include a proposal that NBC acts as the central point for Registration and Validation of ALL planning applications in Northampton. This would create one central point of contact for the public.
12. That Cabinet should seek to agree with WNDC that, prior to any formal change in the current economic climate, levels of intervention should be altered to enable NBC to provide a greater and improved planning service, this would assist WNDC to refocus on development and infrastructure.
13. That Cabinet asks Central Government, as part of the 2009 review of WNDC, to consider returning Development Control Powers back to Northampton Borough Council.

West Northants Development Corporation (WNDC)

14. That for the Council to provide support to WNDC, the organisation be asked to share issues with the Council and engage this and other Councils in a transparent and supportive partnership.
15. That Cabinet asks WNDC to support NBC's Visions and Strategies and plans through its development, rather than separate ones being developed.
16. That Cabinet asks WNDC to support Local Authorities by assuring the delivery of the Growth Agenda by, amongst others:-
 - i. working with Local Authorities to support development of their integrated and widely supported visions and plans;
 - ii. working with public sector authorities and agencies to provide the platform for increased confidence and encourage increase private and public sector investment.
17. That Cabinet asks WNDC to ensure that its representatives are present at strategic meetings. This would assist the Council's role in delivering strategies and help WNDC's understanding of the Council's initiatives and priorities.
18. That Cabinet asks WNDC to consider revising its standing orders so that NBC Councillors are able to sit on WNDC's Northampton Planning Committee rather than having to travel outside the Borough to Planning Committees of Daventry and South Northants.

19. That should Councillors be nominated to WNDC's Board and cease to become an elected member during that time, a Protocol be in place that requires them to step down.
20. That Cabinet instructs Officers to contact WNDC and requests written details are provided stating whether conditions suggested by NBC to a Planning Application have been implemented or not.
21. That WNDC provides feedback on the Environmental Health consultancy work currently being undertaken by NBC. WNDC also be asked to provide a view on the long-term use of NBC's Environmental Health Service to provide consultancy input.

Impending Government Review of WNDC

22. That the Council helps WNDC by taking an active role, along with other local partners, on making constructive proposals for improvement in the Government Review of WNDC that is scheduled to commence in the autumn of 2009.
23. Whilst not wanting to pre-empt the outcome of the Government Review, NBC needs to ensure capacity is available at any period between now and the end of the Review. This transition should be managed.

LOCAL GOVERNMENT, PLANNING & LAND ACT 1980

The Functions, Activities and Powers of the UDC:

1.3.1 The Act gives WNDC the following:

Function:

- To secure the regeneration of its area

Activities|:

- Bringing land and buildings into effective use
- Encouraging the development of existing and new industry and commerce
- Creating an attractive environment and
- Ensuring that housing and social facilities are available to encourage people to live and work in the area.

Powers:

- Acquire, hold, manage, reclaim and dispose of land and other property
- Carry out building and other operations
- Seek to ensure the provision of water, electricity, gas, sewerage and other services
- Carry on any business or undertaking for the purposes of the object
- And generally do anything necessary or expedient for the purposes of the object or for purposes incidental to those purposes
- May with the consent of the Secretary of State, contribute such sums as he with the Treasury's concurrence may determine towards expenditure incurred or to be incurred by any local authority or statutory undertakers in the performance of any statutory functions of the authority or undertakers, including expenditure so incurred in the acquisition of land, and
- May, with the like consent, contribute such sums as Secretary of State with the like concurrence may determine by way of assistance towards the provision of amenities.