

# HAVANT BOROUGH COUNCIL

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## Council

### **Waterlooville MDA - Appointment of A Joint WWMDA Planning Committee with Winchester City Council**

**Report by: Executive Head of Planning and Built Environment**

#### **FOR DECISION**

**Portfolio: Portfolio Holder for Planning & Built Environment**

**Key Decision: No**

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#### **1.0 Purpose of Report** *(To outline the proposals of the report)*

**1.1** To approve the establishment with Winchester City Council of a Joint West of Waterlooville Major Development Area Planning Committee (Joint WWMDA Planning Committee) for the development control functions of the Development Management Committee in relation to the development of the West of Waterlooville Major Development Area

#### **2.0 Recommendation**

The Council be recommended, subject to Winchester City Council agreeing to the creation of a Joint West of Waterlooville Major Development Area Planning Committee, to:

- (a) approve the proposal to set up a Joint West of Waterlooville MDA Planning Committee in accordance with s. 101(5) of the Local Government Act 1972;
- (b) approve the proposal that the Joint WWMDA Planning Committee be the responsible body for all matters required for delivery of effective delivery of joint development control decision making for the WWMDA;
- (c) delegate its decision making powers in respect of those functions set out in paragraph 4.7 of this report to the Joint WWMDA Planning Committee; and
- (d) delegate authority to determine the size, composition, and terms of reference for the Joint WWMDA Planning Committee

### **3.0 Summary**

- 3.1** It is proposed that under Section 101(5) of the Local Government Act 1972 Havant Borough Council and Winchester City Council appoint a Joint Planning Committee and delegate their development control functions in relation only to the development of the West of Waterlooville MDA to this joint committee. A joint planning committee will allow more formal participation of both sets of members in the decision-making process, regardless of which administrative area the development is situated.

### **4.0 Subject of Report**

- 4.1** The West of Waterlooville Major Development Area (MDA) is an MDA on the administrative border of Winchester City Council and Havant Borough Council's districts (as shown in appendix A). Both Councils have approved outline permissions for approximately 3000 dwellings together with industrial floorspace and community facilities within the MDA area. Of the dwellings approximately 600 are anticipated to lie within Havant Borough Council boundaries and the remaining 2,400 in Winchester City Council boundaries.
- 4.2** A Local Planning Authority can only determine an application within its administrative boundaries. Where the development sites within the MDA fall within the district of this Council and Winchester City Council, two virtually identical applications have to be submitted to each Council. Each application shows the full extent of the development proposed (ignoring municipal boundaries) but each local planning authority has to grant (or refuse) permission for that part of the development within its own area. Where the development falls wholly within the boundary of one of the Councils, the developer is only required to seek permission from the Council within which the development falls and the influence of the other Council over this development is limited (the other Council will usually be a consultee given the proximity of the application to the municipal boundary).
- 4.3** Since 2006 both Councils have adopted a procedure whereby the Planning Development Control/Development Management Committees of Winchester and Havant meet together to consider the applications to ensure that a unified and coherent set of considerations and conditions was applied to any decision, if granted. As the majority of the MDA falls within Winchester District, Winchester has been acting as the lead authority on these applications.
- 4.4** These arrangements have worked reasonably well to date, although they are intensive in terms of committee administration (two committees rather than one) and a little cumbersome in terms of public understanding. It was always intended that the arrangements should be an interim solution to deal with the major applications (i.e. the two outlines and the design codes). In addition, Havant Borough Council's influence on the granting of permission for some of the subsequent applications for development has diminished with an increase in applications being submitted which fall within Winchester City Council's boundary. Moving forward, the majority of reserved matter applications remaining to be made for the MDA will fall wholly within Winchester City Council's boundary.

**4.5** It is proposed that under Section 101(5) of the Local Government Act 1972 Havant Borough Council and Winchester City Council appoint a Joint Planning Committee and delegate their development control functions in relation to the development of West of Waterlooville MDA to this joint committee. A joint committee will allow a more formal participation of both Councils' members in the decision-making process, regardless of which administrative area the development is situated within.

**4.6** In view of the complexity of the proposed joint planning Committee it is also recommended that the terms of reference, (such as the numbers, representation from each authority, chairing arrangements and delegation to officers), be agreed by the Development Management Committee to ensure that the scale of development to be considered is appropriate to a joint Committee scenario.

**4.7** In overall terms the functions which are proposed to be delegated to the Joint WWMDA Planning Committee are those functions relating to the determination of the following matters within the MDA area:

Power to determine applications for planning permission.
Power to determine applications to develop land without compliance with conditions previously attached.
Power to grant planning permission for development already carried out.
Duties relating to the making of determinations of planning applications.
Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
Power to enter into agreement regulating development or use of land

The delegation includes all the powers necessary to facilitate, or otherwise incidental or conducive to, the discharge of the functions of the Joint WWMDA Planning Committee.

**4.8** The following functions shall be reserved to the appointing Authorities and shall not be within the powers of the Joint WWMDA Planning Committee

**4.8.1**

Power to decline to determine application for planning permission.
Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
Power to issue a certificate of existing or proposed lawful use or development.
Power to serve a completion notice.
Power to grant consent for the display of advertisements.
Power to authorise entry onto land.
Power to require the discontinuance of a use of land.
Power to serve a planning contravention notice, breach of condition notice or stop notice.
Power to issue a temporary stop notice
Power to issue an enforcement notice.
Power to apply for an injunction restraining a breach of planning control.

Power to determine applications for hazardous substances consent, and related powers.
Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
Power to require proper maintenance of land.
Power to determine application for listed building consent, and related powers.
Duties relating to applications for listed building.
Power to serve a building preservation notice, and related powers.
Power to issue listed building enforcement notices.
Powers to acquire a listed building in need of repair and to serve a repairs notice.
Power to apply for an injunction in relation to a listed building.
Power to execute urgent works.
Power to determine applications to fell or carry out works to trees that are the subject of a Tree Preservation Order

4.8.2 Any decision which is contrary to or not wholly in accordance with the budget approved by Havant Borough Council or Winchester City Council for the Joint Committee or is contrary to an approved policy or strategy of either of the authorities.

4.8.3 Any decision where, immediately following the taking of the decision, at least two members of the Joint WWMDA Planning Committee indicate that the decision should be referred back and made by the relevant local planning authority(ies) for the application.

## 5.0 Implications

5.1 **Resources:** The Joint Committee will be resourced from the planning, legal and Democratic Services teams of Havant Borough Council and Winchester City Council within existing budgets.

5.2 **Legal:** Power to determine planning applications under the Town and Country Planning Act rests with each local planning authority. The Local Government Act 1972 as amended enables a local authority to arrange for the discharge of any of its functions jointly with one or more local authorities by means of a joint committee. Havant Borough Council has delegated its town and country planning and development control functions to the Development Management Committee and the Service Manager (Planning Development).

5.3 **Strategy:** the creation of a joint committee will directly support the following HBC Corporate Plan priorities:

- Economic growth
- Financial sustainability
- Public Service excellence

5.4 **Risks:** Management of public expectations. The joint committee can't always meet the expectations of the customer.

5.5 **Communications:** The creation and any change to the joint committee will require the agreement of both Councils.

5.6 **For the Community:** There is a range of customers impacted by Waterlooville MDA. The overall aim is to enhance customer service and provide clarity to the decision making process.

5.7 **The Integrated Impact Assessment (IIA) has concluded the following:** N/A

## 6.0 Consultation

N/A

Appendices: *Appendix A – MDA Area*

Background Papers: *None*

Agreed and signed off by:

Legal Services: 10 February 2014

Executive Head of Governance & Logistics: 10 February 2014

Relevant Executive Head: 10 February 2014

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