

<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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## CABINET

**15 DECEMBER 2010**

### REPORT OF INTERIM HEAD OF PLANNING

#### **A.4 INTERIM PLANNING POLICY FOR JAYWICK**

(Report prepared by Gary Guiver)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

For the Cabinet to approve the 'Interim Planning Policy for Jaywick' (Attached as Appendix A1) as a material consideration for use in determining planning applications for certain kinds of developments in the 'Brooklands and Grasslands' and 'Village' areas of Jaywick.

##### **EXECUTIVE SUMMARY**

Much of Jaywick is located below sea level and is affected by a number of fundamental planning problems that warrant a very different approach to considering planning applications for new development than for elsewhere in the Tendring district. These problems are explained later in this report.

The Council's Core Strategy and Development Policies Proposed Submission Document (Regulation 27) contains a project statement for Regenerating Jaywick (Project 3) that reinforces the Council's commitment to bringing about a renaissance in the southern parts of Jaywick. This would principally involve tackling deprivation and reducing the risk to human life and property posed by tidal flooding (which is predicted to increase over the remainder of this century). The development of new housing and the extension of existing properties in this area however carry with them the potential to increase the population living within a flood risk area and, by implication, increase the risk to human life and therefore the Council needs to be able to manage this by imposing strict planning controls.

The Council's current legal framework of planning policies for this area comprises Policies CL15, CL15a and CL16 of the Tendring District Local Plan. However, as a result of changes to the Government's planning policy on development and flood risk (PPS25) and the decision not to pursue a 'Master Plan' for the area (for reasons explained later in this report), these policies have become less effective and increasingly difficult to implement when determining planning applications.

Your officers have therefore prepared a set of 'interim planning policies' for the at risk areas of Jaywick that provide a more robust framework for considering development proposals in Jaywick than the current series of adopted policies. While these interim policies have not been through the

same formal process of consultation and examination as the Local Plan, in practical terms they are far more robust than current policies and should therefore carry significant weight as a material planning consideration.

In essence these interim policies will enable the Council to:

- Require the majority of residential planning applications (including extensions and replacements) to be accompanied by a detailed Flood Risk Assessment (FRA) – these can then be considered by experts at the Environment Agency in assessing whether that development will be flood resilient and safe and/or whether it has the potential to increase the population of the area;
- Reinforce the thrust of PPS25 by not allowing any development that would result in a net increase in the housing stock; and
- Prevent the replacement of an existing dwelling in Brooklands and Grasslands (the area with the most acute issues) unless it is for a high quality permanent holiday home, for which occupation will be restricted to the times of the year when the risk of flooding is at its lowest.

The Interim Planning Policy has not been the subject of public consultation in its own right but it will inform the content of the Council's 'Site Allocations Document' which, forming part of the Council's Local Development Framework (LDF), will be the subject of formal public consultation in accordance with the planning regulations, anticipated in late 2011.

## **RECOMMENDATION**

**That the Interim Planning Policy for Jaywick (December 2010) (comprising Appendix A1 to this report) be approved by Cabinet as a material consideration in the determination of planning applications affecting the Brooklands and Grasslands and Village areas of Jaywick.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

The regeneration of Jaywick is one of the Council's top priorities which is reflected in its Sustainable Community Strategy and the Core Strategy and Development Policies Proposed Submission Document.

### **RESOURCES AND RISK**

#### **Resources**

The preparation of this Interim Planning Policy has been met within existing agreed budgets.

#### **Risk**

As this Interim Planning Policy is not a statutory planning document, having not gone through the full process of consultation, examination and formal adoption, there is a risk that planning decisions based on the guidance provided by this document could be challenged on appeal. This interim policy position is however supported by key partners including the Environment Agency, Homes and Communities Agency and Essex County Council.

Your officers however consider that by giving this document a degree of material weight, it provides a more robust planning framework than the current adopted set of policies affecting this area. In an appeal situation, a Planning Inspector would be urged to consider the interim policy in this light alongside Government Policy in PPS25, but it would ultimately be their decision as to how much material weight it can legitimately carry.

To give it more statutory legitimacy, this Interim Policy will help to inform the preparation of the Local Development Framework's 'Site Allocations Document' which will be the subject of public consultation in late 2011 and examination in 2012.

## **LEGAL**

This Interim Planning Policy cannot be considered as a statutory planning document but, with the agreement of the Cabinet, will be treated as a 'material consideration' in the determination of planning applications.

## **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

**Crime and Disorder / Equality and Diversity / Health Inequalities /Area or Ward affected / Consultation/Public Engagement.**

### **Equality and Diversity**

To be undertaken

### **Area or Ward affected**

Golf Green

### **Consultation/Public Engagement**

The Interim Planning Policy has not been the subject of public consultation. However, it will inform the preparation of the Council's 'Site Allocations Document' that will form an important element of the Local Development Framework. That document will be the subject of public consultation in late 2011. In the meantime, this document can only be treated as a material consideration.

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

Jaywick is affected by a number of fundamental planning problems that warrant a very different approach to considering planning applications for new development than for elsewhere in the Tendring district.

Originally built as a seaside resort for Londoners in the 1930's with small chalets built on private unadopted roads, Jaywick has switched progressively from holiday to a permanent residential community, but without the benefit of the services and facilities that would go with planned housing development today. The main planning problems in Jaywick are:

- **Flood Risk** – The whole of the area in question is at risk of tidal flooding and falls within 'Flood Zone 3a' as defined by the Environment Agency's flood risk maps. A Strategic Flood

Risk Study carried out in 2008 concluded that there has been significant investment in sea defences over the years to protect Jaywick, minimise the risk to human life and property and avoid a repeat of the infamous 1953 floods. However, the effects of climate change over the next 70 years are anticipated to lead to breaching or overtopping of existing flood defences which would gradually increase the frequency and severity of flooding in relation to 1 in 200 flood events'. The flooding and erosion risks associated with Jaywick are also highlighted in the emerging draft Essex and South Suffolk Shoreline Management Plan (SMP), which sets out the proposed management approach for Tendring's shoreline over the next 100 years. In the short to medium term, the policy will be to hold the current line of defence. Whereas, in the long term, the policy will be a combination of holding the line and/or managed realignment.

Furthermore, the main transport routes in and out of this part of Jaywick lie at some of the lowest physical points and, in the event of a serious flood, particularly a tidal surge, access and egress would almost certainly be cut off. This could prevent people safely evacuating the area and the emergency services obtaining access to people in trouble. This increasing risk seriously brings into question the sustainability of the area in the longer term and the wisdom of continuing to allow Jaywick to develop in its current form, particularly when many properties are of substandard construction.

- **Substandard Construction** – A large number of the properties in this part of Jaywick were originally built as holiday accommodation and are typically single-storey, of lightweight wooden construction and on small plots. They were not designed to be used as permanent homes.

Whilst these dwellings provide affordable accommodation in an attractive location by the sea, they would provide little protection in the event of a serious flood and consequently the risk of flooding to human life is higher here than in any of the district's other coastal areas. The poor quality of housing is also a major contributory factor in high incidence of poor health and lower than average life expectancy.

There have also been numerous incidences of fires in Jaywick in the past and, with lightweight wooden properties being very densely packed, there is a higher-than-normal risk of fire spreading from one property to another.

- **Poor Roads** – Many of Jaywick's roads, mainly in the Brooklands and Grasslands area, are private and as such are unadopted and unmade which gives the area a 'run-down' appearance and has implications for providing emergency access. Furthermore, being on lower ground on what was marshland, natural drainage in the area is very poor. This means that road improvements have a limited life-span because they are quickly undermined through the process of water penetrating, freezing and eroding road surfaces.
- **Dwelling density** – At around 60-100 dwellings per hectare in places, dwelling densities in Jaywick are at a level that, in accordance with current national planning policy, would only be permissible within town centre locations where there is good accessibility to a wide range of jobs, shops, services and facilities. This area does not enjoy good access to these opportunities and therefore it suffers with a high concentration of social, economic and physical deprivation.
- **Deprivation** – Notwithstanding the physical issues, Jaywick suffers with high levels of

deprivation and is ranked as the 3<sup>rd</sup> most deprived area in the country. Problems include high unemployment, poor health and substance abuse.

This is perhaps not surprising given the relative affordability of the accommodation in Jaywick compared with other areas of the district and the high concentration of low-cost property. The ability of people who are either unemployed or on low incomes to access property in this area is subsequently quite high and this is a key factor in the deprivation statistics. The major health issues are undoubtedly partly linked to the poor quality of housing in the area.

A key characteristic of the area is the high proportion of residents who rent properties on a short-term basis. Many of these residents have a previous address in London and elsewhere. However, despite the high representation of the rented sector, there is a well-established community of long-standing residents that do have a very strong sense of community and who contribute greatly to the wellbeing and character of the area.

In an attempt to address these issues and prevent the situation from getting worse, an 'Article 4 Direction' for Jaywick was put in place in 1978 to strictly control future development. An Article 4 Direction removes certain 'permitted development rights' that apply elsewhere. Under an Article 4 Direction, planning permission is required for certain types of development that usually would not require planning permission. Consequently, all proposals for extensions to properties (as well as porches and the placing of structures in gardens) in Jaywick require planning permission. A revised Article 4 Direction was put in place in 2010.

## **PROBLEMS IN IMPLEMENTING CURRENT PLANNING POLICIES FOR JAYWICK**

To explain why the current Local Plan policies are not achieving what they were designed for, it is important to explain the background to the policies and how circumstances have changed to warrant their early review.

In 2004, in response to the First Deposit Draft of the Local Plan the Environment Agency raised significant objection to the Council's emerging policy on development in Jaywick as not being sufficiently robust enough to address their grave concerns about flood risk in the area in light of the national planning policy contained in PPG25 (the national policy position regarding development and flood risk at the time).

Working closely with the Environment Agency, the Council then published the Re-Deposit Draft of the Local Plan in which contained new, more radical, policies on addressing development issues in Jaywick. These introduced the concept of only allowing 3-storey development on triple-sized plots in order to reduce density (thereby reducing the number of people exposed to the risk of flooding) and to improve the safety of dwellings to withstand flooding and to provide refuge at a safe height. It was originally intended that, to facilitate the phased upgrade of the housing stock to the new development standards, there would be a 'Master Plan' for the area to direct investment in land acquisition and using enabling development to raise additional capital to bring about improvements; not only to the housing stock but also community facilities in the area and the public realm. The first phase of enabling development was identified through new Policy CL15a that identified key sites where this exceptional new development would be allowed.

Working in partnership with the then Jaywick Agencies Group (which included Tendring District Council, Essex County Council, the Environment Agency and Go-East), the East of England

Development Agency (EEDA) commissioned consultants (Llewellyn Davies Yeang) to prepare a Master Plan for the area that put forward three options for the regeneration of Jaywick. The options suggested varying levels of enabling development to achieve the regeneration of the area. However, when published in 2005, these options were very contentious within the local community and raised concerns from the Environment Agency that the level of enabling development proposed would, in fact, lead to a net increase in people living in the flood risk area (albeit in higher specification housing) which would be contrary to the newly introduced PPS25 (which replaced older guidance contained in PPG25).

On the advice of the Environment Agency, the Council and its partners then commissioned the Strategic Flood Risk Study in 2008 to quantify the severity of flood risk in the area and any variations that may occur within Jaywick. That study concluded that the vast majority of land that might have been considered for enabling development is located on low-lying land at the highest risk of flooding where safe access and egress (in the event of a flood) could not be easily achieved.

It was thus concluded by the Jaywick Agencies Group that a Master Plan for the area involving significant enabling development was no longer feasible and that a different approach to bring about regeneration in Jaywick would be required.

The consequence of this series of events is that policies CL15, CL15a and CL16 of the current Local Plan are unlikely to be effective in bringing about the kind of regeneration and redevelopment originally envisaged.

In addition, the current policy does not contain sufficient guidance on dealing with proposals for extensions to existing properties which may or may not have the potential to increase the risk to human life and property of flooding and, for which, the Council has had to rely heavily on the advice of the Environment Agency.

## **IMPLICATIONS OF THE NEW INTERIM PLANNING POLICY**

In the interim period between now and at the point of adopting the new Site Allocations Document, it is the Council's intention, working with Essex County Council and the Environment Agency, to implement these interim policies to:

- more reasonably reflect the current position with regard to the emerging vision for Jaywick and the latest evidence on flood risk;
- include more realistic assumptions about what can (and cannot) be achieved;
- make it clear what kinds of development will and will not be allowed, particularly with regard to extensions; and
- provide clearer guidance as to what information someone wishing to develop in Jaywick will need to provide as part of their planning application.

The main objectives of these interim policies are to:

- facilitate a gradual reduction in the number of properties and thus people living in the flood risk area;
- prevent any more substandard and unsafe dwellings being built in the area;
- reduce the density of housing to better reflect modern development standards and allow living accommodation to be provided at a higher and safer level;
- prevent extensions to existing properties that might lead to an increase in the number of people living in the flood risk area; and
- improve the safety of development by applying strict development standards.

In theory, any proposal for development in the Jaywick area would be strictly contrary to PPS25, which requires a sequential approach to the location of proposals for all new development, seeking to direct development towards land at the lowest risk of flooding. This is because the area of Jaywick in question is entirely within Flood Zone 3a and there are various opportunities for new development elsewhere in the Tendring district where the risk of flooding is much lower. In theory, development should therefore be directed to these areas where the risk of flooding is much lower.

PPS25 does, however, allow development in areas at risk of flooding in exceptional circumstances where the wider regenerative benefits outweigh the risk of flooding, as long as it is, itself, safe.

In essence these interim policies will enable the Council to:

- Require the majority of residential planning applications (including extensions and replacements) to be accompanied by a detailed Flood Risk Assessment (FRA) – these can then be considered by experts at the Environment Agency in assessing whether that development will be flood resilient and safe and/or whether it has the potential to increase the population of the area;
- Reinforce the thrust of PPS25 by not allowing any development that would result in a net increase the housing stock; and
- Prevent the replacement of an existing dwelling in Brooklands and Grasslands (the area with the most acute issues) unless it is for a high quality permanent holiday home, for which occupation will be restricted to the times of the year when the risk of flooding is at its lowest.

## **APPENDICES**

Appendix A1 – Interim Planning Policy for Jaywick (December 2010)