

**PUBLIC QUESTION TIME**

**AGENDA ITEM 5**

**QUESTION 1**

**MR STEPHEN MULLOY** will ask the following question:

Can the Portfolio Holder explain why a 'key group' (Bicton Parish Council) claims it was not even aware of the SWSUE until it was already in the Core Strategy, and is this not indicative of a failure of Shropshire Council's approach to engagement?

**Background:**

In the reply to a statement made to Cabinet on the 16<sup>th</sup> October 2013 by Mr David Kilby about the SWSUE, the Portfolio Holder replied by saying that it is:

*"primarily the Council's, not the local community's vision, that it is very much a planning vision (working from the aims of the Core Strategy Policy CS2 which identifies the Welshpool Road area as a strategic location for development."*

The Portfolio Holder also referred to the long process that commenced with the early work on the Core Strategy through to its adoption and said:

*"This has included many opportunities for the public, stakeholders and other interested parties to express their views on the future development of Shrewsbury as a whole, and the identification of the Shrewsbury West Sustainable Urban Extension."*

Concern was raised by local residents of Bicton that they had not been consulted effectively about the SWSUE and this was demonstrated by 1,000 people signing a petition presented to Full Council on the 26<sup>th</sup> Sep 2013.

The first planning application has now been submitted (Ref:14/00246/OUT) for development of part of the SWSUE and the following comment has been submitted by Bicton Parish Council:

*"Bicton Parish Council (BPC) was not made aware of the SWSUE development until it was already in the core strategy. When BPC then objected to the whole idea of a SWSUE it was told that it is in the core strategy and therefore it is too late to object. BPC was further told that it would be consulted as to the details of the development; which it has been to the extent of being involved in the decisions about Calcott Lane and Shepherd's*

*Lane and whether they should be connected to the Oxon Relief Road or made in to cul-de-sacs.*

*It has been made plain to BPC that this development WILL go ahead because of (1) the core strategy, (2) the NPPF, (3) the desire of the landowners to sell, (4) Shropshire Council has made promises to the developer and if these are not met there will be penalties, (5) the Oxon relief road will eventually facilitate the building of the North West Relief Road.*

*Given the above BPC feels bullied in to not objecting to this application.”*

The relevant document for guiding the Council’s approach and the methods to be used for consultation on the Core Strategy was the ‘Interim Community Involvement Statement for Shropshire (ISC1) July 2008’. Paragraph 3.4 says:

*“Whilst an equal voice should of course be given to all sections of society, the involvement of some key groups have been identified as central to developing a new set of planning documents for Shropshire. In the period leading up to the establishment of the new Unitary Authority Council these include: Parish/Town Councils – these organisations can provide an invaluable contact with local communities and will be particularly valuable for providing a local perspective when there are proposals for a specific site.”*

**MR M PRICE** Portfolio Holder for Strategic Planning, Planning, Housing and Commissioning (Central) will reply as follows:

Bicton Parish Council, along with all Parish and Town Councils, is a statutory consultee (‘Specific Consultation Body’) in the Plan-making process. As such, the Parish Council has been sent, via direct mail, consultation notifications at every stage in the Core Strategy and SAMDev Plan processes.

The four stages where Parish Councils were notified directly about the Core Strategy consultations were:

- Topic Papers (21 July to 1 September 2008)
- Issues and Options (26 January to 9 March 2009)
- Preferred Options (10 August to 2 October 2009)
- Final Plan Publication (15 February to 29 March 2010)

The Core Strategy Consultation Statement is available to download via:  
[http://shropshire.gov.uk/planningpolicy.nsf/viewAttachments/AWIN-92NKAU/\\$file/ShropsCD3-consultation-statement.pdf](http://shropshire.gov.uk/planningpolicy.nsf/viewAttachments/AWIN-92NKAU/$file/ShropsCD3-consultation-statement.pdf)

The Core Strategy was subject to independent examination of its soundness by the Planning Inspectorate in 2010, with the identification of the Shrewsbury Sustainable Urban Extensions being an issue specifically addressed. The Core Strategy was adopted by the Council in 2011 following completion of all required processes.

The stages where Parish Councils were notified directly about the SAMDev Plan consultations were:

- Issues and Options (2 April – 25 June 2010)
- Preferred Options (9 March – 20 July 2012)
- Preferred Options Draft Policies (31 January - 28 March 2013)
- Revised Preferred Options (1 July - 23 August 2013)

The Draft SAMDev Plan Consultation Statement is available to download via:

[http://www.shropshire.gov.uk/committee.nsf/0/0E6445D263D8DF4080257C7600503FEF/\\$file/15C%20Consultation%20Statement.pdf](http://www.shropshire.gov.uk/committee.nsf/0/0E6445D263D8DF4080257C7600503FEF/$file/15C%20Consultation%20Statement.pdf)

As Council is aware, there were consultations on the Shrewsbury West Sustainable Urban Extension Masterplan last summer, including with the Parish Council, leading to the adoption of the Masterplan, as amended, in December 2013.

As well as direct notification to Parish and Town Councils, there have also been press releases, information on the Council's website, consultation events, and attendance by officers at Parish and Town Council meetings/public meetings/Local Joint Committees on request, as well as efforts made by local Councillors to inform and engage with their local communities.

In short, the Council does not accept either the premise of Mr Mulloy's question nor his implied criticism of the Council's approach to engagement. Whilst more engagement is always possible, the Council has had to manage the enormous challenges of preparing a County-wide Development Plan with limited staff resources. With regard to the Core Strategy, the Council has met the requirements of the Plan-making processes including providing the necessary opportunities for the making of representations and independent examination, and has made extensive efforts to engage with local communities and stakeholders in the preparation of both the Core Strategy and the SAMDev Plan. The fact that not all parties agree with the outcome of the Plan-making decisions by the Local Planning Authority does not mean that it has not consulted appropriately, considered the issues and reached a balanced view on the way forward.

## **QUESTION 2**

**MR SELBY MARTIN (CPRE)** will ask the following question which falls into three parts:

- i) Why does SAMDev in its housing allocations take so little account of the need to conserve the countryside, landscapes, and wildlife sites as required by Core Strategy Policies CS6 and CS17 and the twelve principles in NPPF paragraph 17 ?
  - The council has at its disposal several reports from consultants on landscape sensitivity around Shrewsbury, viz:

- White consultants report of 2007 on Shrewsbury, which was a Core Document at the Public Inquiry into the Core Strategy.
  - TEP Green Infrastructure for Shrewsbury 2008.
- ii) Why are planning applications validated on controversial SAMDev sites when objectors have had no opportunity to present their case to a public inquiry later this year?
- iii) Why are planning applications accepted and in some cases approved on sites not included in SAMDev allocations which are clearly in conflict with the Core Strategy and NPPF policies , for example, at West Felton, Church Stretton, Oswestry Hill Fort?

**Footnote:** NPPF paragraph 17. "A set of core land-use planning principles should underpin plan-making and decision taking. \* planning should be genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans.

NPPF paragraph 109. "The planning system should contribute to and enhance the natural and local environment by \*protecting and enhancing valued landscapes, geological conservations interests and soils....." etc

**MR M PRICE** Portfolio Holder for Strategic Planning, Planning, Housing and Commissioning (Central) will reply as follows:

The proposed SAMDev Plan allocations have been the result of a lengthy process starting with the strategic requirements for housing, employment land and other development, then considering the evidence base, identifying and assessing options, carrying out consultations, considering the issues arising from consultations, and then refining the proposals in order to get to the Final Plan. The need to conserve the countryside, sensitive landscapes, and sites of ecological value are very important considerations and have had a major influence on the directions of growth and sites proposed for Shrewsbury and elsewhere. The Council has had careful regard to the various studies referred to, but has to balance the information in these with all of the other planning considerations in order to produce a sound Plan that will deliver the required levels of development.

*Why are planning applications validated on controversial SAMDev sites when objectors have had no opportunity to present their case to a public inquiry later this year?*

The Council has to determine planning applications submitted to it, with non-determination being a reason for appeal to the Secretary of State. It is clear from Government guidance and appeal decisions that prematurity will very rarely be upheld as a reason for refusal. Proposed development has to be 'so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the Development Plan Document by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A proposal for development which has an impact on only a small area would rarely come

into this category' (The Planning System: General Principles and the draft National Planning Practice Guidance)... 'Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination' (draft National Planning Practice Guidance).

The National Planning Policy Framework (paragraph 216) provides guidance on the weight that can be attached to an emerging Plan, and the Council considers that the identification of sites as SAMDev Plan preferred options, and now for inclusion in the Final Plan, is a material consideration. Furthermore, the NPPF's presumption in favour of sustainable development and its aim of boosting housing supply means that the Council has to look positively at proposals for the emerging Plan sites, particularly if it is unable to demonstrate a 5 year housing land supply.

*Why are planning applications accepted and in some cases approved on sites not included in SAMDev allocations which are clearly in conflict with the Core Strategy and NPPF policies , for example, at West Felton, Church Stretton, Oswestry Hill Fort?*

As referred to above, in considering any planning applications submitted, a key consideration is the NPPF's presumption in favour of sustainable development, particularly in the position of the Council being unable to demonstrate a 5 year housing land supply, as in that case the NPPF (paragraph 49) deems that the Council's policies for housing supply are not up-to-date (including those elements of the Core Strategy).

### **QUESTION 3**

**MR DAVID KILBY** will ask the following question;

Does a loop hole exist in the National Planning Policy Framework?

I recently read a headline in the Shropshire star dated 17<sup>th</sup> February that read: 'Councils 'bullied' by national plans rules'. The article provided a number of comments from a number of Shropshire Council members from across the County on this topic voicing their concerns about the National Planning Policy Framework.

The issue I believe has become of real concern for Shropshire residents, mainly since a statement published in September 2013 by Shropshire Council said 'they only have a 4.95 year supply of deliverable housing sites', which invokes paragraph 49 of the National Planning Policy Framework.

NPPF 49.states: 'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'.

As an individual I do not have a problem with this ruling, except in those planning applications where Shropshire Council have around a 50% interest as landowner themselves, where they may find themselves in a position where they could actually benefit from their own failure to secure a sufficient land supply in their role as a landowner.

It is my belief that the potential for a scenario like this to occur anywhere in the Country is an issue that needs to be addressed with the potential loop hole being plugged as necessary by those in a position to do so now.

Surely where this occurs there is a serious conflict of interest between Shropshire Councils two roles as landowner and planning authority.

I note when asked publicly why they had failed to secure the required five year supply of deliverable housing sites the reason given from Shropshire Councils portfolio holder for housing in a recent Shropshire Radio interview on the Eric Smith programme was; that it was because of the 'volume of work load they had'.

Surely for such an important issue like this you would hope the work load could have been managed as a matter of priority to ensure the 5 year supply was met, thereby avoiding this potential conflict of interest.

Could the Portfolio holder concerned please explain why the supply of deliverable housing sites was not managed better by Shropshire Council and also explain how Shropshire Council will now be able to demonstrate a separation of interest between their role as land owner and planning and highways authority with regard to the Shrewsbury West Urban Extension project where they have a considerable interest as landowner?

**MR M PRICE** Portfolio Holder for Planning will reply as follows:

Managing Housing Supply

The supply of deliverable housing sites, as calculated for the 5 years housing land supply, includes a number of sources of housing supply, as set out in the current statement which is available via the website:

<http://shropshire.gov.uk/planningpolicy.nsf/open/161130383C0AD06880257BE10032403B>

These are:

- A. Dwellings on sites with Planning Permission at 1st April 2013;
- B. Sites allocated in an adopted Local Plan & expected to be delivered within 5 years;
- C. Sites on adopted sustainable urban extensions (SUEs) estimated to be completed within 5 years;
- D. Strategic Housing Land Availability Assessment (SHLAA) sites deliverable within 5 years;

- E. Selected SAMDev Site Allocations likely to be delivered within 5 years;
- F. Emerging Affordable Housing Sites;
- G. Windfall sites on previously developed land (excluding gardens) of less than 5 dwellings expected to be delivered in years 4 & 5 only;

Shropshire Council's control over these sources of supply is limited. There are many factors affecting the willingness of landowners and developers to bring forward sites through the planning process, ranging from personal circumstances to commercial decisions, with market forces clearly critical. The Council approves the vast majority (95%) of all planning applications that it receives, so is self-evidently not holding back supply through its determination of applications.

The Council does directly control the quantity and location of sites allocated for development (but not when they will come forward into the 5 years supply and the rate at which they are built out). Shropshire Council is working from the base of allocations and development boundaries in the former District/Borough Council Local Plans. Since the creation of the Council in 2009, the Council has been working to produce a new County-wide Development Plan, starting with a Core Strategy (adopted in 2011) and now the Site Allocations and Management of Development (SAMDev), which is approaching the Proposed Submission or Final Plan stage. It is hoped to adopt the SAMDev Plan, following independent examination, in 2015, with the production timescales having been a factor of the processes involved in identifying and considering issues and options, preferred options and revised preferred options, with public consultations at every stage.

It should be noted that the effect of the basis on which the housing land requirement has to be calculated is now to require approximately a 7 years supply rather than simply 5 years worth of the overall planned development (due to the need to include a 20% buffer and to allow for under-delivery to be caught up within 5 years). It should also be noted that the Council is proposing a policy (MD3) in the SAMDev Plan to help it to have greater influence on maintaining the housing land supply in the future.

#### Council Interests

The separation of the Council's interests as landowner from those as local planning authority and local highways authority is a question that applies across the Council area and not just to the Shrewsbury West Sustainable Urban Extension. However, in response to the question, the proposal for development at Bicton Heath co-ordinated with the provision of a new stretch of road (now referred to as the Oxon Link Road, but then just a leg of the Shrewsbury North West Relief Road) was put to Shrewsbury and Atcham Borough Council by the landowners/promoters (which included Shropshire County Council) as part of the start of the review of the Borough Local Plan in 2003...so the separation of roles was evident.

As the Unitary Council came into being, the Core Strategy preparation processes were underway, including the assessment of options, and this has been followed by the preparation of the SAMDev Plan and a Masterplan for

the SUE. The processes relating to these planning documents have been open and transparent at every stage, including the independent examination of the Core Strategy held in 2010. The fact that the Council as local planning authority and local highways authority is requiring the provision of the Oxon Link Road at the expense of the landowners/developers, and the distribution of land uses proposed (i.e. a mix of uses, not just housing) in the Core Strategy, the SAMDev Plan and the adopted Masterplan is further demonstration that the proposal has been driven by the strategic requirements of the growth of Shrewsbury and not the interests of any of the landowners.

#### **QUESTION 4**

**MR JOHN WAINE** (HOOOH) will ask the following question;

We understand that despite the significant professional guidance against, Shropshire Council are again considering to propose to include the area designated OSW004 as part of the housing allocation in their SAMDev Plan. There are several reasons why it might be wise to re-consider that position and we would humbly and formally request an official Shropshire Council response to each of the following points prior to any submission.

##### 1. CLARITY

Given the fact that English Heritage has clarified its position on its continued potential objection to the revised OSW004, and the additional evidence base from both the Heritage Assessment, and Landscape and Visual Impact Assessment submitted by HOOOH in December 2013 and February 2014, can the Council explain its justification in still retaining OSW004 when the other parts of the integrated masterplan, OSW002 and 003, have been dropped because of the severity of impacts on the setting of the hillfort?

##### 2. CONSISTENCY

Shropshire Council removed OSW063 and specifically, OSW021, because: “The more detailed site specific landscape sensitivity assessment from Stage 2b shows that landscape sensitivity is medium to high and that development of the site would have significant detrimental impacts on the setting of the Hill Fort.”

“There is also a strong steer from the community that it does not favour the north west of Oswestry as a direction for growth. Therefore it is considered that the site is not suitable to be identified as a location for development.”

OSW004 will have a major impact on the Hill Fort as shown in the LVIA and the strong community steer is against this development from every quarter. On this criteria, OSW004 should also be set aside.

##### 3. COMPLIANCE



Could Shropshire Council provide their Compliance Risk Review on the original Heritage Impact Assessment commissioned by the promoters which was criticised by The British Archaeological Trust and Dr Ben Edwards? Please explicitly state whether Shropshire Council believe this HIA to be fully compliant and suitable to be included as the basis for supporting OSW004 going forward to SAMDev.

#### 4. INDEPENDENT REVIEW

Is Shropshire Council willing to completely ignore and disrespect the formal request by Oswestry Town Council for an independent review of the archaeological reports prior to any consideration? Please confirm your response.

#### 5. IMPACT

Dr Ben Edwards' LVIA report proved that the impact of development on OSW004 would be MAJOR. What is Shropshire Council's assessment of this report?

#### 6. ENGLISH HERITAGE

Councillor Price said in the cabinet that if only English Heritage had come out against all three proposals from the beginning then we wouldn't be in this position. Well, they did. On 19 July 2012, Amanda Smith, English Heritage wrote to Shropshire Council:

"English Heritage does not support the preferred housing sites (OSW002/OSW003 OSW004) because of the harm these sites are likely to have on the significance of the Old Oswestry Hill Fort, by virtue of their location within the immediate setting of the designated area".

**MR M PRICE** Portfolio Holder for Strategic Planning, Planning, Housing and Commissioning (Central) will reply as follows:

##### **1. Clarity Response**

The Council is considering at its meeting on 27<sup>th</sup> February whether or not to include site OSW004 and to exclude sites OSW002 and OSW003. The recommendation to do so is the culmination of a long process of considering the strategic requirements for the development of Oswestry over the period up to 2026, identifying and assessing options with regard to an evolving evidence base, and consideration of issues arising from consultations. The Council is tasked with putting forward a sound Plan to help to achieve the sustainable growth of the town, identifying sufficient suitable and deliverable sites (see further under 2. below). It is considered that the overall proposals for the town, which includes an increase in the potential delivery from the Eastern Gateway Sustainable Urban Extension strike an appropriate balance.

##### **2. Consistency Response**

The Council did not 'remove' the two sites referred to – it assessed them as not being realistic or preferred sites following a wide ranging assessment

considering issues such as accessibility and landscape sensitivity as well as impact on the setting of the Hill Fort. The Campaign Group is quoting selectively from the assessments for the two sites, which can be viewed on the Council's website:

[http://shropshire.gov.uk/planningpolicy.nsf/viewAttachments/EWET-9FUBW7/\\$file/sites-assessment-oswestry-town.pdf](http://shropshire.gov.uk/planningpolicy.nsf/viewAttachments/EWET-9FUBW7/$file/sites-assessment-oswestry-town.pdf)

The full wording of the summary of the Stage 2b assessment of Site OSW021 is:

'The more detailed site specific landscape sensitivity assessment from Stage 2b shows that landscape sensitivity is medium to high and that development of the site would have significant detrimental impacts on the setting of the Hill Fort. It is also likely to have an impact on the setting of Brogyntyn Registered Park and Pant Glas Conservation Area. The site has poor access via Oakhurst Road. There is also a strong steer from the community that it does not favour the north west of Oswestry as a direction for growth. Therefore it is considered that the site is not suitable to be identified as a location for development.'

The last sentence is clearly a conclusion to all of the foregoing and not just the impact on the setting of the Hill Fort and the steer from the community. Without going into detail, it can immediately be seen that there are distinct differences between the sites off Oakhurst Road and those off the Whittington and Gobowen Roads, including relatively poor access and potential impact on the setting of Brogyntyn Registered Park and Pant Glas and Brogyntyn Conservation Area.

The Council is proposing to allocate Site OSW004, subject to the key guidelines set out, because on balance it considers the site to be suitable, deliverable and appropriate having identified and assessed the options, with regard to an evolving evidence base and to due consideration of issues arising from consultations, within the overall context of needing to enable the delivery of appropriate levels of development to enable the town to grow and to fulfil its strategic role in accordance with the adopted Core Strategy.

For clarity, the proposed guidelines for the site are:

Approximate site provision figure:117

'Development subject to the access, layout, landscaping and design of the site having appropriate regard to the setting of the Hill Fort, and following full assessment of the significance of the heritage assets, including assessment of the archaeological interest of the site.

Development to be subject to pedestrian and cyclepath links to the former railway and a new footpath link between Whittington Road and Gobowen Road to improve access towards the Hill Fort. Development also to be subject to improvements to the Whittington and Gobowen Roads junction and the

junction of Whittington Road with the A5/A483, and the incorporation of appropriate buffer areas/uses to existing businesses on Whittington Road.'

### **3. Compliance Response**

It is for the promoters to submit such information as they wish – the Heritage Impact Assessment provided has been produced by a heritage professional having regard to the relevant English Heritage guidance on the setting of heritage assets, and this has been useful in helping the Council to assess the proposals. However, the Council has had regard to all of the evidence available and the professional expertise of its officers in making its assessments and coming to a view as regards the suitability of sites for allocation for development. There is no compliance review required for the purposes of Plan-making in relation to paragraphs 169 and 170 of the NPPF.

### **4. Independent Review Response**

A more detailed consideration of archaeological information and issues is appropriate at the planning application stage (see NPPF paragraph 128 relating to the determination of applications) but is not necessary at the current Plan-making stage (having regard to paragraphs 158 and 169 of the NPPF). Shropshire Council welcomes the input from Oswestry Town Council in the preparation of the SAMDev Plan and has tried to enable the delivery of the levels of development sought by the Town Council. The level and timing of further assessment of archaeological and other information is a matter for Shropshire Council as local planning authority.

### **5. Impact Response**

The Council is happy to receive evidential material submitted by interested parties at any time, but has no comments on the report at this stage. The Council has carefully considered landscape and visual impact issues in assessing the proposed sites.

### **6. English Heritage Response**

There has been considerable contact between the Council and English Heritage over a lengthy period of time as part of the process of continuous engagement. This has been an iterative process as the location, scale and nature of possible development has been explored. In the same response quoted, English Heritage stated that it was happy to continue to work with the Council in addressing its comments in the further development of the SAMDev Plan. The Council is happy to continue this dialogue.

## **QUESTION 5**

**MRS JOYCE BRAND** will ask the following question;

Just how significant are the reports from the various Scrutiny Committees? If their reports are not always considered what checks on the decision making of the very small group of councillors who operate the system of Strong Leader? If possible, I would like to have the question answered by one of the chairs of a scrutiny committee.

**MR M BENNETT**, Chairman of Performance Management Scrutiny Committee , will reply as follows:

Overview and Scrutiny Committees make evidence based recommendations through their work. Their reports provide a valuable contribution to the Council's decision making.

Wherever possible Overview and Scrutiny should be apolitical and provide a critical friend role that supports decision making e.g. by working alongside and contributing to how changes are identified and made, as well as helping the Council to learn and improve through reviewing the impact of decisions or the way services are provided. Overview and Scrutiny Committees can also 'Call-in' decisions to ensure that all aspects have been considered.

By utilising a combination of these approaches, Overview and Scrutiny Committees can hold the mirror up and inform what happens, with there reports and recommendations going to Cabinet as the decision making body, where the decision to accept or not accept the recommendations would be taken."

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