

South Bucks District Council

Cabinet Decision

Notice is given that the following decisions have been taken by Cabinet on Monday, 11 September 2017

4 **Proposed Publication of Draft Report on Northern Extension of Slough by Slough Borough Council**

(a) DECISION:

Cabinet received a report which informed members about Slough Borough Council's intention to publish a draft report commissioned through consultant, Atkins, setting out details of their proposed northern extension of Slough within South Bucks District and consider what action should be taken in response.

Approval for this item to be considered in private by the Cabinet on 11 September 2017 was received from Councillor Malcolm Bradford (Chairman of South Bucks District Council Overview and Scrutiny Committee) who agreed that the item was urgent and could not reasonably be deferred.

It was noted that the report had also been considered by the Chiltern and South Bucks Joint Committee on 11 September 2017.

Cabinet expressed considerable concern about Slough Borough Council's intention to publish the draft Atkins report in its current form. It was considered that in doing so Slough Borough Council was acting outside of its relevant statutory powers, due process and the Duty to Cooperate and as if they were the Local Planning Authority and Highway Authority for South Bucks District.

Members acknowledged that Slough Borough Council can lawfully promote or support development of land outside its administrative boundary where this is in the interest of its own borough and to commission and assemble an evidence base to support this. However, it was noted that the form and content of the draft Atkins document is far removed from a collation of evidence demonstrating the in-principle acceptability of a Northern Extension or informing the wording of policy.

As a result Members were concerned that Slough Borough Council were not acting in the public interest by publishing the draft report and could cause confusion and mislead the public, organisations, landowners and developers including potentially falsely encouraging the incurring of costs and investment. They also noted that South Bucks and Chiltern District Councils and Bucks County Councils, are being forced to respond to Slough Borough Council's actions outside of due process which is deflecting resources away from local plan preparation.

It was noted that the Planning Policy Manager had raised these concerns with his counterpart at Slough Borough Council and submitted detailed comments on the draft report. Bucks County Council had also submitted comments in their statutory role for strategic planning on highways, transport, flooding, education and minerals and waste matters. Slough Borough Council had also been asked to identify which statutory powers they relied on in commissioning the draft report and how in its current form, the report was a rational exercise or any such power in view of the confusion it will give rise to. It was noted that in response Slough Borough Council stated that having taken legal advice there was nothing to prevent them producing the Atkins report in its current form and that they intended to make it public at some stage after a forthcoming Duty to Cooperate meeting on 12 September 2017.

The Planning Policy Manager updated Cabinet on discussions with his counterpart at Slough Borough Council regarding a statement summarising the Councils' concerns about the draft Atkins report and subject to agreement could accompany any future publication.

The Cabinet stressed the importance of ensuring that residents are kept informed of the Councils' position on this matter.

Having carefully considered the options for action set out in the committee report and having regard to the importance of both protecting the interests of its inhabitants and the Duty to Cooperate process, that in order, if possible, to avoid litigation on this matter, the Cabinet **RESOLVED**

- 1) to seek a written undertaking that Slough Borough Council will not publish the draft Atkins report in its current form until it has been appropriately amended by adding a Cover Note in a prominent position at the front of all copies of the document after its covering page.
- 2) that the Head of Legal and Democratic Services in consultation with the Head of Sustainable Development and the respective Portfolio Holders for Sustainable Development be authorised to take legal proceedings under section 222 of the Local Government Act 1972 in relation to Slough Borough Council's actions to promote a Northern Extension to Slough in South Bucks District if considered expedient to promote or protect the interests of the inhabitants of the Councils' area.
- 3) that it was to be considered expedient under 2 above if Slough Borough Council fail to agree the Councils' requirements regarding publication of the draft Atkins report.
- 4) that the costs of any legal proceedings are shared in the same way as the costs of the Joint Local Plan.

(b) REASON FOR DECISION:

To ensure that Slough Borough Council acts within the Duty to Cooperate process and within its statutory powers, that local inhabitants, organisations, landowners and developers are not misled by the draft Atkins document and potentially falsely encouraged to incur costs and investments and that the Councils' Joint Local Plan process is not prejudiced.

(c) ALTERNATIVE OPTIONS CONSIDERED:

- 1) To issue proceedings for Judicial Review of the Slough Borough Council's decision to publish the Atkins report coupled with an order to restrain its publication.
- 2) To agree Slough Borough Council's offer to publish a statement/covering note from the Councils with the publication of the Atkins report.

(d) CONFLICTS OF INTERESTS/DISPENSATIONS:

None.

Date Published: 18 September 2017