

## **HEREFORDSHIRE UNITARY DEVELOPMENT PLAN: OUTCOME OF LEGAL CHALLENGE**

**Report By: Planning Policy Manager**

### **Wards**

Countywide – but with focus on Hollington and St.Martins and Hinton

### **Purpose**

1. To inform Members of the outcome of the High Court challenge to the allocation of land for housing at Bullinghope.

### **Financial Implications**

2. None outside current budgets.

### **Background**

3. The Unitary Development Plan was adopted in March 2007 and is a “Saved plan” for three years, i.e. until March 2010. It is part of the Development Plan, along with the Regional Spatial Strategy. It will, in due course, be replaced by the emerging Local Development Framework. Following adoption in 2007 a group of objectors formed a company, the Dinedor Hill Action Association, to challenge, by way of Judicial Review, the allocation of a site for 300 new houses at Bullinghope.
4. The case was heard in the High Court of Justice on 26<sup>th</sup> and 27<sup>th</sup> June 2008 and Mr Justice Collins handed down his judgement on 24<sup>th</sup> July 2008 which was to the effect that the allocation at Bullinghope should be deleted from the Unitary Development Plan.
5. There were certain other consequential deletions from the text of the Unitary Development Plan but the plan, with those deletions, remains a fully operative part of the Development Plan.
6. Mr Justice Collins did not order any change to the Settlement Boundary for Hereford because that boundary is the subject of a separate policy and the Dinedor Hill Action Association were out-of-time to challenge that policy. That leaves the proposed site of the 300 houses within the Settlement Boundary but not allocated for development. Mr Justice Collins did not consider this to be a problem as the removal of the site from the list of allocations would be a material consideration in the determination of any planning application on the site.

### **Consequences for the Development Plan**

7. The Unitary Development Plan remains in effect until March 2010, with the possibility that some policies can be “Saved” for a further period depending on the need for them in the light of the emerging Local Development Framework. In respect of any planning applications to develop the land at Bullinghope the

judgement makes it clear that the site can no longer be regarded as allocated for new residential development. Planning permission for residential development is therefore now most unlikely during the plan period of the Unitary Development Plan, i.e. up to 2011. Beyond that the potential for residential development, or any other development of the site, will need to be considered alongside all other land as part of the emerging Local Development Framework. It is not appropriate at this stage to give any indication of the future options for this site.

8. The Unitary Development Plan itself could be completely republished with the relevant parts of the text amended. However, given that there are only four references in the text which need amending, it is recommended that a simple amendment sheet be published and appended to copies of the document as issued following adoption in March 2007. The cost of re-publishing the whole document and all the maps is considered to be excessive given the limited lifetime of the document as a whole and the limited changes now required. Copies of the addendum sheet can be sent to all interested parties on the database of names and organisations developed for the UDP.
9. The changes that need to be made to the text of the Unitary Development Plan are set out in the table below:
10. The Proposals Map (Inset Map HER1 – Hereford City) also needs amending by removing the relevant colouring on the Bullinghope site and the reference to policy H2 (g).
11. The changes will also be posted on the part of the Council's website devoted to the Unitary Development Plan.

<b>CHANGES TO THE TEXT OF THE UNITARY DEVELOPMENT PLAN 2007</b>		
<b>Page</b>	<b>Topic</b>	<b>Change</b>
52	Policy S.3	Reduce total allocation of dwellings in Hereford from 3,781 to 3,481
53	Table 5.2	Reduce relevant sub-totals and final total number of allocated dwellings by 300
55	Paragraph 5.4.13	Delete whole paragraph and sub-heading relating to the allocation at Bullinghope
60	Policy H.2	Remove reference to site at Bullinghope and reduce total allocation figure by 300

**RECOMMENDATION that:**

**Planning Committee note the outcome of the legal determination and endorse the action of the Planning Policy Manager to publicise the changes to the Unitary Development Plan.**