

Planning Advisory Service



Peer Review of the Planning Committee Isle of Wight Council March 2016

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VERSION: Final 2

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EXECUTIVE SUMMARY

Isle of Wight council has commissioned the Planning Advisory Service to support a focussed Peer-Review into the operation of its Planning Committee processes. The review's focus is on the constitutional and procedural arrangements which are in place for planning applications to be determined by the Planning Committee.

The review identifies best practice to help ensure optimal, informed, member involvement and understanding in the process, and that applications are referred for relevant and material reasons.

The review has considered five aspects of the way the Planning Committee functions: its Purpose, the Format and Process, the Customer Experience, the Roles and Responsibilities of officers and members, and the arrangements in place to support Quality and Improvement.

The report has taken account of information from publicly available material (constitution, committee reports etc.), national best practice guidance, the reviewers' own experience, observations through attendance at the Planning Committee meeting of the 1st March 2016, and interviews with councillors, council staff, and public stakeholders.

The review found considerable evidence of good performance and practice including a plan-led framework in place for decision making, good decision making (speed and quality), extensive constitutional and code of conduct arrangements, committee reports and presenting of a good standard, and a strong commitment to improving the planning service from members and officers at all levels within the organisation.

The report has identified a number of areas which would benefit from attention as part of the process of 'continuous improvement', and makes 19 recommendations. First amongst these is the need for a more structured and mandatory approach to member training. Recommendations are also made that would reduce the number of reports being presented to the planning committee and reduce the length and variability of some presentations. The review identifies an inequity between the rights of ward members as a whole, and members of the planning committee who exercise the right to speak as ward member, which should be addressed. It is also recommended that the scope and nature of the strategic role of the Executive member should be better articulated to members and officers, and that the council gives further consideration as to whether the roles of Chairman and Executive member should be combined. The continuance of Quality Review site visits and monitoring reporting is supported.

1.0 INTRODUCTION

1.1 It is a sign of a mature organisation if it opens itself up to review with the objective of continuous improvement in mind. Isle of Wight Council are therefore to be commended for commissioning a peer-review of the way in which its Planning Committee processes operate to ensure the best outcomes are being delivered for the local community as a whole.

1.2 Isle of Wight council is certainly not the first and is unlikely to be the last council to wish to seek external validation of its good practices, and fresh thinking on how best discharge of the council's responsibilities as Local Planning Authority through the Planning Committee processes. Such committees pose, for all authorities, a combination of challenges which need to be reconciled in a manner which is both sensitive to the local context, and which is demonstrably efficient, effective, fair, and consistent.

1.3 The role of Councillors on the Planning Committee presents a challenge to the individual. It is often considered to be a quasi-judicial role, but has been described as

“A formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly.”

Local Government Association/Planning Advisory Service: Probity in Planning for Councillors and Officers 2013.

In this role councillors are expressly being asked to place to one side any party political interests, and their role as the representatives of a particular ward, and assess, debate, and then determine often controversial planning proposals in the wider public interest of the whole council area, and in line with national and local planning policy. They must do so in a way which demonstrates they have understood their role and have approached the decision point open to considering and weighing the merits of all the material issues.

1.4 Planning, legal, and democratic support officers of the council all have clear roles to play in supporting their Councillors in ensuring the Planning Committee is efficient, effective, and upholds the highest standards of decision making. Training, guidance material, report writing, presentations and advice at committee all need to be effective and regularly reviewed in the light of a changing environment.

1.5 Like all councils in the present financial climate, Isle of Wight needs to be satisfied that the operation of its Planning Committee is delivering value for money. The council needs to be satisfied that there is a good match between the significance of the decision to be made on each of the applications which form the agenda for each meeting, and the substantial time and resource costs associated with a planning application being called to committee.

1.6 It is in this context that Isle of Wight council has asked the Planning Advisory Service to support a focussed Peer-Review into the operation of its Planning Committee processes. The full scope of the Review is set out in section 2. The review has been led by Cllr Mike Haines of Teignbridge District Council and Brian Glasson, Head of Strategic Planning and Housing at South Gloucestershire Council. Mike Haines has nearly 30 years' experience as a councillor with many years spent in roles associated with planning committee processes, including chair and executive member roles, in Teignbridge District. Brian Glasson has over twenty-five years' experience as a local government planning officer in both district and unitary authority contexts.

1.7 Whilst many sources of evidence were used to inform the Review, the assessment of the evidence and recommendations made are solely those of the Review's authors. It is hoped that these are presented in a manner which will support the Council's clear commitment to continuous improvement. The authors would like to place on record their thanks to those who have contributed to the Review, and without whose support the task would not have been achievable. In particular we would wish to thank the Executive member for Planning and Housing, Cllr Julia Baker-Smith, and Wendy Perera, Head of Planning and Housing Services. We are also extremely grateful for the advice, guidance, and administrative support given to us by the officers of the Planning Advisory Service and in particular the help of Alice Lester.

2.0 SCOPE OF THE REVIEW

2.1 The review's focus is on the constitutional and procedural arrangements which are in place for planning applications to be referred by Councillors ('called in') to the Planning Committee for determination by the committee members. The review is required to identify best practice to help ensure:-

- Optimal, informed member involvement and understanding in the process, and
- Applications are referred for relevant and material reasons

2.2 The review has considered the following five aspects of the way the Planning Committee functions.

- 1. Purpose**
- 2. Format and Process**
- 3. Customer Experience**
- 4. Roles and Responsibilities**
- 5. Quality and Improvement**

More detail is given at Appendix 1.

3.0 REVIEW PROCESS

3.1 In order to review the Planning Committee processes in line with the scope, and make recommendations based on an assessment of evidence, the review authors have taken account of the following sources of information:-

- Publicly available material from Isle of Wight Council (constitution, committee reports etc.)
- National best practice guidance
- Reviewers' own experience
- Observations through attendance at the Planning Committee meeting of the 1st March 2016
- Interviews with councillors, council staff, and public stakeholders (listed at Appendix 2).

3.2 A summary of the evidence considered relevant to the Review's scope is set out in the following section. The evidence has then been assessed by the authors (section 5) to inform the report's recommendations which are given in section 6. Overall conclusions are drawn in section 7 of the report.

4.0 EVIDENCE

Documentary Evidence

4.1 Some basic relevant statistics about the planning service, and planning committee in particular are as follows:-

- The Core Strategy was adopted in March 2012
- The council is able to demonstrate a 5 year Housing Land Supply (as at April 2015)
- National statistics show that in 12months up to the end of December 2015 IoW council performance in the determination of application applications was as shown below:-

TABLE 1 PERFORMANCE IN THE SPEED OF DETERMINING PLANNING APPLICATIONS

YEAR ENDING DECEMBER 2015	% MAJOR APPLICATIONS DETERMINED IN 13 WEEKS	% MINOR APPLICATIONS DETERMINED IN 8 WEEEEKS	% OTHER APPLICATIONS DETERMINED IN 8 WEEKS	TOTAL NUMBER OF APLPLICATIONS DETERMINED
ISLE OF WIGHT COUNCIL	59%	72%	85%	1282
ALL UNITARY AUTHORITIES	77%	72%	82%	
ALL AUTHORITIES	85%	73%	83%	

Source: National Government Planning Statistics Table P132

- National statistics show that in the 24 months up to the end of September 2015 appeals performance was as shown below:-

TABLE 2 APPEALS PERFORMANCE

24 MONTHS ENDING SEPTEMBER 2015	NUMBER OF PLANNING APPLICATIONS	NUMBER OF APPEALS	NUMBER OF OVERTUNRED DECSIONS	QUALITY (% of all decisions overturned)
ISLE OF WIGHT COUNCIL MAJOR APPEALS	90	6	3	3.3%
ISLE OF WIGHT COUNCIL MINOR & OTHER APPEALS	2306	75	25	1%

Source: National Government Planning Statistics Tables P152 and 154

A monitoring report was presented to the planning committee on 21st July 2015 detailing the appeals performance for the year April 2014-end March 2015.

<https://www.iwight.com/Meetings/committees/Planning%20Committee%20from%202013/21-7-15/agenda.pdf>

This report identified that of the 50 appeal decisions issued, 19 (or 38%) were allowed, above the national target rate of 30%. This included three (two linked) refusals by the committee against officer recommendation which went on to appeal, where all three appeals were allowed.

- An assessment of the number of applications and type going to the planning committee in 2015 is shown below:-

TABLE 3 SUMMARY OF THE NUMBER AND TYPE OF APPLICATION REPORTED TO THE PLANNING COMMITTEE IN 2015

NUMBER OF COMMITTEE MEETINGS IN 2015	TOTAL NUMBER OF REPORTS/ AVERAGE PER COMMITTEE	TYPE OF APPLICATION	DECISION
8	32 / 4	8 MAJORS 22 MINOR/ OTHER 2 COUNCIL	27 AS RECOMMENDATION 2 DEFERRED 3 OVER-TURNED

Source: IoW committee agendas 2015

- The percentage of applications determined under delegated arrangements and percentage of applications granted planning permissions in the year to the end of December 2015, is shown below:-

TABLE 4 PERCENTAGE OF APPLICATIONS DETERMINED UNDER DELEGATED ARRANGEMENTS AND PERCENTAGE OF APPLICATIONS GRANTED PLANNING PERMISSION

YEAR TO END DECEMBER 2015	PERCENTAGE OF APPLICATIONS DETERMINED UNDER DELEGATED ARRANGEMENTS	PERCENTAGE OF APPLICATIONS GRANTED PLANNING PERMISSION
ISLE OF WIGHT	98%	92%
UNITARY AUTHORITIES	94%	89%
ENGLAND AUTHORITIES	93%	88%

Source: National Government Planning Statistics Table P134

- There are 12 Councillors who sit on the planning committee (out of 40 councillors). The committee is considered quorate if 6 or more members are present
- The committee's terms of reference are set out in the Council's constitution, principally at Article 8, and under the Planning, Licensing and Appeal Committee's rules. Members are bound by the council's general code of conduct, and there is also a specific code of practice for members and officers dealing with planning matters

<https://www.iwight.com/documentlibrary/view/council-constitution1>

4.2 We have identified the following national guidance which is of direct relevance to this review:-

Local Government Association/Planning Advisory Service 'Probity in planning for councillors and officers.'

What we were told

4.3 Our interviews provided us with the following evidence against the five areas of inquiry listed in section 2.

Purpose

- All groups of respondents had a mixed view about whether members of the committee fully understand their role, whilst recognising that a number of members were very experienced.
- There was general agreement amongst respondents that more recently (over the last twelve months or so) the committee was looking at the 'right' applications, both in terms of the number and type of applications. Some respondents suggested that minor council and council officer applications where there is no objection could perhaps be considered by the Monitoring Officer rather than by committee.
- Some respondents asked us to consider if the 'gatekeeper' role of the Chairman and Head of Planning and Housing Services in determining whether member 'call in' requests should be considered by the planning committee, helps the council strike the right balance between ensuring that resources are well directed, and ensuring responsiveness to local views.
- There was a mixed response as to whether respondents considered members understand the committee process. Some respondents suggested that a gazetteer of common concepts (e.g. 'right to a view') or acronyms (e.g. 'AONB') might be helpful.

Format and Process

- All groups of respondents consider that they understand the committee process reasonably well, and the format of taking questions, statements, and recommendations is clear.
- Most respondents consider the committee reports to be too long and somewhat repetitive.
- All groups of respondents had a mixed view about whether it was clear members of the committee had read the reports before the meeting.
- Most respondents consider the officer presentations to be good, but they are sometimes too long, and potentially allow members to 'get away with' not reading the reports.
- Respondents generally consider that the committee layout is adequate, given the limitations of the chamber. Some however felt that a 'horseshoe' layout would be preferable as members would then not have their backs to the public (or other members.)
- Respondents had mixed views about whether the current custom of members visiting the site of all applications reported to committee was justified. Some respondents considered that some sites did not need to be visited, however others considered that unless all sites were visited, there would need to be a selection process, which itself might be disputed, and that the additional cost of visiting all sites was marginal.
- Some respondents consider that ward members, and representatives of the parishes and public should be invited to observe site visits to better demonstrate probity.

Customer Experience

- Many respondents questioned the amount of guidance available to members of the public attending committee, both in terms of making the reports accessible (jargon etc.) and explaining the process (e.g. voting procedures).
- A number of respondents questioned the amount of time available for public speaking. There was a degree of consensus that for major applications, the amount of time should be increased, or potentially a separate public meeting should be held prior to the formal committee meeting, for members to hear the views of the public.
- Some respondents noted that whilst officers get a 'right of reply', members of the public do not.
- Respondents generally indicated that the planning service is improving, pointing to examples such as the re-establishment of the agents' forum as evidence of a more open approach.

Roles and Responsibilities

- Some respondents considered that it is not always clear that members are fully able to demonstrate a successful separation of their differing roles as a member of the planning committee and as a ward member. It was further alleged that conflicts of interest are not always consistently declared.
- A number of respondents highlighted an apparent inconsistency in that ward members who are not part of the planning committee, may attend and speak for up to 5 minutes, but then may not play any further part in the committee decision process. In contrast, a member of the planning committee may choose to speak in their capacity as a ward member, and if so, may speak without time restriction, may question officers, and take part in the debate. The only limitation on them is that they cannot vote.
- Most respondents were unclear what the role of the Executive Member at the planning committee is. Some respondents said that the Executive Member is permitted to attend the committee meetings but not speak, or vote.
- Similarly many respondents were unable to express the difference in the roles of the Chairman of the Committee and the Executive Member.
- All groups of respondents considered that the support from officers at committee is of a good quality and consistency.

Quality and Improvement

- Many respondents commented that the planning service had improved considerably over the last twelve months and there was evidence of a growing strength in the senior officer and member leadership.
- All groups of respondents considered that arrangements for training members were capable of improvement. It was considered that training should be mandatory for all members and a regular programme should be established. The suggestion that the council should use independent training providers for the initial (post-election) training was supported by respondents. If members do not undertake training, it was suggested that their 'call-in' rights should be suspended.
- No-one in the council has overall responsibility for member training, co-ordinating a programme, or encouraging and monitoring attendance.
- Some respondents considered that parish councils should be invited to attend any training courses being run where appropriate and space was available.

- Council members and staff indicated that in the past annual quality review visits have been held, and monitoring reports on appeals performance have been presented to the committee.

Other issues

4.4 We noted the following issues, however we consider them to lie outside the direct scope of our review. Nevertheless we hope they are addressed if necessary as part of the planning service's on-going programme of improvement.

- A number of respondents raised concerns about the council's commitment to enforcement.
- Some respondents felt that changes to pre-application processes and the access to historical application details have resulted in a bureaucratic and unhelpful service.
- Some respondents identified concern about the adequacy of the council's back-office IT system for planning and the administrative support necessary to ensure it was being fully used and up-dated.
- A number of respondents commented that the planning service is mid-way through implementing savings, with a commitment to making the service as good as it can be within the resources available.
- Some respondents noted that the local plan will need to be reviewed in due course and there may be increasing upward pressure on housing numbers.

What we observed

4.5 We attended the planning committee meeting on the 1st March 2016, and made the following observations.

- The meeting started at 4.00 and finished at 6.30. Four applications were considered.
- The vice-chair chaired the meeting.
- Three applications were determined in accordance with the officer recommendation, one was deferred for more information.
- It was not clear to us what information is provided to the public in attendance (no non-speaking members of the public were in attendance).
- No questions were raised at the Public Question time.
- **The first application related to a Certificate of Lawfulness** and took an hour to determine.
- The description and application number were wrong at top of report.
- Sometimes it appeared that the committee did not fully understand their technical role, which is a complex one in relation to a Certificate of Lawfulness proposal.
- A committee member spoke as local ward member but it emerged he had also submitted a statutory declaration. He took part in debate and questioning of officers: -potential conflict of interest?
- Some statements from members seemed ill-advised in a public forum, given the potential for a legal challenge or appeal (e.g. stating that the application was 'clearly a sham'.)
- The Head of Planning had to remind members to focus on the application before them
- There was significant legal intervention (which was appropriate given the issues.)
- It became clear that the information to precisely identify if the unit had been open for trading had not been presented (by either side.)
- No member proposed a motion from the floor, this had to come from chairman.
- The handling of motion to refuse, countered with one to defer, was a little muddled, however the outcome which was an agreement to defer, was clear.

- **The second application was for a new Waste facility** on a council owned site.
- The initial officer presentation was 14 minutes long.
- A committee member spoke as ward member (in favour.)
- Neighbour concerns were listened to attentively.
- A number of issues raised could have been clarified earlier in the process (e.g. following the site visit.)
- One member declared towards the end of the debate he was member of the waste advisory panel since 1991 –potential conflict of interest?
- **The third application was for a toilet/café extension** on a council owned site.
- There was a short clear officer presentation.
- Some members focussed on internal arrangements (not a planning matter.)
- The Head of Planning reminded members to focus on the application as presented.
- **The fourth application was a change of use of shop** owned by a councillor (member of the planning committee.)
- Amended scheme (door removed.)
- One member raised a concern about no rear fire escape –a Building Regulations issue.
- **Members' Questions:** Officers were asked for an up-date on a previous decision. -Could this have been better dealt with outside the committee chamber?

5.0 ASSESSMENT

5.1 We are pleased to report that we found many areas of good performance and practice in our review of the Planning Committee at Isle of Wight Council. We also found a limited number of areas which would benefit from attention and improvement. In the main these areas are no different in our experience to the sort of issues which all local planning authorities have had to consider and keep under review from time to time and determine the most appropriate arrangements having regard to best practice and local considerations. It was also clear that within the council there was a high degree of recognition and a consensus about the areas which may require attention.

Evidence of good performance and practice

5.2 We have identified the following as areas we would wish to highlight as evidence of good performance and practice:-

- There is a local plan (core strategy) in place and a reported 5 year housing supply. This means that a local plan and policy-led approach to development decisions (including housing) is available to the council
- The reported speed in determining planning applications (table 1) seems reasonable, with only 'major' applications slightly on the low side, although it is acknowledged that performance in this category is highly volatile due to the relatively low number of applications.
- The reported performance and 'quality' of appeal decisions seems good, and we understand it is continuing to improve in 2015/16. We have noted and support the use of monitoring reports to ensure members remain focussed on this issue.
- The number of applications being reported to committee over the last twelve months (table 3) seems reasonable, averaging 4 per committee. We have noted that most respondents consider that the 'right' type of applications are now being reported to committee.
- The Council's constitution and codes of conduct and practice in relation to the planning committee are extensive and clear.
- Respondents told us, and we observed, that the administration and chairing of the planning committee is sound
- Committee reports are comprehensive (if lengthy) and officer presentations well received by respondents to our review.
- We were told that the agents' forum has been re-established to improve dialogue between the council and the most frequent users of the service
- We gained a sense that the planning service is an improving service, and that this is being driven by senior officer and member leadership which is growing in strength and unity of purpose.
- We also gained a sense of a strong commitment to the planning service from members and officers at all levels within the organisation.

Areas which might benefit from further consideration

5.3 We have identified the following areas which we think would benefit from attention as part of the process of 'continuous improvement'. We have grouped these under the review's areas of focus. Where appropriate we have explored the issue and suggested options.

Purpose

1 It is not clear that all members understand their role

2 It is not clear that all members understand the purpose of the committee

We think that a mandatory training programme for members would help address these concerns.

3 Reducing the number of applications reported to the planning committee

If a further reduction in the number of applications automatically being reported to the planning committee was considered desirable, in the light of our assessment (table 3) and observations, we consider there could be a benefit in considering an amendment to the constitution to enable council applications of a minor nature, where there are no objections, to be processed under delegated powers provided they are subject to scrutiny by the Monitoring Officer prior to the decision being issued. These arrangements could apply to minor applications where either the council, council officer or member were the applicant or had a declared interest.

The LGA/PAS guidance (para 4.2) indicates that all such applications should go before a planning committee, however we consider this is a matter to be weighed by the authority.

4 The delegated arrangements and review process for 'call ins'

Within the constitution the Code of Practice for members and officers dealing with planning matters specifies that any member of the council may request that an application is 'called in' to the Planning Committee as follows:-

"17. The majority of applications will be dealt with by officers using delegated powers, however, the following applications and related submissions will be determined by the Planning Committee:-

(d) Applications where an elected member for the ward in which the application site is located, has within 7 days of receiving a summary of the officer recommendation submitted a written request for determination by the Planning Committee. The written request must contain relevant and material planning considerations that cannot be overcome by conditions and/or revised drawings. The Head of Planning shall determine whether the reason(s) for requesting call-in to planning committee is/are relevant and material to the consideration of the application"

PARAGRAPH 17 OF THE CODE OF CONDUCT

Recent practice has been for the review power of the Head of Planning and Housing Services to be used in consultation with the Chairman of the Planning Committee to provide a degree of member oversight.

The issue is whether a member's ability to 'call in' an application to the Planning Committee should be subject to any review at all, and if so whether the existing practice is appropriate.

We are of the opinion that the terms of reference of the Planning Committee are set out clearly in the council's constitution, particularly at paragraph 2 of the Code of Conduct:-

"2 Planning Committee is established by the Full Council to determine those issues which have a genuine Island wide significance due to their size or impact; raise marginal and difficult policy issues (including inconsistency between policies); are

made for commercial or potentially contentious purposes by elected members or officers (or their spouses); or are contentious among the wider island communities.

PARAGRAPH 2 OF THE CODE OF CONDUCT

There is a risk that if there were no process of oversight to member's 'call in' referrals this strategic purpose could be quickly undermined. The inherent delays in determining applications, and the substantial resource costs associated with decision making by the Planning Committee can only be justified in our view if the agenda is focussed on significant applications as defined by paragraph 2 of the Code of Conduct. This means that retaining a process which allows 'call in' requests to be reviewed is desirable.

We do not subscribe to the view that the council in seeking to exercise control on the applications which come before the Planning Committee is acting 'undemocratically'. The inference would be that all delegated decisions are somehow 'undemocratic', a problem for an authority which determines well over 90% of applications this way –in common with the majority of other councils. The exercise of the council's delegation arrangements are democratic since their scope and operation is agreed by councillors and established through the council's constitution, where they are subject to oversight, review, and revision by members as required.

We have not been shown, or asked for, information on how often 'call in' requests are being turned down upon review, however this has not been presented to us as a major issue through our discussions with stakeholders. We therefore support the continuation of the practice of the 'call in' review by the Head of Planning and Housing Services being in consultation with the Chairman of the Planning Committee. We also consider that succinct reasons for acceding to, or refusing, a call in request should be provided in writing to the ward member and be added to the planning application casefile.

Finally, we do not consider the benefits of widening the group of reviewers would outweigh the increased bureaucracy, or necessarily make the exercising of the decision any easier.

To keep the current arrangements under review, the number of requests acceded to and the number refused through 'call in' reviews, could perhaps be added to the routine review/monitoring reports received by the Planning Committee.

Format and Process

5 It is generally considered by those we interviewed that committee reports are too long

We understand that committee reports have to be comprehensive, setting out all the policy and material considerations before members so that they are demonstrably in a position to take an informed decision. The tendency to lengthening committee reports is a common issue for many councils.

Our view was that the reports are not noticeably out of line with those of other authorities, and the ones we have reviewed did not contain sections which were obviously superfluous or unduly lengthy. We are unable therefore to recommend any specific steps to reduce their length.

6 Some respondents considered the officer presentations to be too lengthy and could be contributing to the impression that not all committee members read the reports.

We observed a high standard of presentations and considered that in the main these reflected appropriately the complexity of the application before members. We are also aware that officers

value the opportunity to present the ‘fruits of their labour’ to the planning committee. However in making comprehensive presentations as well as duplicating the information in the committee report there is the potential danger of inadvertently placing a different emphasis or balance on a material issue than is contained in the report, which is necessarily more structured. We consider therefore that there may be scope to move to a more standard format of presenting the plans and explaining the proposal, and only drawing members’ attention to the main considerations in summary, and any late up-dates.

7 There were mixed views about how successful the committee layout is. There seemed to be some support for trying a revised ‘horseshoe’ arrangement, to better integrate the public into the process.

8 There were also mixed views on the benefit of the committee visiting all sites prior to determining the applications.

Visiting all sites appears to have become an established custom, rather than being a requirement of the constitution. However it does avoid the need for the Head of Planning and Housing and Chairman to have to make a choice, which then might be open to challenge. We also heard that the additional cost of visiting all sites rather than just a selection was marginal. On balance we feel that with the present number of applications being reported to committee (4 on average), the current arrangements are manageable. We think the option for the Chairman and Head of Planning and Housing to operate a choice-based process should remain in reserve. The requirement that members are only able to take part in the committee determination process if they have been on the site visit, acts as a useful incentive to good attendance levels.

9 Some respondents suggested other attendees (ward members, and parish and member of the public representatives) should be present at committee site visits to vouchsafe probity.

Ward members, parish councils and members of the public are not formally invited, or sent notifications of the committee sites visits. However if they choose to attend they are permitted to remain in an observing capacity (subject to landowner consent if access is over private land).

There are pros and cons with formally extending the attendance at Committee Site Visits. Some respondents told us that parish and public attendance would underline the council’s commitment to openness and probity in its assessment of planning proposals. However the purpose of the committee sites visits, is to ensure that members of the committee are in an informed position to assess the application. Broadening attendance runs the risk of signalling that the site visits are a public meeting. On balance we consider the existing arrangements should remain as they are.

Customer Experience

10 It is not clear what guidance is provided to attending members of the public, at committee and respondents seemed uncertain

We have not seen any of the material which is made available, but consider that this should be reviewed to ensure it remains fit-for-purpose

11 The time limits for public speaking are not adequate for major or controversial applications

The constitution makes it clear that the period for public speaking may be extended if the chairman agrees that this is desirable for reasons of natural justice, fairness or for other reasons to enable the proper determination of an application.

We also consider that the suggestion that the use of a public meeting prior to the formal planning committee meeting be used for members of the committee to hear public views (but not debate the merits of a scheme), is sensible, and relevant major applications should be identified as early as possible in the determination process.

Roles and Responsibilities

12 Respondents told us, and by our own observation, it is clear that some members raise non-planning issues at the committee

We think that a mandatory training programme for members would help address these concerns, in addition to the continuing direction of the Chairman and Head of Planning and Housing Services in reminding members what are relevant considerations as necessary during committee debates.

13 Members of the planning committee, who opt to exercise their right to speak as ward members, are placed in an advantageous position by the constitution, compared to ward members who are not members of the planning committee, since they can talk without time restriction, question officers and take part in the debate (but not vote).

This seems inequitable to us, and could unintentionally be encouraging committee members to opt into the role of speaking as ward member with more frequency than we have experienced elsewhere (see 13 below).

The solution would appear to be either to give the committee member choosing to speak as a ward member no more rights than all other ward members, or to extend the same privileges of the committee member speaking as a ward member, to all other ward members.

14 There seems to be a relatively high incidence of members of the committee speaking as ward members.

We consider this could give rise to a confusing impression that the duties of being a member of the planning committee can be simply taken 'on and off' as circumstances dictate, and that ward member duties could be seen to have precedence. We believe that members taking on the duties of being a member of the planning committee should not be setting these aside with such apparent frequency.

This is an area which should be addressed by training, and/or legal advice. The LGA/PAS publication listed at section 4.3 also gives guidance on the issues of predisposition, predetermination, or bias. However in simple terms we see no reason in principle why a member, speaking as a member of the planning committee, cannot set out the issues which have been raised by their ward constituents (whether for or against a proposal) whilst making it clear that they have not closed their mind to the debate, or have pre-determined the application. Alternatively, they should consider asking another member to attend the committee to express the views of their ward residents, leaving them free to continue to act in their planning committee role.

We consider it should only be in exceptional circumstances (say, three or four times per election cycle at most) that an individual member of the planning committee would need to step out of

this role and speak instead as a ward member. If a planning committee member feels this discipline would be too constraining on their role as a ward member we feel that they might need to consider whether they need to permanently step aside and allow another member to take their place on the planning committee.

15 There seems to be a lack of clarity about the Executive member role at the planning committee.

We were told the Executive member can attend the committee, but is not allowed to speak. In fact the constitution does allow the Executive member to attend and speak on policy matters.

The LGA/PAS guidance identified at section 4.2 states:-

'Authorities will usually have a cabinet/ executive member responsible for development and planning. This councillor is able to be a member of the planning committee. Leading members of a local authority, who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.'

We consider the strategic leadership role both in being responsible for the strategic direction of the Planning Service (and committee), and the articulation of the council's policies, is extremely important, particularly in times of change. There is considerable change being experienced by the Isle of Wight planning service, due to service restructuring pressures, but also due to the significant change to the national planning policy context.

We think that the scope and nature of the strategic role of the Executive member should be better articulated to members and officers

16 There is a lack of clarity about the difference between the role of Executive member and Chairman of the Planning Committee

The council's current code of practice requires the role of Executive member and Chairman to be separate. We consider the advantage of this is that it makes the distinction between the Executive member's role in providing strategic leadership and guidance on policy matters, distinct from the more operation focus of the chairman which is on the efficient and effective management of the committee and decision making.

Arguably given the internal, financial and restructuring pressures on the council, and the external pressure of significant and continuing change to the national planning policy environment, the need for resources to be directed to providing and articulating clear strategic leadership and support has never been more pressing. The dilution of this role for a focus on more operational delivery matters could be a mistake.

We also consider, given the practice at the Isle of Wight, that the Chairman can vote in their own right, and also exercise a casting vote, that if the Chairman and Executive member roles were to be combined (which we understand is under consideration), it could be assumed that the Chairman's voting intention (for both their initial vote and any subsequent casting vote) was pre-determined, as presumably the Executive member would only vote in a manner which supported council policy.

There are however some benefits which would apply if the roles were to be combined, and we accept the view this would give emphasis that the planning committee has an integral role in

supporting the delivery of the council's planning policies. The combining of the roles would also reduce the 'double-handling' complaint we have heard from respondents as the Chairman and Executive member have tended to shadow each other. However this confusion could be avoided if the distinction between the roles was better articulated.

We will leave it for the council to consider the best way forward on this point in the light of local circumstances.

17 Members of the planning committee making unguarded comments

We consider that the practice of members openly speaking their minds at committee, without fully considering the implications for their role or the soundness of the council's decision making, presents a risk to the council which needs to be managed.

We consider training is needed to address this issue. Members should be made aware of the legal challenge risks and potential costs.

18 Some respondents expressed concern that conflicts of interests are not being consistently disclosed. By our own observation at committee there were two apparent conflicts of interest which had not been resolved before the meeting.

We consider training is needed to address this issue. Members should be made aware of the legal challenge risks and potential costs.

Quality and Improvement

19 All respondents considered that the training for members should be improved

We consider that initial training should be mandatory for all members, since they all have a role to play in the planning system. Members not undertaking training within a reasonable period should not be able to exercise their 'call-in' right.

We further consider there may be a benefit in arranging for an external provider (e.g. Planning Advisory Service) to provide this initial training, with key (planning, legal and committee) officers also present to provide any local context.

We consider that in addition to the initial training for all councillors there should also be a planned and managed programme of further training on planning issues through the life of the council cycle with mandatory attendance for planning committee members, and recommended attendance for other members. A single officer (existing or new role) should have responsibility for member training, development and support, to emphasise the commitment the authority gives to this. Many of the issues we have identified could be resolved through a consistent programme of training, with support for members to undertake this, and appropriate sanctions for non-attendance. Where the training is likely to be of interest and there is sufficient capacity, parish councils should be invited as well, (either free of charge or at minimal cost.)

20 Quality review of sites

We noted that reviews of development granted permission by the committee have occurred in the past, and would support their continuance on an annual basis. This practice is also endorsed by the LGA/PAS guidance listed at paragraph 4.2.

6.0 RECOMMENDATIONS

6.1 In summary, we make the following recommendation to the council.

- 1 A mandatory training programme for all members should be introduced. Members not undertaking training within a reasonable period should not be able to exercise their 'call-in' right.
- 2 We further recommend that consideration be given to the benefit in arranging for an external provider (e.g. Planning Advisory Service) to provide this initial training, with key (planning, legal and committee) officers also present to provide any local context. We consider that initial training on planning matters should be mandatory for all members, since they all have a role to play in the planning system.
- 3 We recommend that in addition to the initial training for all councillors there should also be a planned and managed programme of further training on planning issues through the life of the council cycle with mandatory attendance for planning committee members, and recommended attendance for other members. A single officer (existing or new role) should have responsibility for member training, development and support, to emphasise the commitment the authority gives to this. Where the training is likely to be of interest and there is sufficient capacity, parish councils should be invited as well, (either free of charge or at minimal cost.)
- 4 To keep the 'call in' review arrangements under review, the number of requests acceded to and the number refused through the 'call in' review power of the Head of Planning and Housing Services in consultation with the Chairman, should be added to the routine review/monitoring reports received by the Planning Committee.
- 5 To reduce the number of reports being presented to the planning committee further, the council should consider the benefit in considering an amendment to the constitution to enable council applications of a minor nature, where there are no objections to be processed under delegated powers provided they are subject to scrutiny by the Monitoring Officer prior to the decision being issued. These arrangements could apply to minor applications where either the council, council officer or member were the applicant or had a declared interest.
- 6 To reduce the length and variability of some presentations, and to encourage members to read the committee reports, we consider therefore that there may be scope to move to a more standard format of presenting the plans and explaining the proposal, and only drawing members' attention to the main considerations in summary, and any late up-dates.
- 7 We do not recommend any change to the custom of committee site visits for all applications reported to the planning committee. We think the option for the Chair and Head of Planning and Housing to operate a choice-based process should remain in reserve.
- 8 Given the clear definition of the purpose of the committee sites visits, we do not recommend that the attendance at committee site visits should be formally broadened to include ward members or parish and public representatives.

- 9 We consider any on-line and printed material which is made available to guide members of the public attending the planning committee should be reviewed to ensure it remains fit-for-purpose.
- 10 We consider that the right of the chair to extend the period for public speaking for reasons of natural justice, fairness, or for other reasons to enable the proper determination of an application, should continue to be applied.
- 11 We also consider that the occasional practice of holding a public meeting prior to the formal planning committee meeting for members of the committee to hear public views (but not debate the merits of a scheme), should continue to be used for relevant major and controversial applications. The need for any such arrangements should be identified as early as possible in the determination process.
- 12 We consider that the present inequity between the rights of ward members as a whole, and members of the planning committee who exercise the right to speak as ward member should be addressed. The solution would appear to be either to give the committee member choosing to speak as a ward member no more rights than all other ward members, or to extend the same privileges of the committee member speaking as a ward member, to all other ward members.
- 13 We recommend that members of the planning committee should only in exceptional circumstances (say, three or four times per election cycle at most) find it necessary to speak as a ward member. Training and support should be given to ensure that planning committee members can perform this role for the significant majority of their term on the committee.
- 14 We recommend that the scope and nature of the strategic role of the Executive member should be better articulated to members and officers.
- 15 We consider that whether or not the role of Chairman and Executive member are combined is a matter which the council is best placed to assess having regard to the advantages and disadvantages we have identified and in the light of local circumstances.
- 16 We recommend that Members should be made aware through training of the legal challenge risks and potential costs, if unguarded comments are made at the committee meeting.
- 17 We recommend that through further training Members should be made aware of the legal challenge risks and potential costs, in not declaring all conflicts of interest fully and consistently.
- 18 We recommend the continuance on an annual basis of the Quality Review site visits.
- 19 Finally, we recommend that the other issues identified at paragraph 4.4, whilst outside the scope of this review, are investigated, as appropriate by the council.

7.0 CONCLUSIONS

7.1 This review has focussed on the constitutional and procedural arrangements which are in place for planning applications to be determined by the Planning Committee. The review has found considerable evidence of good performance and practice, and a planning service which, whilst in transition, has good strategic leadership and a clear focus on improvement.

7.2 The review has identified a number of areas which would benefit from attention as part of this process of improvement, and has made a number of recommendations. We hope these recommendations are presented in a way which is both sensitive to local context and facilitates their discussion and adoption. Ultimately we hope they support the improvement priorities for the planning committee and service over the coming year, succinctly summarised during our review by the Head of Planning and Housing Services as:-

- Supporting Planning Committee (and non-committee) members carry out their planning roles
- Helping the planning service move forward to be the best it can be, within the resources available,
- Working closely with local communities and stakeholders to achieve good planning outcomes

We wish you all the best with these endeavours.

Mike Haines & Brian Glasson

March 2016

APPENDICES

APPENDIX 1:-SCOPE OF THE REVIEW

APPENDIX 2:- LIST OF INTERVIEWEES

SCOPE OF THE REVIEW

The review has considered the following five aspects of the way the Planning Committee functions:-

1. Purpose

- Is it clear that members of the committee fully understand their role?
- Do the delegated agreement and process for 'call ins' serve to support the committee members and officers in making best use of their time to look at the 'right' applications?
- Do members understand the process, and is the information they receive relevant and concise?

2. Format and Process

- How are applications debated, voted on and the chair's casting vote used?
- Does the standard, clarity and layout of committee reports support the committee process?
- Does the presentation of committee reports by Planning Officers support the committee process?
- What is the process for Councillor site visits, how are views recorded and reported back to committee?
- Does the committee chamber layout support the committee process?
- How effective are the arrangements for training committee members?

3. Customer Experience

- How is public engagement managed at the committee?
- How could public understanding of the role, and limitations of the planning committee be improved?
- How should public representations be managed during the committee?

4. Roles and Responsibilities

- Is the role of Councillors on the committee, and more widely, understood in relation to the handling of planning applications and ensuring probity?
- Is the role of the Executive Member for Planning and Housing Services at committee understood by all concerned?
- Is the support from officers at the committee consistent and of high quality?

5. Quality and Improvement

- How effective are the arrangements for training committee members?
- What monitoring and review arrangements are in place for the committee to assess its performance?
- What does good look like?

APPENDIX 2

LIST OF INTERVIEWEES

Interviews were held with the following councillors, council staff, and public stakeholders. We are extremely grateful for their time and the information they gave us.

Planning Committee members:

Cllr Whitby-Smith

Cllr Howe

Cllr Blezzard

Cllr Barry

Cllr Lumley

Lead Members:

Cllr Julia Baker-Smith (Executive Member for Planning and Housing)

Cllr Bacon (Leader of the Council)

Council Staff:

Wendy Perera (Head of Planning and Housing Services)

Marie Bartlett, Democratic Services

Mike Gildersleeves, Sarah Wilkinson, Russell Chick, Oliver Boulter, (Principal Planning Officers)

Planning Agents:

Glen Hepburn - Hepburns Consultants

Christopher Scott -Christopher Scott

Parish Councils:

Brighstone

Bembridge