

DEVELOPMENT MANAGEMENT COMMITTEE REVIEW ADVISORY GROUP (Report of the Advisory Group)

1. INTRODUCTION

- 1.1 Following a Motion carried by the Council on 13 December 2017, the Development Management Committee, on 22nd January 2018, appointed an Advisory Group to review and make recommendations on the operational processes of the Development Management Committee (DMC). The Advisory Group met on three occasions when Councillors E R Butler, S Conboy, R Fuller, I D Gardener (Chairman), P D Reeve, L R Swain were present. J Jaarsma and A Roberts were in attendance.
- 1.2 The Development Management Committee subsequently appointed an Advisory Group to review the previous Group's work. This took place on 7th March 2019, and the outcome is now submitted to the Committee for approval.
- 1.3 To inform its work, the Group sought the views of Huntingdonshire District Council Members and Town and Parish Councils. There was a good response and the Group was grateful for their input some of which has been considerable. This has been taken into account and is reflected in the conclusions that have been reached.

2. SCOPE

- 2.1 The Advisory Group has considered the points made in a submission by a member of the public on the terms on which the review has been established. With regard to the review's relationship to a previous decision by the Development Management Committee, it has been confirmed that this was not its purpose. Instead, it was to review the DMC's general operational procedures. However, that decision has been discussed and reference is made to it later on in the report.
- 2.2 It also has been suggested in the submission by the member of the public, that the review should have been undertaken by individuals who are independent of the Council. The Group has disagreed with this suggestion on the grounds that the Council's committees often review their own effectiveness, a process that was established by the Corporate Governance Committee and that the Committee is aligned to the Council's strategic orientation. Furthermore, Officers in the Development section who supported the Group brought significant experience of the operation of Planning Committee's in other authorities.

3. DEVELOPMENT MANAGEMENT COMMITTEE OPERATIONAL PROCEDURES

- 3.1 The Advisory Group is of the view that generally the DMC is effective and efficient, and that the current levels of delegation are very appropriate and necessary, as it permits DMC time and Member scrutiny to be focussed on the most important applications. The Group has looked at whether the operational procedures are up to date and fit for purpose. To do this Members have examined a range of matters, which have been addressed during similar reviews at other Local Planning Authorities or in the consultation responses. Their conclusions appear in the following paragraphs.

Size of the Committee

- 3.2 The size of the Committee ensures that there is robust and wide-ranging debate. The Group is not aware of any arguments to change the number of Members on the Committee and it has not been raised as a matter of concern in the consultation.

Location, frequency, start time of meetings

- 3.3 No particular problems have been raised with the location of meetings but concern has frequently been expressed by consultees about the late finish times of meetings. Monitoring data shows that of twelve meetings in 2016 and 2017, eight finished after 10.00 pm and three of these continued until after 11.00 pm.

- 3.4 Members recognise there would be some merit in holding meetings during the daytime. This would ensure meetings do not continue until late in the evening, and would address some consultees' concerns about Members who work during the day then having to stay late. However, evening meetings are preferable for interested parties who would be required to take leave to attend daytime meetings. The frequency and extent of public speaking should be monitored, so as to judge the extent to which the ability to access meetings is valued.

- 3.5 Examples have been found of other Councils who have established two Committees to determine applications. The arguments against doing this are:

- the Council is making significant efforts to make its operations as lean as possible and establishing an additional Committee would be contrary to this strategic aim;
- it would be difficult to ensure there is consistency of decision-making, and
- such a change should not be introduced before the effects of the new Scheme of Delegation are known.

- 3.6 Another option, at other authorities, is to establish a fixed limit to the number of items on an agenda together with a reserve date every month for use if the limit is exceeded. Officers would have discretion to manage the agenda depending on the size or complexity of the applications.

- 3.7 There is no fixed limit or reserve meeting date at Huntingdonshire, but Officers already take into consideration the amount of business to be transacted when constructing the agenda for meetings and balance this against the need for timely decision making. The Group supports Officers' continued use of discretion in this way. It is recommended to look again at this matter once the changes to the Scheme of Delegation have taken effect and informed by further analysis of public attendance and engagement in the process. At the present time, for the reasons given above, the Group's view is that continuing with the present arrangements is recommended. The Group has seen no evidence that the quality of decision-making is affected by late finish times but recognise that public perceptions on quality of decision making are important.

Introduction of a fixed finish time / requiring a vote to proceed later

- 3.8 On a related matter some Councils' Constitutions specify a fixed finish time for meetings, with a vote being required to continue after that time. This is not supported on the grounds that interested parties would have to return on another date and it creates time pressure to take decisions. Flexibility on the commencement times of meetings, should there be a busy agenda, may be a more effective way to manage volume of business and has been used before.

Content and layout of reports

- 3.9 Reports submitted to the Committee are of a very high standard and are comprehensive. They demonstrate that a significant amount of work goes into every application. In light of some of the comments that have been received, the Group has some frustration that this is not more widely recognised. The Officer report is a sound basis for proper decision making, with the recommendations and rationale taking account of all comments received, with additional debate not seeking to rehearse similar issues. If an immediate decision can clearly be made upon acceptance of the report, then an early proposer/seconded followed by vote is preferred, without discussion for discussion sake, particularly on cases where no public speaking is listed. This would also assist with the length of meetings. It should also be emphasised during training for town and parish councils.
- 3.10 Postcodes should be included on the Agenda front sheet to assist Members when preparing schedules of site visits. This has been implemented where postcodes are available.

The order of Agenda – discretion of Chairman to change

- 3.11 The Group has not shied away from addressing what has in one instance become a matter for concern for some members of the public. Arguments for and against the Chairman having the discretion to change the order of the Agenda have been debated. Different views have been expressed on whether the Chairman is the servant of the Committee or responsible for its operation. Experience of the operation of committees at other authorities supports the latter position. Significantly, none of the District Councillors or town and parish councils raised this in their consultation responses.
- 3.12 The conclusion of the Group is that the Chairman is responsible and should have the ability to change the order of the Agenda, based on custom and practice and a clear resolution at the meeting. This point can be captured accordingly in a future review of the Constitution. In furtherance of transparency it is recommended that the Agenda front sheet should include a prominent note to this effect. Recognising that all items on DMC have a material reason for being on the agenda, it is the obligation of all DMC Members to ensure they attend the whole meeting and are thereby able to take part in all planning merits debates and agenda management.
- 3.13 It is noted that the Council's Constitution contains provision for any Member of a Committee to move a motion that the order of the Agenda be changed. It is recommended as a general point, that Members should receive detailed training on committee procedures.

Method of Presentations by Officers / Display of plans, photos

- 3.14 The methods of presenting and displaying applications at meetings are satisfactory. Apart from the recommendation in paragraph 3.9, it is not recommended that any changes are made.
- 3.15 The Presenting Officer should always have the opportunity to start and close the debate on an application by stating the reasons for their recommendation and ensuring that, as the Committee's professional advisors, decisions are being taken having regard to all the relevant material considerations.

Access to Pre-application Advice

- 3.16 It is not recommended that pre-application advice is routinely included in reports as this may not have been based on the proposal as then submitted and was provided without the benefit of comments from all interested parties as is the case with planning applications.

Advice to public on the Committee's process / role

- 3.17 A number of documents exist, which contain terms for public involvement in the DMC process. These should be reviewed to ensure they are consistent and reflect current procedures.

Engagement with Town and Parish Councils

- 3.18 There is a need to promote mutual understanding and trust between the Local Planning Authority and town and parish councils, and this has informed the Group's deliberations on engagement with them. It is recognised that some town and parish councils fulfil a very effective role in respect of planning and their positive engagement, input and insight is welcomed.
- 3.19 It is noted that when Town or Parish comments are close to being valid, Officers will make contact and try to provide assistance with formulating fully valid reasons for recommending a decision. It is recommended that where similar issues concerning responses to consultations repeatedly occur, Officers should continue to endeavour to provide advice on them for proactive general distribution as part of training sessions.
- 3.20 It is suggested that Town and Parish councils will benefit from further training and direction to advice already available, particularly on what their rights are and on what are valid planning reasons. This also is the view of town and parish councils themselves. Highways matters and parking are examples of subjects that might be covered. It could help them to provide their own evidence to weigh against the views of statutory consultees and assist them to understand what constitutes such evidence. Whilst DMC itself operates a mandatory training requirement, it is suggested that Town/Parish Councils should themselves consider a similar arrangement for how they comment on planning matters, particularly if the Town/Parish has a specific 'planning sub-committee' arrangement.
- 3.21 A request has been made that the Council should provide town and parish councils with feedback on all decisions. It is felt that this would constitute an excessive workload and one that will not realise the hoped for effects and the

Officer report already clearly sets out the reasons for the recommendations and likely decision and is publically available. Instead, it is recommended that Officers should provide information on the consideration and balancing of planning considerations as part of training sessions.

- 3.22 A idea was considered that actions to improve interaction between town and parish councils which were exemplars of how to engage on planning matters and they could be in contact and work together with those seeking guidance to work together. It was agreed that Town and Parish Councils should investigate the feasibility of establishing an online discussion forum accessible only to town and parish councils, building on the planning training provided by the District Council. It could be linked to the role of the Town and Parish Representative on the Growth and Infrastructure Group. A further mechanism that might prove useful is a dedicated email contact on the District Council website to ask questions on planning matters.

Member Training

- 3.23 Following the change to the Scheme of Delegation and the greater role of all Members in responding to consultation on applications in their Wards, it is important that the induction for new Members should continue to include training on planning and more generally on council procedures. This is to be referred to the Member Support Officer for action.
- 3.24 On the basis of their experience of the DMC, the view is that enhanced training should be provided for DMC Members. In addition to the programmed quarterly events that already take place, it should take a whole day and be potentially provided by an external expert trainer. It should be repeated annually. The Planning Services Manager (Development Management) will explore the feasibility of holding the training in conjunction with neighbouring authorities.

The Member Planning Protocol

- 3.25 The new proposals for training should be referred to in the Protocol.

Public Participation / Speaking

- 3.26 Members of the Group have considerable experience of speaking by interested parties on applications both through DMC meetings and through feedback from town and parish councils. Comment has been received through the consultation that the order of speakers might be changed to permit challenge of inaccurate statements. However, the order is based on the principles of natural justice and on accepted best practice, including the process at appeals.
- 3.27 A Town Council has suggested that for larger applications interested parties should be allowed to speak for longer. This misses the point of the speaking scheme. It is to allow the interested parties to draw attention to particular points, which they have already made during the formal consultation process. It should not be used to introduce new points as Officers will not have their usual opportunity to test them. Equally, public speaking should not be used by Members to provide the opportunity for speakers to expand the merits debate and thereby effectively give the speaker an unequitable amount of time. The

speaking slot should merely be used for the individual to state their point of view, with the merits debate taking place between Members themselves and with Officer guidance as appropriate. It is therefore suggested that the '*points of clarification of what has been said*' provision is discontinued. Speakers have the opportunity to clearly set out their position. Members do not similarly seek clarification of others who have written in but are not able to speak (which may include objectors if three other objectors have already registered to speak).

- 3.28 The scheme for speaking does not otherwise need to be changed.

Debate Process e.g. when Members are minded to go against the Officer recommendation, should there be deferral, adjournment, subsequent confirmation of reasons

- 3.29 The Committee has to give reasons when, contrary to the recommendation, it decides to refuse an application. Members have discussed whether reasons should be prepared in advance for the alternative proposal for all applications but consider this to be too onerous and would lead to a significant amount of unnecessary work being undertaken. Drawing on the process at Cambridge City Council, the Group instead recommends, where an application has been refused contrary to Officers' recommendation, reasons will need to be given before the vote is taken, but the Committee should receive a further report at the following meeting on the full reasons for the decision as stated by the proposer (and seconded) and the policy and process implications of that potential decision, which it will then be requested to confirm. Where an application is refused contrary to Officer Recommendation, there will be a requirement for the proposer/seconded, supported by Officers, to present the Council's case to any subsequent appeal. Officers are prevented from doing so by their RTPI professional Code of Conduct and could not be expected, nor be credible, to deliver a strong case that was against their original recommendation. In addition, Members would welcome greater input during meeting debates from the Legal Adviser on reasons for, and implications of, decisions (and generally from Planning Officers). Attention is drawn to Officers' ability to speak during debates under paragraph 16 of the Constitution's Procedure Rules.

- 3.30 Recent case law has established the need also to give, and record, reasons where the Committee approves a decision contrary to the recommendation. The latter is in addition to identifying conditions to be applied to the permission. Reasons will need to be given before the vote is taken. This situation needs to be reinforced to the Committee.

- 3.31 With specific regard to highways matters, Members are of the view that more detailed explanation from the Highways Authority of its views on applications than is currently received would considerably assist the decision making process. The County Council advice will be taken as the standard 'expert' position unless evidence of a sustainable and substantive contrary view has been secured. The County Council will also be asked to contribute to future planning training sessions on its highways function.

Role of Ward Councillors

- 3.32 As stated above, Ward Members need to be more engaged in planning (see para. 3.23). It is recommended that they should continue to receive notifications of applications through the weekly list. 3C ICT will be consulted on enabling Members to register to receive notifications electronically using Public Access. Officers are asked to prioritise communications from Members on planning applications to enable them effectively to carry out their role.
- 3.33 Whilst it is recognised that planning can be an emotive issue at Ward level, it is important that Members play an ambassadorial role between the Council and their communities. Officer recommendations are always made with due regard to the policies adopted by the Council itself. Consequently, there should normally be a high degree of ownership and alignment of those recommendations and decisions accordingly by both Officers and Members. Alternative outcomes should be reserved for when there is a material planning point that can be evidenced and substantiated on an alternate decision. Where Members prefer to align with the community view, they should be clear upon the reasons for that and seek early advice on how best not to prejudice the decision making process and how to best represent any such ward level interest if DMC is debating the case.
- 3.34 The need for non-DMC Members to receive training on planning is re-iterated.

Monitoring and Review

- 3.35 The Group supports the idea of receiving more detailed information on Inspectors' decisions including indications of what points are significant. This can only enhance Members' understanding of planning and should be discussed at training sessions. The existing monthly report on appeals should be retained. It is suggested that Members might benefit from attending appeal hearings as observers.

Seating Positions

- 3.36 It is noted that seating positions are determined by the Chairman and are fixed. This will become more important once voting through the new microphone system is introduced. This will enhance openness and public understanding of decisions. Public display of voting numbers should be introduced. The rules for recorded votes will still apply.

4 CONCLUSION

- 4.1 The review of the DMC's operational procedures has not been undertaken in isolation. It has incorporated the views of interested parties who have first-hand experience of the planning process. The Group also has had the benefit of input from an Officer who has considerable experience of planning committees at other local planning authorities.
- 4.2 Overall, it has been found that the DMC works well. A strong theme that has emerged concerns the importance of enabling all interested parties to play a full and effective role in the planning process and the requirement for Members to be ambassadorial in helping explain material planning issues and

the policies of the Council. Suggestions have been made to enhance town and parish councils' role around mutual support and sharing of expertise.

4.3 Attention is drawn to the fact that in a number of respects the existing arrangements are considered to be satisfactory, indeed the quality and amount of work that goes into assessing and compiling reports on applications is commended and needs to be more widely recognised. That is not to say that nothing can be improved. Some changes are recommended, as follows:

- **Officers should continue to manage the Agenda for DMC meetings,**
- **A fixed finish time for meetings should not be introduced but this should be kept under review,**
- **The 'Points of Clarification' within public speaking provisions should be discontinued.**
- **The extent of Public Speaking usage should be monitored to enable future review of its value and impact on the longevity of meetings**
- **Officers should be explicit about the extent of the work that has been undertaken to assess application and make recommendations on them,**
- **Postcodes should be included on the Notice of Meeting schedule,**
- **The Notice of Meeting should contain a prominent note that the order of the Agenda may be subject to change,**
- **Advice Notes / Guidance should be reviewed to ensure they are consistent and up-to-date,**
- **Officers should prepare and deliver information on material planning considerations and valid reasons for recommendations as part of town and parish council training sessions, Town and Parish Councils should consider themselves the scope for mutual collaboration on providing advice and guidance support to others on planning and consider an online forum.**
- **The new Members' induction should continue to include instruction on planning and Council procedures,**
- **Detailed training should be provided for DMC Members by an independent external expert, to be repeated annually,**
- **All Members should seek to be ambassadorial for the Council in explaining the Council's policies and reasons for decisions to their communities,**
- **Full reasons for refusing applications contrary to recommendations as stated by the proposer (and seconded) and the policy and process implications of that potential decision will be submitted to the next DMC meeting for confirmation**
- **The County Council should be requested to provide more detailed reasons for its recommendations on applications when it is acting as a statutory consultee in its capacity as the Highway Authority,**
- **The County Council should be invited to provide training for DMC Members on the Highway Authority's role,**
- **3C ICT should be consulted on the feasibility of enabling all Members to register to receive direct notifications of receipt of new applications,**
- **Officers in the Development Management Section are requested to prioritise communications from Ward Members on applications,**

- **Training sessions held for DMC Members should include Planning Inspectors' decisions,**
- **Voting patterns should be electronically displayed for public information,**
- **The Council should continue to monitor the operation of the DMC and the size of agenda.**

4.4 For the reasons outlined earlier, especially the recent introduction of changes to the Scheme of Delegation the effects of which will be monitored, in the future it may be necessary to revisit aspects of the review. In any case, it would be good practice to carry out a further review during the four-year term of future administrations.

Chairman of the Advisory Group