

Part A

Report to: Development Management Committee

Date of meeting: 6 February 2019

Report author: Head of Development Management

Title: Report and Recommendations in relation to PAS Review of Development Management Committee

1. Summary

- 1.1 The Council invited the Planning Advisory Service (PAS) to undertake an independent review of its planning committee process and provide advice in relation to any potential areas of improvement or best practice. This followed a successful LGA review of the Council in 2017. It was felt that a follow on in specific areas would be worthwhile, particularly as Watford was facing considerable development pressures and it would be useful for an independent view on how the service was shaping up to deal with the development applications and pressures associated with these. The review was not done on the basis that the service or the way the council conducted its business was failing, but more on the basis of whether there were things that should be looked at.
- 1.2 As part of the review, PAS spoke to a number of key stakeholders including members of the committee from both groups, the Portfolio Holder for Regeneration and Development, external parties who attend committee and various council officers. They also observed a sitting of the Development Management Committee (DMC) on 6 September 2018.
- 1.3 The purpose of this report is to share the findings of this work with DMC, facilitate discussion on them and provide some initial recommendations from the Head of Development Management. There are matters which will require wider consideration outside the committee and, as such, this report is not intended to provide a comprehensive response or action plan on all the issues.

2. Recommendations

- a) Members are asked to agree the officer recommendations as follows:

1. That the committee supports the proposal to encourage greater public use of the ground floor of the Council Chamber during DMC meetings.
- b) Members are asked to provide their views on how they might wish officers to proceed in relation to:
 1. The introduction of measures as set out in 3.1 of this report.
 2. The introduction of a limited call in procedure as set out in 4.5 – 4.7 of this report.
- c) Members are asked to note the PAS report and the comments of the Head of Development Management in relation to other matters.

Further information:

Nick Fenwick
nick.fenwick@watford.gov.uk
01923 278044

3. Detailed report

- 3.1 A copy of the final PAS report is attached at Appendix 1. In addition to this report, PAS provided separate guidance on practical measures which could be taken to avoid any perception of block voting (as raised on page 6 of their report). The suggestions were:
 - a) Seat the committee members in alphabetical order rather than in party groups.
 - b) Provide name plates for all attending the committee in order that members cannot hide behind anonymity.
 - c) Stop any group meetings immediately before the committee, as it reduces the opportunity to exert pressure in the background.
 - d) Continue with member development emphasising the point that they are individually representing the council in applying local and national planning policy.
- 3.2 It should be noted that PAS have suggested that option a) (alphabetical seating arrangements) has been used elsewhere and worked well. Anecdotally they have suggested that elsewhere it has also appeared to have the effect of empowering some of the less confident members and providing them with confidence to make their own decisions.

- 3.3 Whilst there are a number of recommendations, these are based on the views and experience of the two individuals conducting the review (a former officer operating as Head of Development Management/Planning and a senior elected member working within a district council/county council environment). The report does not identify any significant issues but more of suggestions to be considered. However, I would guide members to consider the Watford context and whether the suggestions will add any significant value to decision making and assisting with some procedures.

4. Considerations

Committee Composition

- 4.1 a) Number of Portfolio Holders sitting on Development Management Committee.

PAS noted that there are a relatively high number of Portfolio Holders on DMC. They questioned whether a lower proportion of Portfolio Holders might have benefits, but did not express a definitive view. The notional concerns are acknowledged, however, officers have not perceived any lack of nuanced decision making in relation to local matters. This is perhaps a matter that may be a problem in larger geographical boroughs, but Watford is relatively small and the majority of members have a good level of familiarity with the wider and local issues. It is also noted that the presence of Portfolio Holders on the committee does help to ensure that strategic issues and wider council objectives are addressed in the debate and this is of particular value in ensuring planning matters are properly considered. This is particularly important in a fast changing legislative framework as there have been considerable planning changes in the past 5 years with more to come in the immediate and foreseeable future.

- 4.2 Having regard to the above, I do not share the concerns of the PAS report, however it is recognised that there are benefits in enabling the wider membership of each group to gain experience in planning. Ultimately the decisions around appointments are to be taken by the members and potentially it is something for members to consider at Annual Council and is not considered to be a pressing issue at the present time.

- 4.3 b) Size of Development Management Committee.

To mitigate the relatively high number of Portfolio Holders sitting on DMC, it is suggested that the size of the committee be increased to 11. This comment is

noted, however officers do not share the view expressed by PAS. An increase in the size of the committee would have little, if any, impact on the quality of debate or decisions, but would significantly increase the administrative burden associated with committee decisions which would not represent a prudent use of council resources. Accordingly it is recommended that the size of the committee is maintained as at present.

Scheme of delegation

- 4.4 The PAS report notes that small scale applications appear on the agenda, perhaps unnecessarily, but this is triggered by the current delegation procedures, which require all major applications and those applications which attract 4 or more objections and are recommended for approval to be determined by the committee. It recommends monitoring this point in case increased development pressures lead to increased agenda sizes.
- 4.5 The report also notes that there is no 'call in' procedure and recognises that little appetite for change was observed.
- 4.6 Currently the arrangements do not cause undue administrative burden in terms of the number of applications referred to the committee. It is also noted that the 'call in' procedures operated by many other councils are often open to abuse and used inappropriately. They generally serve to increase the administrative burdens of reaching a decision and increase delay and uncertainty without doing anything to genuinely improve the quality of decision making, causing frustration to both local people and applicants, where non planning issues raised by the emotion of the development proposal are conflated with material planning considerations.
- 4.7 It is, however, noted that the current arrangements are somewhat 'one sided' enabling a proposal to be 'referred' to committee by objectors who have concerns about the proposal, but with no similar provisions relating to developments which have wider support within the community. The Head of Development Management does have the ability to elect to send such cases to committee, but this is not formalised.
- 4.8 Officers would welcome the views of the committee on whether a protocol should be provided which might allow a 'call in' to be instigated by agreement between the Head of Development Management and the Chair/Vice Chair in limited circumstances.

Format and process of the meetings

4.9 a) Length of Officer Presentations

The PAS report expressed the view that officer presentations should be shorter, in effect simply serving to introduce the application rather than summarising issues. While this may reduce the length of meetings, officers are mindful that the meetings are held in public and that the proceedings should be coherent for the general public as well as members. Officers consider that members should be aware of the main issues and provide their professional advice rather than merely rely on providing basic facts and details within the report. For this reason it is not proposed to change the process substantially, however, officers will endeavour to keep presentations concise and would welcome feedback from members on any cases where they feel the presentation has been too lengthy. Members will note that reports have been written in a more concise and streamline way to reduce the amount of text to focus on the key points. It is felt that a presentation draws all of these things together, including providing an update on any changes and amendments that need to be considered following the publication of the report. It is also useful for the public and applicants attending the committee to see that the application has been given due attention and consideration.

4.10 b) Length of member debates

The report observes that there is potential for debates to be extended. This comment is noted, however there is a balance between ensuring adequate and fair debate and reaching decisions in a timely fashion. Members are asked to note the comment, however, it is ultimately a decision for the committee and Chair as to how long a particular matter should be discussed depending on the complexity of the application and issues that arise.

4.11 c) Suggestion that ward councillors should be invited to speak first

The suggestion is noted, however, officers do not perceive any particular issues with the current speaking order or see any merit in changing the current arrangements.

4.12 d) Chair should take a less prominent role

The suggestion is noted, however, the Chair is a committee member of the committee with voting rights and is entitled to take part in the discussion and express views.

4.13 e) Voting procedures

The report suggests that voting procedures are not clear, although it should be noted that they follow the protocol used for all council committees. Officers note this point and acknowledge that other councils have more formalised procedures requiring motions to be put forward and seconded. Overall, it is not considered that any formal change of procedure is required, however, it is important that the Chair is clear about what members are being asked to vote on at the end of deliberations.

4.14 f) Consideration of a deferral and overturn procedure

The report proposes the introduction of a deferral and overturn procedure. This suggestion is noted, however, officers do not consider such a procedure to be either necessary or positive. Applications are not reported to the DMC unless there is adequate information upon which to make a decision and the Local Planning Authority is required to take timely decisions on the applications before it without delay.

4.15 The committee has the ability to defer applications under existing rules, however, the power should only be used in exceptional circumstances. It is considered that to normalise this process through the drafting of a procedure note would only serve to encourage poor practice.

4.16 It is acknowledged that there have been a small number of instances whereby a motion has been put forward to overturn the officer recommendation and there has been difficulty in articulating reasons for refusal. However, there are better mechanisms to address this without causing unnecessary delay and this is considered below.

4.17 g) Better articulation of motions for refusal

It is noted that on occasion this has caused issues on a small number of cases and officers recommend the following measure to mitigate against this:

- i) Firstly, officers would encourage members to discuss any concerns about a proposal with them in advance of the meeting. It is perfectly acceptable for members to discuss matters with officers without any concerns about pre-determination. The better informed officers are about potential concerns, the better they will be able to assist on the night.
- ii) Secondly, in the event of a member overturn, it is considered acceptable for members to provide a broad outline of the reasons for refusal at the meeting with a motion that the full and final wording of

the reasons be agreed by officers in consultation with the Chair outside the meeting.

4.18 h) Site visits

The report recommends early site visits for the largest and most complex applications. These comments are noted, however, the majority of the committee members are very familiar with the borough and it is not considered that any changes to the current arrangements are required. In many authorities with a large geographical area some members will not be familiar with the area. Members at Watford usually approach an officer/chair of the committee if they feel a site visit is necessary which is usually agreed to. Where they do take place, these occur before the committee which is good practice avoiding delay to the decision making.

Customer experience

- 4.19 It is accepted that the layout of the Council Chamber offers poor visibility and engagement for members of the public not participating in the meeting. It is proposed that in future members of the public should be seated in the downstairs area of the Council Chamber on the understanding that the gallery will continue to be used where a large number of people attend. In order to accommodate this, some changes to the seating arrangements for the committee and speakers will be required. The longer term position will need further consideration.

Speaking time

- 4.20 Having reviewed the contents of the PAS report, officers have undertaken a review of practice at other authorities and considered past experience of how parties (members of the public, applicants and ward councillors) utilise the existing time.
- 4.21 The practice for councils varies considerably but in many cases councils allow a 3 minute period for parties to address the committee.
- 4.22 However, overall, my recommendation would be that this does not appear to be causing any particular issue at Watford and many speakers do not utilise the full time allocation. Therefore, the time remains as at present but be reviewed in the event that the number of agenda items increase in future. No change is recommended

Pre-meetings

- 4.23 The pre-meetings are considered unusual but beneficial to the committee assuming they are used for clarification of the facts only and not for discussion of the merits of an application. It is an opportunity to clarify any updates and amendments that have been made since the publication of the report. These comments are noted but no further action or changes are considered necessary.

Block voting

- 4.24 In relation to this matter I am confident that the committee understands the need to take decisions based on planning matters only and exercises this duty with due care. However, it is clear that the work undertaken by PAS has, at the very least, identified a perception that block voting may happen and even the perception that voting may not be on planning grounds could represent a risk to the reputation of the council. Accordingly, I would invite the members of the committee to discuss this matter and consider whether any of the measures set out in Section 3 of this report should be implemented.

Protocol for code of conduct for members on Development Management Committee

- 4.25 The report suggests the need to introduce a specific code of conduct for DMC. This suggestion is noted, however, the council already circulates best practice to members and provides annual training on relevant matters. It is not considered that it is necessary to adopt a specific code of conduct for members of the DMC.

Involvement of ward members in pre-application discussions, including MARF

- 4.26 The suggestion of wider involvement for ward members in pre-application discussions is noted. MARF was introduced for major applications a few years ago and, has by and large, been successful in giving developers a steer about proposals before an application is formally submitted so that it is broadly in line with policy while leaving the finer detail and decision to the planning committee. Many local authorities do not have such a scheme but it has been recognised again, that it is good practice for some member involvement in pre-application discussions involving major or complex developments. Wider involvement of members could be explored but it would be difficult to administer, particular on cross ward developments and would require adequate safeguards to be put in place to protect members which may 'compromise' them speaking at development management committee.

A matter that the review has not taking into consideration is that officers always encourage developers to undertake community engagement including involvement of local ward members which is found to beneficial. Again considered as best practice, many developers do undertake this in some form or other as they see the benefits. In addition it is felt that members at Watford do seek advice and comments from officers which has benefits that sometimes lead to amendments and enhancements to a scheme. No change is recommended.

Appendices

PAS Peer Review of Development Management Committee, Watford Borough Council, September 2018