

Introduction

1. With a desire to learn and share best practice on decision-making processes, Watford BC requested the Planning Advisory Service
 - provide a light touch review of the Council's Development Management (DM) Committee, and
 - advise whether it is operating effectively.
2. The review has been carried out by Cllr Theresa Higgins of Colchester Borough Council, until recently chair of the Planning Committee, and formerly a member of Essex County Council and Martin Vink, a consultant on behalf of PAS but formerly Development Manager at Ashford Borough Council
3. In delivering the review we identified its scope as set out in Appendix 1.
4. In order to review the DM Committee processes in line with the scope, and make recommendations based on an assessment of evidence, we have taken account of the following sources of information:-
 - a) Publicly available material from Watford BC (constitution, Committee reports etc.)
 - b) National best practice guidance
 - c) Reviewers' own experience
 - d) Observations through attendance at the Development Management Committee meeting of the 5 September 2018
 - e) 1:1 interviews with Councillors, Council staff, and public stakeholders

General comments relating to Development Management Committees

5. DM/Planning committees pose a combination of challenges which need to be reconciled in a manner which is effective, fair, and consistent. The role of Councillors on the 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.
6. 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.
7. Planning, legal, and democratic support officers of the Council all have clear roles to play in supporting their Councillors in ensuring the DM 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.
8. All councils need to be satisfied that the operation of its DM 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 determined by Committee.

Background

9. Watford Borough Council covers a small area (8 sq m) on the northern edge of London inside the ring of the M25. Links to the main road and rail networks are good . Development pressures are strong with major developments taking place in the town centre eg INTU and at regeneration sites such as Riverwell/Waterside.
10. The Borough has an adopted Core Strategy Part 1 (2013), saved policies from 2003 and a number of Supplementary Planning Documents including a Character Area Study, Residential Design Guide, an approach to Tall Buildings and Commuted Sums for Affordable Housing. The publication of Part 2 of the Local Plan was interrupted by the reassessment of housing need and a revised version is due to be published for consultation this month. The Council is also working with 5 districts and Hertfordshire County Council to deliver a strategic plan for this wider area.
11. The principal issues facing the Council are:
 - the lack of a 5 year housing land supply
 - the delivery of large numbers of new housing during the life of the Local Plan. The assessed need for new homes has increased from 280 pa in the Core Strategy to 580 (2016) to nearly 700-800 (subject to review under the new methodology). Because of the Borough's small area, most of which is built up and the constraints of Green Belt, delivery of these housing numbers will require a paradigm shift in the nature of the design of new housing incorporating higher densities and tall buildings.
 - providing affordable housing and viability of schemes
 - promoting economic development, and
 - providing the infrastructure to support the current and expected population increase.

Application Performance April 2017 - March 2018

	Total	Determined in agreed time	Not Determined in agreed time	% in agreed time	Watford BC Target
Majors	23	20	3	87%	90%
Minors	211	198	13	94%	92%
Others	536	509	27	95%	92%

Application Performance April 2018 - June 2018

	Total	Determined within agreed time	Not Determined within agreed time	% within agreed time	Watford BC Target
Majors	5	5	0	100%	90%
Minors	44	34	10	77%	92%
Others	140	116	24	83%	92%

12. The speed of handling major planning applications is very good but speeds for the remaining applications has dipped in recent months. The proportion of majors being approved is slightly low at 75%. The quality of decisions (% overturned at appeal - 24 months to the end of June 2017) was 5.6% well inside the Government target of 10%.
13. The proportion of all applications approved is below the average for authorities in England.
14. There are 9 out of 36 Councillors who sit on the DM Committee. The Committee's terms of reference, speaking and voting procedures are set out in the Council's Constitution (Part 4 (2)). Members are bound by the Council's general code of conduct (Constitution Part 5(1)), which incorporates the 7 Standards of Public Life identified in the Localism Act 2011:
- **Selflessness** - public interest
 - **Integrity** - not open to inappropriate influence/private gain
 - **Honesty** - truthful; declaration of interests and gifts
 - **Objectivity** - use best evidence; impartial; non-discriminatory
 - **Accountability** - open to scrutiny
 - **Openness** - open and transparent decisions in public
 - **Leadership** - uphold and exhibit standards and behaviours
15. There is no specific Protocol or Code of Conduct for Members when handling planning matters (see comments and recommendations and link to Colchester's code below)

Assessment

16. Our overall impression is that there are many areas of good performance and practice in relation to the DM Committee at Watford. We heard the Committee described as "a high performer". We set out below our comments and conclusions against the scope of the review set out in appendix 1.

Purpose

- *Is it clear that members of the Committee fully understand their role?*
 - We found:
 - A Committee which grasps the issues and understands the town and its residents.
 - A realistic approach to new development recognising the demands being placed on the Borough.
 - Customers reported a recent "sea change" in the approach of the Council with clearer positive messages around development in Watford.
 - The size of the Committee is acceptable but, given our comments on the number of cabinet members on the Committee it might benefit from being increased to 11. We understand there are members waiting to be on the Committee. . Good use of a regular Chair's Briefing to highlight issues and programme future meetings.
- *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?*
 - The size of the Committee agendas over the previous year has been reasonable
 - The Committee does not have a "call in" procedure for Ward Members. Our discussions found no appetite for change.

- Small scale applications appear on the agenda perhaps unnecessarily but this is triggered by the current delegation procedures. These require all major applications and those applications which attract 4 or more objections to be determined by the Committee. As development pressures build this might extend the size of agendas. This should be monitored going forward and options for maintaining suitable sized agendas explored, perhaps utilising member calling instead.
- *Do members understand the process, and is the information they receive relevant and concise?*
 - Officer presentations at Committee can be too long.
 - We were told that debates can also be overlong, although we did not see that.
 - Presentations at the members information gathering pre-meet duplicate those in the main Committee. Are they necessary?
 - Whilst Part 2 of the Local Plan is not currently available the Council is actively working towards its delivery. Other supplementary planning guidance is in place to inform decision making and assist applicants in making applications.

Format and Process

- *How are applications debated and voted on?*
 - There is a mature debate. Debate at Committee kept to the appropriate planning issues and decisions appropriately reflected this debate.
 - Councillors and officers adopt a pragmatic approach to working within the constraint of not having a 5 year housing land supply.
 - The Committee have a clear awareness of the strategic vision for the Council and how the planning process can facilitate much of its delivery.
 - Should the Ward Member(s) be invited to speak first on any application after the speakers to give a local perspective?
 - The Committee was well chaired, although the Chair would be advised to take a less prominent role in debates.
 - Voting procedures at the Committee are not clear. All applications at the meeting we attended and the majority looking at previous minutes, are proposed by the Chair. We do not see this as his role and is not good practice. Whilst only a motion is required for a vote to be taken (ie no seconder is required) we observed that in several cases votes were taken without a clear motion from the floor. This can easily be rectified by the Chair asking those who speak whether they are proposing a motion or not. There is a potential for debates to be extended and the ability of the Chair to focus on a motion from the floor could curtail this.
 - The Committee has no procedure for deferral of decisions which are contrary to officer recommendations when a decision could make the Council vulnerable at appeal and awards of costs. We discussed the [“Deferral and Recommendation Overturn” Procedures at Colchester Borough Council](#) as a useful tool.
 - Motions for refusal are not always clearly put or sufficiently well defined to enable officers to formulate effective reasons for the minutes and decision notices.
- *Does the standard, clarity and layout of Committee reports support the Committee process?*
 - The new report format is concise and well structured, concentrating on the essential issues.

- *Does the presentation of Committee reports by Planning Officers support the Committee process?*
 - Although unusual the pre Committee information meeting is welcomed by the Committee and considered beneficial. It is well understood that such a meeting can only be for clarification of the facts of a case and cannot under any circumstances include any discussion on the merits of an application.
 - Officer presentations at Committee can be too long. They should assume the report has been read and not feel it necessary to repeat the arguments for and against the recommendation.
- *What is the process for Councillor site visits, how are views recorded and reported back to Committee?*
 - Site visits are carried out in accordance with the councils procedure rules and are fact finding visits only. There is no debate at these visits and members find them helpful. Some members would want to have more visits but with the size of the Borough and the high levels of local knowledge this is not thought necessary at the moment. Consideration should be given however to early site visits for the largest and most complex applications.
- *Does the Committee chamber layout support the Committee process?*
 - See Customer Experience below.
- *How effective are the arrangements for training Committee members?*
 - see Quality and improvement section below

Customer Experience

- *How is public engagement managed at the Committee?*
 - Speakers at the Committee appreciated the welcome and clear guidance provided.
 - Customers told us, and we saw, the welcoming and inclusive style of the Chair of the Committee
 - Customers reported a well run, professional and effective Committee. It is perceived as being open and transparent.
 - Committee agendas are available well in advance and easily accessible for customers via the mod.gov app.
 - Improving use of IT to deliver the Committee has been beneficial.
 - Paper copies of agendas are provided at the Committee meetings but only in the main body of the Chamber.
 - Financial viability information on planning applications is available for public scrutiny
- *How could public understanding of the role, and limitations of the planning Committee be improved?*
 - The AV screen in the Council Chamber is difficult for officers to use but we are told that changes are in hand but being delayed by listed building issues. A solution might be to have moveable screens on stands visible from various parts of the chamber.
 - The layout of the Council Chamber is restrictive and intimidating for those taking part in proceedings.
 - The customer experience at the Committee meeting is very poor.

- Customers are directed to a rear entrance which is poorly signposted from the main entrance to the chamber.
- The gallery - referred to as “The Strangers Gallery” - has poor visibility of proceedings, much of the Committee cannot be seen.
- No member of staff is in the gallery to assist the public
- No agendas are available in the gallery
- No information available of how the Committee will operate or on emergency evacuation procedures is available.
- Improvements to communications to members and customers by providing tailored individual updates on key moments in the life of an application could be made eg submission, Committee date, date and nature of the decision and any appeal. All of these could be generated via the current software systems in the planning department and would support the Watford 2020 agenda.
- Should proceedings be broadcast?
- *How should public representations be managed during the Committee?*
 - The public welcomed the opportunity to address the Committee and currently have 5 minutes to make their comments. This is longer than many councils and 3 minutes may be more effective.

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?*
 - Members were clearly aware of their role but there is a general perception by all participants in the Committee process that there is frequent block voting by political groups. We also observed it. Such a perception significantly undermines the reputation of the Committee and does not accord with codes of practice for Councillors where, when making decisions on planning applications they should
 - act “reasonably”, as defined within planning law
 - act honestly, fairly and openly
 - approach each application on its own merits and with an open mind
 - carefully weigh up all the relevant material planning considerations
 - ensure that the reasons for any decision are clearly stated and based upon relevant material planning considerations
 - There was also anecdotal evidence of members of the Committee acting in a partisan way in relation to their ward and not making decisions on a borough wide basis. This causes consistency issues.
 - There is no specific Planning Code of Practice for Members and we believe that the Council would benefit from more tailored advice and procedures. An example is provided in the link to Colchester’s above.
 - There is recognition of the importance of pre application involvement but a nervousness amongst members to be seen to pre-determine applications. Members should be assured that

they can fulfil this role and still be able to contribute to the debate and voting at Committee. Again a Planning Code of Practice would bring clarity and advice.

- Officers should encourage and facilitate the involvement of Ward Members in pre application discussions to ensure early discussion of local views and issues. Their involvement should not be prevented on grounds of commercial confidentiality. Ward members should be trusted to maintain confidentiality.
- Officers should seek greater opportunities for effective and meaningful member and community involvement in pre-application discussions particularly around major developments.
- The introduction of the Major Application Review Forum (MARF) is seen as a very positive and helpful innovation in pre application engagement. There is, from our limited discussions, public and political support for representation at these fora by a relevant ward member to clarify the local dimension and key issues.
- *Is the role of the Portfolio Members at Committee understood by all concerned?*
 - Almost half of the Committee (4 out of 9) are members of the Council's Cabinet. Whilst this brings a sharp focus on strategic issues and delivery to the Committee, we question whether a lower proportion would provide a more nuanced view incorporating the local perspective.
- *Is the support from officers at the Committee consistent and of high quality?*
 - There is a good dialogue between officers and members conducted in an atmosphere of mutual trust and respect.
 - Officers provide flexible advice and clearly explain relevance of national and local policy and where local policy is out of date.

Quality and Improvement

- *How effective are the arrangements for training Committee members?*
 - Annual training on planning matters is provided and all members of the Committee and substitutes are required to be trained. Additional training on specific topics is also provided on a frequent basis. A list of trained members is available.
 - Training could be extended to viewing the results of decisions on the ground and evaluating what went well and what didn't. Further training opportunities should include design especially in relation to higher density housing and the implications of the new NPPF
- *What monitoring and review arrangements are in place for the Committee to assess its performance?*
 - Reports to the DM Committee on the performance of the Planning Department and on the results of appeals are sporadic. These should be presented on a regular/quarterly frequency. Reporting on appeals should explain the reasons for refusal and the Inspectors decision which would provide a very good way of examining issues and good training.

Conclusions

17. We found a Committee with dedicated and effective members and officers which is well run and making defensible decisions. In the sections above we have identified areas of good practice and made suggestions where improvements would be beneficial identified areas where improvements could be made

We hope the insights provided are helpful, and that you are able to take forward many of the suggestions and we wish you well for the future.

Cllr Theresa Higgins and Martin Vink

September 2018

Appendix 1 - SCOPE OF THE REVIEW

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

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?
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Format and Process

- How are applications debated and voted on?
 - 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?
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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?
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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 Portfolio Holders at Committee understood by all concerned?
 - Is the support from officers at the Committee consistent and of high quality?
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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?