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Enterprise and Growth Scrutiny Committee

<u>Item No</u>
<b>8</b>
Public

## REPORT OF THE TASK AND FINISH GROUP ON PLANNING

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### 1.0 Summary

- 1.1 This paper presents the report and recommendations of the 'Task and Finish Group on Planning' to the Enterprise and Growth Scrutiny Committee. Appendix A contains a full record of the work of, and evidence gathered by, the Group.
- 1.2 The Task and Finish group was initially convened in 2013 to look at the process of delivering planning committees in Shropshire in the face of significant financial pressure.
- 1.3 The task and finish group commissioned an online survey delivered to all Shropshire Council members and all Parish & Town Councils. A summary of the results of these surveys is included within the report at Appendix A
- 1.4 Having previously reviewed the planning committee process in Herefordshire the group visited Cheshire West & Chester Council and attended a planning committee meeting to review its procedures and the use of Information technology to webcast its meetings.

### 2.0 Main Findings

#### 2.1 The Task and Finish Group find that:

- The Planning Service has come under significant pressure arising from an increase in complex and major planning applications beyond what is sustainable for the current resources. Additional resource is being procured but the impact of this is yet to be achieved.
- The Council's recruitment processes can be cumbersome and it is difficult to progress appointments quickly and efficiently resulting in further impacts to resourcing service delivery.
- Pressure on resources across the Council and a now rapidly changing planning policy context has further impacted on the performance of the service and the relationship with key stakeholder groups. This has placed the service under additional scrutiny

- Uncertainty over the planning policy context has put increased pressure from communities for applications to be considered by planning committee where these are locally unpopular in advance of the SAMDev Plan adoption
- Planning committees remain the environment where the most complex and controversial applications are considered.
- The effort to drive delegation up to 96% established by the previous Task & Finish Group in December 2013 has not been achieved. Delegation rates remain at 94% across the county although agenda lengths are currently within acceptable parameters.
- Stakeholders surveyed identified a number of detailed process points for consideration to enhance the service in terms of transparency and consistency of decision taking.
- There is some external pressure regarding the scheme of delegation and how it is applied with a concern expressed that some complex or controversial applications have been delegated to officers where in the view of objectors, committee determination may have been more appropriate. There are further queries about how the trigger referrals for committee are applied.
- There are differences in how processes are applied by each planning committee which should be changed to deliver a consistent service across the county.
- There remains a risk with three area committees that policy/process is not applied consistently across the county. The potential risk applies both to members and officers supporting the delivery of planning committee processes.

### **3.0 Recommendations**

#### **3.1 The Committee is asked to endorse the following recommendations and forward them to the Political Structures Monitoring Group and Portfolio Holder for Business & Regulatory Services & Commissioning (Central) as appropriate.**

1. That until the SAMDev Plan is adopted there will continue to be elevated scrutiny over planning applications where the balance of planning judgments may be fluid and many of these may be complex or controversial. In this context there is little support at this time to review the format of planning committees. Therefore it is recommended to suspend a formal review of committee options and to make no change to the number of committees at this time. The focus will be on achieving consistency and efficiency to be achieved as follows:-
  - That Planning Committee Chairmen and Vice-Chairmen attend and observe the other Planning Committees in operation with the aim to increase consistency in practice between the Committees;

- Members to be provided with a programme of training and support to assist in decision taking;
- That consistent format is adopted by the Chairman for managing the meeting of the planning committee;
- Refine the committee trigger referral process so that there is a record of decisions taken by the Lead Officer in consultation with Committee Chairman;
- That delegated decision reports and Committee reports be clear, concise and consistent;
- That for the time being three Committees meeting monthly are retained and that the process be reconsidered 6 months after the adoption of the SAMDev Plan;
- That the Constitution is amended to prevent non-committee Members remaining at the Committee table and participating in debate concerning applications in their Wards and a system introduced to allow equal time of up to 5 minutes for the local member to speak and answer any questions of the committee whether they are a member of that committee or not;
- That an audio recording be made of planning committees as a record of the discussion and held for a period of 6 months to assist with any clarification or queries that subsequently arise from these meetings.
- That committee site visits be held on a separate date when this would create a more effective management of the committee day.
- That members are expected to attend committee site visits and if they are unable to attend a site visit they shall declare this at the committee meeting and confirm whether this has affected their consideration of the application.
- That means of communicating decisions pending S106 to parish and town councils are identified within the online planning register.
- That delegated officer reports be made public as soon as practicable and to make the status of the application clear where there is a resolution to permit and the decision is subject to a S106 legal agreement.

#### 4.0 Risk Assessment and Opportunities Appraisal

The following risks have been identified:

Not achieving the required levels of delegation	Delegation levels need to be maintained to compensate for lack of capacity. Failure to achieve this will place stresses on the planning system which could not be easily resolved in the time available.
Breakdown in Member-Officer relationships	A more formalised approach to consideration of items by Committee may require local members to accept that their request cannot be accommodated.
Deterioration in reputation of the Council with Parish and Town Councils	Currently Parish and Town Councils in some areas feel that the Council does not listen to them. Refusals to have matters considered by Committee may reinforce this view.
Appeals or Judicial Reviews launched against decisions on the grounds of lack of process or due consideration	Streamlined reports may be challenged on the grounds of lack of due process or adequate consideration of material planning issues, and such challenges may not be defensible because of reduced detail.

#### 5.0 Financial Implications

- 5.1 There are no immediate financial implications as a result of the above recommendations.



# Report of the Task and Finish Group on Planning

July 2015

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## **Acknowledgments**

The Group wishes to thank those who answered questions and provided information, in particular:

The 43 Members who completed the on-line Survey  
The 58 Parish & Town Councils which completed the online survey  
The Chairman and Vice Chairman of each planning committee  
Councillors David Turner, Tim Barker, David Tremellen and Pam Moseley who attended and contributed to meetings of the Task & Finish Group.  
Mal Price, Portfolio Holder for Planning, Housing and Commissioning (Central)  
Ian Kilby, Operations Manager – Planning Services  
Tim Rogers, Team Manager - Planning Services  
Councillors of Cheshire West & Chester Planning Committee  
Fiona Hore, Head of Development Management Planning, Cheshire West and Chester Council

## **Members of the Task and Finish Group:**

### **Councillors:**

Ted Clarke  
Steve Davenport (Chairman)  
Paul Wynn  
Stuart West  
Andrew Bannerman  
Robert Tindall

## **REPORT**

## **1. Background**

The Chairman of the Enterprise and Growth Scrutiny Committee, and the Portfolio Holder for Business & Regulatory Services agreed to re-establish a “Task & Finish Group” on 19<sup>th</sup> March 2015. The work of the group was always planned as a follow up to a previous review of planning committee processes which commenced on 1<sup>st</sup> October 2013.

The driver for the groups work had been the continuing pressure on resources together with the need to deliver an effective and consistent planning committee process across Shropshire at a time when the planning policy position was fluid.

Whereas the pressure in 2013/14 was as a result of a significant cut in staff resource across teams that deliver the planning process (through committee and delegated decisions), the issues on this occasion were also influenced by the volatile planning policy context in advance of the SAMDev Plan adoption, together with a sustained and significant increase in speculative planning applications.

## **2. Scope and focus of the work**

The Group agreed to focus its attention on Planning Committee Structures, and processes particularly in the knowledge of the resource pressures and increasing service demands arising from complex, major or speculative planning applications and the need to provide robust and consistent decision taking at a time when the policy position has been evolving.

## **3. What has the Task and Finish Group done?**

During October 2013, the Group has:

- Met as a Group on four occasions.
- Heard from and questioned the Portfolio Holder and Operations Manager – Planning Services.
- Drawn up and analysed the results of a survey of members and parish councils on alternative committee delivery models.
- Met with the chairman and vice chairman of each committee to hear their views on alternative committee delivery models.
- Considered e-mail submissions from individual members.
- Met with and questioned Planning Committee Members from a neighbouring authority which has two Planning Committees.

## 4. Notes of meetings and issues arising

### Meeting 1 – 19<sup>th</sup> March 2015

The One Page Strategy [as approved by the Enterprise and Growth Scrutiny Committee at its meeting on 29th January 2014] and the objectives of the work were noted. It was anticipated that the work would take a minimum of three months to complete.

Further to comments and complaints made by Officers, Members, planning agents and members of the public, the Operations Manager – Planning Services had undertaken a series of monitoring visits to observe the Planning Committees at work, and had found discrepancies and lack of consistency in their operation. Despite the significant changes made to the planning system following the recommendations of the previous Planning Task and Finish Group, the system was still not operating as effectively as it could, and work was still required to find the best way of delivering planning across Shropshire.

Following the monitoring visits the Operations Manager – Planning Services delivered a training session with both Planning and Legal and Democratic Service Officers. The presentation shown to Officers during this training session was viewed by Members of the Task and Finish Group and prompted discussion on the following points:

- Site visits and voting by Members who had not attended the site visit;
- Delegated decisions and the role of the local Member;
- The use and function of pre-meetings;
- Late representations and receiving large quantities of information immediately before the meeting;
- Public speaking procedures, with Members being allowed more time than other speakers;
- Decisions against Officer recommendations and 'minded to' decisions and the position of Planning Officers in these circumstances;
- Quality of all Officer advice and how this varied;
- Member and Officer conduct at meetings and the role of the Chair;
- Member training and the identification of training needs;
- Content of Planning reports, unrequired detail and incomplete information; and
- The anomaly of Ward Members joining the Committee to speak on an application and being allowed to remain after speaking, but Committee Members being required to leave the table in the same circumstances

It was agreed to produce a survey for circulation initially to Shropshire Council members seeking their views on the planning committee processes and alternative options. The questions asked would be agreed in advance by the Task & Finish group.

### Meeting 2 – 30<sup>th</sup> April



The task & finish group used this meeting to review responses to the Member survey which was completed by 37 Members. Key points arising are summarised below:-

- The majority of respondents agreed that the existing scheme of delegation ensures that only the most significant, complex or contentious planning applications are considered by the planning committees
- Agenda setting meetings should be undertaken in a consistent manner by each committee and the results of these recorded with the local member informed of the outcome.
- 80% of respondents agreed that site visits were an essential part of a planning committee's member's duties. 60% of respondents agreed that only those who attended site visits should be allowed to vote. Seeing the site gave a different interpretation of the application to that obtained from seeing it on paper.
- Alternative technologies (such as street view) were not considered an acceptable alternative to site visits, but were a useful supplement, used appropriately at planning committees.
- 70% of respondents wanted officer reports in a more concise format.
- 86% of respondents agreed that the arrangements for public speaking were working effectively. Members commented that the success of the public speaking arrangements were due to the skills of the Chairman, and the recognition that as a quasi-judicial process an element of sobriety and presence was required
- The majority of respondents felt that the current arrangements of local Member participation at committee did not work effectively, a change would involve a change to the council's constitution.
- 68% of respondents supported audio or visual recording of meetings. A Member commented that he felt it would stifle proceedings. It was agreed to observe a Planning Committee meeting in Chester where recording took place.
- Most respondents preferred the retention of a three committee model. It was suggested that the Group needed to undertake further work to evaluate the other options, as the three committee model was not the most efficient model for consistent decision making. It was suggested that the Chairs and Vice-Chairs of the three Planning Committees be invited to advise the Group of their views

**The following was agreed:-**

- \* that the same survey sent to Members be sent out via SALC to Town and Parish Councils, with a deadline for completion as 31st May 2015.
- \* to arrange a suitable date when all Members of the Group could visit to observe the operation of the planning committee held in Chester and talk to Members and Officers about their committee arrangements.
- \* that, the next meeting of the Planning Committee Task and Finish Group be arranged after the Group's visit to Cheshire West and Chester and once the results to the Town and Parish Council are available.

### **Meeting 3 – 19<sup>th</sup> June**

This meeting focussed on the responses to the survey undertaken by parish and town councils to which 58 councils responded (35%) overall and a discussion with the chairman and vice chairman of each planning committee.

The key points arising from the parish council survey are summarised as follows:-

- Although 80% agreed that planning committee was the environment for the most significant complex or major planning applications, a number of parish councils considered that delegation was in some way a less “democratic” process
- 97% of parish councils considered site visits to be essential for planning committee members and most considered also that committee members should only be able to vote had they been on a site visit
- 51% of parish councils considered the public speaking arrangements to be effective compared with 81% of members, some parishes wanting more time and the ability for more people to speak.
- Both Council Member and T/PC Members appeared equally in favour of recording meetings.
- More Parish Councils than member supported the existing three committee model than members surveyed.

### **Discussion with Committee Chairman and Vice Chairman.**

A summary of the main points raised in the discussion:-

- It was generally agreed that the present system where the non-committee Member could remain at the committee table and participate in the debate was unfair and should be changed. Reference was made to the more structured arrangements for local Member speaking at Cheshire West & Chester Council which members of the group supported.
- All the Planning Committee Chairmen and Vice-Chairs present supported the existing three Committee Model. The lack of consistency in their decision taking was noted and it was suggested that the Chairmen should attend each other’s Committees to inform themselves of the different practices being conducted, and then should work together to ensure consistency across the Planning Committees
- Members agreed that the process for deciding which applications were delegated and which went to Committee should be examined and made clearer

It was agreed that:

- No change be made to the number of Planning Committees;
- That Planning Committee Chairmen and Vice-Chairmen attend and observe the other Planning Committees in operation with the aim to increase consistency in practice between the Committees;

- That the selection process to decide which applications are delegated and which are not is made clearer and more transparent, with Members having greater involvement in the final decision;
- That the Constitution is amended to prevent non-committee Members remaining at the Committee table and participating in debate concerning applications in their Wards; and
- That the situation with regard to the number of Planning Committees is further reviewed in six months' time

#### **Meeting 4 – 10<sup>th</sup> July**

A draft of the final report findings recommendations was submitted for consideration to the task & finish group the content of which is reflected in this report and recommendations.

### **5. Conclusion**

The task and finish group set out to review processes for the delivery of planning committees in Shropshire. The review process was undertaken at a time when the service has been under significant pressure and the policy framework for planning decisions fluid placing greater attention on planning decisions generally from communities across Shropshire. Consequently the group has not considered it practical or appropriate at this time to change the planning committee structure fundamentally. The review did however focus on areas of the process the members and parish councils consider could be improved and the report recommendations reflect this.