

Report of

THE PLANNING INFORMAL

TASK GROUP



Lancaster City Council
MARCH 2023

Contents

Chair's Foreword	3
Introduction/Background/Role	4
Terms of Reference	4
Membership of the Group	4
Timetable of Meetings	4
Evidence Considered	5
Status of this Report	5
Background and Context	5
Information Gathering	5
Findings	9
Recommendations	10

Chair's Foreword

It was resolved by the Overview and Scrutiny Committee to establish an informal task group to review service delivery of the Council's planning functions as part of the work programme for 2021-22. The idea was that Overview & Scrutiny should look each year at a different aspect of the Council's service delivery, particularly in those areas which most immediately or widely affect residents and businesses coming into contact with the Council.

Regrettably, it proved impossible to organize the necessary meetings with officers from Planning during that year, but Overview & Scrutiny placed the item on the new work programme for 2022-23. At that point, senior officers decided that a peer review of the planning department by the LGA, using the knowledge and experience of planning officers at other authorities, should be carried out during this period, and that it would not be appropriate or practicable to service the needs of an informal task group at the same time.

In January, the outcome of the peer review became available and the informal task group began its work. Although the time was by then extremely limited, members of the group rose to the occasion and organized an abbreviated process to lead to a Report: this Report.

The group had the benefit of the work of the LGA peer review team, which meant that the most could be made of the limited opportunities for gathering evidence, with a focus on recommendations in the report of the peer review and also gaining additional perspectives from smaller professional users of the planning service and members of the Planning Regulatory Committee, as well as the experiences of members of the task group itself in relation to planning services in Lancaster and contacts they had had from residents.

The group very largely supports and stands behind recommendations of the peer review, with some additions and some exceptions, derived from local knowledge and evidence given to the group. Where the group depart from the peer review is entirely to do with the matter of the number of applications coming to Planning Regulatory Committee and the procedure for 'calling in' of applications, to be considered by the Committee rather than decided by officers under delegated powers. These matters had been seen as problematic by the peer review, but the evidence received by the task group suggested that they are not after all problematic, and the group have therefore suggested no change should be made that might diminish involvement by elected members.

**Councillor Richard Austen-Baker
on behalf of the Task Group**

March 2023

1. Introduction/ Background/Role of the Task Group

The Overview and Scrutiny Committee agreed to consider service delivery of Council services and to focus on one Council Service each year beginning with Planning. A scoping meeting was arranged and it was then for the Committee to agree which type of Task Group to be established. The scoping document was submitted to and the establishment of the Task Group was agreed.

2. Terms of Reference

The following Terms of Reference for the Task Group were agreed by the Overview and Scrutiny Committee:

- To explore how the Council can provide a Planning Service which is responsive resilient with consistent, measurable service delivery.

3. Membership of the Group

The Task Group comprised of Councillors Richard Austen-Baker (Chair), Darren Clifford, Roger Dennison and Abi Mills.

The Task Group was supported by Mark Cassidy, Head of Planning and Place and Stephen Metcalfe, Principal Democratic Support Officer.

The Task Group gratefully acknowledges the contributions and evidence freely given by:

4. Timetable of Meetings

Date of Meeting	Who Gave Evidence?	Issues Scrutinised
2 February 2023	Mark Cassidy, Head of Planning and Place	Terms of Reference and Methodology of Evidence Gathering. The Current Position in the District and the Way Forward.
10 February 2023	Mark Potts, Service Manager - Development Management Local Builder and Architect	Enforcement issues with the Council's Service Manager – Development Management. The Task Group agreed to call additional witnesses. This was to obtain stakeholder feedback from smaller businesses.
16 February 2023	Councillor Sandra Thornberry (Chair of the Planning Regulatory Committee) and Keith Budden (Vice- Chair of the Planning Regulatory Committee)	To obtain Planning Regulatory Committee Members views regarding service delivery.

-	Mark Cassidy, Head of Planning and Place	To consider by email.
---	--	-----------------------

5. **Evidence Considered**

Evidence provided by the LGA PAS report, Planning and Place Service, local small builder and architects, Councillor Thornberry, Chair of the Planning Regulatory Committee and Councillor Budden, Vice-Chair of the Planning Regulatory Committee was considered.

6. **Status of Report**

This report is the work of the Informal Task Group, on behalf of the Overview and Scrutiny Committee, and where opinions are expressed they are not necessarily those of Lancaster City Council.

7. **Background and Context**

Each year the Overview and Scrutiny Committee agrees a programme of work. The Committee agreed to consider service delivery of Council services and to focus on one Council Service each year beginning with Planning.

The Committee was advised that a LGA Peer Challenge Review was being undertaken regarding the Planning Service. The Committee was advised to await consideration of the findings of the LGA Peer Challenge Review prior to the work of the Task Group being commenced. This would help look at key issues and feed into the work of the Committee.

The first meeting of the Task Group was held on 2 February 2023.

8. **Information Gathering**

8.1 **Evidence Gathering/The Way Forward**

At the first meeting the Head of Planning and Place was invited to attend. Evidence had already been provided in the form of the LGA PAS Peer Challenge Review report, this being previously circulated to all Members of Overview and Scrutiny Committee. Further questions that had been raised by the Chair of the Task Group had been submitted to and responded to by the Head of Planning and Place.

The Group asked whether further details regarding the feedback and information from those consulted as part of the LGA PAS Peer Challenge Review information gathering could be provided. The Head of Planning and Place advised that he would provide the Chair with the LGA consultant's contact details so a Teams meeting could be arranged to discuss the report and issues Members wished to raise. Unfortunately, due to time constraints the Chair of the Task Group was unable to meet with the LGA's representatives.

A further evidence gathering meeting was agreed to be held face to face on Friday, 10th February 2023, commencing at 2.00pm in Lancaster Town Hall. The Chair and Vice-Chair of the Planning Regulatory Committee were invited to give evidence, together with local architects and builders and also officer(s) to inform on the Enforcement Section. Also, provided by email, was a letter submitted by the Clerk of Aldcliffe and Stodday Parish Council regarding Planning Enforcement. Unfortunately, evidence was unable to be taken from the Chair and Vice-Chair of the Planning and Regulatory Committee at this meeting and a further meeting on Microsoft Teams was arranged to obtain evidence on 16 February 2023.

8.2 Information Gathering

Enforcement Section

The Service Manager – Development Management, had been invited to attend the meeting for this item. An overview of the Council's enforcement section was provided. This advised of the currently staffing levels and the excessive workload of the Section, with 750 outstanding cases. The way forward was discussed, including the unfreezing of a vacant post, whether it was expedient to continue with some of the cases, to clear historic work as soon as is practicable, the need to have a digital system in place to deal more effectively with the huge workload of the section and undertaking a review of the Enforcement Charter. The Group was informed of the 4 and 10 year rules regarding when enforcement action needed to be taken.

The Group agreed to consider recommendations from the evidence provided for inclusion in the Task Group's final report.

Additional Witnesses

A local builder/developer and a local architect had been invited to attend the meeting to provide evidence of their experiences of the service delivery provided by the Council's Planning Service. The Group wished to discuss issues with local stakeholders who may not have been involved in the LGA PAS evidence gathering interviews, from smaller local providers of building and architect services. The Chair had also been provided with evidence from a local planning consultant, regarding this issue. This to be shared with other members of the Group.

Both stakeholders provided evidence, the points being:

- The feeling that they have to “jump through hoops” and the processes are more rigorous for local/smaller developers than those for larger developers.
- Some of the processes seem to be irrelevant, particularly regarding the information required, which then seem to create backlogs.
- The Council should look at the processes from the applicant(s) point of view.
- The necessity for small developers to provide detailed information regarding drainage, air quality, environmental reports. These may be appropriate for large developers but not for small schemes.
- There was a feeling that there were inconsistencies in the advice given by case officers even when considering similar planning applications.
- It would be helpful and more consistent if the officer responsible at pre-application stage/meetings remained as the case officer throughout the planning process. Also the pre-application documentation should go forward and be submitted with the Planning application report submitted to the Committee.
- The length of time to obtain planning permission, sometimes this up to 9 months, even when using the pre-application process.
- Different views between the case officer(s) and other more senior planning staff. For instance a case officer left the Council and was replaced. From a position where the plans were being recommended for approval the new case officer required planning amendments.

- Request an earlier co-ordinated consensus view rather than having to change plans at a later date. Could there be regular Planning team meetings to discuss issues at an earlier stage. This to include conservation officers, where appropriate.
- Based on evidence provided the Task Group recommendation is to ensure that the Councillors right to call-in planning decisions and that these be submitted to Committee for consideration. (**Note:** There was a query raised at the meeting as to whether there had been a change in policy – this to be clarified. Also see recommendation of LGA PAS report).
- Possible recommendation – going forward to ensure that there is a system that is consistent and is a reliable decision making process.
- Site visits. Some developers may pay for an on-site meeting with the planning case officer prior to submission of an application. Members of the Task Group felt that more site visits should be provided for application sites being considered by the Committee.
- HIP Home Owner Pack. The Task Group requested a copy including instructions on how to complete. There are additional costs for the developer/consultant. Query why are these required as part of the Council's planning processes.
- Neighbour objections. There is a need for consistency.
- Streamlining of processes. Are there processes that are not required that would make obtaining planning decisions more efficient/effective. For instance the need for unnecessary surveys/air quality assessments. Do we have a one blanket policy covers all.
- Better communication.
- Alleged delays in the validation processes.

The view, from the evidence provided was, that the Council was a fair Council to work with, however there seemed to be a number of unnecessary documents that are required to be completed as part of the planning application process.

8.3 Information gathering

Further to the previous meeting the Task Group had agreed to meet virtually on Microsoft Teams and had invited the Chair and Vice-Chair of the Planning Regulatory Committee Councillors Sandra Thornberry and Keith Budden to provide evidence to the Group.

Councillors Thornberry and Budden were advised by the Chair of the discussions at the previous Task Group meeting and of the issues raised by a local architect and builders. This to be added to the evidence already provided by officers from the Planning and Place service, together with the LGA PAS review report. The Group would then consider the evidence and make recommendations as part of its report.

The Chair asked both Councillors Thornberry and Budden to provide evidence and to comment upon the planning processes.

Councillor Thornberry advised that the LGA PAS review report had made valid points and that the Head of Planning and Place was addressing most of these in the form of an Implementation Plan, which had been submitted as the City Council's formal response. However, it was noted that the livestreaming recommendation had not

been taken up. It was felt that the recommendations regarding Member training, education and having time together were helpful. Currently Members held a briefing on the Friday before the meeting. This was limited to one person per group, who then could feed back to their other group members.

With regard to enforcement Councillor Thornberry had spoken to the Service Manager – Development Management, regarding recommended improvements and it had been suggested that after the Friday briefing an update be provided to all Members of the Planning Regulatory Committee.

There was a discussion regarding the venue used for meetings of the Planning Regulatory Committee. It was noted that the current venue was the Council Chamber was the Council Chamber, Morecambe Town Hall. Some Members felt that a better venue would be the Banqueting Suite, Lancaster Town Hall in an oval layout, so that it was more beneficial for members of the public attending the meeting being able to see members of the Committee. An alternative could be the upstairs meeting rooms (Rooms 1 and 2) in Morecambe Town Hall. The current venue was also seen to provide difficulties for officers being able to communicate to Councillors and each other whilst the meeting was taking place. It was agreed that the venue should not be in the Ashton Hall, Lancaster Town Hall due to the poor acoustics. Also raised was the standard of equipment in the meeting rooms, such as the screens and other IT equipment which was not seen as to the required standard.

The Group then discussed the LGA recommendations regarding amending the current Scheme of Delegation so that fewer applications were submitted for consideration by the Planning Regulatory Committee. Members of the Group were of the opinion that the current Scheme of Delegation should not be changed, as the right balance of applications being considered by Members did not appear to be excessive. By reducing the number of applications being submitted to the Committee could be seen as not being democratic or transparent. There was a further discussion regarding undertaking a review regarding the planning applications to be considered by the Committee and those to be agreed using Officers Delegated Powers.

Members also discussed the LGA PAS report recommendation regarding having fewer Councillor planning application Ward call-ins at meetings. It was felt by all attending that this was an unnecessary recommendation as the number involved was not significant. Estimation of being in single figures over the last 12-month period. It could also be seen as undemocratic by members of the public and an unnecessary restriction on Ward Councillors representing their Ward(s).

Also discussed was the content and length of officer presentations to the Committee. Some Members of the Task Group felt that the presentation to the Committee should be streamlined, taking 5 minutes, with only the key relevant and essential information being provided. The report should be taken as already read by the Committee, being already publicly available, with no need for officers to repeat the information at the meeting, with the result being meetings that were more streamlined and efficient. Also raised at this point was that of advocacy by some officers, with some recommendations pushed strongly and with the minimising of counter arguments. It was felt that some officers did not advise regarding their recommendations, but rather advocated the recommendations. Examples were referred to. There was a need for a consistent approach by officers.

The Task Group also considered the issue of public speaking at meetings of the Planning Regulatory Committee. This could, in some circumstances, be seen as repetitive, or could raise issues outside of the Committee's remit. It was suggested that either speakers be allowed to speak for a shorter period of time or reduce the

number of speakers and encourage the speakers to have a spokesperson to speak on their behalf. It was felt that this issue should be reviewed.

Regarding the reports provided to Members of the Committee it was noted that this was good with well over a week provided prior to the meeting.

The Task Group also discussed issues relating to Planning Committee decisions that had gone against officer advice and the current procedures, in particular the role of officers, when defending a decision of the Committee when appealed against. Cases were discussed. Currently it was understood that the Council's Planning Officers did not get involved in these types of cases at the appeal stage. Recently a consultant Planning Officer had been employed to put together the case for Councillors prior to the appeal hearing. The case had been lost. It was felt that the Council's Planning Officers should advocate the City Council's position. The legal position regarding this was discussed and the group felt that this should be followed up.

Members then discussed, as raised at the previous meeting, that the officer attending the pre-application advice meetings should remain as the case officer throughout the planning application process. Previous evidence had advised that when there was a change in case officer there was sometimes a change in the decision or conditions that were included if the application was to be recommended for approval. This issue to be raised with the Head of Planning and Place.

The Group discussed the Enforcement Section. The Chair and vice-Chair of the Planning Regulatory Committee advised that there had been delays in dealing with enforcement cases which was due to understaffing. However, things had improved recently. The Group was also informed of the legal procedures regarding the enforcement processes. Members of the Task Group to make a recommendation regarding the filling of the frozen post of Planning Enforcement Graduate in the Enforcement Section in view of possible complaints being made to the Council regarding delays and also the possible risk of complaints being referred to the Local Government Ombudsman. This issue to be raised with the Head of Planning and Place.

Generally, the Chair and Vice-Chair of the Planning Regulatory Committee felt that things were working well, Members of the Committee understood their roles and that there was a fair degree of support provided. It was not perfect, but close to it.

The Chair thanked Councillors Thornberry and Budden, Chair and Vice-Chair of the Planning Regulatory Committee, for their attendance and providing evidence to the Task Group.

The Task Group agreed to consider draft recommendations by email, to then hold a meeting with the Head of Planning and Place to go through these prior to reporting to the Overview and Scrutiny Committee meeting. Note: If a meeting could not be arranged the draft recommendations to be submitted to the Head of Planning and Place via email.

The Group agreed to consider recommendations from the evidence provided for inclusion in the Task Group's final report.

9. Findings

At the final meeting the findings of the Task Group were discussed. The Group then considered the conclusions and recommendations.

A number of key emerging themes from the previous meetings were considered and the main issues/points to take forward as conclusions and recommendations of the Task Group were agreed.

Generally, the planning service provided by the Council is a good one. The Council faces the usual challenges with recruitment and retention, especially at a senior level, because of competition for staff with private sector planning consultancies.

Some users of the planning system are concerned that planning officers are not always consistent in their approach and this needs to be ever at the forefront of the head of department's mind.

Enforcement is a real problem, this is due to short staffing and the Council needs to get the vacant post filled in spite of the freeze on recruitment.

The Task Group supports the conclusions of the peer review, except that it does not think that too many applications come to committee, that the committee's role ensures some public confidence in the democratic accountability of the service, and that the call-in procedures should not be altered.

10. Recommendations

Set out below are the recommendations that have emerged from the Task Group's work.

From the evidence provided at its meeting held on 16 February the Task Group agrees that.

Recommendation 1

More (and more regular) training for members of Planning Regulatory Committee, including both planning law and on the respective roles of officers and members.

From the evidence provided at its meeting held on 16 February the Task Group agrees that.

Recommendation 2

More guidance for residents wishing to speak at Committee meetings, in order to make the best of the available time, and more guidance for residents wishing to make written submissions.

From the evidence provided at its meeting held on 16 February the Task Group agrees that.

Recommendation 3

That Council Business Committee, in the new municipal year, be requested to seek the views of the new Chair of the Planning Regulatory Committee as to the most suitable location for meetings of that Committee.

From the evidence provided at its meeting held on 16 February the Task Group agrees that.

Recommendation 4

There should be no change to the system of calling-in applications: the suggestion that there are too many is not supported by evidence from members.

From the evidence provided at its meeting held on 16 February the Task Group agrees that.

Recommendation 5

No substantial change to the scheme of delegation, but if a way could be found to streamline decisions in cases where the application is only coming to committee because of a connexion between the applicant and a council officer, this might be helpful.

From the evidence provided at its meeting held on 16 February the Task Group agrees that.

Recommendation 6

Presentations by officers at Committee should be made shorter. Members can be expected to read the papers beforehand, so the presenting officer only needs to make a brief introduction, draw attention to any particular 'highlights' and then answer questions from members.

From the evidence provided at its meeting held on 16 February the Task Group agrees that.

Recommendation 7

Officers should be encouraged to avoid advocacy of their recommendations. Non-delegated decisions are made by the Committee and officer recommendations are just that: professional recommendations. The role of officers is to advise the Committee, not push a particular view. If the Committee refuses permission where officers had recommended approval, then officers should be prepared to assist the Council in arguing its own planning grounds for refusal against the applicant's position in the event of an appeal to the extent that this can be done within the rules and codes of conduct of the Royal Town Planning Institute, or other relevant professional body.

From the evidence provided at its meetings held on 10 and 16 February the Task Group agrees that.

Recommendation 8

When officers are determining matters of detail after the granting of outline planning permission, they should work co-operatively and proactively with applicants to settle

details. The current practice of rejecting detailed plans in relation to specific points, e.g., positioning of the building within the site, and then leaving it to the applicant to come up with new plans, which might also be rejected is wasteful of the time and other resources both of applicants and officers. Officers should be prepared to state what *would* be acceptable to them, to enable applicants to submit or revise detailed plans accordingly.

From the evidence provided at its meetings held on 10 and 16 February the Task Group agrees that.

Recommendation 9

It should be easier for applicants to secure a site visit by an officer – for a reasonable fee (if permitted by law).

From the evidence provided at its meetings held on 10 and 16 February the Task Group agrees that.

Recommendation 10

With consistency being vital to public confidence in the planning system, the Task Group strongly urges that there should be constant review of the question of how to secure maximum consistency of approach amongst officers.

From the evidence provided at its meetings held on 10 and 16 February the Task Group agrees that.

Recommendation 11

Pre-application advice should follow the application throughout the process, so that officers determining or making recommendations on an application will be aware of what advice was given to the applicant and seek to avoid taking views contrary to the advice where the applicant has adopted the advice given at pre-application stage.

From the evidence provided at its meetings held on 10 and 16 February the Task Group agrees that.

Recommendation 12

Effective and prompt enforcement is vital to public confidence, and failure in this area might result in negative ombudsman findings as well as general reputational damage. Accordingly, it is recommended that the Council should lift the freeze on recruitment in respect of the post in enforcement left vacant by the appointee pulling out. It would also be helpful if elected members could receive periodic briefings as to priorities and application of the enforcement process, to enable them to deal most effectively with residents' queries.

