

CABINET

Planning Informal Task Group

11th April 2023

Report of the Chair of Overview and Scrutiny Committee

PURPOSE OF REPORT					
To request Cabinet to consider the recommendations of the Overview and Scrutiny Committee regarding the Planning Informal Task Group.					
Key Decision	N	Non-Key Decision	Y	Referral from Cabinet Member	N
Date of notice of forthcoming key decision	N/A.				
This report is public.					

RECOMMENDATIONS OF THE OVERVIEW AND SCRUTINY COMMITTEE

- (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.
- (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.
- (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.
- (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.
- (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.
- (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.

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

1.0 Introduction

To consider the recommendations of the Planning Informal Task Group.

2.0 Proposal Details

- 2.1 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.

2.2 The Overview and Scrutiny Committee considered the report of the Informal Task Group and made a number of recommendations for consideration by Cabinet.

2.3 The Planning Informal Task Group report is attached at Appendix A.

3.0 Details of Consultation

3.1 Details of consultation are contained in the Task Group report.

4.0 Options and Options Analysis (including risk assessment)

Option 1:	To accept the recommendations as set out in the report.
Option 2:	Not to accept the recommendations as set out in the report.
Option 3:	To make alternative proposals to those recommended by the Overview and Scrutiny Committee.

5.0 Overview and Scrutiny Committee's Preferred Option (and comments)

5.1 The Overview and Scrutiny Committee's Preferred Option is Option 1. To accept the recommendations set out in the report.

6.0 Conclusion

6.1 Cabinet is requested to consider the recommendations of the Overview and Scrutiny Committee as set out in report.

RELATIONSHIP TO POLICY FRAMEWORK

This report contributes to the Council's priorities.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

There are no direct impacts as a result of this report.

LEGAL IMPLICATIONS

Recommendation 6 – concision is desirable. However, it is important that officers do not feel pressured into abridging presentation at the cost of missing vital information or clarity that is needed during committee presentations. The role of the presenting officer is to ensure that

the Committee are adequately informed about the application, have their professional views and are advised on the law in procedure and substantive terms. The officer may have to update the committee on development since the report and including late representations and any comments on these as well as referring to any supplementary report.

Recommendation 7 – it is right that officers should not push their views. However, officers are there to advise the committee and should warn them if a prospective decision appears indefensible – particularly if there is a real risk of costs being awarded against the authority on appeal or unlawful.

Recommendations 8, 9,10 and 11 – it is important that members do not bind the hand of officers on operational matters. In doing so there is a danger of creating unrealistic expectations for the public at large and constraints on the LPA officers discharge of their statutory functions. Best practise notes/guidance could advocate a particular approach but should leave officers unfettered in the discharge of their professional duties.

FINANCIAL IMPLICATIONS

There are no direct financial implications as a result of this report. Any recommendations resulting in the requirement of officer time will be managed from within existing budgets and any future expenditure needed will be reported back to members as part of future projects.

OTHER RESOURCE IMPLICATIONS

None.

SECTION 151 OFFICER'S COMMENTS

The section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Overview and Scrutiny Committee support the work of the Cabinet and the Council as a whole and may be supported by Task Groups. These lead to reports and recommendations that advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

It is important that Overview & Scrutiny should act as a 'critical friend' for Cabinet. Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Councillors would not be expected to be involved in the detail of implementation, but can expect reports on progress. In addition to this decisions surrounding recruitment of officers is a matter for the Head of Paid Service.

The advice on procedure from the Monitoring Officer is to take each recommendation in turn and either accept, reject or partially accept, giving reasons for the decision.

OFFICER COMMENTS

The Head of Planning and Place comments are provided below:

Recommendation 7 cannot stand as it is currently worded. The intent of the recommendation

is accepted, but it needs to be caveated by reference to the advice on probity provided by the Royal Town Planning Institute. Part of that probity advice is copied in the suggested additions in red, below.

1. 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 advocate for the Council against the applicant's position in the event of an appeal where it is appropriate to do so. The advice on probity provided by the Royal Town Planning Institute is noted and will need to be taken into consideration (*"RTPI Members representing a decision that is a committee overturn and therefore contrary to their officer report should take care to avoid giving the impression any evidence they are presenting is their own professional view...Clearly the RTPI Member whose professional opinion does not conform with recommendations the evidence is supposed to support is unlikely to be the best witness in such circumstances.*) It is encouraging to see that one of the proposed workstreams identified in the Peer Review response includes devising a process for dealing with committee overturn appeals.

Recommendation 8 is not an accurate appraisal of the current situation and is not accepted. Officers do state what is acceptable to them. They do not reject detailed (Reserved Matters) plans without explaining what would be necessary to make their proposals acceptable. A recent RM application is a case in point, where an applicant has (a) not followed the pre-application advice on design and layout that was provided by both Officers and Members at the pre-application stage; and (b) the applicant has also rejected the specific points that would make the proposal acceptable.

Recommendation 9 is not correct. Applicants *do* receive a visit to their site on every application. The Council has also introduced (late last year) a site visit for every pre-application proposal submitted by an applicant. That is a chargeable service. It has been welcomed by developers and applicants (a point made during the Peer Review sessions with developer and applicants apparently).

Recommendation 11 is fair – but this already happens. The officer giving the pre-app advice will usually be the case officer (unless long-term sickness is an issue, or the officer has left the authority).

The Head of Human Resources comments are provided below:

Recommendation 12 -_The Council is not currently operating with a recruitment freeze, rather recruitment by-exception, meaning all requests to fill vacant, budgeted posts require a robust business case that is reviewed by Senior Leadership Team. Approval of vacancies remains a paid service function.

BACKGROUND PAPERS

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