

MEETING:	COUNCIL
DATE:	24 JULY 2009
TITLE OF REPORT:	PROPOSED CHANGES TO THE DELIVERY OF PLANNING SERVICES IN HEREFORDSHIRE
PORTFOLIO AREA:	ENVIRONMENT & STRATEGIC HOUSING

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To set out the options for change in relation to the Council's Constitution which would be an outcome to the key findings of the Audit Commission and the Environment Scrutiny Committee working group in relation to the operation of the Council's planning system.

Key Decision

This is not a Key Decision.

Recommendations

THAT Council agrees in principle the following recommendations:

- (a) The Council agrees Option 1 as set out in the report, namely to establish a single Planning Committee (19 Members)**
- (b) In the event that the Council does not agree to Option 1 (as outlined in recommendation (a)); the Council agrees to Option 2 as set out in the report, namely to establish a Strategic Planning Committee (11 Members) and 2 Area Planning Committees (11 Members on each)**
- (c) agrees the revisions to the scheme of delegation to officers;**
- (d) note the proposed changes to the role of members in the planning process;**
- (e) agree the revised arrangements for handling planning applications proposed to be determined contrary to officer recommendation; and**
- (f) authorises the Monitoring Officer and the Constitutional Review Working Group to reflect these changes in future revisions to the Constitution.**

Key Points Summary

- The Audit Commission has suggested that the Council reviews its arrangements for delivering the committee structure that supports the Planning Service.
- The Audit Commission, Scrutiny function and many Members are clear in their view that the referral system brings the Council into disrepute and opens us up to legal challenge. It is recommended that the referral process be removed and it is proposed that a method of ‘cooling-off’ for the Committee(s) to review those decisions that have gone against officers’ recommendations.
- Option 1 is proposed as the preferred option to ensure a modern and effective revised Planning Committee structure.
- If Council was not minded to support Option 1, Option 2 would be able to satisfy the Audit Commission’s recommendation at this stage.
- Detailed proposals are submitted on other key areas including the scheme of delegation, the role of members in the planning process and the methods of handling applications that members propose to determine contrary to recommendation.
- A revised Planning Committee structure would provide both financial and reputational benefits to the Council.

Alternative Options

- 1 The most important decision in relation to this matter is in respect of the committee structures themselves. Two options are set out in the report. A third option – that retains the three area sub-committees and discontinues the Planning Committee – has been rejected. This option would not provide the degree of consistency and overview that will be required in delivering strategic applications both in general, and in relation to New Growth Point sites in particular.

A fourth option – the status quo – has also been rejected. The retention of the current system will not address the issues raised by the Audit Commission and creates operational inefficiencies.

- 2 The other proposals are based on best practice from elsewhere.

Reasons for Recommendations

- 3 The recommendations will result in the delivery of a re-modelled planning service which reflects both best practice elsewhere and responds positively to the recommendations made by the Audit Commission, who stated:

(a) *‘Decision making arrangements at Committee are cumbersome (para 17). The way Councillors participate in planning decision making ... is having a negative impact on the effectiveness and efficiency of the service. Unless the concerns set out in the report are addressed, the reputation of the Council is at risk which will ultimately undermine its ability to deliver its corporate priorities, especially around regeneration and housing.’ (para 18).*

(b) *‘The perception is that they (decisions) are not consistent, fair or transparent.’ (para 30).*

- (c) *'The call-in and referral process lack transparency and add delay and uncertainty'. (para 30).*
- (d) *'Councillors take their local representational role very seriously. They (Councillors) have a deep seated belief that it is the purpose for which they had been elected'. (para 42).*
- (e) *'The impact of continued parochialism will be an inability to deliver fully the Council's countywide strategic planning ambitions, and the investment of officers' and members' energies and resources in heading off appeals and other challenges rather than improving outcomes for the wider community'. (para 21).*
- (f) *'Exploit the potential for councillors' and officers' learning from appeals and other significant challenges within a training and development setting. Ensure lessons are drawn from key challenges, and that action is taken to address identified weaknesses'. (R2).*
- (g) *'Review and amend the planning decision making processes to ensure these are more efficient, fair and transparent and increase accountability for decisions by: reviewing the operation of the delegation scheme and call-in system; abandoning of amending the area committee referral mechanism to increase committee accountability; and evaluating the costs and value added by the present two-tier committee arrangements that involve all councillors, compared to other alternative committee structures'. (R5).*
- (h) *'Ensure greater separation of roles between the local ward councillor and the planning decision maker through a review of current committee membership and application of codes of conduct and good practice'. (R9).*

Introduction and Background

- 4 The Audit Commission published a report in March 2009 on the operation of the development control system. The report was produced as part of the 2008/09 programme that the Audit Commission agreed with the Council for the delivery of its audit and inspection remit.
- 5 The Planning Services Scrutiny Review Group (of the Environment Scrutiny Committee) report was presented to the Environment Scrutiny Committee on 20th April 2009. The remit of this report covers a far wider area than the Audit Commission report.
- 6 A detailed response to both reports will be considered at the Cabinet on 30th July 2009.

Key Considerations

- 7 This report has been prepared for Council so that the Cabinet can have the widest amount of information and comment to inform its decision on 30th July, 2009.
- 8 In order to implement a revised planning system decisions will be required on the following key areas:
 - (a) the composition of the committee structure to determine planning applications and other related matters (currently Parts 9.1 and 9.2 of the Constitution).
 - (b) the delegation of decisions on planning applications and other related matters from the Planning Committee to officers (currently Appendix 18 of the Constitution).
 - (c) the role of members in the planning process (currently Appendix 13 of the Constitution).

- (d) the way in which applications determined contrary to officer recommendation are handled (currently Appendix 18 Annex 1 of the Constitution).

Composition of the Committee Structure

- 9 The Audit Commission report was clear in its recommendation that the Council should review its existing Committee structure in relation to the operation of the planning system.
- 10 Two options have been discussed in recent weeks with members via group meetings. The first is based on a single planning committee dealing with all non-delegated applications. The second is based on a strategic planning committee (dealing with major land allocation-type applications and other matters of a strategic/country-wide nature) and supported by the operation of two area based committees (dealing with all other applications on a geographic area basis). In this option the three committees would operate in an independent fashion – there would be no referral process from an area planning committee to the strategic planning committee.
- 11 The current Constitution specifies that all 58 members have a development control function. All members sit on their respective area sub-committee, and some members are also members of the Planning Committee.
- 12 In debating the options consideration has been given to the numbers of members that would be appropriate to form part of the revised committee structure. Based on evidence from other similar authorities the following numbers of members are suggested for each option.

Option 1

Single Planning Committee
19 Members

Option 2

Strategic Planning Committee
11 Members

Area Planning Committee (x2)
11 Members (on each Committee)

- 13 A situation that does not involve every member having a direct development control function would require any planning committee (as set out in paragraph 10 above) to be constituted on a politically proportionate basis.

Delegation of decision to officers

- 14 The Audit Commission has indicated that the Council should simplify its scheme of delegation to officers. The current scheme of delegation (Appendix 18 of the Constitution) is a traditional model which seeks to identify a comprehensive list of functions that can be delegated to officers. It covers 25 sub-areas. The current scheme of delegation results in 89% of all applications being determined under delegated powers (in conjunction with detailed discussions with ward members).
- 15 A revised model is set out at Appendix 1. It sets out a by-exception approach that has been adopted by many other local authorities and which is anticipated to result in 95% of all applications being determined under delegated powers. The ongoing contact between ward

members and planning officers would be consolidated and extended both to improve the quality and integrity of delegated decisions and to generate member confidence in the proposed new arrangements.

Role of Members

- 16 The Audit Commission report has suggested that the Council should review the role of members in the development control process in general, and ensure that there is a clear distinction between members' regulatory, representative and political roles in particular.
- 17 Any revisions to the Planning Committee structures and the number of members with a direct development control function will assist in the process. Appendix 2 sets out proposed arrangements for maintaining and extending the role of the local member in revised arrangements. The appendix/note sets out proposals around:
 - (a) initial discussions once an application is received
 - (b) initial discussions on the proposed terms of Section 106 Agreements
 - (c) determination of application at committee and the role and engagement of the local member.
 - (d) information exchange post-decision.

Decisions on planning applications at Committee contrary to recommendation

- 18 The Audit Commission expressed its own views about the current referral process (Appendix 18/Annex 1 of the Constitution) from any one of the area-sub Committees to the Planning Committee. This practice is widely misunderstood by applicants/agents and objectors, and creates operational difficulties for officers.
- 19 In either of the two options proposed for the revised committee structure (see paragraph 10) it is proposed to replace the current referral system with a further Information Report System. Appendix 3 sets out this proposal in further detail. In essence where there is a resolution to determine an application contrary to recommendation further information would be submitted to the next meeting of that Committee setting out in particular the legal, procedural and likely financial implication of proceeding with the initial resolution.

Community Impact

- 20 There will be improved working relations between the Council, public and Parish and Town Councils.

Financial Implications

- 21 The various proposed changes will be largely cost neutral, and can be contained within existing service budgets.

Legal Implications

22. Any revised arrangements would need to be reflected in amendments to the Council's Constitution.
- 23 The role that members play within the Planning Service must be designed to ensure compliance with the Ethical Standards Framework.

Risk Management

- 24 The Planning Service continues to be high-profile, and this will continue as the County embarks on the New Growth Point initiative in general, and its LDF in particular.
- 25 The effective operation of the Planning system also has a significant impact on the wide reputation of the Council. Since the publication of the Audit Commission report and the findings of the Environment Scrutiny review group the Local Government Association has published an update of its report on Probity in Planning. This is timely and will allow you and officers to ensure that all documentation that supports the new arrangements will be entirely in accordance with national best practice.

Consultees

- 26 As these matters are largely internal and procedural to the Council no consultation has taken place.

Appendices

- 27 Appendix 1 – Proposed Revised Scheme of Delegation to Officers
Appendix 2 – Proposed Role of Local Member
Appendix 3 – Proposed Further Information Report System

Background Papers

- Audit Commission – Planning Services Review - Herefordshire Council Audit 2008/09 – March 2009
- Local Government Association – Probity in Planning May 2009