

Minutes of the meeting of the Connected Communities Scrutiny Committee held in The Conference Room, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Friday 18 November 2022 at 9.15 am

Committee members present in person and voting: Councillors: Tracy Bowes (Vice-Chairperson), Jim Kenyon, Jonathan Lester (Chairperson) and David Summers

Committee members participating via remote attendance: Councillor: Jeremy Milln

Note: Committee members participating via remote attendance, e.g. through video conferencing facilities, may not vote on any decisions taken.

Others in attendance: S Banks (Neighbourhood Planning Service Manager), B Baugh (Democratic Services Officer), K Bishop (Lead Development Manager), M Carr (Interim Statutory Scrutiny Officer), T Coleman (Interim Service Director Planning and Regulatory Services), Liz Harvey (Cabinet Member - Finance, Corporate Services and Planning), A Rees-Glinos (Democratic Services Support Officer) and S Withers (Development Manager Hereford and South Team)

10. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Paul Andrews, Toni Fagan and Kath Hey.

11. NAMED SUBSTITUTES

Councillor David Summers was present in the meeting room as the substitute for Councillor Paul Andrews. Councillor Jeremy Milln participated via remote attendance on behalf of Councillor Toni Fagan.

12. DECLARATIONS OF INTEREST

No declarations of interest were made.

13. MINUTES

The minutes of the previous meeting were received.

RESOLVED:

That the minutes of the meeting held on 14 October 2022 be confirmed as a correct record and be signed by the Chairperson.

14. QUESTIONS FROM MEMBERS OF THE PUBLIC

No questions had been received from members of the public.

15. QUESTIONS FROM MEMBERS OF THE COUNCIL

No questions had been received from councillors.

16. GENERAL SCRUTINY COMMITTEE RECOMMENDATIONS AND THE EXECUTIVE RESPONSES - UPDATE ON THE PLANNING SERVICE

The committee received executive responses to recommendations in relation to the planning service made by the former General Scrutiny Committee on 21 March 2022 ([minute 62 of 2021/22](#) refers).

The Cabinet Member - Finance, Corporate Services and Planning welcomed the continued interest of scrutiny on planning matters and any further constructive suggestions.

The Interim Service Director Planning and Regulatory Services acknowledged that commitments made by previous interim post holders had not been delivered and due process had to be followed in terms of the transformation of the service, including consultation with staff members. The Lead Development Manager added that, with the support of the current Interim Service Director, the service was moving forward.

The principal points of the discussion included:

1. In response to questions about the executive response to recommendation b) [on the topic of the costs of additional resources brought in to address the planning backlog], the Lead Development Manager advised that no planning consultants were engaged currently, the planning backlog had been cleared by planning consultants and existing staff members, and there were delays but not a backlog at the present time.
2. In response to a question about references to delays on the [Planning Search](#) webpage, the Lead Development Manager commented on current staffing issues which had an impact on registering and processing applications, and considered that the webpage text articulated the situation.
3. The Interim Service Director confirmed that the service was looking to improve processes, procedures and ways of working, including the use of IT systems.
4. In response to a question about opportunities to enhance relationships, the Interim Service Director outlined the scope of the planning improvement plan; this included a review of the expectations, roles, and cultural behaviours of Planning Committee members, ward members, and officers in order to build trust and confidence. The need to review the way that the service communicated with all parties was recognised, and interviews would be undertaken with stakeholders to understand the issues to prioritise.
5. A committee member commented that the executive response to recommendation d) [on the topic of the measures to ensure consistency in the production of planning reports and decisions] should reference paragraph 56 (rather than paragraph 55) of the National Planning Policy Framework.
6. The Chairperson noted the statement that the 'Framework makes it clear that planning conditions should be kept to a minimum...' and said that some parish councils questioned the inclusion of certain planning conditions if these were not monitored subsequently. The Interim Service Director advised that planning

conditions should be reasonable, necessary and enforceable but there were issues with the quality and content of some of the planning applications being received. The Interim Service Director said that the appointment of a Development Monitoring Officer was one of their recommendations.

The Cabinet Member commented that conditions informed applicants of what was expected in the course of undertaking development and, making a comparison with speeding offences, the enforcement policy should ensure that applicants were alert to the potential for enforcement if conditions were circumvented.

The Lead Development Manager advised that the service issued around 3,500 decisions each year, most included only a small number of conditions, and major developments could involve a higher number of conditions, especially where information was awaited.

The Chairperson questioned how the service could ensure that information was front-loaded by applicants in order to reduce the need for conditions and to minimise any compliance issues. The Interim Service Director advised that the government required that development proposals should not be held up, some conditions had to be agreed with developers, and matters often arose through discussions with consultees which were not apparent at the time of submission.

7. In response to a question about the final paragraph in the executive response to recommendation d), the Lead Development Manager clarified that 'a set of practice notes / guidance notes on specific subject matters for officers to further improve the consistency of decision making' would be produced for internal use and related information would be published on the council's website to provide applicants with an awareness of the matters that officers would look at.
8. In response to questions about the executive response to recommendation e) [on the topic of staffing and recruitment], the Interim Service Director confirmed that the recommendations of the [Planning Advisory Service – Planning Peer Review 2020](#) formed part of the planning improvement plan. It was reported that a transformation specialist had been appointed to commence work in January 2023, with a report due to be completed by the end of March 2023. A committee member said that a timetable would be welcomed, particularly as targets had passed or been omitted from some executive responses.
9. Attention was drawn to the executive response to recommendation e) [on the topic of options to deliver enforcement action more effectively and efficiently] and a member in attendance commented on the need to offer challenge to conditions that were inherently unenforceable.

A committee member considered that comparisons between road traffic regulations and planning conditions were unhelpful, and motorists should not be unfairly targeted for criticism.

The Interim Service Director said that the majority of planning conditions were standard conditions arising from case law. It was confirmed that the existing [Planning Enforcement Policy](#) had been updated but had been held back pending further review and engagement with stakeholders.

10. A committee member commented on the need to simplify the planning process for smaller development proposals and to provide an 'excellent planning experience' for service users. The Interim Service Director said that the service was not a planning consultancy, although the review would examine the pre-application advice offer. The need to make the process easier in relation to applications for

smaller development proposals, for both applicants and planning officers, was acknowledged. An overview of Planning Performance Agreements (PPA) for major development proposals was also provided.

The Interim Service Director explained that, as a statutory service, there were limitations to the potential business model.

The Chairperson suggested that a customer satisfaction survey could be undertaken in relation to the pre-application advice service, particularly to provide a baseline prior to the implementation of the planning improvement plan. The Interim Service Director said that a sample would be undertaken.

A committee member suggested that consideration could be given to incentives for applicants to use the pre-application advice service, perhaps with a discount applied to the application fee. The Interim Service Director advised that the service could not charge more than its costs, applicants did not necessarily progress proposals in the form discussed during pre-application, and this could be difficult to arbitrate.

11. A committee member commented on the challenges experienced by ward members in relation to some major development proposals, and on the need to improve communications. The Lead Development Manager said that applications could become dormant but case officers would provide appropriate updates to ward members as matters progressed.
12. The Vice-Chairperson made a number of points, including: the review should cover gaps in the executive responses, such as omitted action owners and dates; the public needed visibility and confidence in the enforcement process; flowcharts and other visual aids could help with public understanding; the pre-application advice service should involve meaningful dialogue with service users; and frustration was expressed about the frequency of updates on major planning applications.

The Interim Service Director commented that a significant number of complaints received by the enforcement team were about civil matters, such as boundary disputes, and some related to matters dealt with by other legislation, such as environmental health. Consequently, people could be disappointed that their concerns could not be addressed through the planning process. In addition, consideration had to be given to the public interest, including the costs of enforcement balanced with the likelihood of achieving successful outcomes. Nevertheless, it was recognised that decisions made on the basis of expediency could be communicated and explained better. The Vice-Chairperson suggested that such communications could include the ward member.

In terms of major applications, the Lead Development Manager re-iterated that case officers would communicate with ward members when there were aspects on which to update them but there would be quieter periods. The Interim Service Director commented on the need for balance given the finite resources available.

13. Attention was drawn to recommendation g) which supported the 'development of a local protocol / charter for communications between members and officers...' and the executive response identified the organisation of a workshop 'to help members understand the role of the ward member in their community'. The Chairperson considered that a document ought to be developed in order to recalibrate and define expectations around communications, particularly to ensure that ward members did not feel that they were outside the planning process when discussing issues in their communities.

The Lead Development Manager observed that the Covid-19 pandemic had reduced face-to-face interactions between members and officers, and workshops provided opportunities to reconnect. The Interim Service Director commented on the importance of proportionality in terms of communications.

14. In response to a comment from a member in attendance about improving the pre-application process, the Lead Development Officer reported that the [Statement of Community Involvement](#) strongly encouraged applicants to involve the community and officers actively promoted such engagement. The Interim Service Director added that PPAs would provide opportunities to obtain commitments about consultation at the pre-application stage.
15. A committee member welcomed recent changes which had improved awareness and transparency in relation to Section 106 but questioned whether monies could be more transferable, with reference being made to recreational sports and leisure. The Interim Service Director explained that the purpose of Section 106 contributions was to mitigate the impacts of developments and there was a need to demonstrate a robust case for seeking planning obligations for particular projects.
16. The Cabinet Member commented that executive responses had been provided to the previous scrutiny committee recommendations, additional training was being delivered to councillors, the council's constitution included provisions relating to councillors and the planning process, and the committee was invited to identify any necessary improvements to the constitution.

The Chairperson said that the objectives of the agenda item were both to consider the executive responses and to offer any further constructive challenge to the improvement process.

The Chairperson noted that redirections, where a ward member could request an application to be considered by the Planning and Regulatory Committee rather than be determined by officers under delegation, should 'normally be made within three weeks of the application being notified to the relevant ward members...' but a longer time period was often needed for officers to reach a recommendation. The Lead Development Manager advised that it had been requested that this requirement be removed during the 're-thinking governance' process.

A committee member noted that the new Planning Rules and Code allocated a ward member 'a maximum of 10 minutes to speak at the beginning of the debate' but considered that this could be insufficient, especially for major applications. The Lead Development Manager suggested that the chairperson of the committee, with suitable notice, may consider using their discretion to extend the time when necessary. The Interim Service Director commented on the need for the business at meetings to be transacted as efficiently as possible. The Chairperson suggested that a discussion was needed with councillors about the reasons for the time limits and on how to make the best use of the time available to them.

17. In response to a question, the Lead Development Manager advised that three training events for councillors had been held recently; on Code of conduct, enforcement, and Section 106. The workshop on communications, referenced in paragraph 13 above, was likely to be held before the end of March 2023.
18. A committee member welcomed increased dialogue between the public health team and the planning service. The Lead Development Manager confirmed that the health agenda would feature more prominently in the new Local Plan.

19. Noting that other authorities had Supplementary Planning Documents on various ecological and environmental matters, a committee member questioned whether the council had the correct SPDs in place, with specific reference made to design. The Interim Service Director advised the new Local Plan was needed to set out the primary policies. The Neighbourhood Planning Service Manager reported that, as part of the National Model Design Code Pilot Programme Phase 1, the council had worked with local councils to consider how design coding could be integrated into reviews of Neighbourhood Development Plans (NPDs), and the Local Plan would include an overarching design code for the county.
20. The Chairperson noted the challenges for planning officers in managing high caseloads and covering large areas, and in other areas of the service such as policy development and enforcement, and thanked the officers for their hard work.
21. The Chairperson questioned whether the council had the resources to deliver the planning improvement plan. The Cabinet Member commented on the budgeting process that was underway and on the funds that had been set aside to support the development of the Local Plan.
22. The Neighbourhood Planning Service Manager confirmed that NPDs would remain part of the development plan until replaced. Therefore, unless an update was required under the current Core Strategy, NPDs did not need to be reviewed by local councils currently, as it was not certain at this stage which settlements would be included in the settlement hierarchy; as that work emerged, engagement would be undertaken with individual local councils.
23. The Lead Development Officer confirmed that the authority did not get many requests for Article 4 Directions (restrictions on permitted development) but provided a couple of examples. The Interim Service Director emphasised the need for sufficient justification. There was a brief discussion about the use of Article 4 Directions in relation to Conservation Areas.
24. The Chairperson questioned whether Section 106 monies could contribute towards the costs of a Development Monitoring Officer.
25. In response to a question about the executive response to recommendation m) [on the topic of untidy / derelict sites], the Interim Service Director said that officers were aware of the powers available to deal with problematic sites and to recoup costs, untidiness was subjective, each case had to be considered on its own merits, action had to be justified as being in the public interest, and it would be difficult to allocate a specific budget for such action given the unknown costs that could be incurred where action was deemed necessary.
26. A number of participants complimented officers in the planning service. The Chairperson noted that the improvement plan must improve the situation for staff.
27. The Interim Service Director confirmed that IT solutions for the planning service would be considered alongside the wider review of systems being undertaken by the Interim Head of IT.
28. In response to a question, the Interim Service Director clarified that the natural environment team managed applications to carry out work on trees.

In conclusion, the Chairperson suggested that the issues raised during the discussion should be reflected upon in the continuing improvement process.

Resolved:

That:

- a) The executive responses to the predecessor General Scrutiny Committee recommendations made in March 2022 be noted; and**
- b) The minutes of this meeting be used to inform the planning improvement plan process, particularly in terms of the points raised about communications and relationships.**

The meeting ended at 12.05 pm

Chairperson