

**TONBRIDGE & MALLING BOROUGH COUNCIL
PEER CHALLENGE SCRUTINY REVIEW PANEL**

25 August 2015

Report of the Management Team

1 AREA PLANNING COMMITTEE REVIEW

1.1 Update from the Initial Panel Meeting

1.1.1 The first meeting of the Peer Challenge Scrutiny Review Panel took place on the 23rd July. The Panel identified specific areas that they wanted to investigate in more detail and this included the Area Planning Committee Structure. In particular, Members of the Panel identified the following as matters to be considered further:

- Comparison with other local authorities with regard to planning committee structures
- Difficulty in managing dual ward member status and planning committee membership
- Delays through the current site inspection process
- Level of business for each area planning committee is often low with meeting sometimes cancelled
- Consider reviewing call in procedure

1.2 Review of the Area Planning Committee Structure

1.2.1 The current structure comprises three area planning committees. The membership of the committees is made up of councillors from all the wards in the designated area. Therefore each of the area committees has a membership of 18 councillors, a total of 54 Councillors on all three committees, which comprises all councillors for the Borough.

1.2.2 The Association of Democratic Services Officers has produced a briefing note to provide guidance on planning committee management. In particular they advise that:

“The appropriate size of a committee will reflect the overall size of the council and the number of members. Best practice would generally err on the side of smaller rather than large”

- 1.2.3 All local authorities in Kent, with the exception of Tonbridge and Malling, operate a single planning committee structure and this is a reflection of the wider picture nationally. Membership of the single planning committees varies from 9 to 18 Councillors and the cycle is usually 4 weeks, with a number of authorities operating a 3 week cycle. Appendix 1 sets out this information in more detail.
- 1.2.4 Area planning committees do enable a wealth of local knowledge to be made available to the committee through local representation. However, this does mean that it can be difficult for a ward councillor, who is also a member of the area planning committee, to decide how to best represent their community without risking predetermination or perceived predetermination. It is also the case that planning decisions, whilst taking into account local matters, must be made on the basis of policy application and requires a certain detachment, reflecting the strict legal duties placed upon the Council as a local planning authority in determining planning applications and related matters.
- 1.2.5 Single planning committees can be formed from a selection of councillors from across the borough. This could comprise councillors drawn from each area to reach an operationally efficient and appropriate number, subject, of course, to the representation requirements.
- 1.2.6 The single committee structure would mean that the majority of councillors would be able to openly express views with regard to a planning proposal, both in their communities and at the planning committee meeting, taking advantage of the speaking opportunities. Under the current Constitution councillors can call an application to committee as long as there are sound planning reasons for doing so. The call-in procedure for ward councillors would ensure that they have full opportunity to express their views and the views of their community without the probity requirements which would otherwise constrain this were they members of an area planning committee.
- 1.2.7 Transparent processes for ward councillors to call in applications could be included in the committee terms of reference for planning committee and set out in the Council’s constitution. The speaking rights at committee could also be included, along with more efficient approach to site inspection protocols, in the Constitution.
- 1.2.8 National guidance provided by the Planning Advisory Service strongly advocates regular training for planning committee members. This is particularly important, mindful that the planning committee is a quasi-judicial process and decisions can be subject to challenge (by way of judicial review in the courts) if the appropriate procedures are not clearly established and followed. There are currently 54 Councillors who are members of the area planning committees and this presents

significant training challenges. A reduced membership, as would be the case with a single planning committee, would mean that training and updates could be provided more effectively and consequently risk and uncertainty, and the cost consequences associated with such risk, would be reduced for the Council.

- 1.2.9 Central Government have recently emphasised the importance of making planning decisions quickly and effectively, and are currently introducing new monitoring regimes for 'Minor' applications (which include applications for 1-9 dwellings; up to 999 m² of office/light industrial/general industrial/retail floor space and 1-9 pitches for traveler sites) similar to the existing monitoring for Major applications. Failure to meet the monitoring requirements can lead to penalties and ultimately intervention by Government and the loss of local decision making.
- 1.2.10 The current area planning committees meet on a six week cycle. Mindful that the majority of planning applications have a statutory determination period of eight weeks, it is not often currently possible to meet these decision deadlines for applications that are put before committee. A single planning committee could meet more frequently, for example every three or four weeks, which would increase the likelihood that applications could be determined within the statutory period and thereby meet Government targets.
- 1.2.11 Currently, there are between 25-28 area planning committees each year. Each area committee requires in the region of seven days of officer time on general committee preparation, excluding individual report checking, regardless of the length of the agenda. Therefore, the current area committee structure requires approximately 175-203 officer days per year.
- 1.2.12 A single planning committee meeting every four weeks would have 13 meetings a year. The general committee preparation time would remain the same, at around seven days, but the overall officer time needed for the year would be approximately 91 days. The saving in officer time on committee preparation would assist greatly with capacity in Planning, Legal and Committee Services. This would also mean that other areas of work could be delivered more effectively, providing a better service for residents, businesses and councillors, for example faster registration and validation. Whilst the performance of the service is generally well regarded, we are aware that due to the growth in complexity of the planning process and the way in which the Council has, rightly, wished to deliver the service in a consultative and inclusive way, there are areas where improvement can be identified.
- 1.2.13 The average running time of committees is 2 hours 50 minutes per calendar month. This average is based on committee duration for full years 2013/14 and 2014/15 and for year 2015/16 April-July. Appendix 2 gives further details on average committee duration per month over the last two years. It should be noted that a number of committees have been cancelled in both years due to the lack of business.

1.2.14 The annual average on a four week cycle i.e. 13 meetings a year rather than 12, would be closer to 2 hours 35 minutes per meeting. Therefore, based on the levels of business for the area planning committees over the last 2 years, a 4 week cycle for a central planning committee would be practical.

1.2.15 Committee site inspections are currently identified at the individual area planning committees. Mindful that the current committee cycle is six weeks, a site inspection can considerably delay the determination of an application for several weeks, or even months, particularly if meetings are cancelled. This uncertainty can cause distress and worry, not only to the applicant, but also for local residents and to other interested parties. In addition, current legislation and national policy requires that applications are determined as soon as possible and without undue delay.

1.2.16 With regard to committee site inspections the Planning Advisory Service (Probity in Planning for Councillors and Officers 2013) provides the following guidance:

- Inspections should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies already
- The purpose, format and conduct should be clear at the outset and adhered to throughout the inspection
- Where a site inspection can be triggered by a request from the ward councillor, the 'substantial benefit' test should still apply
- Keep a record of the reasons why an inspection visit is called

The Planning Advisory Service consider a site inspection is only likely to be necessary if:

- The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- The comments of the applicant and objectors cannot be expressed adequately in writing
- The proposal is particularly contentious

1.2.17 Therefore, taking account of the guidance above, a formal procedure setting out the grounds for requesting site inspections, together with protocols for how and when the site inspection should be carried out, would be beneficial. This could be incorporated into the Council's Constitution. In addition, a more illustrative and helpful presentation of proposals at committee by officers, to include photographs and explanations, may go some way to addressing the need for site inspections.

1.2.18 There are a number of direct costs related to the current area planning committee structure, where it may be possible to achieve savings should this be changed to a single committee structure. One example would be the current room hire, catering and visual display and sound arrangements for Area Planning Committee 1. This has a total annual cost of approximately £5,000, based on an average of 8-9 meetings a year. There is the potential to make overall savings in the region of £15,000-£20,000

1.3 Next Steps

There are two recommendations that the Panel can consider:

1. No change to the existing area planning committee structure
2. Develop a single planning committee structure to meet the particular needs of the Council – this can include committee membership, ward councillor representations, presentations and site visits

1.3.1 There are benefits and draw backs to both options. However, option 2 offers the greatest level of benefits in terms of efficiency, effectiveness, probity, reduced cost and improved customer service. Compared with option 1, option 2 would have a lower level of local representation actually on the Committee, but would provide the ability for many ward councillors to represent their community in other ways, for example in making representations to the planning committee. Option 2 also presents a more transparent decision making framework than option 1.

1.3.2 The Panel is therefore invited to agree one of the above two options and to recommend to the Overview and Scrutiny Committee that they be commended to the Cabinet for its further consideration.

contact: Louise Reid
Head of Planning

Steve Humphrey
Director of Planning, Housing
and Environmental Health

Julie Beilby
Chief Executive
On behalf of the Management Team

Appendix 1

Local Planning Authorities – Kent Committee Details						
Authority	Single Committee	Area Committee	Number of Councillors on Committee	Cycle	Meeting day	Start Time
Ashford	Planning Committee		17	4 weeks	Wednesday	7.00pm
Canterbury	Planning Committee		12	4 weeks	Tuesday	6.30pm
Dartford	Development Control Board		18	4 weeks	Thursday	7.00pm
Dover	Planning Committee		10	4 weeks	Thursday	6.00pm
Gravesham	Regulatory Board		9	4 weeks	Wednesday	7.00pm
Maidstone	Planning Committee		13	3 weeks	Thursday	6.00pm
Medway	Planning Committee		15	4 weeks	Wednesday	6.30pm
Sevenoaks	Development Control Committee		18	3 weeks	Thursday	7.00pm
Shepway	Development Control Committee		13	4 weeks	Tuesday	7.00pm
Swale	Planning Committee		18	3 weeks	Thursday	7.00pm
Thanet	Planning Committee		12	4 weeks	Wednesday	7.00pm
Tonbridge and Malling		Area Planning Committee 1	20	6 weeks	Thursday	7.30pm
		Area Planning Committee 2	17	6 weeks	Wednesday	7.30pm
		Area Planning Committee 3	20	6 weeks	Thursday	7.30pm
(TOTAL)			57			
Tunbridge Wells	Planning Committee		16	3 weeks	Wednesday	5.00pm

Appendix 2

Year	Month	Area Committees	Total number of DC cases	Total number of Enforcement cases	Total duration hours.minutes	
May 2015 – July 2015	July					
	June	3	2	0	1.00	
	May	1 (cancelled), 2	2	0	1.18	
May 2014-April 2015	April	1, 2, 3	10	3	3.57	
	March	2 (cancelled), 3	7	1	2.30	
	February	1, 3 (cancelled)	4	0	1.19	
	January	1, (cancelled), 2, 3	7	1	0.59	
	December	1 (cancelled), 2	5	0	2.15	
	November	3	3	1	1.15	
	October	1, 2, 2 (extraordinary),3	10	0	7.46 (3.46 less extraordinary meeting)	
	September	1, 2	7	0	4.20	
	August	2, 3	5	0	1.49	
	July	1, 2, 3	10	1	5.12	
	June	1, 3 (cancelled)	4	1	3.02	
	May	1, 2, 3	8	0	3.58	
	May 2013-April 2014	April	1, 2	6	0	3.35
		March	2, 3 (cancelled)	5	0	2.30
February		1, 3	7	1	4.01	
January		1 (cancelled), 2 (cancelled), 3	3	0	1.25	
December		1, 2	8	0	4.35	
November		3	4	0	2.02	
October		1, 2, 3	8	1	3.24	
September		1, 2	5	0	3.10	
August		1, 2, 3	8	0	2.09	
July		2, 3	7	1	3.20	
June		1	4	0	1.42	
May		1, 2	8	1	3.05	
AVERAGES				6.1	0.46	2.5 (including extraordinary meeting)