

PLANNING DEVELOPMENT CONTROL COMMITTEE13 November 2012CABINET14 November 2012OPERATION OF PLANNING DEVELOPMENT CONTROL COMMITTEE –  
INFORMAL POLICY GROUP – FINAL REPORTREPORT OF HEAD OF DEMOCRATIC SERVICESContact Officer: Colin Veal Tel: 01962 848 438 email: cveal@winchester.gov.ukRECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

This report sets out the work and recommendations of the Informal Policy Group which was established by Cabinet to consider the format and organisation of Planning Development Control Committee (PDC) meetings, including arrangements for public participation, with particular reference to ensuring public confidence in the decision-making process.

RECOMMENDATIONS:To Cabinet and Planning Development Control Committee:

1. That full Council be requested to reduce the membership of Planning Development Control Committee (PDC) from 12 to 9 members, with effect from the new Municipal Year (2013/14) and that Council be requested to note that there is no constitutional bar preventing a member of Cabinet from serving on PDC or serving as the Chairman of PDC.

2. That the following administrative improvements to the operation of the Planning Development Control Committee be endorsed:
- i) Effectively split the meeting into morning and afternoon sessions;
  - ii) Public Participation to be held later in proceedings so that it is taken after officers' presentation and Members' questions, but before Members' debate and the vote;
  - iii) Speakers to be asked questions by the Committee;
  - iv) Production of a guide to public speaking;
  - v) Production of a public guide for the meeting;
  - vi) Display the Chairman's announcements on the screen;
  - vii) Reduce the length of officers' presentation at meetings by adhering to visual material only including proposed plans and photos of the site and its surroundings;
  - viii) Upload the Update Sheet to the website;
  - ix) Copy of the Update Sheet to be placed on the Committee door;
  - x) Make the Public Speaker timer system easier to understand;
  - xi) Display the item number in the Committee Room;
  - xii) Update the website during the meeting "PDC live" and display in the Guildhall reception, subject to practicalities;
  - xiv) PDC members to be encouraged to bring policy documents to the meetings;
  - xv) PDC members to be encouraged to advise Case Officers in advance of the meeting of any technical issues they wish to raise during the meeting;
  - xvii) That the Group's recommendations on training be implemented;
  - xviii) That attendance of this revised training (to be settled by the Head of Planning Management, in consultation with the Chairman of PDC and the Portfolio Holder for Planning and Transport) be a prerequisite for Members and deputies serving on PDC.

## PLANNING DEVELOPMENT CONTROL COMMITTEE

13 November 2012

### CABINET

14 November 2012

## OPERATION OF PLANNING DEVELOPMENT CONTROL COMMITTEE – INFORMAL SCRUTINY GROUP – FINAL REPORT

### REPORT OF HEAD OF DEMOCRATIC SERVICES

#### **1 Introduction**

- 1.1 This Informal Policy Group (IPG) was established at the request of Cabinet at their meeting held 13 June 2012, with a membership of Councillors Humby (Chairman), Evans, Lipscomb and Pines. In addition, Councillor Jeffs, as Chairman of the Planning Development Control Committee (PDC), and Councillor Weston, as Portfolio Holder for Planning and Transport, were invited to attend.
- 1.2 The IPG's terms of reference was "to consider the format and organisation of PDC meetings, including arrangements for public participation, with particular reference to ensuring public confidence in the decision-making process."
- 1.3 In advance of the Group's first meeting, all City Councillors and all Parish and Town Clerks in the District were asked to submit their concerns and suggestions to improve PDC. The Group received comments back from 12 Parish Councils and four City Councillors. Together with suggestions from officers involved in the planning process, these were considered in detail at the first meeting, held 20 July 2012. A summary of the main issues raised and the Group's response is set out in the detail of this Report.
- 1.4 In advance of the Group's second meeting, an email was sent to the main planning agents and architects in the District, seeking their views on PDC. The Group also contacted the Heads of Planning Service in neighbouring authorities and visited the Planning Committees at both Test Valley Borough Council and East Hampshire District Council. The main issues arising from these were considered at the second meeting, held 13 September 2012, and are summarised in the detail of this Report.
- 1.5 The Group expressed their sincere thanks to everyone that had contributed to the Review.
- 1.6 In summary, the main findings that were expressed to the Group related to the public participation arrangements, a right to reply for the

public and the timetabling of agenda items. After careful consideration, the Group drafted a series of recommendations, which it believed when taken together, would lead to a significant improvement in how PDC operates and is perceived.

- 1.7 The Report set out under each topic a summary of the suggestions or concerns received. It sets out where the Group agreed to recommend changes and, where it could not recommend a change, its reasons.
- 1.8 Following the Group's two meetings, a draft of this Report was considered by an informal meeting of PDC, held 10 October 2012. A Summary of PDC's comments are set out at the end of the Report.

## **DETAIL**

### **2 PRINCIPLES**

- 2.1 As a result of a concern arising from the consultation, the Group agreed to ask officers to draft a leaflet or laminated sheet to be made available to the public at the meeting, setting out an easy-to-understand guide to the meeting. This would include what they should expect from the Committee and, in turn, what the Committee expected from the public attending a meeting.
- 2.2 The Group also agreed to adopt East Hampshire's practice of displaying the Chairman's announcements (fire exits etc) on the main display screen and for this information to be included in the Guide.

### **3 LOBBYING/PRE-DETERMINATION**

- 3.1 During the consultation, it was suggested that all PDC members should state who had lobbied them in respect of applications. However, the Group agreed that this was not practical, due to the sheer amount of lobbying information sent to Members. The Group considered that disclosing this at the meeting would greatly add to the length of already long meetings.
- 3.2 Furthermore, recent Government advice had clarified Members' position regarding pre-determination. This underlined that Members are entitled to take a position on an application prior to a meeting, so long as they did not have a "closed mind".

#### 4 **THE REQUEST FROM PARISH COUNCILS TO BE INVITED TO SITE VISITS**

- 4.1 The Group expressed sympathy with the suggestion to invite Parish Councils to Councillors' site visits, so as to involve Parishes more in the planning process and to benefit from their local knowledge. However, following discussion, it was agreed to adhere to the current policy that Parish Councils not be invited to attend because:
- rights of access (as the Planning Authority, District Members had a right of access to the applicant's land, which WCC could not demand for Parish Council representatives);
  - to allow Parish Councils on site could generate requests from other groups, such as residents' associations and pressure groups, to attend the site visits;
  - that to invite Parish Councils on site could introduce the prospect of lobbying on site. The purpose of the site visit is for Members to familiarise themselves with the physical features of the site and surrounding area only – the debate would be held in a subsequent public meeting.
- 4.2 In respect of Planning Officers' site visit (prior to items being considered by Committee) it was agreed it would not be appropriate to invite Parish Councils, principally for the rights of access issues above.

#### 5 **VIEWING SUB-COMMITTEES**

- 5.1 During consultation, a suggestion had been made that PDC members should have a better understanding of applications by more frequently visiting sites. After discussion, the Group agreed with this sentiment, but considered that PDC's current arrangements already strived to achieve this.
- 5.2 From 2009, the Council has been operating a system of "pre-emptive" site visits. These are informal site visits, where the Head of Planning Management has invited the Committee to see the site on the Tuesday before Thursday's PDC. These are applications that the Head of Planning Management (in consultation with the Chairman) considers raise particular issues which the Committee would benefit from seeing the site in order to fully appreciate the proposal in relation to its setting. This procedure also reduces the potential for items to be deferred at PDC for a Viewing Sub-Committee. The Group noted that if Committee members, Ward Members or Parish Councils think that the application would benefit from a site visit, they should highlight this to the Head of Planning Management as early as possible in the process so it could be considered as a potential pre-emptive site visit.
- 5.3 However, this does not take away the Committee's right to call a Viewing Sub after the officer's presentation at Thursday's PDC, but the new arrangements should reduce the likelihood of this happening and

therefore the need for the public to therefore attend two planning meetings.

- 5.4 Outside of these arrangements, the Group noted that whilst PDC members are under no obligation to visit sites before determining applications, there is no procedure that stops Parish Councils directly inviting District Councillors to visit sites.

## 6 **OFFICER'S REPORT/PRESENTATION:**

- 6.1 In response to concerns raised by the planning agents, the Group agreed that there was scope to reduce the length of officers' presentation at Committee, concentrating on the visuals of the plans and photographs, rather than restating the planning issues of the development which are already set out in the Report. It was agreed that this should be accompanied by the Chairman explaining that the Committee have read the Report thoroughly and noted the comments from supporters and objectors.
- 6.2 It was agreed not to re-produce plans in the published Report, due to the difficulties of capturing often complex plans on photocopied, black and white A4.
- 6.3 The consultation highlighted concerns regarding the availability of late information. The Group noted that the Update Sheet was deliberately created as a catch-all for late information, received after the publication of the Report. However, it was agreed that officers investigate uploading the update sheet to the website as an addendum to the Report and advise customers (through the public speaking coordinators) of its existence and when it will be uploaded. This would remove the need to refer in detail to the Update Sheet in the minutes. Furthermore, it was suggested that, in addition to spare copies in the room, a copy of the update sheet be attached to a board near the Committee room door.
- 6.4 The Group considered the advantages of including pre-application advice within the "Planning History", but following Legal Advice, agreed that the Committee's task was to consider the application before it – not to discuss the detail of any alternative, earlier schemes. A greater concern was that to disclose the details of pre-application advice as a matter of course, could limit the scope of the discussion with applicants or deter them from seeking such advice in the first place, as developers could be reluctant to make public their long term plans.
- 6.5 The consultation had raised concerns about relevant information being excluded from the Report. However, the Group agreed that if a Parish Council, objector or applicant considered that an issue was missing from the Report, this should be raised with Case Officer as soon as possible and before the committee meeting. Officers would then make a decision on whether the item should be deferred. If the item

proceeds to Committee nevertheless, the Parish Councils et al are at liberty to request that Members defer an item. However, it was noted that this was a rare occurrence.

## **7 PUBLIC PARTICIPATION ARRANGEMENTS**

- 7.1 Concerns about the Public Participation arrangements were one of the principal issues that came through the consultation process.
- 7.2 **Is three minutes enough?**
- 7.3 Many Parish Councils that contacted the Group expressed concern that three minutes was not enough time to convey all their reasons in support or objection to an application. However, the Group also received comments from other Parish Councils and agents that three minutes was an adequate period of time. Furthermore, it noted that three minutes was the standard time used at the other Authorities it had visited and the Group received legal advice that three minutes had been endorsed by the High Court as a reasonable amount of time for a speaker to convey principal issues.
- 7.4 Therefore, the Group agreed that the time limits should remain at three minutes for objectors, the Parish Council and supporters, but it acknowledged the difficulties faced by some speakers, especially those not used to speaking in public. The Group therefore recommended that the Council should produce an improved guide to public speaking at Committee, available from its website and highlighted to the public when they register to speak. In essence, this guide would advise that speakers should time their speeches, practise before the meeting and advise against raising non-material issues.
- 7.5 To further aide public speakers, the Group agreed that officers investigate displaying the timer in a traffic light system or in seconds, rather than minutes.
- 7.6 In addition, the Group noted that for very large and contentious applications (such as Sainsburys Bishops Waltham, Barton Farm or Silver Hill) the public participation arrangements were extended with the Chairman's agreement.
- 7.7 The Group also discussed whether to reduce the amount of time Winchester's Ward Members had to speak from 5 minutes to 3 minutes each. The Group had heard that 3 minutes was an adequate amount of time for public speaking and to reduce it to 3 minutes would put Ward Members on an equal basis with Parish Councils. However, it was noted that none of the representations received had requested that the time allocated to Ward Members be reduced and the Group considered that the additional time reflected the Ward Member's status of representing large constituencies.

## 7.8 **The Right to Reply**

- 7.9 One of the major issues the Group identified was the frustrations of the public, parish councils and supporters in being unable to contribute to the debate after public participation. Although comments from the floor could currently be accepted at the Chairman's discretion, the Group appreciated the concerns raised, whilst being mindful to avoid the creation of an uncontrollable debate between a quasi-judicial body and the public gallery.
- 7.10 During its debates, the Group considered a number of possible solutions, including a postbox for comments at the meeting or passing messages from the public to the Democratic Services Officer. However, both of these were considered to be impractical, especially at large scale public meetings.
- 7.11 The Group also noted that when the Committee resolves to grant permission, the official, written planning consent is actually sent a few days after the meeting by officers. Therefore, if anyone considered that the Committee made its decision on false or inaccurate information, if administered in time, the application could technically be brought back to a future Committee.
- 7.12 However, as a response to the right to reply issue the Group agreed to recommend the following two changes:

### ***1. To hold public participation later in the consideration of the item:***

The Group appreciated that many of the calls for a right to reply came from people in the public gallery who had heard something said by one of the Councillors or, more often, officers, during questions which they considered to be factually incorrect. Therefore, to enable interested parties an opportunity to correct perceived inaccuracies, the Group agreed that public participation should be held just before the Councillors' final debate and vote and after officer's presentation and Councillors' questions.

### ***2. Questions to Speakers***

The Group also agreed to enable the Committee to question the public speakers (after their speech) on matters of fact or issues of clarification. The Group had seen this system operate well at Test Valley Borough Council and noted that it was possible that these questions could also involve a dialogue between the officers and speakers. However this would need to be strongly managed by the Chairman.



7.13 The order of procedures was therefore recommended to be:

- A shortened officer presentation (which did not repeat the report)
- Members' questions (based on the headings in the Report)
- Public Participation (including members questions to speakers):
  - Objectors: 3 minutes
  - Parish Council: 3 minutes
  - Ward Members/Portfolio Holders: 5 minutes each
  - Supporters 3 minutes.
- Members' Debate
- The Vote.

Note: It was likely that if a Viewing Sub-Committee was called before Public Participation, Public Participation would be taken at the Viewing Sub-Committee.

#### **7.14 The Order of Public Speaking**

- 7.15 A Parish Council had suggested that Parish Councils should have the final word in public participation before the committee decision. However the Group were unable to forward this change as a recommendation as it had received legal advice that, whilst it was for each Council to determine its own public speaking arrangements, in accordance with natural justice it was logical that the applicant should have the final say in the public participation. This enabled the applicant to respond to any earlier criticisms of their own application. Furthermore, it was only the applicant that could appeal a decision, and to change the order of public speaking could open the Council to accusations of not allowing the applicant to respond to any material considerations raised by objectors.

#### **7.16 Reading Statements Out**

- 7.17 During the consultation, it had been suggested that Parish Councils should have an opportunity to submit statements to be read out if they were not there in person at PDC. In response, the Group noted that the current public speaking rules enabled non-parish councillors to represent the Parish and read out that Parish Council's concerns. As with Ward Members who were unable to attend the meeting and send another representative, if no-one could be sent to the meeting, statements would not be read aloud by an officer to the Committee. It was assumed that if a consultee was unable to attend a meeting in person, they would instead forward their concerns directly to the Committee and copy this to the Case Officer.

## 8 **TIME TABLING ITEMS**

- 8.1 Another of the major issues raised through the consultation process was the amount of time parish councillors, applicants and public had to wait to hear their item at Committee, not least because of their car parking costs.
- 8.2 The Group agreed with the sentiment of these concerns and the principle that the Committee ought to serve its customers better.
- 8.3 Following debate, the Group agreed to delegate to officers the management of PDC agendas to, where there was sufficient business, effectively split the business into morning and afternoon sessions. The Group noted that as PDC now met on a four, rather than three, weekly cycle, the number of items it considered often meant that meetings finished mid to late afternoon.
- 8.4 Therefore the Group agreed that officers should be able to alert members of the public that items later on the agenda would not be heard before, as an example, 2pm. This gave the Committee the flexibility of avoiding a guillotine on the earlier items, but meant that those interested in later items did not need to sit unnecessarily through the morning session. It was noted that the increased use of pre-emptive site visits meant that the agenda timetabling was likely to be more accurate. However, the Group agreed that if the morning's business finished earlier than anticipated, Members would have to take a longer lunch break and wait until 2pm before determining the afternoon's items. Whilst this would be unfortunate, in terms of the use of Members' time, the benefits for our customers outweigh these disadvantages.
- 8.5 To minimise the number of public that had to wait within those sessions, it was agreed (where possible) that the most "contentious" item would be considered as Item 1 at 9.30am, and the second most "contentious" as the first afternoon advertised item.
- 8.6 As a related matter, the Group noted concerns about the welfare of Councillors on the Committee, which could often be a long and tiring meeting and therefore recommended the continuation of adequate breaks.
- 8.7 South Downs Applications would continue to be considered separately, followed by non Planning Schedule items, such as Tree Preservation Orders.
- 8.8 **Evening Meetings?**
- 8.9 During its debate, the Group considered whether PDC should start its meetings in the evening, in common with Test Valley and East Hampshire Councils. However, the Group recognised the dangers of

assuming what worked well in other Districts could be successfully parachuted into Winchester. Therefore, the Group agreed that the meetings should continue to start at 9.30am, as this had not been raised as a major concern through the consultation process. Furthermore, the Group agreed that if the Committee were to start their meetings in the early evening this could lead to meetings finishing very late at night. The Group accepted that this was unfair to Members and especially those members of the public interested in items late on the agenda. A further concern was raised regarding the availability of late night public transport to rural parts of the District.

#### **8.10 Display Item Number and “PDC Live”**

8.11 Related to the above improvement, the Group agreed that the Item Number the Committee were currently considering should be displayed in the room. Furthermore, the Group agreed to ask officers to investigate updating the Council's website during the meeting, so that anyone, anywhere, can find out what item the Committee are considering and, straight after the vote, whether the application was permitted, refused and deferred. The Group requested that this information be displayed on the plasma screen in the Guildhall reception.

8.12 However, the Group did not recommend that PDC be streamed live onto the web, as was the case at Basingstoke and Dean District Council as they did not see major benefits resulting from this practise.

### **9 MEMBERS' DEBATE**

9.1 Concerns had been raised that Members need not explain why they are voting in a particular way. However, the Group agreed that, whilst not wanting to encourage repetition, the Committee were correct to explain why they intended to vote in a particular way and that one of purposes of debate was to persuade fellow Members of a particular argument.

9.2 The Group also agreed that it was important how the Committee was perceived by the public during the meeting and that this was an issue that the Chairman would continue to monitor. Similarly, the Group requested that the Chairman continue to distinguish between comments and questions and steering the Committee away from non-material considerations.

9.3 The Group agreed that PDC members should be encouraged to attend PDC with their policy documents and that where possible, PDC members should advise the Case Officer in advance of any technical issues they want to raise at the meeting.

- 9.4 Whilst the Group did not consider it necessary at this point, it agreed that future training of the Committee could include an assessment of Members' performance from an external trainer.

## 10 **THE MEMBERSHIP OF PDC**

- 10.1 The Group agreed that reducing the size of PDC to nine Members may speed up the process without compromising the quality of decision making. It was noted that this change required the approval of full Council, and following discussion, it was agreed to recommend that this change be introduced at the start of the next Municipal Year.
- 10.2 Following discussion, the Group noted that (aside from concerns from some Members regarding the separation of executive and regulatory functions and workloads) there was no constitutional bar to members of Cabinet serving on PDC, including serving as the Chairman of PDC.
- 10.3 It was suggested during the consultation that the local member on PDC should visit the site and discuss the application with the relevant Parish Council. However, PDC is not an area based Committee and currently comprised only 12 members. Its membership therefore could not reflect every parish in the District. The Group had seen Area Committees in practice at Test Valley Borough Council and, whilst there was much good practice to be learnt from that Committee, the Group agreed that adopting Area Committees was not one which would add value to decision making in Winchester. The Group considered that Area Committees placed too much pressure on the PDC member to vote with the most vocal public opinion, rather than a more objective and neutral view, based on the planning considerations.

## 11 **MINUTES**

- 11.1 In response to concerns raised, the Group noted that the minutes only summarised Ward Member's comments. Whilst the minutes recorded whether a Parish Council or objector/supporter spoke, it is in practice only the Ward Member and the Committee itself that has the ability to verify the accuracy of the minutes at the subsequent meeting. Furthermore, the difficulties of summarising comments were noted and the Group agreed that minuting Parish Council, objectors or supporters comments in full did not add anything to the process (as their comments would be set out in full in their written objection/support of the application) and would not influence a decision which was, by the point at which the minutes are written, already been made.

## 12 **TRAINING:**

12.1 Many of the concerns raised during the consultation progress, the Group agreed could be best dealt with by more training of officers, Members and parish councils.

12.2 In summary, for **officers** it recommended more training relating to:

- Presentation skills
- To ensure the consistent adoption of a process to ensure that, if all parties agree to late changes, items could be withdrawn from PDC.

12.3 For **Members' training:**

- The Group recommended that officers review the training offered to Members that serve on PDC.
- That attendance of this revised training be a prerequisite for Members serving on PDC.
- The Group questioned the value-for-money offered by the Planning Summer School and suggested that this could be better spent on training more Committee members via an external trainer.
- Policies.
- Their role on Parish Council meetings, prior to PDC, and pre-determination.
- That any technical issues should be raised with officers prior to the meeting.
- That any request for a site visit should be forwarded to the Head of Planning Management as soon as possible so that it could be considered, in consultation with the Chairman, and if agreed, arranged before the PDC meeting. Members should explain their reasons for a pre-emptive site visit.
- Members should be reminded that, if they were minded to vote against the recommendation in the Report, it should be made very clear that this had to be justified for material planning reasons.

12.4 For **Parish Councils' training:**

- it was agreed that training scheduled for 22 November continue and that two future training sessions be provided away from Winchester, one for (and in) the northern parishes and one for (and in) the southern parishes.
- As an associated issue, it was agreed to invite Parish Councils to take up any spare seats on the annual planning coach tour.
- Policies.

- Why it was not possible to share confidential matters with parish councils; eg financial and business data used by an applicant to demonstrate financial sustainability.
- To highlight that Parish Councils' comments are appended in full to the Committee Report.
- That any request for a site visit should be forwarded to the Head of Planning Management as soon as possible, detailing their reasons to be included as a pre-emptive site visit.

### 13 **CONSULTATION ON THIS REPORT**

- 13.1 Informal Planning Development Control Committee meeting, held 10 October 2012
- 13.2 In summary, the Informal Meeting welcomed the proposals in the Report and recognised its potential to improve the operation of the Committee.
- 13.3 However, there were differing views between Members regarding the Report's proposals to reduce the membership of PDC from 12 to nine members. Those who wanted to keep the membership at 12 suggested that the larger number was more likely to attract a wider range of Councillors; be more accessible to younger Councillors and be more likely to represent a broader geographical base. These Members also questioned whether reducing the number would in reality streamline the decision making process and raised concerns about the Committee being (or appearing to be) quorate.
- 13.4 Alternatively, those members that spoke in support of the recommendation to reduce the membership of the Committee agreed with the reasons set out in the Report and added that the smaller number was likely to attract more dedicated Members.
- 13.5 In addition to the issues raised in the Report, this informal meeting commented on the poor quality of some of the drawing plans submitted. However, the Head of Planning Management explained that officers would continue to encourage applicants to submit high quality drawings and supporting information (both of which help the decision making process and can show a development in the best light). However, if the application includes the minimum information needed to make a decision and complies with national and local validation requirements, the Council has to determine the proposal. Exceptionally, permission may be refused on the grounds of inadequate information but such instances would be rare.
- 13.6 Informal PDC also recommended that the guidance for public speakers should advise that the public may have to make their own judgement regarding how much of their 3 minutes they might wish to use to pick up any new points they had heard during the preceding discussion (ie, the officer's presentation, Members' questions and particularly for the applicant, any issues raised by previous public speakers).

### OTHER CONSIDERATIONS:

#### 14 **SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):**

- 14.1 None specifically.

#### 15 **RESOURCE IMPLICATIONS:**



15.1 Costs associated with Member meetings.

15.2 RISK MANAGEMENT ISSUES

15.3 None

15.4 BACKGROUND DOCUMENTS:

15.5 None

15.6 APPENDICES:

15.7 None