

**ITEM 11**

**Plans and Planning Process Panel**

Report Councillor Adams King, Chairman of the Planning Process Panel

**Recommended:**

**That the following recommendations of the Plans and Planning Process Panel be approved for consideration by Cabinet:**

**In relation to the Plans Panel it is recommended that**

- 1. The Plans Panel, which is currently responsible for advising on the development of the Local Plan, should become a formal panel of the Council.**
- 2. The composition of the new Plans Panel should be calculated using a political balance formula that reflects the overall make-up of the Council and take into account geographical representation.**
- 3. The Plans Panel does not have any delegated authority and is advisory in nature. As a result and as it is likely to be dealing, in the main, with confidential policy development matters it proposed that it is not open to the public to attend.**
- 4. Meetings of the new Plans Panel will be open to any member who wishes to attend.**
- 5. Meetings should feature on the corporate calendar and agendas and notes (marked CONFIDENTIAL) should be circulated to all members.**

**In relation to the Area Committees it is recommended that:**

- 6. An alteration to the Scheme of Delegation such that where a minor application is contrary to policy this is only brought to the Area Committee when there has been objection or adverse comment from a consultee or third party.**
- 7. An alteration to the Scheme of Delegation such that where there is an officer or member interest in an application this is only brought to the Area Committee when there has been objection or adverse comment from a consultee or third party.**
- 8. If a member has identified an application as one that should be called to committee upon it being initially advertised, the member should be contacted to ask if they still wish it to be heard once an officer recommendation has been agreed.**
- 9. When the Area Committee votes against an officer's recommendation to refuse an application officers should assist members in ensuring appropriate reasons for refusal are included in a new motion.**

## **10. The Peer Review of Planning Committees offered by the Planning Advisory Service should go ahead.**

### **SUMMARY**

- The OSCOM Task and Finish panel engaged to review TVBC's Plans and Planning Process has examined the role of the Plans Panel, the Area Planning Committees and the Planning Control Committee. The Panel's members are making a range of recommendations for consideration by OSCOM. Additionally, the Panel is seeking OSCOM's approval to continue its work on all the Planning Committees for a further six months. This would enable the Panel, subject to Cabinet endorsement, to commission the Planning Advisory Service to undertake a review of the various options for how the Planning Committees might operate in future. Further, it would provide an opportunity to engage the various stakeholders on their experiences of the Planning Committees.

### **1 Background**

- 1.1 OSCOM established a Task and Finish panel to review TVBC's Plans and Planning Process in September 2015. Originally established to examine the role of the Plans Panel and the Area Planning Committees it merged in December 2015 with the Task and Finish Panel established to review the Planning Control Committee Process. The Panel comprised of 8 members (but has had a core membership of 5) and has engaged with an additional 10 members during its meetings. The panel has met on 12 occasions (twice each as separate panels and 8 times jointly). These meetings have included a question and answer session with the Planning Advisory Service and a 'Select Committee' style afternoon where the Panel questioned the Chairs of the Northern and Southern Area Planning Committees, the Chair of the Planning Control Committee, Portfolio holders for Planning Policy and Planning and Building and the Head of Planning.
- 1.2 The Panel has surveyed neighbouring and similar authorities, asking a number of questions about the function of their Strategic Planning and Local Planning Committees and attendant processes. The spreadsheet detailing the questions asked, the Councils approached and the responses received is at Appendix A of this report.
- 1.3 Officers have been informed of the Panel's discussions and their recommendations as they have progressed.
- 1.4 The Panel has made a series of recommendations which are contained in paragraphs 2 and 3 below. Each recommendation is supported by the Panel's rationale for making the proposal.

## **2 Recommendations related to the Plans Panel**

### ***Structure and Function***

- 2.1 It is recommended that the Plans Panel which is currently responsible for advising on the development of the Local Plan should become a formal panel of the Council. The reason for this is to ensure that it meets standards of transparency, openness and democratic scrutiny. In all but one of the neighbouring and similar authorities surveyed committees/panels undertaking the same or similar functions were formally established.
- 2.2 The composition of the new Plans Panel should be calculated using a political balance formula that reflects the overall make-up of the Council. A spread of experience and geographical representation would be expected. This would provide a forum for peer learning and debate and ensure appropriate representation across the borough.
- 2.3 It is proposed that the Plans Panel would not have any delegated authority and would be advisory in nature. As it is likely to be dealing in the main with confidential policy development matters it suggested that it is not open to the public to attend. Meetings will, however, be open to any member who wished to attend. Most neighbouring and similar authorities operate their equivalent committees/panels in this way. By so-doing commercial confidentiality is maintained, particularly of issues that could be potentially highly controversial. At the same time a greater degree of participation and openness to all members would be established.
- 2.4 Meetings should feature on the corporate calendar and agendas and notes (marked CONFIDENTIAL) should be circulated to all members.
- 2.5 The OSCOM Planning Review led by Councillor Tilling in 2013/14 was not prescriptive regarding the membership of the Plans Panel; indeed, a greater flexibility of membership was recommended. However, this earlier Planning Review had identified a link between membership of the Plans Panel and membership of the Planning Control Committee (14 mutual members). Unsurprisingly, membership of both bodies correlated positively with a depth of knowledge of planning policy and confidence in making planning decisions whilst shortfalls in these skill areas were identified as major determinants of dissatisfaction amongst members not on either body.

The previous review concluded

- It is a paradox that planning policy development involves some members but not all, yet all are expected to apply the policies
- Lack of collective member involvement at the development stage of planning policy hinders universal familiarisation with the policies and this may affect negatively members' performance in the development management processes
- Failing to involve all members in a consultative capacity can breed an "us and them" culture and an undercurrent of distrust

- The perceived marginalisation of some members from the planning policy development process deters collaboration between members and also between members and officers

It was recommended that all planning policy development within the Council should be as inclusive as possible, a principle upheld by the Portfolio Holder for Planning Policy and Transport. It is surprising, therefore, that he has recently secured agreement from the Cabinet for a prescriptive and selective membership of the Plans Panel, to include six members of the Cabinet, the Chairs and Vice Chairs of the three Planning Committees and the Chair of OSCOM. To the rank and file member, this approach appears anything but inclusive.

### **Governance**

- 2.6 The Plans Panel should report to OSCOM according to an agreed schedule but at least annually.

### **3. Recommendations Related to the Area Planning Committees**

#### ***Operational Issues***

- 3.1 We would recommend improvements to the operation of the Area Planning Committees as follows in a – d below. The reason for these recommendations being that they encapsulate best practice, The reason for recommendation d) below is the Panel's view that such a change would create a sense of professionalism and better governance, particularly in situations where members of the public may well be present.
- 3.2 The Task and Finish Panel also discussed the current Scheme of Delegation with the Head of Planning. He commented that the Scheme of Delegation required applications with a member or officer interest (involvement), where there had been no objection or comment from the public or consultees, to be brought before area committees, expending time and resources, with no change in outcome as demonstrated by records for the past five years.
- a) An alteration to the Scheme of Delegation such that where a minor application ('minor being defined by the Head of Planning of their deputy) is contrary to policy this is only brought to the Area Committee when there has been objection or adverse comment from a consultee or third party. *(N.B This matter has recently been agreed by Cabinet and Council).*
- b) An alteration to the Scheme of Delegation such that where there is an officer or member interest in an application this is only brought to the Area Committee when there has been an objection or adverse comment from a consultee or third party.

- c) If a Member has identified an application as one that should be called to committee upon it being initially advertised, the Member should be contacted to ask if they still wish it to be heard once an Officer recommendation has been agreed. This would resolve the problem with a “public interest “ case where a Member has a concern which is subsequently resolved due to the Officer recommendation with which the Member agrees, thus not requiring it to be called to committee.
- d) When the Area Committee votes against an Officer’s recommendation to refuse an application, Officers should assist Members in ensuring appropriate reasons for refusal are included in a new motion.

Whilst the Officer might consider it contrary to his judgement, there is almost always a strong enough case to be made for an alternative recommendation. Also, a situation is less likely to arise where a reason for refusal had been omitted from an original application because insufficient information had been provided or sought, which is then revealed in a revised application but disallowed as a reason for refusal.

### **Governance**

- 3.3 The Peer Review of Planning Committees offered by the Planning Advisory Service should go ahead.

### **Further Actions**

- 3.4 The Panel requests confirmation from OSCOM that the Task and Finish Group should continue its work on Area Planning Committees for a further six months. This would include:
  - Assessment of the Planning Advisory Service Peer Review.
  - Completion of review of the Scheme of Delegation to the Planning Control Committee, its Procedures and Membership.
  - Further Survey of Members once PAS Peer Review is complete and results known.

## **4 Corporate Objectives and Priorities**

- 4.1 The Planning process contributes to the success of all of the Council’s corporate priorities.

## **5 Consultations/Communications**

- 5.1 In addition to input from panel members input has been sought from other Members and Officers through a formal scrutiny hearing. Information from a number of other authorities, about the way in which they formally involve Members in the development of their Local Plan, is attached as an Annex to this report.

## 6 Options

- 6.1 To endorse, modify or reject the Panel’s recommendations as identified in this report.

## 7 Risk Management

- 7.1 At this stage the Council’s Risk management process has not as yet been applied. A full risk assessment will be completed if all / any of the proposals are recommended to Cabinet.

## 8 Resource Implications

- 8.1 None at this stage

## 9 Legal Implications

- 9.1 Where applicable, these are covered in the officers’ covering report.

## 10 Conclusions

- 10.1 OSCOM is asked to consider the recommendations of the Planning Process Panel.

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| <u>Background Papers (Local Government Act 1972 Section 100D)</u>                                                                                                                                        |                                 |       |                 |
| <u>Confidentiality</u><br>It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public. |                                 |       |                 |
| No of Annexes:                                                                                                                                                                                           | 1                               |       |                 |
| Author:                                                                                                                                                                                                  | Councillor Adams King           | Ext:  |                 |
| File Ref:                                                                                                                                                                                                |                                 |       |                 |
| Report to:                                                                                                                                                                                               | Overview and Scrutiny Committee | Date: | 12 October 2016 |