

Planning Advisory Service (PAS) Peer Review of the operation of the Planning Committees

Test Valley Borough Council

Peer Team:

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**Test Valley Borough Council
Planning Advisory Service (PAS) Peer Review of the operation of
the Planning Committees**

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1. INTRODUCTION

- 1.1** Test Valley Borough Council, Head of Planning and Building Control, Paul Jackson invited the Planning Advisory Service (PAS) to undertake a peer review of the operation of its Planning Committees, in October 2018.

PAS Peer Review Team

- 1.2** The Planning Advisory Service invited Peer Reviewers Councillor Stephen Parker (Opposition Leader at Hart District Council and previously cabinet member for planning policy) and Gilian Macinnes (Planning Consultant and previously Head of Planning Sevenoaks District Councils and Development Control Manager Sevenoaks District, Maidstone Borough and Royal Borough of Windsor and Maidenhead), to undertake the review. This was agreed by the Head of Planning and Building Control, Test Valley Borough Council.

Review Timetable & Outputs

- 1.3** As part of the Peer Review, the Test Valley Planning website, committee agendas for October 2018 were assessed, other relevant reports and statistical information including reports to Overview and Scrutiny Committee (2014 & 2018). The Peer Reviewers interviewed officers and members including the chair and vice chair of the planning committees and the head of Planning and Building Control (see appendix 1); they visited the Southern Area Planning committee on the 6th October 2018 and the planning control committee on the 16th October 2018. An 'Initial Thoughts' feedback session took place with chairs and vice chairs, the portfolio holder, lead opposition councillor and Head of Planning and Building Control on the 16th October 2018, after the Planning Control Committee. The final draft report was sent through to Paul Jackson, Test Valley on the 19 November 2018 and the Final report was sent through on the 22nd November 2018.

- 1.4** **The Peer Reviewers would like to put on record their thanks to Test Valley Borough Council for the cooperation of members and officers during this Review process.**

Test Valley Key Planning Issues

- 1.5** The Peer Reviewers asked interviewees what they considered were the key town planning issues. Responses included: the delivery of housing (with Infrastructure) and affordable housing, the protection of the countryside and heritage issues. Many of the interviewees focused on controversial issues such as development in the villages.

Peer Review Assessment

- 1.6** The Peer Review has reviewed issues under the following headings:

Trust – Roles and Conduct of Officers and Members

- Code of Conduct
- Local planning Code of Conduct and Planning Practice Guidance
- Roles and Conduct of Officers and Members - Findings

Decisions -Delegation and Call-In

- Delegated Decisions to Officers
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Pre-Application Discussions

- Pre-Application process options

Quality Information, Reports and Training

- Member Training
- Planning Report Values and Essentials
- Planning Report Contents

Committee Management

- Overview - Committee/Board size
- Executive Members
- Southern Area Planning Committee
- Northern Area Planning Committee
- Planning Control Committee
- Site Viewing Panel
- Pre Meeting/Briefings

SHOP WINDOW

- Shop Window on the Council

2. CONCLUSIONS & RECOMMENDATIONS

2.1 Overall Conclusion

Test valley has good performance in terms of Government speed of throughput for major planning applications and has exceeded Government performance targets on non-majors, and the quality of decision making performance indicator. The authority have a good code of conduct and local code of conduct in relation to planning. The planning officer reports are generally clear, covering all the relevant development plan policies and issues. Therefore, Test Valley are doing well in relation to many elements of the planning service. However, the current committee structure is not an effective or efficient approach to discharging the Council's planning decision making function. The overall scale of the committees can, and does, adversely affect the ability of the committee to operate in a clear and efficient manner and can provide a poor experience of Test Valley for the public and customers of the planning service.

There has been reference over many years to the issues facing the planning committees including the scale, need for training, approach of councillors and their relationship with officers and it would appear that there is now an appetite, by some, for change. The recommendations are focused on restructuring the committees and creating a more professional, focused and dedicated decision making in the public interest, and enabling ward members to attend the committee as an advocate for their wards.

2.2 Conclusions and Recommendations

TRUST – ROLES & CONDUCT OF OFFICERS AND MEMBERS

Conclusions

- All Councillors sit on one of the area planning committees and the scale of the committee

contributes to issues such as insufficient training for all committee Members, the lack of 'professionalism' and clarity in proceedings referred to by interviewees. Test Valley BC's codes and guidance regarding the standards required of the planning committees are clear. Most of the main probity issues are well understood by Members but there are still actions which could be perceived as bias or predetermination; the area committees do not always demonstrate their commitment to making decisions on the basis of the "whole community"; and it is not always apparent that all the Members understand "material planning considerations". A number of the concerns are particularly related to the SAPC, for example, a lack of trust and officers feeling intimidated by the confrontational approach of some Members. Although it has been noted that the relationship between Members and officers at the SAPC has improved over the last 18 months. Planning Control is thought by many to be a safety net but can be perceived as an officer threat.

Recommendations:

- Review the committee structure to create a more effective and efficient decision making body where the proceedings can be more clearly understood, where all the members are trained to effectively execute the planning decision making function of the Borough and make decisions in the public interest of the whole Borough, in accordance with the Development plan, unless material planning considerations indicate otherwise.
 - Create one smaller Borough wide committee (no larger than the Planning Control Committee) to make decisions for the whole Borough.
 - Alternatively, if the single committee is considered too radical at this time, create two small area committees to make decisions in the interests of the whole Borough.
- Training - material considerations, probity (predeterminations, pre-disposition and bias)
- Relationship building between officers and members e.g. workshops, joint training

2.3 DECISIONS – DELEGATION AND CALL-IN

Conclusions

- The Test Valley BC delegation level is reasonably high but delegation procedure can give rise to all types of application being called to committee and it is not always clear why they have been brought before the committee. The Planning Control Committee doesn't run very often but is seen by many as saving the Council money and reducing appeals.

Recommendations

- Test Valley BC amend the delegation agreement to introduce a requirement that Members wishing to call an application to committee state a planning reason for bringing the application to committee and this is reported as part of the Case officers report.

- Amend the delegation agreement/standing orders to abolishing the area committees and PPC and restructure to a single Borough-wide committee (akin to the PCC committee).

2.4 PRE-APPLICATION PROCESS

Conclusions

The pre-application page of the web site provides relevant pre-application advice in PDF form but this could be expanded to increase its usefulness, to include links to relevant documents, the role of Councillors at pre application stage and the use of Planning Performance Agreements (PPA), particularly for major schemes. Several Supplementary Documents are old and require review.

Recommendations:

- The planning pre application advice page could be usefully expanded to include other useful information, planning performance agreements, Members role in pre- application engagement and links to the relevant plans and supplementary planning documents
- Further advice on effective pre-application Member engagement should be produced to ensure that all engagement is in line with the Codes of Conduct.
- All Supplementary Documents should be reviewed to ensure they are up to date with current development plan policies and the National Planning Policy Framework

2.5 QUALITY INFORMATION, REPORTS & TRAINING

Conclusions

- The quality of the information, reports, plans and agenda notes are clear and cover the key issues although the NPPF policies need updating and some minor changes should be considered to further improve clarity of reports. All members require additional training and an ongoing training programme for planning decision makers should be devised and an annual review of decision making and developments should be undertaken as a learning opportunity for Members. Chairmen and vice chairmen should be provided with specialist chairmanship training. Members should be further encouraged to ask questions of the officers in advance of committee which would result in speedier more informed decision making. To improve the understanding of the committee, the information provided for the public on the agenda should also be on the website and publicised on relevant correspondence.

Recommendations:

- Training: All Members undertake a programme of planning and probity training, including, decision making (defensible, robust, lawful decision making focusing on material planning consideration and public interest) and members that sit on planning committee undertake a more detailed training programme including: Government policy/guidance e.g. NPPF; technical training e.g. design and training on probity.

- Training: All Planning chairs and vice-chairs undertake planning chairmanship training.
- At least annually, all planning committee decision makers undertake a review of a selection of decisions and visit developments in the Borough.
- Committee reports: Include comparison or summary tables where relevant
- Committee reports: Collate the same consultees responses together – to understand the development of views.
- Further encouragement for any Member with questions of the application/report approach officers in advance of the committee.
- Agenda/website- Include Information notes on the website and include links in correspondence to inform the public and users of the Planning Service in advance of the committee, to aid greater public understanding of the planning application committee processes.

2.6 PLANNING COMMITTEE MANAGEMENT

Conclusions:

- The overall scale of the committees can, and does, give rise to issues that affect the efficiency and effectiveness of the decision making and provide a poor experience for the public and customers of the planning service.
- There appears to be a view that the process could be improved and a will by some, but not all, to change the current committee structures. Restructuring the committees and creating a more focused and dedicated decision making body focused on: enabling ward members to attend the committee as an advocate for their wards and decision makers to concentrate on making decision in the wider public interest. The smaller committee would also release the executive members to focus on their portfolio and avoid any potential conflict of interest or perception of a conflict. The smaller committee will also improve the focus of the planning site visit panel

Recommendations:

- Restructure the planning committee into 1 Borough -wide committee and no planning control committee, with a membership of circa 13 members or similar to facilitate balance. OR
- If the single committee is too radical a proposal at this time, introduce an interim step of creating two small area committees and remove the Planning Control Committee.
- The creation of a single, or two smaller committee, should not include executive members enabling them to focus on their cabinet role and avoid any potential conflict of interest, or perception of a conflict.

Note: these changes will also require changes to the constitution to facilitate ward representation; and training for Members on the role of ward advocate and Planning committee decision maker ensuring that planning committee decisions are robust and defensible, taking over this role from the PCC.

- Award of Costs workshop: case studies, from other authorities, of the circumstances and cost award to develop an understanding of unreasonable behaviour.

2.7 PLANNING COMMITTEE SHOP WINDOW

Conclusion

- The planning committee/s are one of the main 'shop windows' for any council, there are people that will only ever come into direct contact with how the council operate through planning applications. The current committees have good clear reports and visual aids, reasonable formality between officers and members, but difficult confusing layouts and are so large that it is difficult to follow proceedings which are extremely lengthy. The scale of the committee; the lack of training; confusion of ward advocate/committee decision maker roles; lack of preparation by some members; culture, in the SAPC, that members want to be seen to speak and are repetitive leading to very lengthy periods on each application (in excess of an hour)- do not result in the appearance of a 'professional' decision making body that represents the community. As set out above, the reduction in the size of the committees, to one single committee with ongoing training will result in a committee that can make planning decisions in a more effective and efficient manner for the whole of Test Valley Borough.

3. TEST VALLEY BOROUGH COUNCIL & TOWN PLANNING CONTEXT

Geography and Politics

- 3.1 Test Valley is located in Hampshire, North of Southampton and the New Forest, East of Wiltshire, and West of Basingstoke & Deane and Winchester. It is a long borough with two urban centres Andover and Romsey and a sizeable rural area populated by many villages.
- 3.2 In the 2015 Local Elections 48 councillors were elected: 37 conservative councillors, 9 Liberal Democrat councillors and 2 Independent councillors. The council has full election, for all seats in May 2019.

Key Planning Issues and Documents

- 3.3 Test Valley Borough's overall town planning policy context and strategic policies is set out in the Test Valley Borough Revised Local Plan DPD - 2011 - 2029 which contains policies for determining planning applications and identifying strategic allocations for housing, employment and other uses. This Local Plan was adopted by the Council on 27 January 2016.
- 3.4 Those interviewed in the review consider the key planning issue to be the delivery of housing growth and the protection of the countryside in the Borough.
- 3.5 Test Valley has a history of delivering housing, most recently 891 units in 2016/17, above that required by the local plan. The 2016/17 level was slightly down on 2015/16. The historic rates of delivery were: 1004 units in 2015/16, 880 units in 2014/15 and 542 units in 2013/14. As at 1st April 2018, the Housing Land Supply position for Northern Test Valley was 7.65 years, and for Southern Test Valley was 7.97 years. These figures are assessed against a target of 5.00 years.

4. TRUST – CODES OF CONDUCT - THE ROLES OF THE PLANNING COMMITTEE MEMBERS AND OFFICERS IN DECISION MAKING

4.1 Trust –Code of conduct:

Test Valley Borough Council has a Constitution and Code of Conduct that clearly sets out the need to comply with the 7 Standards of Public Life, (Selflessness; Integrity; Honesty; Objectivity; Accountability; Openness and Leadership). The code sets out pecuniary and personal interests and the general obligations for Members includes:

“Part 2: General obligations for members

2.1 When acting in your role as a Member of the Council:

- (a) Do treat others with respect.*
- (b) Do ensure that you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Member and on the Council as a whole.*
- (c) Do ensure that you behave in accordance with all the Council’s legal obligations, policies, protocols and procedures as they relate to your conduct.*
- (d) Do not do anything which may cause your Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006(a)).*
- (e) Do not bully any person (bullying is offensive, intimidating, malicious, insulting or humiliating behaviour that is directed at someone over whom you have some actual or potential influence).*
- (f) Do not intimidate, or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.*
- (g) Do not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your Council.*
- (h) Do not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:*
 - _you have the consent of a person authorised to give it;*
 - _you are required by law to do so;*
 - _the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or*
 - _the disclosure is:*
 - (a) reasonable and in the public interest; and*
 - (b) made in good faith and in compliance with the reasonable requirements of the Council.*
- (i) Do not prevent another person from gaining access to information to which that person is entitled by law.*
- (j) Do not use or try to use your position improperly to obtain an advantage or disadvantage for yourself or any other person or body.*

2.2 When making decisions on behalf of or as part of the Council:

- (a) **Do** exercise independent judgement and do not compromise your position by placing yourself under any obligations to outside individuals or organisations who might seek to influence your decision”
- (b) **Do** have regard to any relevant advice provided to you by the Council’s Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.
- (c) **Do** give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

4.2 Trust - Local planning code and planning practice guidance

In line with good practice the Council also has a local code of conduct for planning matters which clearly sets out the approach to determining planning applications. The local code of conduct, in relation to determining planning applications states:

“1.2 Determining a planning application is a formal administrative process involving rules of procedure, rights of appeal, and an expectation that people will act reasonably and fairly. Those involved should always be alert to the possibility that an aggrieved party may:

- (a) seek judicial review of the way the decision was arrived at; and/or*
- (b) complain to the Local Government Ombudsman on grounds of maladministration; and/or*
- (c) complain to the General Purposes Employment Appeals & Ethics Sub-Committee that a Member has breached the Code of Conduct.*

1.3 Decisions on planning involve considering private development proposals against the wider public interest. Much is often at stake, particularly the financial value of landholdings and the quality of their settings, and opposing views are often strongly held by those involved. It is important, therefore, that planning decisions affecting these interests are made openly, impartially, with sound judgements and for justifiable reasons. While Members should take account of various views expressed they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way. The members’ code of conduct requirement that a Member should act solely in terms of the public interest is also relevant in this context.

Officers

1.4 Officers must always act impartially

1.5 Officers are required to disclose to the council their direct and indirect pecuniary interest under section 117 of the Local Government Act 1972. Officers involved in processing and determining planning matters must also observe the guidance set out in the officers code of conduct concerning gifts and hospitality and with the relevant section of the Royal Town Planning Institute’s Code of Professional Conduct.”

The code of conduct is in line with the requirements of the Planning Practice Guidance :

“How must elected councillors and other members of the local authority consider planning applications?”

Local authority members are involved in planning matters to represent the interests of the whole community and must maintain an open mind when considering planning applications. Where members take decisions on planning applications they must do so in accordance with the development plan unless material considerations indicate otherwise. Members must only take into account material planning considerations, which can include public views where they relate to relevant planning matters. Local

opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons.”

Paragraph: 016 Reference ID: 21b-016-20140306 -Revision date: 06 03 2014

4.3 Trust – Roles and Conduct of Officers and Members -Findings

- Test Valley BC is clear in its codes and guidance regarding the standards required of the planning committees. However, the area committees do not always demonstrated their commitment to making decisions on the basis of the “whole community”.
- Member and Officer Applications: Planning applications by Members and officers are reported to the committee for decision. And there is clear guidance on the disclosure of pecuniary interests – both in general and with particular regard to town planning matters.
- At present all councillors are expected to sit on one of the area planning committees including executive (cabinet) members. The presence of the cabinet members can result in or give the perception of a conflict of interest.(see section 8)
- At the committees it is not always apparent that all the Members understand “material planning considerations”. It is necessary for the officers to step in to identify when a councillor has strayed away from material planning considerations.
- The Northern Area Planning Committee (NAPC) demonstrate respect for the officers and their role. However, at the Southern Area Planning Committee (SAPC) there have been issues between Members and officers. The poor relationship between Councillors and officers led to a local press headline of: *“Planning officers accused of being disrespectful over proposal for 40 homes”* Some councillors approach to officers has been described by some as intimidation, aggression and adversarial questioning. The Council’s code of conduct requires that members treat others with respect, do not intimidate, bully or do anything that would compromise the impartiality of the officers. These issues were identified the 2014 Overview and Scrutiny report . And more recently (18 months ago) these concerns were tackled by officers and senior Councillors and since that time there has been a significant improvement.
- It appears that there has been, and continue to be, a lack of trust between officers and some councillors, not all councillors appreciate or support the role of the officers as advisors to the Council. Therefore, further relationship building, particularly between officers and the SAPC is required.
- Predisposition and Predetermination – Managing Bias: There is guidance on predetermination in Test Valley BC’s Planning code of conduct (paragraphs 4.4 - 4.9). Most of the main probity issues are well understood by Members but there are still actions which could be perceived as bias or predetermination e.g. leaving the chamber immediately after an item to talk to the supporter or objector, representing the views of applicant or objector, blurring the line between ward representation and public interest decision maker. Therefore, from observing the planning committee and undertaking the review interviews this is an area that would merit further training for Members and potentially clearer guidance. This is a complicated and delicate matter and is a subject that needs to be constantly addressed.

- The use of the Planning Control Committee (PCC) is seen by some as a scare tactic by officers but most consider it to be a safety net. The PCC “safety net” has a different purpose, at different times. To some the PCC enables them to make popular decisions at area committees and be rescued from the consequences by PCC or to maintain the integrity of the policy or to maintain quality of the decision making (Government indicator) or save the council money in terms of appeal decisions or legal challenge.

Trust – Conclusion and Recommendation

Conclusions: All Members sit on one of the area planning committees and the scale of the committee contributes to issues such the difficulty in sufficiently training all committee Members, the lack of ‘professionalism’ and clarity in proceedings referred to by interviewees. Test Valley BC’s codes and guidance regarding the standards required of the planning committees are clear. Most of the main probity issues are well understood by Members but there are still actions which could be perceived as bias or predetermination; the area committees do not always demonstrate their commitment to making decisions on the basis of the “whole community”; and it is not always apparent that all the Members understand material planning considerations. A number of the concerns are particularly related to the SAPC, for example, a lack of trust and officers feeling intimidated by the confrontational approach of some Members. Although it has been noted that the relationship between Members and officers at the SAPC has improved over the last 18 months. Planning Control is thought by many to be a safety net but can be perceived as an officer threat.

Recommendations:

- Review the committee structure to create a more effective and efficient decision making body where the proceedings can be more clearly understood, where all the members are trained to effectively execute the planning decision making function of the Borough and make decisions in the public interest of the whole Borough, in accordance with the development plan, unless material planning consideration indicate otherwise.
 - Create one smaller Borough wide committee (no larger than the Planning Control Committee) to make decisions for the whole Borough.
 - Alternatively, if the single committee is considered too radical at this time, create two small area committees.
- Training - material consideration, probity (predeterminations, pre-disposition and bias)
- Relationship building between officers and members e.g. workshops, joint training

5. DECISIONS - DELEGATION AND CALL IN

5.1 Delegation & “Call In” Findings:

- Test Valley BC have recently amended their delegation agreement (Jan 2018),

removing the exception for applications that the Head of Planning and Building Control consider are of significant local impact/interest; adding that Members can withdraw their committee request at any time; and that notification application no longer have to go to committee. Delegation levels to officers have recently increased from around 90% to 94%. A range of applications are referred to committee from residential extension to major schemes (in addition to those officer or councillor application that have to be referred in line with the code of conduct). There are mixed views about the nature of applications that are called into committee but many feel that the small residential type of applications do not need to be reported to committee and the planning reason for them being at committee is not always clear.

- The Member call in process is a two tier approach and it is not currently essential that councillors state the material planning/public interest reasons as to why they are being referred. Therefore, the reason is not always referred to in the report or clear why it is on the Committee agenda.
- There are quite regular overturns of planning recommendations at the area committees, particularly by SAPC, but these are often referred to the Planning Control Committee (PCC) and the final decision is frequently made in accordance with the original recommendation. The PCC is seen as essential by many as: it saves the Council money on costs that may follow an unreasonable decisions, or a court challenge and/or it protects the local plan policies where the decision would harm the policy. However, the ability for officers to refer applications to the PCC has been seen by some Members as facilitating them to make a 'popular' decision at area committee which will be overturned at PCC. The review was told of cases where officers did not make the referral, to the surprise of Members, and the decision was made contrary to recommendation. PCC referral by officers is seen by some Members as a scare tactic. However, most interviewees agreed that the PCC was effective in ensuring more robust, defensible decisions. Test Valley BC's level of appeal losses, in terms of major application quality indicator, are not concerning as they are mid- table (187/346) for major application decisions overturned at appeal. In addition, Test Valley BC have not been subject to recent court challenges.

5.2 Delegation and "Call In" Conclusions and Recommendation:

Conclusions: The Test Valley BC delegation level is reasonably high but delegation procedure can give rise to all types of application being called to committee and it is not always clear why they have been brought before the committee. The Planning Control Committee doesn't run very often but is seen by many as saving the Council money and reducing appeals.

Recommendation:

- Test Valley BC amend the delegation agreement to introduce a requirement that Members wishing to call an application to committee state a planning reason for bringing the application to committee and this is reported as part of the case officers report.
- Amend the delegation agreement/standing orders to abolishing the area committees and PPC and restructure to a single Borough-wide committee (akin to the PCC committee).

6. PRE-APPLICATION PROCESS

6.1 Pre-Application – Findings:

- Pre-Application Process: Test Valley BC offer a pre-application and planning 'duty' service for general planning enquiries. The pre-application leaflet and fee schedule is easily accessible on the Council's website as a PDF but the information page could be developed further to provide help to applicants and agents, including relevant links. It does not appear that Test Valley BC overtly offer 'planning performance agreements', this is an area that could be explored further to maximise the efficiency and effectiveness of the service particularly for major development proposals.
- Councillors and Pre application: Councillors rarely get involved in pre application meetings or presentations and there appears to be a distrust of this form of engagement. This could be a useful tool for the Council to use on large or complex schemes to facilitate greater understanding and enable Members input at an early stage. There is general guidance on this in the code of conduct but specific further pre application guidance would be required for all parties.
- Pre-Application supplementary planning documents : The Council provide a range of pre application supplementary planning documents (SPDs) including Andover Access Plan, Shopfronts, and Draft Residential areas of Special Character that will assist in the delivery of their planning policy aims. However, there are some SPDs that are considerably out of date e.g. Affordable Housing and Infrastructure and Developer Contributions that are out of date in terms of the NPPF and the Local plan. Out of date SPDs can cause difficulties and confusion to users of the planning service.

6.2 Pre-Application - Conclusions and Recommendations:

Conclusions

The pre-application page of the web site provides relevant pre-application advice in PDF form but this could be expanded to increase its usefulness, to include links to relevant documents, the role of Councillors at pre application stage and the use of Planning Performance Agreements (PPA), particularly for major schemes. Several Supplementary Documents are old and require review.

Recommendations:

- The planning pre application advice page could be usefully expanded to include other useful information, planning performance agreements, Members role in pre- application engagement and links to the relevant plans and supplementary planning documents
- Further advice on effective pre-application Member engagement should be produced to ensure that all engagement is in line with the Codes of Conduct.
- All Supplementary Documents should be reviewed to ensure they are up to date with

current Development plan policies and the National Planning Policy Framework

7. QUALITY INFORMATION, REPORTS & TRAINING

7.1 Quality Information – Findings and Conclusions:

- **Planning Reports and Committee Agendas:** The reports are generally clear and cover all the key issues and have the reasons for refusal/conditions set out in full. However, the reports at the SAPC had not been updated to include the most recent changes to the National Planning Policy Guidance. The inclusion of location plans and appropriate plans as part of the reports is important. Some applications included comparison tables – this type of summary and comparison is extremely useful. In terms of the ease of understanding of the report, it would be helpful if all of the individual consultees responses were located together (dated) to understand the totality and development of that consultees comments. The inclusion of the information notes at the beginning of the agenda are extremely useful but may, additionally, be even more valuable for service users if it was included on the Council's website with links provided in correspondence regarding planning applications and committee. These notes could be expanded to provide an illustrative seating plan for the committee. The update paper clearly sets out the latest application correspondence and information, including whether there was, and who attended, a viewing panel and officers response to additional information including any amendments to the recommendation. It was apparent that not all committee members read the reports in advance of the meeting and very few councillors in the SAPC sought answers to their questions in advance of the meeting "preferring to keep their powder dry". Overall these issues, extends the meeting, and officers directing the Members to the committee report does not look prepared, and does not give the appearance of 'professional', robust, considered, decision making. This was also identified as an issue in the 2014 Overview and Scrutiny report.
- **Member Training:** The planning code of conduct (1.10) is clear that members who have not attended training sessions should not be involved in the decision making process. It is not however, clear how often this training should be (except that it is plural). At present Members get induction training but not ongoing training. The Policy Panel had recently undertaken a session on the new NPPF which was open to everyone but was not 'badged' as being necessary for all decision makers on planning applications and as training for planning committee members. The review has identified the need for planning decision makers to be trained on new Government policy/guidance e.g. NPPF; material considerations; technical training e.g. design and training on probity. The issue of planning training and poor attendance at planning training was raised in the 2014 and 2018 Overview and Scrutiny reports.
- **Planning Chairmanship Training:** All three planning committee have relatively new planning chairs, none of whom have had any planning chairmanship training. Even those with significant planning knowledge have not had chairing skills training and those that are experienced at chairing meetings haven't necessarily got planning chairing skills. The Overview and Scrutiny report in 2014 identified the need to provide Chairmen and vice chairmen of the Planning committees with Planning Chairmanship skills training. All chairs and vice-chairs would benefit from such training.
- **Decision and Development Review:** Currently members do not review planning decisions or new development within the borough, this is a lost opportunity to learn about their decision making, the decision making of officers and the Planning Inspectorate; and the physical

impact of the development on the ground. This understanding and knowledge could feed into reviews of planning policy and guidance.

Recommendations:

- Training: All Members undertake a programme of planning and probity training, including, decision making (Defensible, Robust, lawful decision making focusing on material planning consideration and public interest).and members that sit on planning committee undertake a more detailed programme including: Government policy/guidance e.g. NPPF; technical training e.g. design and training on probity
- Training: All Planning chairs and vice- chairs undertake planning chairmanship training.
- At least annually, all planning committee decision makers undertake a review of a selection of decision and visit developments in the Borough.
- Committee reports: Include comparison or summary table were relevant
- Committee reports: Collate the same consultees responses together – to understand the development of views
- Further encouragement for any Member with questions of the application/report approach officers in advance of the committee
- Agenda/website - Include Information notes on the website and include links in correspondence to inform the public and users of the Planning Service in advance of the committee, to aid greater public understanding of the planning application committee processes.

8. PLANNING COMMITTEES MANAGEMENT

8.1 Committees Management – Findings:

- Planning Committee Size: There was an overwhelming perception that most interviewees would like, or thought that, the committee structure would change. Many comments were made about the benefit of a single committee but most did not appear to think this was possible. Most people, and sources, commented on the very large size of the committees i.e. “ the size of the committees is ridiculous” ; “Smaller committee but still north and south” , “Smaller Committee would be better trained and more focused on planning issues”
- Executive Members: At present all councillors are expected to sit on one of the area planning committees including executive (cabinet) members. The presence of the cabinet members can result in or give the perception of a conflict of interest.
- Southern Area Planning Committee: The location of the meeting and where the public had to go was clear, all the speakers were welcomed and what they had to do was briefly explained. The Chairman opened the meeting and gave a brief explanation of the proceedings. The public were not introduced to the ‘top table’ or councillors at the committee. The name badges were so small as to be pointless, which is an issue that has

already been raised by the Chairman of SAPC who has requested larger name signage. It was difficult for the public to see and identify which councillor was speaking due to the layout and size of the committee. Committee was supported by a range of officers of varying seniority to cover the issues relevant to the evening's agenda (including Environmental Health). There was no highway officers present but this did not cause any problems. It was very encouraging to see that the Committee was supported by a legal officer. There was an appropriate level of formality between officers and Members. The committee was ordered to take the largest/controversial items first and the smaller items later. There are pros and cons for this approach, it deals with the items most of the public are interested in first, but applicants for straight forward applications had to sit through very lengthy presentations, speakers, questions and debates before reaching their items which were then dealt with very quickly. The SAPC agenda (9/10/18) had 8 items(1 x 5 house and a pub extension, 2 x 1 detached dwelling, 2 extensions including one with Listed Building applications and 2 officer/Member interest) 4 of the items took approximately 4 hours. The committee had to vote to continue. There was concern that we witnessed a large agenda for SAPC, however, overall the numbers or complexity should not normally have taken 4 ½ hours, as these were all relatively straight forward non-major applications, albeit there were speakers and public in attendance. There was confusion over the full and listed building (LB) applications speakers and the Chair could have used their discretion to allow the speaker to speak for this item rather than the following LB item. The officers' presentations were clear and very fulsome, if slightly lengthy. There was a slow pace, a significant degree of repetition, and on several occasions the debate strayed away from material planning considerations and the officers had to identify this before the debate was brought back to relevant planning matters. There seems to be a culture of the majority of this very large committee wanting to speak and a noticeable amount of 'grandstanding' for the public. It remains questionable that all members understand the role of the officers as advisors to the Council. However, the Members were not aggressive or overly intimidating and there seemed to be a degree of respect between officers and Members with only a couple of adversarial questions. Many of these issues were identified in the Overview and Scrutiny 2014 report. The attitude to officers is a significant improvement on everything the review Panel was told about how the committee operated 18 months ago.

- Northern Area Planning Committee (NAPC): The review team did not visit the NAPC but we did collect information on it and asked questions about how it operated during our interviews. It is apparent that the nature of the two areas and the two committees are entirely different. There is mutual respect between officers and members at the NAPC and a feeling of a team working towards the same goal. There are less applications called to committee and less referred to the Planning Control Committee. Overall development in the area is less controversial. The layout of the committee is extremely poor and again due to the size of the committee it is difficult for the public to follow what is going on and who is speaking. Similar to SAPC there is no introduction of the top table or Members.
- Planning Control Committee: The review team visited the Planning Control Committee (PCC) on the 16th October 2018. The PCC only had one applications on the agenda, that had been at a previous PCC (June 2018) with delegation to approve subject to a legal agreement. Since that time, the National Planning Policy Framework had been issued, therefore, the application was returned to committee to consider it in light of the new material consideration. In addition, there had been a legislative change affecting pre-commencement conditions. This was essentially a ratification of the previous decision with some amendments to the conditions. This did not therefore provide an ability from the Review Panel to view the PCC as it would normally be. However, it was noted that the layout did cause similar difficulties to the SAPC – but slightly worse as it was more compressed. There was similar issues to SAPC in terms of understanding who all the

participants were. As part of the interviews there were several comment about the relationship of North and South Members and the comments that can ensue in relation to the referral and the relevant area committees approaches. The comments and apparent relationship issues were not considered to appear 'professional' and undermined the overall standing of the committee and reflects poorly upon the Council.

- Site Visits: The Viewing Panel takes place on the Friday before the committee, there were several comments about the timing that precluded many Members that work attending. There is a limited attendance at the Panels (8 or 9 out of 24). At the Panel, Members appear to understand that they should not talk to anyone when visiting the site but panel management can be tricky if the Panel do not remain in a group.
- Pre-Meeting /Planning Committee Briefings of Members: The pre-meeting, is a meeting of officers and Chair and Vice Chair to run through the agenda and key issues. In accordance with the code of conduct, there is no apparent planning pre-meeting on party political grounds or any party political 'whipping'

8.2 Committee Management – Conclusions and Recommendation:

Conclusions:

- The overall scale of the committees can, and does, give rise to issues that affect the efficiency and effectiveness of the decision making and provide a poor experience for the public and customers of the planning service.
- There appears to be a view that the process could be improved and a will by some, but not all, to change the current committee structures. Restructuring the committees and creating a more focused and dedicated decision making body focused on: enabling ward members to attend the committee as an advocate for their wards and decision makers to concentrate on making decision in the wider public interest. The smaller committee would also release the executive members to focus on their portfolio and avoid any potential conflict of interest or perception of a conflict. The smaller committee will also improve the focus of the planning site visit panel

Recommendations:

- Restructure the planning committee into 1 Borough -wide committee and no planning control committee, with a membership of circa 13 members or similar to facilitate balance. OR
- If the single committee is too radical a proposal at this time, introduce an interim step of creating two small area committees and remove the Planning Control Committee.
- The creation of a single, or two smaller committee, should not include executive members enabling them to focus on their cabinet role and avoid any potential conflict of interest, or perception of a conflict.

Note: these changes will also require changes to the constitution to facilitate ward representation; and training for Members on the role of ward advocate and planning committee decision maker

- Award of Costs workshop: case studies, from other authorities, of the circumstances and cost award to develop an understanding of unreasonable behaviour.

9. PLANNING COMMITTEE – SHOP WINDOW

Shop Window –Conclusion:

- 9.1 The planning committee/s are one of the main 'shop windows' for any council, there are people that will only ever come into direct contact with how the council operate through a planning applications. The current committees have good clear reports and visual aids, reasonable formality between officers and members, but difficult confusing layouts and are so large that is it difficult to follow proceedings which are extremely lengthy. The scale of the committee; the lack of training; confusion of ward advocate/committee decision maker roles; lack of preparation by some members; culture, in the SAPC, that members want to be seen to speak and are repetitive leading to very lengthy periods on each application (in excess of an hour) - do not result in the appearance of a 'professional' decision making body that represents the whole community. As set out above the reduction in the size of the committees, to one single committee with ongoing training will result in a committee that can make planning decision in a more effective and efficient manner for the whole of Test Valley Borough.