

Licensing and Planning Policy Committee
7 December 2017

Planning Improvement Action Plan 2017

Report of the:	Head of Place Development
Contact:	Mark Berry
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Annexes/Appendices (attached):	Annexe 1: Planning Improvement Peer Challenge Report – 30 October 2017 Annexe 2: Planning Improvement Action Plan – November 2017
Other available papers (not attached):	Department for Communities and Local Government revised guidance on potential designation published in November 2016

Report Summary

The Planning Advisory Service (under the aegis of the Local Government Association) facilitated a Planning Improvement Peer Challenge in September 2017. The Peer Review report is attached at Annexe 1. This report sets out the management response to the findings of this review, set out in Annexe 2. The action plan at Annexe 2 was adopted by the Planning Committee on 13 November 2017 with the exception of those items under section 4 of the plan that fall for consideration and adoption by this committee.

RECOMMENDATION (S)

- (1) Agree those actions listed under Section 4 of the Epsom and Ewell Planning Improvement Action Plan November 2017;
- (2) Notes and endorses the establishment of a Working Group by the Planning Committee to oversee the implementation of the Plan comprising the Chair of Planning Committee, Chair of Licensing and Planning Policy Committee, Chair of Audit, Crime & Disorder and Scrutiny Committee, the Chief Executive, the Head of Place Development and one additional Member who is not on either of the planning-related committees.

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1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Sound and defensible planning decisions reflect the Council's core values and it is fundamental to all four of the Council's key priorities to ensure that we have appropriate planning policies and that we can make sustainable decisions in the light of those.
- 1.2 The revision of the Local Plan is rightly at the top of the Council's service plan priorities and it is necessary to ensure that the decision-making process that translates policy into sustainable development is sound. The planning improvement plan therefore is a key piece of work for the Place Development Service and one that assumes a high corporate profile given the threat of designation.
- 1.3 Designation could result in the Borough Council's role in determining major planning applications being stripped away for a period. The improvement plan will hopefully demonstrate that the Borough is committed to change and that it can continue to make major planning decisions for the benefit of the Borough.

2 Background

- 2.1 The Government monitors planning authorities on a range of measures. In particular, there are measures for "speed" of decision-making, and for "quality" of decision-making. The Government separately monitors "major" planning applications, and "minor" and other decisions.
- 2.2 Monitoring of the speed of decisions is focussed on decisions being made within the 8- or 13-week period (depending on whether it is minor or major) or within the extension period agreed with an applicant. In respect of both major and minor applications, the Council's performance on speed of decision-making is not a cause for concern.
- 2.3 Monitoring on "quality" of decisions is focussed on the percentage of local planning authority decisions which are overturned on appeal. In relation to minor applications our performance is good. For the last period covered by the published statistics (July 2014 to June 2016) fewer than 1% of minor applications were overturned on appeal. In relation to major applications, however, the position is quite different.
- 2.4 Performance is monitored by looking at a 2-year rolling period. The period runs from the beginning of April to the end of March. However, the Government also takes into account decisions made on appeal in the nine months following the end of the monitoring period, in an effort to ensure that the final outcome of any appeal, in relation to an application determined in the period, is taken into account.

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- 2.5 The potential for designation under the new (at that time proposed) 10% performance measure for quality of decision-making (major decisions) came to light in January 2016 shortly after the Department for Communities and Local Government (DCLG) had published the performance data table P152 for 2013 - 2014.
- 2.6 This showed that, based upon the two-year period 2013 – 2014, Epsom and Ewell was the poorest performing district authority in the country. 16.1% of this authority's decisions on major applications were overturned at appeal. Although this was based upon a relatively low number of decisions (five cases) it was clear that the Borough was at risk of designation if the proposed 10% measure was confirmed.
- 2.7 The Council consequently invited the Planning Advisory Service (PAS) to work with the authority and the main resulting action was a training session for Members on the subject of "Making Defensible Planning Decisions". This took place on 28 April 2016. It followed an earlier similar training session on 10 June 2015 on "Decision-making, Committees and Probity" which formed part of the induction training for new Members elected in 2015.
- 2.8 It is worthy of note that, of the five allowed appeals, only one in the period 2013 – 2014 was a case where Members had overturned an officer recommendation. The other four had been recommended for refusal by officers. The only case where a partial award of costs had been made was the Sainsbury's appeal (Application No. 11/01144/FUL).
- 2.9 Progress against this performance indicator has been charted since and, when the two-year rolling period April 2015 – March 2017 had been assessed, it showed that, even before all relevant pending or potential appeals had been determined, the Borough had already triggered the 10% threshold.
- 2.10 The Council had determined 29 major applications in those 2 years and of those the Council had already lost three appeals by the end of March 2017. A decision was awaited on 1 Chase Road which was subsequently then also allowed bringing the total overturn percentage to 13.8%. A further decision on the Dairy Crest site in Alexandra Road is expected in December.
- 2.11 All four of these allowed decisions were a result of an over-turned officer recommendation at Committee. Three of the overturns all occurred at one Committee meeting on 6 October 2016.
- 2.12 At present there one outstanding appeal (see 2.10 above) from the relevant two-year period. If this goes against the Council our performance would be 17.2%. If the Council wins the appeal, it would remain at 13.8% - over the relevant threshold.

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- 2.13 Officers wasted no time in contacting DCLG and Planning Advisory Service (PAS) for further advice in the light of the looming prospect of designation. Both were very responsive.
- 2.14 DCLG officers counselled that further input from PAS would be desirable and commended the Borough for being proactive in trying to address the issue.
- 2.15 Consequently, PAS agreed to provide a fully-funded package of support. This included a facilitated discussion, held on 10 July 2017, with Members about the Improvement Plan. The draft plan at that stage was considered to be a good start.
- 2.16 PAS agreed to facilitate a Local Plan workshop with relevant Members to assist in the preparation for the Issues and Options stage and to undertake an independent review of the Council's work to-date. The workshop was held on 13 July 2017 and a report on the Local Plan by Nigel Payne, a former senior planning inspector, was subsequently received.
- 2.17 The final part of the initial PAS package was a Peer Challenge (Review) of the Planning Service which was offered to run alongside the Improvement Plan. This was held on 19 – 21 September 2017.
- 2.18 This report is principally about the Council's response to the Peer Review. The final report was issued on 30 October 2017 and may be found at **Annexe 1**.

3 Proposals

- 3.1 The Peer Review report is self-explanatory and has a helpful executive summary. The report highlights the need for a clearer focus on improvement in a number of areas and there is an urgent need for the Council to develop and adopt a SMART improvement plan.
- 3.2 The report identifies areas of good practice but also sets out the need for improvements in a number of other areas. The primary presenting issue is the fact that the Council is under the threat of "designation" for poor performance in the quality of its decision-making on major applications. The reason for this is that, over a two-year period, 4 out of 29 major planning applications have resulted in appeal decisions going against the Council's decision. The scope of the Peer Challenge was much broader than this and the draft report identifies a wide range of themes where there is scope for improvement.
- 3.3 Some of the actions within the report relate to changes to policy, and are within the purview of the Licensing & Planning Policy Committee.

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- 3.4 Based on the report, an Improvement Plan has been drawn up. The Peer Review team agreed that the draft improvement plan covered many of the key issues necessary but considered that a revised improvement plan was required to cover fully the issues stated under Paragraph 7.4 of the report. The revised Improvement Plan attached at **Annexe 2** takes an action-based approach with clear and measurable targets and accountability. There are a large number of fairly urgent and high/critical priority actions that should demonstrate that the Council is committed to change.
- 3.5 Most of these are not a one-off action but require a sustained effort to ingrain new ways of working that will run alongside and be part of a whole change in culture for both Officers and Members. We aspire to high standards although the quality of the service needs to be tailored to the available resources.
- 3.6 A big part of the change in culture will be around the front-loading of the planning process so that issues can be identified early and problems addressed, where possible, before a proposal is considered by the Planning Committee.
- 3.7 Members should be engaged earlier-on where major proposals are concerned, Officers need to be more engaged with Members through the process and Officers and Members need to engage in discussions about acceptable process.
- 3.8 There needs to be tighter management of the Development Management process to allow front-loading of major proposals and a better prioritisation of resources to achieve the best outcomes. Amongst other requirements are a need for various procedural changes, important adjustments to the planning committee itself, a sustained clear focus on the Local Plan, training, improved performance monitoring and a business process review of the planning service.
- 3.9 The improvement plan (with the exception of Section 4) was adopted by the Planning Committee at a special meeting on 13 November 2017. It was also agreed that a Working Group of Members and Officers should be established to oversee the implementation of the plan. This would be a high-level group comprising the Chair of the Planning Committee, the Chair of the Licensing and Planning Policy Committee, the Chair of Scrutiny Committee, the Chief Executive and the Head of Place Development and it will be chaired by a further, independent Member (unrelated to either of the planning-related committees). The group could initially meet fortnightly but the frequency could change as implementation of the plan progresses.

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- 3.10 Section 4 of the improvement plan relates to the planning policy issues mentioned in the Peer Review report. The review was broadly complimentary about the Council's approach to reviewing the Local Plan but made some positive suggestions which have been incorporated into the improvement plan.

4 Financial and Manpower Implications

- 4.1 The up-dated improvement plan contains a column on resources. Most actions are achievable within existing budgets plus an anticipated 20% uplift in planning fees promised to be delivered within this financial year (Now expected in January 2018).
- 4.2 There may be some external resource available from PAS but it is uncertain how much, if any of this, will be free of charge.
- 4.3 The Head of Place Development is principally responsible for the delivery of the plan and he is reprioritising his time to ensure that he can give the improvement plan the focus it requires. There may be some short-term knock-on impact on his availability for other things.
- 4.4 A Business process Review is recommended as a way of ensuring that we are being as efficient as possible within the resource constraints that we have and that we eliminate any waste. At the same time we can ensure that the Development Management process is adequately resourced to deliver the sustained up-lift in performance that is required.
- 4.5 There are clearly resource considerations for Members' time commitment to this as well. The front-loaded planning process may involve additional meetings especially for the ward Members concerned. There will also be some additional training events, a possible annual review of appeal decisions (planning tour) and there is the proposed Working Group.
- 4.6 Resources allocated to the Local Plan will continue to be kept under review.
- 4.7 **Chief Finance Officer's comments:** *If the Council is unable avoid designation this will have a significant impact on planning income as the Council is likely to miss out on fees from major applications where applicants choose to by-pass the Local Planning Authority.*
- 4.8 *The budgeted position currently assumes a level income from major planning applications, therefore, loss of this income will result in a funding shortfall for the Planning Service. Major planning applications typically account for over half of the total fee income for the planning service.*
- 4.9 *However, if the Council avoids designation and is able to increase individual planning charges by 20% this will make available additional resources to potentially fund improvements to the Planning Service*

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5 Legal Implications (including implications for matters relating to equality)

- 5.1 Responding positively to the Peer Review team's recommendations will be important to the Council in ensuring that it remains in control of the planning process.
- 5.2 If the Council cannot demonstrate a sufficient level of commitment to change, there is a real prospect of the Local Planning Authority being bypassed on the issues of greatest import. The need for an up-to-date Local Plan is also closely linked to this as the Borough's performance on decision-taking and plan-making are both within the government's sights when assessing the performance of the authority.
- 5.3 ***Monitoring Officer's comments:*** *There are no direct legal implications arising from this report. None of the proposals in the action plan are legally controversial. It is important that members and officers work together within the legal framework for determining planning applications to ensure that all decisions are robust, and made for sound planning reasons, so that we have the best possible chance to avoid designation, now or in future. It is always possible, in all areas, to improve what we do and how we do it. In addition to addressing the issues which have contributed to the current risk of designation, the plan sets out a clear commitment to improvement, which will promote good governance.*

6 Sustainability Policy and Community Safety Implications

- 6.1 The best way to secure sustainable development within the Borough is to retain control locally. There are no particular community safety implications arising from this report.

7 Partnerships

- 7.1 The Borough's partnerships are in large measure dependent upon its ability to perform its function as a Local Planning Authority. If that control is lost, there would be a potential significant knock-on impact on the whole community.

8 Risk Assessment

- 8.1 The risk of designation is great and serious so the most important risk is that of not delivering on a programme of improvement such that the government is not persuaded that the Council is committed to change.
- 8.2 This risk can be mitigated by ensuring that there is adequate focus on the issues and that the improvement plan is properly resourced. Sustained improvement will help to ensure that we fall out of the "danger-zone" and that over a two-year rolling period we will achieve that. To ingrain the changes envisaged there will need to be a shift in culture that can sometimes take longer to deliver than the procedural changes themselves. Nonetheless, there is a palpable commitment to change and an increasing focus on the issues identified in the report.

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- 8.3 The creation of a Working Group comprised of Officers and Members will help to ensure that this focus is sustained and that the plan is followed-through.

9 Conclusion and Recommendations

- 9.1 There is a clear risk that the Council will be designated in relation to major applications. If that happens, major applications could be submitted direct to the Planning Inspectorate (acting on behalf of the Secretary of State) for consideration/ determination by a planning inspector. It is considered that the actions suggested in the Improvement Action Plan represent the best chance of avoiding designation; ultimately, we need to make better decisions. The proposed actions also seek to set an agenda for continuing improvement in the way our planning functions operate, which should bring a range of benefits for the Council and for applicants.
- 9.2 Success will be measured in the actual outcomes from this plan. It is proposed that a Working Group comprised of key Members and Officers be set up to oversee the implementation of the plan over the initial months until the key actions have been completed and changes in practice and culture fully embedded.
- 9.3 The plan references the resources necessary to implement it. The prospect of a 20% planning application fee increase in addition to the support of others both internally and externally should be sufficient to deliver the requisite change. A proposed Business Process Review in planning will help to identify areas for improvements to the deployment in the future.
- 9.4 It is recommended that the Committee should agree those actions listed under Section 4 of the Epsom and Ewell Planning Improvement Action Plan November 2017 following its adoption by the Planning Committee on 13 November 2017 and note the establishment of a Member/Officer Working Group to monitor its implementation.

Ward(s) Affected: (All Wards);