



Planning Improvement Peer Challenge

Epsom and Ewell Borough Council

On site September 19th – 21st 2017

Final Report October 30 2017



1.0 Executive Summary

1.1 The Council needs to significantly improve its focus and more meaningfully demonstrate its commitment to improve the quality of its planning decision making given the threat of Government designation. Although the Council can point to some early 'green shoots' of changing the approach to planning decision making, the pace of improvement in the Planning Service needs to be prioritised at all levels to avoid reputational damage and potential designation. We recognise Service concerns about a lack of capacity but this needs to be properly evidenced and we address this in our recommendations,

1.2 Prioritising and acting quickly on the most critical themes in an agreed Improvement Plan will be important to demonstrate to Government that the Council has recognised it needs to improve, and is serious about changing processes and culture now and how it is going to sustain improvement into the future. If additional short term capacity is required to achieve this it will be important for the Planning Service to demonstrate a strong business case to the Leadership Team.

1.3 The Planning Service can point to some good outcomes on the ground and between 2013/4 and 2015/6 it enabled the development of over 300 affordable homes. As early adopters and being seen as 'best practice' of the Community Infrastructure Levy (2012) to support the Core Strategy, it has demonstrated a clear ability to adopt new funding models to support local infrastructure. However the Service needs to throw off its slightly 'isolationist' image and work more strongly and openly with other internal services.

1.4 Stronger ownership and management of the Development Management process is required to build greater trust and confidence among the Leadership Team and with Legal and Democratic Services officers. A cohesive and supportive Leadership Team to help drive improvement in the Service could help build improvement planning capacity

1.5 We fully recognise that while the 'presenting' issue is the record on major appeals, the planning process starts much earlier. To that extent our report and recommendations address the process from initial pre application inquiries through to the appeal or issue of consent. A clear message we want to give is that the Service needs to prioritise and manage its resources to ensure that the process is front loaded and managed more effectively. In particular this will involve earlier member engagement in major applications with more opportunity to shape the eventual outcome and better officer/member engagement.

1.6 Development of the Local Plan Review offers a clear opportunity for the Planning Service to help shape both the spatial and longer term corporate vision for the Borough. Relentless implementation of a deliverable Local Plan Programme backed by adequate resources is vital to plan, manage and deliver significant market and affordable housing growth in the area.

1.7 The fact that the Council commissioned the peer challenge and has already taken on board some of its emerging improvement plan actions is very encouraging.

2.0 Recommendations

2.1 Priority Actions

1. Develop and adopt a SMART Improvement Plan with a focus on our recommendations in section 7 but prioritising:

- management and ownership of performance on major decisions/appeals including a clear understanding of the effect of the timing of decision making over a rolling two year designation period ;
- agreeing key accountabilities at Planning Service, corporate and Planning Committee level;
- strengthening opportunities for ward member engagement and as necessary Planning Committee in the pre application process;
- deciding whether to adopt interim policy on seeking developer contributions for affordable housing on sites with 10 dwellings or less;
- engendering stronger Development Management ownership of committee report production including meeting deadlines and better engagement with Legal and Democratic Services;
- supporting management at member and officer level of Planning Committee meetings including length, ward member role, presentation and timing of officer information, robustness of any reasons for refusal;
- running member training/briefing, perhaps jointly with officers on viability and examine opportunities to test developer assumptions with alternative viability assessor;
- managing of major appeals to provide the most robust defence of the reasons for refusal;
- setting up post briefing meetings between Chair/Vice, Planning managers, Legal and Democratic Services officers to ensure united view on decisions taken; and
- creating strong opportunities for officers and members to jointly learn from appeal decisions and undertaking annual/regular training for members on making sound planning decisions.

2.2 Development Management

2. Utilise any uplift in planning fees to increase capacity to support improvement in this element of the Service.

3. Undertake a resource/productivity/benchmarking review in association with Planning Advisory Service to help ensure that resources are aligned to key Service priorities.
4. Work with support services to ensure weekly lists of applications are sent to ward members and others/organisations that request it and encourage members to liaise effectively with officers in advance of Planning Committee to promote a culture of 'no surprises'.
5. Ensure a stronger pre application offer working to agreed timescales, that is also properly resourced, and involves appropriate stakeholders including members.
6. Encourage developers to use Planning Performance Agreements on major applications where appropriate.

2.3 Planning Committee and Members

7. Ensure that Planning Committee decision making consistently follows the principles of sound decision making and good governance and acts in the best interests of the Borough as a whole through:
 - using Planning Committee to decide items of strategic importance focusing most attention on 'major' applications where members need to weigh the balance of decision making carefully;
 - reviewing existing call in and delegation procedures to support the strategic focus of Planning Committee decision making;
 - review public speaking protocol to ensure fairness and equality to applicants and objectors;
 - insisting on substitute members being provided with induction training before being allowed to vote; and
 - examining use of recording and/or web casting to promote greater efficiency and public engagement
8. Ensure that a well-balanced training plan reflects the changing needs of Planning Committee members in light of national and local trends.
9. Ensure that expert advisers at Committee are treated with courtesy and respect and ensure that their expert evidence is given the proper weight in the decision making process.

2.4 Planning Policy

10. Change internal processes to ensure that the Leadership Team can better own and support the Local Plan Review.
11. Focus on strong implementation of the Local Plan Review to the set programme timetable with excellent programme management backed by clear resources.

12. Examine opportunities to secure high quality design through use of master plans, design briefs/codes and access to high quality urban design and conservation advice.

13. Develop an agreed stronger corporate narrative around the necessity of growth to secure balanced communities for a longer term future of all citizens and pivotal role of Local Plan in this 2040 vision.

3.0 Background and scope of the peer challenge

3.1 This report is a summary of the findings of a planning improvement peer challenge organised by the Local Government Association (LGA) in cooperation with the Planning Advisory Service (PAS) and carried out by its trained peers. Peer challenges are managed and delivered by the sector for the sector. They are improvement orientated and are tailored to meet individual councils' need. Indeed they are designed to complement and add value to a council's own performance and improvement focus. They help planning services review what they are trying to achieve; how they are going about it; what they are achieving; and what they need to improve.

3.2 The peer challenge involves an assessment against a framework for a local authority planning function which explores:

- **Vision and leadership** - how the authority demonstrates high quality leadership to integrate spatial planning within corporate working to support delivery of corporate objectives;
- **Community engagement** – how the authority understands its community leadership role and community aspirations. Then how the authority uses spatial planning to deliver community aspirations;
- **Management** - the effective use of skills and resources to achieve value for money, accounting for workload demands, ensuring capacity and managing the associated risks to deliver the authority's spatial vision;
- **Partnership engagement** – how the authority has planned its work with partners to balance priorities and resources to deliver agreed priorities; and
- **Achieving outcomes** - how the authority and other partners are delivering sustainable development outcomes for their area.

3.3 In addition as part of the peer challenge, Epsom and Ewell asked us to look at the following key areas:

- support to the Council in relation to the potential 'designation' of the Planning Service triggered under the Government's "Quality of Decision-Making" criteria concerning upheld planning appeals on major applications April 2015- March 2017;

- robustness in the handling of major appeals process;
- the Council's Planning decision-making process and especially decisions taken at Planning Committee and including mutual trust, understanding and confidence;
- governance arrangements, business processes and resources allocated to the Planning Service and associated support services;
- progress in developing the local plan including the roles of both members and officers; and
- effectiveness of performance management, reporting and accountability.

3.4 We agreed with the Council that our on-site feedback and report would be grouped around the key themes of:

- quality of planning decision making and outcomes;
- Planning Committee and member engagement;
- Local Plan review;
- performance management and processes; and
- accountability and financial awareness.

3.5 Peers were:

- Tracy Darke – Head of Development Services, Warwick District Council;
- Cllr Mike Haines - Independent Member, Teignbridge District Council;
- Simon Cole - Head of Planning Policy, Ashford Borough Council; and
- Robert Hathaway - Peer Challenge Manager, LGA associate.

3.6 PAS and the LGA where possible will support councils with implementing the recommendations as part of the Council's improvement programme. It is recommended that the council discuss ongoing PAS support, including the cost of it, with Martin Hutchings, Improvement Manager, Martin.Hutchings@local.gov.uk. A range of support from the LGA – some of this might be at no cost, some subsidised and some fully charged is available <http://www.local.gov.uk>. For more information contact Mona Sehgal Mona.Sehgal@local.gov.uk.

3.7 As part of the peer challenge impact assessment and its evaluation, PAS or the LGA may get in touch in 6-12 months to find out how the Council is implementing the recommendations and what beneficial impact there has been.

3.8 The team appreciated the welcome and hospitality provided by Epsom and Ewell Borough Council and partners and the openness in which discussions were held. The team would like to thank everybody they met during the process for their time and contribution.

4.0 Quality of Planning Decision making and Outcomes.

Expertise

4.1 The Council's ability to take rounded and balanced planning decisions is enhanced by the availability of generally strong internal expertise. For a small District Council the support of dedicated officers providing expert advice on strategic housing, arboricultural, ecological, contaminated land, land drainage and noise pollution is good. Given the high value placed on environmental management and protection by the Borough's residents and environmental groups the provision of such advice is important. We pick up in another part of the report the lack of capacity in conservation and urban design skills that we think is vital to plug as soon as possible.

Delegation

4.2 The Council benefits from a high percentage of delegated decisions that has clear potential to deliver efficient decision making. Delegation rates at around 94 per cent helps ensure that the Council can benefit from avoiding the more time consuming and costly approach of taking planning decisions at the monthly Planning Committee. This rate of delegation would be expected with an authority that has a low number of major applications. However we do feel that some other gains can still be made. One example would include reviewing whether small council projects need to come to Planning Committee for decision –there were three of these at the September 2017 meeting. We are aware that the Council intends to review the scheme of delegation at some point and perhaps this matter, along with any other gains, can be picked up then. Another would be a review of the Council's member call in (which the Council recognise needs doing) to ensure consistency and to make sure that only the most important applications were coming to Planning Committee.

Outcomes

4.3 The planning system has enabled and facilitated some good quality outcomes that contribute to the quality of life within Epsom and Ewell. Examples we saw or were told about include:

- Hollymore Lane (mixed use retail/housing) ;
- 87 East St (Sanctuary Housing);
- NESLOT Phase 1 (housing); and
- Epsom Square and Station (Plan E for town centre).

Speed

4.4 Speed of decision making while not meeting challenging local targets nevertheless meets national targets for both majors and non-majors. The Council receives approximately 1000 applications (excluding trees) every year. In the period October 2015 – September 2017 the Council has approved 75 per cent of its major

applications in eight or 13 weeks or via an agreed extension of time. In relation to non-major applications the figure is 92.5 per cent over the same period.

Appeals Performance

4.5 We recognise that the vast majority of Planning Committee decisions are in line with officer recommendations. Decisions in line with officer recommendations increased between 2016/7 and 2017/8 (part) rising from 83 per cent to 89 per cent. However all of the four upheld major appeals in the Government performance review period resulted from member overturns of officer recommendations at Planning Committee; with three of the overturns at one Committee meeting on 6 October 2016 (discussed in the next section). One other possible appeal decision could come before December 2017. If it is allowed, the performance figure would worsen to 17.2 per cent but even if it is dismissed the Council would still find itself the wrong side of the Government's ten per cent threshold.

4.6 We recognise that the Council performs generally well in defending its overall planning decisions at appeal. The Council has successfully defended approximately two out of every three appeals over the last three years. However the number of appeals that have gone against the Council on major applications over the government's rolling 2-year performance assessment period (April 2015 – March 2017) is higher than the performance threshold of 10%, thereby putting the council at risk of having its planning service designated.

4.7 The Council has already 'lost' four appeals of the 29 decisions on major applications taken during this time. Three of these refusals were Planning Committee overturns of officer recommendations at one particularly difficult and long meeting. Our report includes significant focus on how the Council can improve the preparation and operation of the Committee's work.

4.8 The Government's 10 per cent appeals target aims to make sure that authorities are making tough decisions in line with policy and are not just turning down hard decisions. Planning Committees should be seeing the hardest, most controversial applications and the hardest of these are going to be the ones that are most likely appealed. How Epsom and Ewell handles the decision making on these is about ownership, preparation and especially about how the officers and members on Planning Committee work together.

4.9 It is vital that the Council robustly defends its planning decisions through the appeals process. Officers must prioritise resources and work efficiently and effectively together to ensure both Policy and Development Management reasons are fully explored. We were advised by Planning Service staff that due to the pressure of workloads and priorities that this wasn't always possible. For example at a recent appeal at 1 Chase Rd, Epsom. The Service recognises there were some gaps in its evidence around a qualitative employment land survey and the five year housing land supply data. Legal officers and some Planning Committee members

also advised that they were not always fully aware of which decisions were appealed and felt that joint working was not always effective.

Reasons for Refusal

4.10 The Council does not have clear processes to systematically learn from its appeal decisions that would help members and officers test the policy and material consideration basis of their decisions. We recommend it reintroduces the practice of a review of appeal decisions and lessons learnt being presented to Planning Committee. This needs to then link back into member training plans and briefings.

4.11 Having said this the Council clearly understands the main themes where member concerns have in at least some instances lead to unsustainable decisions, namely:

- inadequate parking;
- unacceptable traffic impact on surrounding road network;
- inadequate provision for affordable housing notwithstanding that viability was assessed by an independent assessor; and
- character, especially where height, bulk and mass was considered inappropriate to the area and where development would be overbearing to neighbours.

4.12 It is clearly important that the Planning Committee pays particular attention to the advice it receives from its planning, highways, viability and other experts. Committee members are not expected to be experts but expected to listen to the professional advisers and then apply judgement. We would recommend that where members wish to go against officer recommendations, they make strenuous efforts to explain their rebalancing (the weight) of policies and material considerations to reach a different decision. This has the potential to secure stronger decision making.

4.13 Members told us that they would value as much support as possible from officers in framing robust and defensible reasons. We would comment that more effective and early engagement between officers and members is required to build trust and confidence. Thus while Planning Committee members must give justified planning reasons - officers should support and advise. Asking officers to help members draft reasons and advise them of concerns at an early stage would seem sensible. It is useful for members to have considered reasons for refusal prior to the Committee meeting and to have taken advice on their legality/enforceability /reasonableness.

4.14 We are also aware of councils whose protocols demand that where members wish to overturn an officer's recommendation to Committee, such an application is not determined at that Committee but is referred to a future meeting. This allows time for officers to prepare a report based on potential reasons for refusal or conditions for approval examining the strengths and weaknesses thereby risk assessing any

potential decision. A variant on that theme would be the Chair calling for a short break at Planning Committee where members appeared minded to go against officer's recommendation to allow time for a mini risk assessment of the decision. We would not be dogmatic on the Committee introducing any of these examples but they are additional options to safeguard member's decision making (see also 5.22)

5.0 Planning Committee and Member Engagement

Composition

5.1 The Planning Committee is formed by dedicated and knowledgeable experienced members. We think that the size of the Committee at 13 members allows it to be large enough to have a range of experience but not so large that it is unwieldy. The Chair and Vice Chair work together well. We feel that their confidence to lead is improving although it is important that the Chair ensures that he works with his Committee to promote the highest levels of governance and efficiency in decision making.

Training and Awareness

5.2 Full members of the Planning Committee are required to have a basic level of induction and training before they can sit on Committee. This is good practice. Both officers and members themselves need to ensure that the training is kept up to date and reflects both local and national requirements. We understand that currently, substitute members on Planning Committee do not need to be trained. This approach needs to change. We recommend that the Council amends its Constitution or procedures to make sure substitutes have the same induction as full members. Such an approach supports good governance and probity in decision making.

5.3 We commend the Council for running a well-attended Planning Committee member training event on taking defensible planning decisions. This arose as a result of the Council recognising in 2016 its poor performance in 'quality of decision making' based on Government's 2013/4 appeals performance.

5.4 We have seen the slides and would unequivocally support the advice given. Possibly in the light of this Peer Challenge and the context of potential designation, this training could be refreshed and broadened to support other recommendations we make on areas such as earlier engagement with ward members at pre application stage. Might it be also be the case that repeated messages on making stronger more defensible decisions may now gain more traction given the different context that the Council finds it in? We certainly feel this is worth exploring using real life examples to aid learning and future decision making.

Planning Committee Reports

5.5 We consider that the management and ownership of the production of officer reports to the Planning Committee could be significantly improved. It appears that

Democratic Services and Legal officers are often unsighted of what reports are due to come to Planning Committee. They told us that reports are regularly late, missing internally agreed deadlines. This has significant effects on efficiency and effective joint working between internal departments and has led in part to a breakdown in trust and confidence between internal officers. Given the regular necessity of section 106 agreements in major applications, it is vital that legal services have good knowledge of what planning applications are due to be reported and have adequate time to check these. This aids sound and good decision making.

5.6 We recognise that the Development Management Service feels under resourced and pressurised (see section 8 regarding resources).but we consider that strong and visible leadership is required in the production of Planning Committee reports. Getting reports and accompanying plans ready in time for such a publicly visible and important decision making committee is an essential part of an efficient Planning Service.

5.7 We were also surprised to learn that the Chair and Vice Chair of the Planning Committee rarely had any indication of what items were due to come to Committee. The Chair and Vice Chair do meet with managers at what is locally termed a 'call over' meeting before Planning Committee. However this occurs after the Planning Committee agenda and reports have been published and available to the public for a number of days. This 'call over' meeting is effectively a Chair and Vice Chair's briefing which is clearly required and some important areas for clarification come out of this meeting. While we recognise the clear responsibility of the Head of Service and Service Manager to bring forward planning reports in a timely manner, we consider that stronger engagement with the Chair and Vice Chair (as well as internal officers we mentioned above) can help manage the Committee agenda. This in terms of the number of applications, the complexity and the readiness of reports for determination.

Timing of Planning Committee

5.8 The need for a better managed agenda and timely information was brought into sharp focus for us when we learnt that since June 2016, there have been three occasions when the Planning Committee has gone beyond 10.30pm. And on October 2016, at a particularly taxing and challenging Planning Committee which resulted in three refusals which were then successfully appealed, the meeting ended just before midnight!

5.9 We are concerned about the late night sessions on a number of grounds including:

- public engagement – is it reasonable to expect applicants/objectors/public to engage in the process at such a late hour?
- members – does debate and decision making that late into the night facilitate sound decision making?

- officers – is it fair to expect officers to give their best post 10 pm when Planning Committee is intensive and when they are likely to have been in work all day?

5.10 Indeed the controversial 1 Chase Road item (discussed elsewhere in the report) did not start until 11pm, by which time the Development Manager and Solicitor supporting the Planning Committee left for home.

5. 11 We recognise that since February 2017 the Planning Committee has not run later than 9.35pm which is more reasonable. However to avoid a repeat of such late night decisions we would recommend that Planning Committee work with relevant officers to consider solutions to late night decision making. A number of options, that may not be mutually exclusive, could include:

- starting the meeting earlier – we recognise the issue of travelling back from London for some members and applicants/objectors but other planning Committees around London and other major cities manage this;
- having a guillotine at an appropriate time say 10pm with another evening scheduled in the municipal diary as a reserve night as soon as possible thereafter to complete the business;
- managing the number and complexity of items brought to Planning Committee recognising the need to take decisions in as timely a manner as reasonably possible; and
- ensuring that debate is focussed and non-repetitive and that the Chair calls for a motion and vote in a timely manner.

Officer Presentations and Expert Advisors

5.12 Opportunities exist to ensure that planning managers and case officers who present decisions to Planning Committee exude confidence and authority in their judgements. When we attended Planning Committee in September 2017 the quality of officer preparation and presentation was mixed and on occasions overly long. Corporate managers who had attended Planning Committee also told us that officers did not always present a fully united front to members and other attendees.

5.13 Members need to take advantage of the best advice available from internal officers and from Surrey's highways officers. We heard that on at least some occasions, members had not acted as courteously to highway officers at SCC as they could have. Given the importance of highways and parking to members, a strong relationship needs to be developed. Otherwise officers may be reluctant to attend.

Ward Members Predetermination

5.14 Listening to the Planning Committee at its September 2017 meeting, we were concerned that there was a blurring of some roles and responsibilities of members. It was clear to us that at least one member of the Committee was clearly representing their ward interests only and it appeared that they may have been pre-determined to vote in a certain way before hearing the views of the Committee.

5.15 We were told that what we saw and heard was not a 'one off'. This suggests a misunderstanding among at least some members of the Committee in relation to their role. The role and responsibility of members of the Committee is to take decisions on behalf of the whole of the Borough in line with planning policy and material considerations. It is not to act as local ward councillors when taking decisions on applications in their wards.

5.16 The Planning Committee needs to be alive to the perception of decision making from the viewpoint of planning customers, agents and general public. While the primary obligation rests on Committee members to act in accordance with appropriate standards, it is important that the Chair/Vice and legal officers step in to remind members of their roles and responsibilities when necessary. It is important that the Council acts to limit the risks of a finding of maladministration and of legal proceedings. The Code of Conduct covers this issue.

Pre Planning Application Meetings

5.17 In order to promote earlier member engagement in the planning process we recommend that the Council establish informal pre planning application briefings for ward members and as necessary for Planning Committee members. Ideally these would take place as part of the pre application offer of the Council.

5.18 We detected that members had an overly cautious approach to engagement with officers and, especially, developers/agents. However ward councillors are strongly encouraged to participate at the pre-application stage, where it is appropriate and beneficial for them to do so (section 25 Localism Act 2011)

5.19 Such pre application briefings have the clear potential to encourage developers, agents, councillors and officers to discuss issues in a more informal setting. The purpose of these briefings would be to inform ward councillors of emerging proposals for major developments and enable key local issues of relevance to the development, including any Section 106 matters, to be identified. Such early engagement will enable the developer to understand and address any significant local concerns as early in the development process as possible including any priorities to mitigate the impact of the proposed development. Plymouth has a useful Code of Conduct that supports member engagement in pre application discussions that links to the principles set out in its Statement of Community Involvement.

Public Speaking

5.20 We would also suggest that the Planning Committee revisit the issue of public speaking to ensure transparency and fairness to planning paying customers and objectors and interested parties, all users of the system. The present system allows public speakers to register on the night of the Planning Committee. This is unusual in our experience and this system does not allow for any interested party to be fully forewarned of who is speaking at Committee. For example, it has been the case that an objector has turned up on the night to speak against a proposal.

5.21 Without any protocol or time to contact the applicant/agent this then means that Planning Committee only hear the objector in person. This does not seem fair or just. In order to redress this imbalance we feel that it is important that both the paying planning customer and any objectors need to be forewarned of who is speaking to allow equal and fair access to address Committee.

Post Committee Briefing

5.22 We understand that there have been occasions where there has been either some confusion in relation to the exact reasons for refusal or where on reflection some amendments have been suggested post committee. It is a maxim that the decision taken at Planning Committee is the decision. In order to avoid any confusion we suggest that a briefing meeting is held on the morning after committee between Chair or Vice or both, planning manager, legal officer and democratic services officer

6.0 Local Plan Review

Progress

6.1 We commend the Council for prioritising the Local Plan Review (LPR) as a key corporate priority. An independent assessment of the LPR has confirmed that the Council has made a good start on the evidence base but much remains to be done. The Council has traditionally been an early adopter of new planning policy initiatives being in the forefront of Core Strategy development in 2007 and was early in introducing the Community Infrastructure Levy (CIL).

6.2 The Council recognises that despite the LPR being a corporate priority it has encountered some delays. The revised Local Plan Programme adopted in 2016 has not met all its planned milestones, for example planned adoption slipping over a year from July 2018 to December 2019. This was primarily due to a lack of staff which was addressed with the appointment in late 2016 of a couple of two year full time fixed term posts to improve speed. The Local Plan team is therefore now well-resourced at present containing an experienced team of both full time and contracted staff.

6.3 Progress on the evidence base over the last 9 months has therefore understandably accelerated. Local stakeholders we spoke to had valued the engagement of the Council over the various studies. With the completion of recent studies including green belt stage 1, strategic housing market and land availability area assessments and constraints, the Council is now out to public consultation on its 'Issues & Options' stage. However, in order to continue with this level of progress, it is vital for the Council to retain its current staff capacity and expertise beyond the end of 2018.

6.4 As a corporate priority, it is important that the risks inherent in the Plan-making process are fully understood and corporately-owned by officers and members. On-going, strong and transparent project management of the process is crucial as the Plan-making process enters the stage where specific policies and allocations are proposed. This may require a more realistic timetable to achieve a sound Plan than the Council has currently.

6.5 The LPR focuses on updating the 2007 Core Strategy and 2015 Development Management Policies Plan and critically the necessary evidence base to support this. This provides a clear platform for the Local Plan to play a major role in shaping the emerging Council wide 2040 vision and the opportunity to enhance the role of the Planning Service 'front and centre' in terms of managing growth for the Borough. Successful adoption of the LPR review is vital to the development of a 2040 vision that politicians, staff, the public and businesses can rally behind.

Member Engagement

6.6 We found good member engagement in the LPR processes and members indicated that their sense of understanding and ownership was continuing to grow. Member briefings include leading group and all party member briefings and LPR workshops. The Chair and Vice Chair of Licensing and Policy Planning Committee (LPPC) exhibited a good understanding of the issues and challenges involved.

6.7 We think there are opportunities to make sure that growing member engagement and confidence in the LPR through the LPPC, filters through to members of the Planning Committee. We see that growing member engagement in planning policy offers the potential to cross fertilise into greater confidence and appreciation of the benefits of engaging at an earlier stage in the planning application as ward councillors. It would be good for officers and members to look for opportunities for joint training or briefings, perhaps especially at Chair and Vice Chair level and involving both managers at Planning Policy and Development Management where relevant.

6.8 We would encourage broader internal Leadership Team awareness and ownership of the LPR to bulwark its passage through what will doubtless be challenging issues ahead. While the June 2017 internal Leadership Team 'Highlight' report on LPR progress appears comprehensive, key corporate managers told us

that they were unaware of some of the main issues and timescales for the Local Plan, for example the release of public information for the 'Issues and Options' Stage. Given that measures in priority 2 of the Place Development Service Plan include 'awareness of and engagement with the issues with Leadership Team' plus an action for the Chief Executive is 'to support member' engagement' –it is vital that communication and engagement across Leadership Team is strong.

Growth, Housing and Design

6.9 Major challenges of the next stage of the LPR include:

- taking all reasonable steps to meet high levels of unmet market and affordable housing need;
- significantly higher densities of housing;
- moving from indicative areas for housing growth to definitive lines on a plan;
- demand for better highways and schools infrastructure; and
- likely release of green belt land.

6.10 It is encouraging that officers have already briefed members using narrative and pictorial examples on options for housing growth as part of the 'Issues and Options' public consultation. We were told that whatever the actual strategy chosen, it was likely that the number of dwellings per hectare would have to rise considerably in new developments. It is clear from speaking to members and officers and from appeal decisions that the Planning Committee finds accepting high modern housing development somewhat challenging. However accepting much higher density housing, often flatted and over three/four storeys in the right locations may be necessary to meet identified housing need.

6.11 Government expects authorities to be able to manage the challenges of housing growth. It is also clear from appeal decisions that Planning Inspectors will not allow personal tastes in design to trump the need for housing. Going forward, it will be important for the Service to ensure it has access to high quality urban design expertise to help shape the best form of higher density living in the area. This both in terms of detailed briefs, masterplans and planning decision making. It should also explore opportunities to promote high quality design through its own development and through encouragement to the private sector

6.12 Visiting areas that have already perhaps successfully started to manage this change and benefited from additional growth may be an option for the Council. Examples that sub regional economic partners pointed us to were Woking who they felt had managed the transition well.

Duty To Cooperate

6.13 We support the vital need of the Council to continue to discharge its duty to cooperate to build on the strategic joint working arrangements that have existed across Surrey. It has a good base given the jointly prepared Strategic Housing Market Assessment (SHMA) in partnership with two neighbouring Surrey districts and the Royal Borough of Kingston in London. It was good to hear that the Council is in the process of expanding this working relationship beyond its existing Housing Market Area (HMA) partners to include the London Borough of Sutton and Reigate and Banstead.

6.14 Strategic working supports a policy base approach to show to the Government that the Council is doing all it reasonably can to significantly improve the supply of housing land. We agree with the Council that meeting housing need must be tackled in a sub-regional strategic way given that its evidence shows that it is almost certainly not going to be able to meet all its housing need in the Borough. Therefore, enhancing communications and working relationships with neighbouring authorities is likely to be crucial in securing the timely progress of the Local Plan Review.

Affordable Housing

6.15 We found some confusion among planning, housing and legal officers and with members about the Council's policy stance in relation to requiring contributions for affordable housing on developments of ten houses or fewer.

6.16 The Council has traditionally performed relatively well in delivering affordable housing through the planning system. Although the last year has seen a sustained healthy delivery of new affordable units (102 in total) there has been a dramatic decline in new planning permissions for affordable housing with none having been granted in the 2015/16. We recognise that the supply of affordable housing is partly cyclical, dropping off when no large sites are built. However given that small sites can continue to make a contribution to supply, it is vital that the Council adopts a clear evidenced position as to why it should seek contributions on small sites.

6.17 The Council has an unadopted written policy position on this backed by housing need evidence and Counsel's advice. However this has not been fully shared with Leadership Team or brought before members. We would encourage the Council to consider whether they wish to bring this emerging policy into force as soon as possible. Members see this as a massive priority for local people and get very frustrated that the planning system and especially private developers can't help more to meet this need.

Viability and Affordable Housing

6.18 Members told us they could not really understand how it was possible for developers to avoid meeting the adopted Local Plan policy tests requiring contributions towards affordable housing on the grounds of viability. The Council

obtains independent consultancy viability advice from at least two well regarded practices to feed into its planning decisions. However there appears to be a clear lack of confidence among members on this professional advice.

6.19 This lack of confidence has not been helped by the way on at least one occasion of how the supply of viability information is presented to members at Planning Committee. A number of interviewees told us about the 6th October 2016 Planning Committee meeting where they said that vital information about an affordable housing contribution was not presented at an opportune moment.

6.20 In summary, Planning Committee was considering at least three applications that night that in policy terms required affordable housing contributions. The last of these items, the redevelopment of 1 Chase Rd, Epsom was listed for approval subject, among other conditions, to a legal agreement requiring £223,000 affordable housing contributions. Planning Committee refused two housing developments recommended for approval earlier in the meeting, with members referring to Chase Rd as the exemplar to follow in relation to policy and affordable housing contributions. However when 1 Chase Road was introduced by officers, members were advised that a viability assessment had concluded that the affordable contribution was to be zero. Unsurprisingly the application was refused. All three major applications refused that night were successfully appealed.

6.21 In order to improve Planning Committee confidence in viability assessments we feel there is benefit in running a training session with one of the viability consultants using real life examples in a non-decision making forum. This could help members better understand the figures in a non-decision making forum. Another option is to utilise an alternative viability assessor to further test developer's assumptions. We think that this can only help build a stronger appreciation of the viability testing process and help build trust and confidence on viability issues between officers and members.

6.22 The issue of viability again provides a major incentive to advance the LPR to the timescales set out in the present Local Plan Programme. This on account of the fact that the plan and sites allocated will be subject to viability testing as part of the LPR and its adoption. This has the potential to significantly increase supply and enable members to prioritise their Section 106 requirements within an agreed and independently examined viability envelope. This may also entail a need to review the CIL Charging Schedule, as currently this top-slices developer contributions.

7.0 Performance Management and Processes

Improvement Plan

7.1 We feel that the Council could have made more concrete progress in addressing improvement needs since the appeals issue was first identified. The Service became aware of the potential for designation in January 2016 following the Government's

publication of the appeals performance data between 2013/4. This showed that during this period the Council was the poorest performing district in England with 16 per cent of decisions on major applications resulting in upheld appeals.

7.2 We recognise that the Service has identified many of the issues that need to change. Themes include:

- general governance issues:
- pre application and pre committee engagement with members:
- communication and reporting; and
- training and awareness.

7.3 These are contained in a draft Improvement Plan that has been shared with the Development and Policy Manager, Planning Committee members, Chief Executive and Head of Legal. To date planning staff have not been involved in the development of the plan and it is vital to hear the ideas of staff and engender ownership. The draft plan requires consultation, engagement and ownership of Leadership Team and supporting services especially Legal and Democratic Services.

7.4 We agree that the draft improvement plan covers many of the key issues that the Service and Council need to address. We consider that the following issues are important to consider as part of a revised improvement plan seeking to improve the quality of decision making:

- demonstrating a clear understanding of the context;
- recognising where the Service was during the 2015/7 performance period and what it will change moving forwards to avoid repeating the same outputs;
- ensuring that narrative is concise and supports a SMART plan and contains or promotes clear visuals and metrics demonstrating a good understanding of how performance will be tracked and managed e.g. major decisions and appeal results coming into the quarterly reporting periods and dropping out of the two year rolling period;
- prioritising the main issues, for example earlier member engagement appears far more important at present than reviewing the scheme of delegation;
- focussing on both process and cultural change backed by clear targets such as pre application briefings on majors, weekly application lists (highlighting majors) going to ward members, earlier officer triage of likely controversial applications, managed report production, managed committee agendas with earlier involvement of chair/vice, post committee meeting briefings;

- ensuring that the most robust reasons for refusal are attached to decisions;
- focussing on significantly improving joint working across all relevant service areas including legal and democratic services;
- supporting the strongest level of joint working between development management and policy and supporting services in the defence of appeals;
- creating a strong learning culture between officers and members on the outcome of appeals; and
- creating a framework for officer and Planning Committee accountability and ownership and celebrating success.

Designation and Implications

7.5 Given, as discussed earlier in the report, that the Council is going to be ‘caught’ by the Government’s performance criteria, the Council clearly needs to act and act quickly. Part of this is by adopting a robust improvement plan that recognises the issues, diagnoses the reasons and leads to resourced action plans and delivery to show changes in approach and culture. This can then provide confidence to Government and planning users that the Council is monitoring and managing quality of decision making to the best of its ability. Urgency is required as Government will be writing to potentially designated Council in early 2018 and examine their response that would seek to explain why designation is unnecessary.

7.6 When a planning service is ‘designated’ it means that customers have the choice of asking the Planning Inspectorate to process and decide major planning applications. This not only potentially reduces the control and input that the Council and its committee has over major planning applications but also a loss of significant fee income. Therefore the importance of the Council retaining its planning decision making responsibility is vital on a number of fronts including the danger of:

- loss of control as community leaders with planning decisions taken outside the Borough by the Planning Inspectorate;
- difficulty for planning customers and objectors in engaging in the planning process;
- having to do much of the work but lose the planning fees; and
- significant reputational damage for the Council.

Resources, Priorities

7.7 Officers within the Service consider that it does not have adequate resources to devote to completing the improvement plan in the face of competing priorities. It is for the Council to assess what its priorities are but as a peer challenge team we consider the issue to be time critical given the impending ‘designation’ process.

7.8 We concur with what we were told that the Development Management service lacks resilience and appears largely reactive. We were told that any sickness, extended periods of leave or even the pressure of a major or controversial application or appeal produces delays/issues in other the processing of planning applications and increases stress.

7.9 However since 2011 workloads for all planning services are high with most planning services having had to cut their budgets by at least 40 per cent. Without a much fuller review of workload, workflows and productivity it is impossible for the peer challenge team to comment on whether resources are sufficient.

7.10 The Service needs to ensure that it utilises its staff and resources in the most productive and efficient manner. Prioritisation is vital for staff, other services and customers. Decisions need to be taken at the lowest level possible (subject to necessary safeguards) and avoiding as many hand offs and bottlenecks In order to do this we would recommend a productivity review involving an analysis of workflow demand, processes etc and benchmarking.

7.11 While other services said they were willing to support the delivery of an effective planning service – they said that communication and trust and confidence in the Service were variable but low. Many interviewees felt that the Service was mainly working in its own ‘bubble’ and was slightly isolationist. However even within the Service area we were also told of service areas or individuals who didn’t feel fully engaged.

7.12 Service productivity is not helped but what we were told was a relatively poor IT offer compared with many other councils. This is recognised corporately and is a key area for change.

Green Shoots of Change

7.13 We do commend the Council for delivering early ‘green shoots’ in managing how it can improve the quality of its decision making. For example the Council deferred two major applications at its July 2017 Planning Committee that we were advised would possibly have been refused and gone to appeal. . Planning Committee subsequently approved these applications at its September 2017 meeting. Both these applications fitted the risk profile of some of the upheld major appeal decisions. This shows that the Development Management Service can work effectively and proactively with the Chair and Vice Chair to manage risk.

7.14 We were also told that at least some members were more actively engaging with officers in advance of reports going to Committee. We recognise that these changes are new and not embedded or backed by clear processes. But even these changes give us some confidence that members are willing to adapt their approach. Our earlier recommendation about a more formalised approach to engaging with ward councillors should help support a change in culture.

8.0 Accountability and Financial Awareness

8.1 Given the importance to the Service and Council of avoiding 'designation' it seems vital to the peer challenge team that this becomes a key corporate priority. The corporate dashboard contains some information on development management and appeals. But currently this is not specific enough to provide assurance on managing the 'quality of decisions made for major development' which is the obvious presenting issue in relation to potential designation. For example the number of major appeals by quarter including those coming into and dropping out of the Government's rolling two year performance period would seem to be an important indicator to report on and manage.

8.2 While responsibility for change needs to be invested in the Head of Place Development, supported by the Development Management service manager, we recommend that the Improvement Plan is overseen by a steering group including the Chair/Vice Chair of Planning Committee, Chief Executive and Head of Legal. Planning Committee also needs to better own its own performance and it will be important for the Service to report high quality statistical performance to members. This will help improve accountabilities. Other councils have found that making relevant improvement themes specific targets in performance appraisals from Leadership Team to support staff helps drive change.

Use of Funds

8.3 Strong collection of Community Infrastructure Levy (CIL) funds has supported investment in 'Plan E' at Epsom town centre and contributed to improvements in infrastructure via highways and schools. The Council has shown a positive creative attitude to the use of CIL funds, allocating five per cent to subsidise a graduate planner for two years to support the LPR. Good performance in collecting Planning Delivery Grant has been used to support Local Plan preparation and the Council has an allocated budget sufficient to meet a large proportion of LPR fees. We received mixed reports from officers as to whether the Council had budgeted for full LPR costs including the examination and it will be important for the Leadership Team to be clear on this.

8.4 The Council has committed to ring fence to the Service any uplift in planning fees authorised by the Government. The Government has announced the raising of national planning fees by 20 per cent by the end of 2017. This would potentially bring an additional income in the region of £60,000 into the Service. It will be for the Council to prioritise this additional resource but it clearly provides some financial headroom to address the issues raised in the report and in support of the improvement plan.

8.5 The Council has received significant amounts of money from developers via section 106 agreements attached to planning consents. This has particularly funded historically good numbers of affordable housing units. While the Service has

indicated that it monitors the spend and use of these monies, at least some corporate officers we spoke to were uncertain of a named officer and the process for monitoring and spend. Again we recommend stronger and more effective internal communication between Planning Service officers and other service teams. Also other services need to understand the housing trajectories and plan for the additional growth within their services.

Pre applications and Planning Performance Agreements (PPAs)

8.6 It will be important for the Service to maximise its income in the face of continued austerity in the public sector. In 2016/7 the Service received £279,000 in fees and anticipates over £370,000 in 2017/8. In 2016/7 it received pre application income of £31,000 but a number of planning agents told us that the Service could do more to promote a stronger pre application offer. We were told that responses can be very slow. This is because while the Service is collecting increased fees it is not prioritising the provision of a timely response with additional resource.

8.7 It is important that the Service takes the opportunity to help shape proposals or give clear indications that development is unacceptable. Early and clear planning advice can help the private sector de-risk its projects providing more certainty and confidence. We heard of at least one instance where investment in the town centre did not proceed when one potential developer walked away due to the lack of a timely response.

8.8 Slow responses to pre applications have also led some developers and planning agents to submit planning applications as almost 'de facto' pre applications. This leads to a number of potentially negative consequences including refused applications becoming 'free goes' resulting in two sets of costs but only one planning fee.

8.9 We would encourage a stronger use of Planning Performance Agreements (PPAs) that provide for greater certainty for developers and agents in relation to issues to be addressed, timescales and resources. Vitally the Council can use PPAs to legitimately charge for the provision of its services involved in deciding the application. This can lever in additional funds to backfill the prioritisation of in house staff on major PPA schemes. Unlike many councils who use PPAs routinely (for example Portsmouth and Plymouth), the Council is dealing with its first one for which it will collect £8,000. It needs to build on this on appropriate major applications. Of course early engagement between developers, officers and members will support many of our other recommendation for stronger earlier engagement in planning applications.

9.0 Further Support

9.1 PAS would be happy to discuss with Epsom and Ewell developing a package of further support some of which will be available at no cost and some paid for at cost. Specifically, we recommend exploring PAS support around:

- designation & improvement planning advice;
- training for the Planning Committee. <https://www.local.gov.uk/pas/pas-support/planning-committee-support>; and
- [Productivity & Resource Review https://www.local.gov.uk/pas/pas-support/value-money/pas-productivity-resource-review-future-proofing-planning-service](https://www.local.gov.uk/pas/pas-support/value-money/pas-productivity-resource-review-future-proofing-planning-service)

9.2 There are also tools and materials available on the [PAS website](#) which can be downloaded and used for free. Some of these are listed below.

9.3 DM tools: PAS has produced a suite of materials which should help with various aspects of the DM process. The councils have already had access to support for their DM service from PAS, particularly in relation to the DM challenge kit. The resources below are available to download and use.

- [DM Challenge Toolkit](#): ideal for focusing improvement work and useful as part of a wide-ranging review or for simply making a few process changes
- [Key principles for good management](#): a series of 'key principles' for managing parts of the planning process.
- [Pre-app processes](#): PAS has a number of pre-application resources available to download and use.
- [Conditions](#): PAS has produced a best practice not on applying and discharging conditions
- [Project managing major applications](#): PAS has produced a new note about handling major applications
- [Plan Making Support](#)



Local Government Association Local Government House, Smith Square, London SW1P 3HZ

Telephone 0207 664 3000 Fax 0207 664 3030

Email info@local.gov.uk

www.local.gov.uk