



## **COUNCIL - 13<sup>TH</sup> APRIL 2021**

**SUBJECT:                    REVIEW OF SERVICE LEVELS AND DECISION-MAKING PROCESSES FOR THE DEVELOPMENT MANAGEMENT AND PLANNING ENFORCEMENT FUNCTIONS OF THE PLANNING SERVICE.**

**REPORT BY:                CORPORATE DIRECTOR ECONOMY AND ENVIRONMENT**

### **1.        PURPOSE OF REPORT**

1.1        To provide a review of service delivery and decision making processes for the development management and enforcement functions of Planning Services, and seek approval for amendments to the Scheme of Delegation and Member protocols and for the size of the Planning Committee.

### **2.        SUMMARY**

2.1        The Planning Service will play a key role in facilitating the delivery of a sustainable recovery as the country emerges from the COVID-19 crisis and faces the challenges and opportunities presented by Brexit.

2.2        In this respect the Planning Service has recently undergone the final stages of restructure to accommodate significant budgetary pressures with staff resources now well below historic levels.

2.3        In recent years the planning system in Wales has been modernised as part of the Welsh Government Positive Planning Agenda whilst the TeamCaerphilly – Better Together Strategy set in place a whole organisation transformation programme which, in response to the COVID-19 lockdown, has facilitated the introduction of new ways of working and models of service delivery.

2.4        The opportunity now exists to review the development management and enforcement service and embed many of these new approaches through the introduction of an output driven statutory service and more strategically focussed decision-making processes.

2.5        This report, therefore, sets out proposals which will help the Planning Service more effectively respond to the challenges it now faces, whilst seeking to deliver on its statutory obligations.

### **3.        RECOMMENDATIONS**

3.1        That Council:

- a) Endorses the output driven service delivery model proposed for the development management and enforcement function, with a focus on the delivery of its statutory obligations, frontloading, further commercialisation and the delivery of major and strategically significant schemes underpinned by the introduction of a new Wellbeing local performance indicator,
- b) Endorses amendments to the Enforcement Charter,
- c) Approves changes to the Planning Committee structure with a reduction from 20 to 16 Members,
- d) Approves changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus,
- e) Approves the Non- Planning Committee Member Protocol for Ward Members.

#### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 To seek Council approval of amendments to the Council Constitution.

#### **5. THE REPORT**

##### **Background**

- 5.1 The impact of the COVID-19 pandemic on our economy, communities and society coupled with the potential impact of Brexit is acknowledged as presenting one of the biggest challenges we have faced in a generation. In this respect Welsh Government recognise that the planning system will play a key role in achieving its Wellbeing objectives and delivering a sustainable recovery in environmental, social, cultural and economic terms.
- 5.2 Central to the delivery of these objectives must be an efficient, flexible and responsive development management and enforcement function which facilitates sound and timely decision making and the investigation of breaches of planning control.

##### **Current Staff Resources and Caseloads**

- 5.3 The Planning and Regeneration Service has undergone a significant restructure in recent years in response to ongoing budgetary pressures. In this regard the core planning budget has been reduced by some 72% over the last 5-6 years.
- 5.4 More specifically the development management and enforcement function has accommodated a budget saving of £337k during this period and this has been achieved mainly through a reduction in staff resources. The service also has demanding fee income targets which in a volatile economic climate with peaks and troughs in development can prove difficult to achieve year on year.
- 5.5 The final elements of the most recent restructure of Planning Services was implemented in October 2020 and as a result, following the retirement of a further member of staff, the Development Management Team now comprise of a single Team Leader and 5 case officers, comprising, 3 Principal Planning Officers (Grade 10) and 2 Planning Officers (Grade 9). The number of Enforcement Officers has already been reduced from 6 officers to 2 with this service currently being delivered by one, recently appointed, Principal Enforcement Officer (Grade 10) and one Enforcement Officer (Grade 7).

- 5.6 On average the Authority determines in excess of 1000 planning and related applications per annum. On this basis, and following the restructure, future individual caseloads will on average comprise of some 200 cases per case officer which will be well above sustainable levels, and significantly more than traditionally recommended caseloads of 135 per annum.
- 5.7 The current level of enforcement complaints of over 300 per annum coupled with an existing caseload of in excess of 250 enforcement cases also presents a significant challenge for the Authority's 2 remaining enforcement officers.
- 5.8 Historically between 80 and 100 enforcement cases are resolved per annum, per officer, depending on the complexity of the caseload. In this respect, of the existing outstanding caseload there remains a range of complex cases requiring positive action to remove unauthorised breaches including those requiring the service or monitoring of the requirements of an enforcement notice and/or prosecution.
- 5.9 Clearly with the current level of staff resources, responding positively to the impact of COVID-19 coupled with Brexit and facilitating the delivery of a sustainable recovery in environmental, social, cultural and economic terms will present the Local Planning Authority with a significant and unprecedented challenge. Detailed consideration of the budget and staffing issues within the Planning Service has, however, been subject to a separate approval process and additional resources have been allocated as part of the budget proposals for 2021/22 considered by Council on 18<sup>th</sup> February 2021.

#### Positive Planning

- 5.10 The planning system in Wales has undergone a significant change process as part of the Welsh Government Positive Planning agenda, culminating in the Planning (Wales) Act 2015 and the introduction of subsequent secondary legislation.
- 5.11 In this respect the Positive Planning agenda sought to change culture and provide a planning system that can deliver national, local and community wellbeing objectives by supporting the delivery of appropriate sustainable development.
- 5.12 An efficient development management and enforcement service and modern governance arrangements underpinned by a robust output driven performance framework is seen as integral to the delivery of this agenda.
- 5.13 In this respect the concept of "front loading" introduced a formal paid statutory pre-application advice service for all applications and Pre-Application Consultation (PAC) for major developments, with early engagement being central to delivering quality positive outcomes in a timely and efficient manner.
- 5.14 The enforcement function has also been refocussed to deliver the timely investigation of cases within prescribed timescales, with new tools including temporary stop notices and enforcement warning notices introduced to deal more expeditiously with breaches of planning control which may cause irreparable damage and facilitate the submission of planning applications to regularise unauthorised development.
- 5.15 The Planning Performance Framework (PPF) set in place key qualitative and quantitative performance indicators used to focus resources on delivering the key elements of a good planning service (1). In addition, key sustainable development indicators have also been introduced. All Local Planning Authorities are required to report quarterly on performance to Welsh Government and publish an Annual

Performance Report (APR) (2) detailing its performance in the context of the PPF. Local Planning Authorities are also required to refund fees where decisions are not made in a timely manner with the provision for penalties to be used in the event of consistent under performance.

- 5.16 The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 which came into force on 5<sup>th</sup> May 2017 requires Planning Committees to comprise of no less than 11 Members and no more than 21, it also provides that no more than one Member from a multi Member Ward can sit on a Planning Committee at any one time.
- 5.17 This secondary legislation followed a comprehensive review of planning committees and decision making across Wales which concluded that large planning committees are resource intensive, diminish the valuable role of Councillors as representatives of their community and generate slow and inconsistent decision making as a result of the associated administrative burden, low average attendance and the tensions between respective Electoral Division and Committee roles (3).
- 5.18 On this basis, the overriding duty of a Planning Committee Member is seen as being to the wider community and the whole Authority, with the role of the Planning Committee focussed on the delivery of the Development Plan by making locally strategic planning decisions, which go beyond protecting the private interests of one person, or group of people, against the activities of others. In this context a Planning Committee should not deal routinely with a plethora of minor development proposals, particularly householder development, which have minimal impact upon the wider area.
- 5.19 Such issues remain current today and were again raised in the recent Wales Audit Office report on the Effectiveness of the Planning Authorities in Wales, which identified continued inconsistencies in the size of Planning Committees, inconsistent decision making and a lack of strategic focus with some Committees still focussing on parochial ward based issues (4).
- 5.20 A comprehensive review of the fee structure for planning applications is also currently ongoing by Welsh Government in an attempt to provide adequate resources to fund the statutory development management process. This is a complex piece of work and in recognition of the current pressures and significant resource and resilience issues Local Planning Authorities currently face, a 20% planning application fee increase across the board was introduced on 24<sup>th</sup> August 2020. The expectation is that this fee increase will be reinvested exclusively into improving the delivery of the development management service at the local level.
- 5.21 Whilst this is welcomed, it should be recognised that the current underachievement of fee income by the Service is in excess of 20% and as a consequence this increase will be absorbed by the existing fee income target in 20/21 and will not release further resources to invest into service delivery. As indicated above at paragraph 5.9 detailed consideration of the budget and staffing issues within the Planning Service has been subject to a separate approval process and additional resources have been allocated as part of the budget proposals for 2021/22 considered by Council on 18<sup>th</sup> February 2021.

#### TeamCaerphilly – Better Together

- 5.22 The TeamCaerphilly – Better Together Strategy is based on 3 main pillars: Service Reviews, Commercialisation and PlaceShaping, and sets in place a whole

organisation transformation programme which, in response to the COVID-19 lockdown, has facilitated the introduction of new ways of working and models of service delivery.

- 5.23 The opportunity now exists, therefore, to review the development management and enforcement service, deploy the principles of TeamCaerphilly and embed many of these new approaches into its future service delivery and decision-making processes.
- 5.24 In this respect the proposals in this report seek to capitalise on the opportunities provided by the TeamCaerphilly Framework with further commercialisation in the promotion of fee earning elements of the service, further refinement of agile working, the development of a single point of contact and online resources and provision of a more strategic focus for service delivery and decision making to facilitate the PlaceShaping agenda, underpinned by an output driven performance management framework.

### **Service Delivery**

- 5.25 Whilst the Regeneration and Planning Service has recently implemented the final stages of a restructure, the corresponding impact upon the level of service and service delivery options was yet to be reviewed in this regard or in light of the Positive Planning Agenda or to meet the requirements of the Planning Performance Framework.
- 5.26 As part of its response to the COVID-19 crisis the development management and enforcement functions have also been forced to operate in different ways, investing in paperless working, providing a different level of service with a focus on its statutory obligations as a priority. This review, therefore, provides the opportunity to embed the principles of positive planning into service delivery options and learn lessons from the current crisis to build a more efficient, output driven service with a greater strategic focus on delivery.

### **Frontloading the Development Management Process**

- 5.27 Use of the statutory pre-application advice service offered by the Authority has been low. In Q1 2020/21 just 14 pre-application enquiries were submitted, and this is a consistent picture in previous quarters.
- 5.28 Historically scarce resources have instead been dedicated to the provision of informal advice on an adhoc basis and significant negotiation at the formal planning application stage. Whilst this can be regarded as good practice it results in delays in the formal decision-making process with the average time to determine applications standing at around 82 days in 2019/20. Importantly, this officer time is not formally accounted for, has resulted in depressed take up of the pre-application advice service, reduced income generation from this service and conflicts with the concept of frontloading with a high percentage of applications being submitted as invalid, requiring amendment and re-consultation, drawing further on the burden of administering the process.
- 5.29 During the COVID-19 lockdown, officers have worked from home and the Authority has moved quickly to capitalise on available digital technology, kit and equipment to migrate from a paper, office-based system to a paperless digital based system. The service is now delivered to customers through a range of digital platforms with the ongoing development of online resources, payment processes and use of virtual meetings and telephone conferencing.

- 5.30 Resources have been dedicated to the processing of planning applications in a timely manner with limited negotiation and an emphasis on the use of the Council's pre-application advice service to frontload the process and reduce the need for negotiation at the formal planning application stage. Where negotiation has taken place it has been focussed on delivering significant or major applications which, by their nature, are more likely to have an economic imperative that could stimulate recovery in a post-Covid19 and post-Brexit era or those applications which are likely to have a wider community interest or impact.
- 5.31 As a consequence, and despite the circumstances, performance and productivity has improved when measured against key indicators in the Planning Performance Framework with the percentage of applications determined within timescales, over the lockdown period, increasing from 80% in Q1 2019/20 to 97% in the same quarter 2020/21.
- 5.32 Whilst there remains significant work to do in terms of modernising the delivery of the service, managing public contact and expectations in response to the current crisis and future challenges, the above approach to service delivery has proven to be an efficient model moving forward, particularly given the significant economic, social and environmental challenges we now face and the increasingly diminishing staff resources the service has at its disposal.
- 5.33 It is therefore recommended, that the service continues to develop its service delivery model along the following lines: with a focus on outputs as measured by the Planning Performance Framework; an increasing emphasis on frontloading; the provision of paid formal services; signposting to free online resources; and a focus on the delivery of major or significant schemes which have a broader economic and/or community impact.
- 5.34 In this regard the following are key aspects of modernising the service:
- Single point of contact for access to services and signposting of public to online resources for advice, submission of applications and complaints and reporting of breaches of planning control,
  - Further commercialisation and development of a range of paid services,
  - Frontloading of the planning application and enforcement processes,
  - Timely determination of householder and minor planning applications,
  - Focus on the delivery of major and strategically significant schemes which have a broader economic and/or community impact,
  - Output driven service delivery model focussed on meeting key performance indicators.
- 5.35 In this latter respect it is also recommended that an additional local performance indicator be introduced relating to the percentage of applications with an economic imperative that are approved i.e. major applications. Overlain with the existing National performance management framework currently in place which measures performance in quantitative and qualitative terms and against key sustainable development measures this new local indicator will have the effect of providing the service with a greater focus on delivery and will also embed economic Wellbeing objectives into service delivery in a measurable way.

#### Responsive Planning Enforcement

- 5.36 As indicated above the enforcement service has shouldered significant cuts in staff resources in recent years with the remaining 2 enforcement officers receiving on average in excess of 300 enforcement cases each year in addition to a significant existing caseload. Such staff levels are clearly not sufficient to maintain traditional levels of service. In this respect the issue of budget and staffing within Planning Service was subject to a request for budget growth as part of the report considered by Council in February in respect of the budget.
- 5.37 During the lockdown period the level of enforcement complaints has remained consistent, but in line with Welsh Government advice officers have not been able to visit sites to investigate these complaints unless it is essential to do so where irrevocable damage was taking place to the environment or where there is a risk to life. During this period the Authority has for the first time issued a number of temporary stop notices to cease ongoing operational development.
- 5.38 An online complaints process has also been launched with all complaints being submitted via an online form. In addition, to assist investigations, complainants have been contacted and asked to provide further clarification and supporting information, including photographs, and virtual meetings have been undertaken to assist the investigation by remote means.
- 5.39 Historically enforcement complaints have been submitted via a range of methods, including via word of mouth, telephone, in writing or by email. Frequently complaints are submitted anonymously, lack the necessary information to allow cases to be prioritised or expedited without significant investigation. In many cases no breach of planning control takes place and the opportunity to triage complaints and manage public expectations at the outset is lost through a lack of information.
- 5.40 Addressing the existing backlog when lockdown restrictions are lifted will clearly present a significant challenge given the resources at the Authority's disposal notwithstanding the additional staff resources that have been allocated. The Enforcement Charter was adopted by the Council in 2019. This set in place the service levels complainants can expect, ways in which a complaint can be submitted, and the level of information required. This embodies many of the principles adopted during the lockdown period but has been updated and revised in light of the lessons learned to provide more focussed and efficient processes, to align with the principles of TeamCaerphilly and to manage public and member expectations.
- 5.41 The revised Enforcement Charter is attached as Appendix 1. Whilst the changes are subtle, they will go some way to assisting the delivery of the enforcement service and to focus on the performance levels set down in the Planning Performance Framework.
- 5.42 In this respect all enforcement complaints should now be submitted in a uniform way, namely online via the enforcement complaint form and complainants are required to provide a range of information, depending on the complexity of the case, before the complaint can be submitted, accepted and investigated. In addition, a triage system has been introduced which will allocate complaints a priority at the outset allowing expectations to be managed and resources to be allocated in the most efficient manner to deal with the most severe breaches of planning control. Public expectation will need to be managed with service levels clearly articulated at the outset and contact with the case officer throughout an investigation limited to that required as part of statutory processes namely at the end of the investigation stage.

### **Decision Making**

- 5.43 The Council Constitution prescribes the form and composition of Planning Committee and via the Scheme of Delegation identifies those decisions which must be made by Planning Committee, providing delegated powers to officers to issue decisions on a range of functions including planning and related applications and enforcement cases.

#### Planning Committee Structure

- 5.44 The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 which came into force on 5<sup>th</sup> May 2017 requires Planning Committees to comprise of no less than 11 Members and no more than 21, it also provides that no more than one Member from a multi Member Ward can sit on a Planning Committee at any one time.
- 5.45 As detailed above the legislation was introduced by Welsh Government to control, by statute, the size of Planning Committees as small Committees were regarded as facilitating better, more efficient, consistent and timely decision making.
- 5.46 The table below illustrates the range in the current size of Planning Committee's in Wales.

Table 1 – The Size of Planning Committees in Wales

<b>Local Planning Authority</b>	<b>No. Members</b>
Merthyr	11
Newport	11
Cardiff	11
Isle of Anglesey	11
Rhondda Cynon Taf	11
Swansea	12
Neath Port Talbot	12
Blaenau Gwent	15
Conwy	15
Gwynedd	15
Pembrokeshire	15
Torfaen	16
Monmouth	16
Flintshire	16
Vale of Glamorgan	17
Bridgend	18
Brecon Beacon National Park	18
Pembrokeshire Coast National Park	18
Snowdonia National Park	18
Denbighshire	19
Caerphilly	20
Carmarthenshire	20
Wrexham	20
Ceredigion	21
Powys	21



- 5.47 The Authority's current Planning Committee comprises some 20 Members and is one of the largest Planning Committees in Wales, the largest within the Cardiff Capital Region and significantly larger than other large urban Authorities such as Cardiff (12), Swansea (12), Newport (11) and Rhondda Cynon Taff (11). It also represents the largest Committee in the Council with Licensing comprising 15 Members and Scrutiny Committee 16.
- 5.48 Average attendance at each Planning Committee meeting was 14 in 2019/20 and the quality of decision making when assessed against the Planning Performance Framework was relatively inconsistent with 8% of Committee decisions being made contrary to professional officer recommendation. Good performance being categorised as 5% or less and poor performance 9% or more.
- 5.49 The COVID-19 lockdown has starkly demonstrated the need for the Authority's decision-making processes to adapt quickly to ever changing circumstances. Whilst Planning Committee reconvened on 17<sup>th</sup> June 2020 via virtual meetings, significant resources were deployed to train all 20 Members to facilitate this process.
- 5.50 Setting aside the views of Welsh Government and the Auditor General for Wales regarding the benefits of small Planning Committees, clearly in a rapidly changing environment where both decision making processes and policy responses may have to react quickly, a smaller and more focussed Planning Committee would, it is considered, be more responsive to change.
- 5.51 On this basis and having regard to the political balance of the Council it is recommended that the size of Planning Committee be reduced to 16 Members which more closely aligns with Licensing and Scrutiny Committees and other Local Planning Authorities in the Cardiff Capital Region.

#### Scheme of Delegation

- 5.52 A National Scheme of Delegation has not, as yet, been introduced, however, Welsh Government have been clear that the role of Planning Committee should be focussed on making locally strategic planning decisions which go beyond protecting the private interests of one person, or group of people, against the activities of others. In this context a Planning Committee should not deal routinely with a plethora of minor development proposals, particularly householder development, which have minimal impact upon the wider area (3).
- 5.53 In this context the role of Planning Committee should be to deliver the adopted development plan by making locally strategic planning decisions and by determining those applications:
1. That are identified as major development;
  2. That raise policy issues affecting the delivery of the development plan, such as applications departing from the adopted plan; and
  3. Where there is quantifiable, community-wide interest in a development which goes beyond protecting the private interests of one person, or group of people, against the activities of others.
- 5.54 The Authority's current scheme of delegation relating to the determination of planning applications is reproduced below:
- "The determination of all applications for planning permission, reserved matters, listed building consent, conservation area consent, tree preservation order consent,

advertisement consent and all other matters submitted for the determination formal application or comment of the local planning authority under the relevant Town and Country Planning Act and associated legislation, **OTHER THAN** :-

- (a) any application which any member requests in writing to the Head of Regeneration & Planning within 21 days of the publication of the weekly list containing the application, should be considered by the Planning Committee.
- (b) any application where it is recommended that permission be granted contrary to the Council's planning policies.
- (c) any application which in the opinion of the Head of Regeneration & Planning or the Planning Services Manager are likely to be controversial or of significant public interest or should in any event be determined by the Planning Committee.
- (d) applications where the decision would conflict with an objection received from a statutory consultee."

5.55 The Authority's current Scheme of Delegation, therefore, has a broad focus ranging from strategic to very minor issues. In this respect under the terms of criteria a) there are no thresholds relating to the nature of applications that should be considered by Planning Committee in terms of their scale or to quantify the community wide interest. Any application could, therefore, be reported to Planning Committee for decision, including very minor or householder applications where the issues for consideration relate to protecting the private interests of one person, or group of people, against the activities of others. Conversely major applications which, by their nature, would have a much broader community impact can currently be determined under delegated powers.

5.56 This process can create uncertainty for Members, officers, the public, applicants and developers and can serve to distract from the strategic focus of the Committee. If Planning Committee is to adopt a more strategic role it is considered that both development and objection thresholds should be introduced into the scheme of delegation. In this respect it is considered that decisions on householder applications should not be made at Planning Committee level. This clarity would allow Members to engage more effectively in the planning process from the outset whether in a Planning Committee or Ward member role.

5.57 Under criteria (b) applications which depart from the provisions of the Development Plan are clearly of strategic significance and would require Planning Committee consideration if recommended for approval as are those considered to be controversial or of significant public interest under criteria (c).

5.58 It is not considered, however, that an objection received from a statutory consultee should trigger an automatic requirement for Planning Committee consideration. The list of statutory consultees appears to be growing following the recent inclusion of Dŵr Cymru/Welsh Water and current proposals to include the Fire and Rescue Service. Very often the issues raised by consultees or the development concerned is relatively minor and a more appropriate mechanism for consideration would be to include both a development and/or an objection threshold against which to focus Planning Committee decision making.

5.59 In addition there is no provision in the scheme of delegation for planning applications submitted by Officers or Members to be considered by Planning Committee. This lack of clarity can lead to a large number of applications being reported to Planning Committee because the applicant may work for the Council, however, their relationship is entirely unrelated to the decision-making process. In the interests of transparency, it is considered appropriate to require all applications submitted by any

officer involved in the planning process or a Councillor to be considered by Planning Committee. In this respect an officer is involved in the planning process if they are a member of staff in planning services, or involved in enforcing planning matters, or giving advice or support to officers or Councillors involved in the planning process or could be perceived to be involved in the planning process.

5.60 In view of the above it is recommended that the scheme of delegation for planning applications be amended to read as follows:

“The determination of all applications for planning permission, reserved matters, listed building consent, conservation area consent, tree preservation order consent and advertisement consent and all other matters submitted for the determination, formal application or comment of the local planning authority under the relevant Town and Country Planning Act and associated legislation, **OTHER THAN** :-

- (a) Development Threshold - All major planning applications or those involving Environmental Impact Assessments;
- (b) Objection Threshold Call In - Any planning application, other than a householder application, where a petition containing 30 or more names from separate households or 20 or more written objections on material planning grounds have been received from separate households or organisations within the 21 day consultation period and a member has requested in writing to the Head of Regeneration & Planning within the 21 day consultation period that the application should be considered by the Planning Committee;
- (c) Departure Applications - any application where it is recommended that permission be granted contrary to the Council’s planning policies.
- (d) Officer Referral - any application which in the opinion of the Head of Regeneration & Planning or the Planning Services Manager has a community wide impact, is of strategic significance or should in any event be determined by the Planning Committee.
- (e) Any planning application submitted by any officer of the Council involved in the planning process or a Councillor.”

5.61 For the purposes of criteria (a) of the above proposed scheme of delegation a major planning application is as defined in the Town and Country Planning (Development Management Procedures) (Wales) Order 2012 (DMPWO) namely:

- a proposal to erect 10 or more dwellings
- where the number of dwellings is not known (outline applications), the application site exceeds 0.5 hectares
- where the application site exceeds 1 hectare
- where proposed buildings/extensions create a floor area exceeding 1000 square metres
- winning and working of minerals
- waste development

5.62 In relation to criteria (b) whilst the call-in procedure is a fundamental and important part of the democratic process, unnecessary ‘call-ins’ can lead to unreasonable delay.

5.63 Therefore, where it is considered that a Member or Members is/are unreasonably calling in planning applications or otherwise potentially abusing the ‘call-in’ process, the Chair and Vice-chair, in consultation with relevant Ward Member(s), will have the authority to withdraw any “call-in” request. The decision of this panel is final.

- 5.64 Finally under the provisions of criteria (e) an officer is involved in the planning process if they are a member of staff in planning services, or involved in enforcing planning matters, or give advice or support to Officers or Councillors involved in the planning process or could be perceived to be involved in the planning process.

#### Role of Members

- 5.65 All Elected Members are required to adhere to the Council's agreed code of conduct and in this context, there is a clear difference between the role of a Planning Committee Member and that of a Ward Member.
- 5.66 To fulfil their role as a Planning Committee Member and take a full part in the decision making process a Member of the Planning Committee must be satisfied that they approach any decision with an open mind and have not been influenced or unduly prejudiced to the extent that this would influence the way they would vote.
- 5.67 In planning terms a Ward Member has, however, a much broader role in representing their community and constituents whether for or against a development. This can result in pressures and demands on officers and Members alike.
- 5.68 Given the proposed output driven and strategic focus of the development management and enforcement service and decision making processes moving forward it is important that Member expectations and those of the public are effectively managed if the Service is going to respond effectively and play a central role in facilitating recovery.
- 5.69 In this respect and to assist in guiding Members through the planning process in the excise of their Ward Member role it is recommended that the attached Member Protocol be adopted and incorporated into the Council Constitution at paragraphs 2.7-2.9 of the Planning Code of Practice.

#### **Conclusion**

- 5.70 The recommendations proposed in this report seek to embed new ways of working deployed during the COVID-19 lockdown and capitalise on the ongoing investment in technology to provide the development management and enforcement service and its decision making processes with a more strategic, output driven focus.
- 5.71 Given the significant challenges the service faces this is considered to be the most effective way of focussing scarce resources to respond to the COVID-19 crisis and facilitate the delivery of a sustainable recovery in environmental, social, cultural and economic terms.

#### **6. ASSUMPTIONS**

- 6.1 None.

#### **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 The proposed service levels and decision making processes will have a positive impact on many protected characteristics and people who are socio-economically disadvantaged with Officer support available for those digitally excluded groups.

7.2 The proposals will also improve service delivery and facilitate the delivery of the wellbeing objectives of the Wellbeing of Future Generation Act and the Corporate Plan and the policies embedded within Future Wales, PPW and Caerphilly LDP.

7.3 The recommendations contained within this report are designed to create a new operating model for the development management and enforcement functions of Planning Services that will actively support the delivery of each of the Corporate Wellbeing Objectives in the Corporate Plan 2018-2023:

Objective 1 - Improve education opportunities for all.

Objective 2 - Enabling employment.

Objective 3 - Address the availability, condition and sustainability of homes throughout the County Borough and provide advice, assistance or support to help improve people's wellbeing.

Objective 4 - Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment.

Objective 5 - Creating a County Borough that supports a healthy lifestyle in accordance with the sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015.

Objective 6 - Support citizens to remain independent and improve their well-being.

7.4 The recommendations in this report will assist the Authority in its duties as a public body under the Well-being of Future Generation (Wales) Act 2015 to contribute of the well-being goals for Wales:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh Language
- A globally responsible Wales

7.5 The recommendations of this report are also consistent with the five ways of working as defined within the sustainable development principle in the Act. The five ways of working of the sustainable development principle, listed in the Act are:

- Long Term – the proposals will enable the Authority to develop a more sustainable service in response to significant budgetary and resource pressures and deliver its statutory obligations.
- Prevention – taking a more commercial approach and strategic focus will allow services to be targeted more effectively and prevent current resource issues from frustrating the delivery of development and key strategic projects.
- Integration – further development of a single point of contact for access to services, online resources, formalisation of advice and frontloading will facilitate more integrated working.
- Collaboration – the proposals will facilitate greater collaboration through the planning process with other organisations and bodies in the delivery of strategic projects.
- Involvement – the proposal will facilitate engagement and access to resources through a great range of digital platforms.

- 7.6 The proposals also allow opportunities for people to use the Welsh language and aim to ensure that the Welsh language is treated no less favourably than the English language and all documentation is available and published online in Welsh format.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 None.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 There are no specific personnel implications directly resulting from this report.

## **10. CONSULTATIONS**

- 10.1 The draft report was distributed as detailed below. All comments received have been reflected in this version of the report.

- 10.2 In addition this report came before the Housing and Regeneration Scrutiny Committee on 9<sup>th</sup> December 2020. The report was introduced by the Cabinet Member for Economy and Enterprise. The Cabinet Member advised that an efficient, flexible and responsive development management and enforcement function which facilitates sound and timely decision making and the investigation of breaches of planning control was central to the delivery of the Council's well-being objectives. The Cabinet Member highlighted during his opening remarks that the Authority's current Planning Committee comprises some 20 Members and is one of the largest Planning Committees in Wales, the largest within the Cardiff Capital Region and significantly larger than other large urban Authorities such as Cardiff (12), Swansea (12), Newport (11) and Rhondda Cynon Taff (11). It was outlined that reducing membership to 16 would be in line with the Authority's Scrutiny Committees.

- 10.3 The Chair highlighted that Committee Members had received emails from Cllr Gair and Cllr Bezzina raising concerns about the proposals. During the ensuing debate one Member raised the issue of political representation if membership of the Planning Committee was reduced. The Cabinet Member advised that the Planning Committee would still reflect the political balance of the Council as is the case with other Committees. The Member then raised the issue of attendance at Planning Committee meetings and the role of members in terms of decision-making. The Member also told Committee that in her opinion changing the scheme of delegation for planning applications would make it more difficult for smaller parties to raise objections and that she had concerns for this reason.

- 10.4 Another Member also raised concerns about the proposed scheme of delegation. He told Members that whilst he agreed with paragraph 5.18 of the report, that the Planning Committee should not have to deal routinely with a plethora of minor development proposals which have minimal impact upon the wider area, they should deal with minor proposals if they are a matter of concern or controversy within the ward. The Member thought that there should not be an arbitrary high bar to clear concerning the number of complaints received before a Member can seek adjudication from the Planning Committee. The Member said he would be happy to endorse all the recommendations with the exception of recommendation (d), which he thought should be removed. The recommendation states: *that Scrutiny Committee endorses changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus*. The Member told Committee that in his opinion this recommendation takes away the power from Planning Committee Members to

represent the whole community and from Ward Members to represent their local community by making representations to the Planning Committee. He concluded that Members should be able to take concerns before the Planning Committee without having to face a high bar which he believed the proposed changes to the scheme of delegation would create.

- 10.5 One Member highlighted the important role of Ward Members as part of the planning process. The Member said that in his opinion on some occasions too much credit was given to the view of developers rather than the views expressed by Councillors who possessed greater local knowledge. The Planning Services Manager advised Members that the purpose of the proposed scheme of delegation was to provide certainty and focus in terms of decision-making. So that everyone was clear at the outset what applications had to go to Committee and which did not. He talked about the proposed objection threshold and advised that it was there to identify a community-wide impact as opposed to a community interest. This would then ensure that Planning Committee time was used appropriately and was focussed on strategic matters.
- 10.6 A Member advised the Committee that he would like to second the Motion put forward earlier that the report's recommendations be endorsed by Committee with the exception of recommendation 3.1 (d).
- 10.7 Following consideration and discussion, it was proposed and seconded to amend the recommendations to exclude the following recommendation: 3.1 (d) To endorse changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus.

By way of Forms voting (and in noting there were 10 for, 2 against and 0 abstentions) this was agreed. Therefore, subject to the exclusion of recommendation 3.1 (d) it was RESOLVED that for the reasons contained in the report:

The Scrutiny Committee:

- a) Endorsed the output driven service delivery model proposed for the development management and enforcement function, with a focus on the delivery of its statutory obligations, frontloading, further commercialisation and the delivery of major and strategically significant schemes underpinned by the introduction of a new Wellbeing local performance indicator.
  - b) Endorsed amendments to the Enforcement Charter.
  - c) Endorsed changes to the Planning Committee structure with a reduction from 20 to 16 Members.
  - d) Removed the recommendation to endorse changes to the Scheme of Delegation to provide Planning Committee with a more strategic roles and focus.
  - e) Endorsed the Non-Planning Committee Member Protocol for Ward Members.
- 10.8 In response it should be recognised that the main issue of concern raised by Scrutiny Committee members related to the Objection Threshold as detailed at paragraph 5.60 above and the need for a call in request to be validated by a petition of 30 names from individual households and/or 20 letters of objections from individual households.

- 10.9 Whilst Scrutiny Committee resolved to exclude any change to the scheme of delegation, for this reason, it should be recognised that there are a number of other important elements to the proposed changes relating to the introduction of a Development Threshold, to ensure all major planning applications are referred to Planning Committee, and to Departure applications, officer referral and applications submitted by officers or a Councillor.
- 10.10 For the reason detailed in the report it is considered, therefore, that the current Scheme of Delegation would still benefit from a review.
- 10.11 In this respect further consideration was also given to the report at Planning Committee on 20<sup>th</sup> January 2021.
- 10.12 Members were advised that the Planning Service has recently undergone the final stages of restructure to accommodate significant budgetary pressures with staff resources now well below historic levels. In recent years the planning system in Wales has been modernised which has facilitated the introduction of new ways of working and models of service delivery. The opportunity now exists to review the development management and enforcement service and embed many of these new approaches through the introduction of an output driven statutory service and more strategically focussed decision-making processes.
- 10.13 The Planning Committee were therefore asked to consider and endorse a number of detailed proposals in the report, which will allow the Planning Service to respond more positively to key challenges and deliver the Council's priorities, particularly around Team Caerphilly and the Place Shaping and Caerphilly Homes agendas.
- 10.14 It was noted that at the meeting of the Housing and Regeneration Scrutiny Committee, Members had endorsed the report recommendations subject to the exclusion of Recommendation 3.1 (d) relating to proposed changes to the Scheme of Delegation. It was explained that although the Scrutiny Committee had accepted that Planning Committee should not deal with a plethora of minor development proposals, it was felt they should deal with minor proposals if they are a matter of great concern or controversy within a ward. Their main concern around Recommendation (d) was the high threshold of objections that was proposed to allow a "call-in" request for the Planning Committee to consider the application and address the issues raised.
- 10.15 The Planning Committee considered the report and one Member stated that they would support the removal of the proposed threshold for written objections, but expressed concerns around the proposal to delegate all householder planning applications to Planning Officers, thereby removing the opportunity for contentious applications to be brought to Committee, and also queried how applications that do not meet the definition of major planning developments (such as HMOs or change of use) would be dealt with under the amended Scheme of Delegation. Officers explained that the applicant has a right of appeal in the event of refusal and that the proposed changes to the Scheme of Delegation is intended to provide a more strategic focus for Planning Committee but that the proposal could be adjusted if Members were so minded. With regards to HMOs and change of use applications, it was confirmed that these would be subject to the proposed threshold for written objections.
- 10.16 In responding to a Member's query, Officers explained that the proposed amendment to reduce the size of the Planning Committee from 20 Members to 16 Members takes into account the average attendance at Committee and would



provide parity with the size of the Council's other Committees and Planning Committees across other local authorities. A Member queried the staff resources available to deliver the Council's planning priorities, particularly in relation to the lack of planning enforcement officers and Officers confirmed that there were proposals contained in the forthcoming budget report to provide additional staffing resources going forward.

- 10.17 Following discussion on the contents of the report and in taking into account the views of the Scrutiny Committee, the Planning Committee determined that they were generally supportive of recommendations 3.1 (a) (b) (c) and (e) but expressed reservations about endorsing recommendation (d) in its current form in view of the concerns raised by Members. It was agreed that the Planning Committee would take a vote on the other recommendations in the report and then address Recommendation 3.1 (d) separately.
- 10.18 It was therefore moved and seconded that Recommendations 3.1 (a) (b) (c) and (e) be endorsed and in noting that there were 12 for, 0 against and 0 abstentions, this was unanimously agreed.
- 10.19 Following further discussion, it was moved and seconded that Recommendation (d) in relation to the Scheme of Delegation be endorsed, subject to the following amendment to the wording detailed at 7.18(b) of the Officer's report to read: ***“Call In – Any planning application where a Member has requested in writing on material planning grounds to the Head of Regeneration & Planning within the 21 day consultation period that the application should be considered by the Planning Committee”***. In noting that there were 12 for, 0 against and 0 abstentions, this was unanimously agreed.

It was therefore RESOLVED that:-

- (a) the output driven service delivery model for the development management and enforcement function be endorsed, with a focus on the delivery of its statutory obligations, frontloading, further commercialisation and the delivery of major and strategically significant schemes underpinned by the introduction of a new Wellbeing local performance indicator;
- (b) the amendments to the Enforcement Charter be endorsed;
- (c) the proposed changes to the Planning Committee structure with a reduction from 20 to 16 Members be endorsed;
- (d) the proposed changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus be endorsed, subject to the following amendment to the wording detailed at 7.18(b) of the Officer's report to read: ***“Call In – Any planning application where a Member has requested in writing on material planning grounds to the Head of Regeneration & Planning within the 21 day consultation period that the application should be considered by the Planning Committee”***;
- (e) the proposed Non-Planning Committee Member Protocol for Ward Members be endorsed.

## 11. STATUTORY POWER

### 11.1 The Local Government Acts 1998 and 2003.

Author: Ryan Thomas, Planning Services Manager

Consultees: Cllr Sean Morgan Cabinet Member for Finance, Performance and Planning  
Christina Harray, Chief Executive  
Mark S. Williams, Corporate Director Economy and Environment  
Rhian Kyte, Head of Regeneration and Planning  
Stephen Harris, Steve Harris, Head of Financial Services & S151 Officer;  
Robert Tranter, Head of Legal Services/Monitoring Officer  
Liz Lucas, Head of Customer and Digital Services  
Anwen Cullinane, Senior Policy Officer, Equalities, Welsh Language and Consultation  
Lynne Donovan, Human Resources Service Manager  
Cllr R Saralis, Chair of Planning Committee  
Cllr L Aldworth, Vice Chair of Planning Committee  
Cllr Andrew Whitcombe, Chair of Housing and Regeneration Scrutiny Committee  
Cllr Christine Forehead, Vice Chair of Housing and Regeneration Scrutiny Committee

Background Papers:

- (1) [Planning Performance Framework](#)
- (2) [Planning Annual Performance Report](#)
- (3) [Planning Committees, Delegation & Joint Planning Boards](#)
- (4) [The Effectiveness of Local Planning Authorities in Wales](#)

Appendices:

- Appendix 1 Enforcement Charter  
Appendix 2 Ward Member Protocol