

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**COUNCIL – TUESDAY, 20 MARCH 2018**

Title of Report	<b>OUTCOMES OF THE PLANNING PEER CHALLENGE</b>
Contacts	<p>Bev Smith, Chief Executive 01530 454500 <a href="mailto:bev.smith@nwleicestershire.gov.uk">bev.smith@nwleicestershire.gov.uk</a></p> <p>Councillor Trevor Pendleton 01509 569746 <a href="mailto:trevor.pendleton@nwleicestershire.gov.uk">trevor.pendleton@nwleicestershire.gov.uk</a></p> <p>James Arnold, Strategic Director of Place 01530 454555 <a href="mailto:james.arnold@nwleicestershire.gov.uk">james.arnold@nwleicestershire.gov.uk</a></p>
Purpose of Report	To agree the actions arising from the recommendations of the Planning Peer Challenge Team.
Reason for Decision	To enable work to commence on the recommendations arising from the Peer Challenge Review and to make any constitutional changes required in time for the 2018/19 civic year.
Council Priorities	Business and Jobs Homes and Communities
<p>Implications</p> <p>Financial / Staff</p> <p>Links to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>The action plan will be delivered within existing resources. There may be cost implications with the introduction of any new equipment, members' allowances in respect of the reforms to the Local Plan Advisory Committee and the potential to increase income by charging for pre-application advice. Details of such costings will be identified as part of the action plan.</p> <p>None identified</p> <p>Failure to act on the recommendations of the Peer Challenge Team may adversely affect the reputation of the Council.</p> <p>No impact identified.</p> <p>None identified</p> <p>Not applicable</p>
Comments of Head of Paid Service	The report is satisfactory.

Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Members of the planning committee, group leaders, other key members, parish councillors, county council, developers, agents, planning staff, other key staff.
Background Papers	Report of the Planning Peer Challenge Team.
Recommendations	<p><b>COUNCIL IS RECOMMENDED TO:</b></p> <ol style="list-style-type: none"> <li><b>1. THANK THE PLANNING PEER CHALLENGE TEAM FOR UNDERTAKING THE EXTENSIVE REVIEW;</b></li> <li><b>2. NOTE THE INITIAL FINDINGS AND RECOMMENDATIONS OF THE PLANNING PEER CHALLENGE TEAM;</b></li> <li><b>3. APPROVE THE ACTION PLAN BASED ON THE INITIAL FINDINGS OF THE PEER CHALLENGE TEAM, AS SET OUT AT APPENDIX 2;</b></li> <li><b>4. AGREE TO THE REDUCTION IN SIZE OF THE PLANNING COMMITTEE FROM 17 TO 11 SEATS, WITH EFFECT FROM ANNUAL COUNCIL IN MAY 2018, WHERE APPOINTMENTS WILL BE MADE;</b></li> <li><b>5. AGREE TO THE REFORM OF THE LOCAL PLAN ADVISORY COMMITTEE TO GIVE IT APPROPRIATE DECISION-MAKING POWERS AND TO INCREASE THE NUMBER OF SEATS FROM 7 TO 11; TO TAKE EFFECT FROM ANNUAL COUNCIL IN MAY 2018, WHERE APPOINTMENTS WILL BE MADE;</b></li> <li><b>6. AUTHORISE THE MONITORING OFFICER TO MAKE ANY CONSEQUENTIAL CHANGES TO THE CONSTITUTION ARISING FROM THIS REPORT AND THE ACTION PLAN SET OUT AT APPENDIX 2.</b></li> </ol>

## 1.0 INTRODUCTION

- 1.1 Following consultation with the Leader of the Council and Leader of the Labour Group and as part of the Council's commitment to continuous improvement, the Chief Executive of North West Leicestershire District Council approached the Local Government Association to conduct a Planning Peer Challenge. The Peer Challenge process is an independent constructive and challenging review of a service aimed at identifying strengths and areas for improvements and sharing best practice advice from other authorities.
- 1.2 Cross-party support for this process and contributions from all members, officers, parish councillors, developers, agents and customers will enable the Council to develop and implement an improvement plan to improve customer experience and perception of the planning service and ensure effective governance and decision making in an open and transparent way.

1.3 Between 13 and 15 February 2018, a planning peer challenge was undertaken by the Local Government Association (LGA) and the Planning Advisory Service (PAS) who are leaders in delivering a programme of support to councils to drive forward improvement in planning services.

1.4 The members of the Peer challenge team were:-

- Tim Burton - the lead officer peer who is Assistant Director of Planning and Environment at Taunton Deane Borough Council
- John Cotton - a Conservative Member peer who is the leader of South Oxfordshire District Council and who has significant experience as planning portfolio holder, a planning committee member and has overseen three local plans.
- Jack Hopkins - a Labour Member peer and a councillor in Lambeth Council, experienced portfolio holder for jobs and growth and ex chair of planning committee. He has chaired a number of Regeneration Boards and overseen large scale regeneration projects
- Judith Hurcombe - the Peer Manager from the Local Government Association
- Karen Syrett - an officer peer and Place Strategy Manager at Colchester Borough Council

1.5 The aims, which were shared with all members ahead of the peer challenge, were to review:

- how well the planning service is focusing on and assisting in delivering overall priorities
- how well the Council, both officers and members, is managing the consideration of development proposals.
- decision making in development control, including the balance of delegations and pragmatism and scrutiny within the decision making process, benchmarking of data on speed of decision making, appeals, successful appeals etc.
- the use of resources to provide a good service to customers and communities, the efficiency and effectiveness of the service and the capacity to deliver infrastructure to support development.
- the role of the planning committee in decision making, including public engagement and transparency (the “customer experience”).
- the format and process of the planning committee “day” and whether this helps or hinders good decision making and appropriate engagement.
- roles and responsibilities and how they are being discharged;

and to recommend any changes to our approach to ensure the way the planning committee works is best practice, effective and efficient.

## **2.0 CONSULTATION**

2.1 During the 3-day visit the Peer Challenge Team spoke to over 76 individuals from a wide cross-section of people involved in planning, including elected members, parish/town councils, officers and service users including developers, housebuilders, agents and previous applicants. The Peer review team attended two planning committees and listened to recordings and inspected minutes of three further meetings from 2017. They also inspected a large number of planning documentation, performance, customer complaints and feedback. Collectively the peer team spent more than 175 hours to determine their findings which is the equivalent of one person spending five weeks at North West Leicestershire Council. The process ensures that any information collected or observed is triangulated to ensure the findings are based on a robust analysis of the peer reviews time at the council.

### **3.0 FINDINGS OF THE PEER CHALLENGE TEAM**

- 3.1 At the end of the visit, the Peer Challenge Team invited all members and officers involved in the three day review to a presentation to discuss their findings and recommendations. This has been followed up by a detailed report which, at the time of publication of the agenda for this meeting, is currently in draft form. The report is attached as Appendix 1. Should there be any further implications and proposed actions and recommendations arising from the final report, these will be considered in detail in a report to Council in May 2018 following further engagement with the Peer Challenge Team.
- 3.2 An action plan setting out how each of the initial recommendations of the Peer Challenge Team will be taken forward is attached at Appendix 2 to this report. An updated action plan will be presented to Council at its next meeting in May 2018.
- 3.3 It is proposed that an informal officer/member (cross-party) working group be established to oversee the delivery of the recommendations and action plan arising from the Peer Challenge. The working group will provide detailed input on the technical actions required. External support and best practice advice will be provided through the Planning Advisory Service to support the group. Member Services will seek interest from members in due course regarding participation in this process.
- 3.4 The key recommendations set out within the draft report for consideration are as follows:
- Evaluate the potential for a more comprehensive approach to pre application advice
  - Raise the profile and significance of the Local Planning Advisory Committee (LPAC)
  - Compulsory councillor training programme required
  - Leadership to ensure bad behaviour is called out and that both members and officers understand and their roles and responsibilities
  - Call-in procedures are not clear and need reworking
  - Stages of the Planning committee day need to be reconsidered, including briefing and site visits.
  - Overhaul of how the Planning committee operates
  - Consider a corporate peer challenge
- 3.5 The initial findings and recommendations of the Peer Challenge Team were broken down into broad headings and these are set out below.

### **4.0 THE CUSTOMER EXPERIENCE OF THE PLANNING SERVICE**

- 4.1 The Peer Challenge Team recognised the good planning performance in respect to income generation, performance against national targets for determination of planning applications, and delivery against targets for house building. They also recognised the innovative work that is being done across Leicestershire through the Members Advisory Group with the development of the Strategic Growth Plan. The report of the Peer Challenge Team concluded that in considering how well the planning service was focusing on delivering its overall priorities, the planning service :-
- was a good service, showing good performance and delivering and achieving well
  - had a new homes focus
  - has effective leadership to the wider Leicestershire MAG
  - is a valued external partner
  - has a positive culture within the organisation
  - comprises good team working
  - officers are highly regarded externally

4.2 Despite this, it was considered however that the planning function overall required significant improvement, with the decision making process through planning committee being time consuming and becoming a major distraction. There was widespread acknowledgement that there is room for improvement and that it was beginning to affect our external reputation.

4.3 In summary, the Peer Challenge Team considered that

- planning officers were well-regarded
- the pre-application system stands alone but doesn't reduce application timescales and is inconsistent in its approach to charging.
- there is a sense of uncertainty for customers on outcomes
- there are delays in processing: validation, response to consultation and discharge of conditions
- the links between planning and enforcement could be stronger
- Parish councils feel they are not listened to and feedback could be improved
- The case officer needs to balance consultee responses for more effective and quicker decision making
- The customer experience of planning committee could be significantly better

4.4 The recommendations to address the findings are:

- Explore and agree a Service Level Agreement with the county council so that the consultation process can be accelerated and improved
- Make better use of the call centre resource in order to free up professional planning officer time
- Evaluate the potential for a more comprehensive service for pre-application advice
- Consider if charging for pre-application advice would improve the effectiveness of advice given

Suggested actions to address the findings on the customer experience are shown under paragraph 1 on the action plan at Appendix 2.

## **5.0 LOCAL PLAN**

5.1 The Peer Challenge Team considered that whilst the recently adopted Local Plan should provide certainty and a guide for development, it did not seem to be commonly understood or owned by members. At planning policy level this plan provides the direction for future decisions and gives certainty about what the council wants to achieve through its spatial planning framework for the districts and communities. However due to the lack of ownership it is already at risk of becoming ignored and there was not much synergy between the Local Plan and the council's strategic objectives.

5.2 The Local Plan Advisory Committee was not seen as having a sufficient decision-making role and influence and it was felt that there should be clearer links to the Local Plan and the importance of the plan-led system required in committee reports. Although policies are listed within reports, there is not always a clear analysis or narrative of how these policies relate to the specific proposal. The style of writing means the references back to those policies is lost in large paragraphs, making it difficult for members and customers to follow.

5.3 With that in mind, it is proposed to reform the Local Plan Advisory Committee, giving it delegated decision-making powers over relevant functions. Work is under way to identify what functions the new committee might have with member and officer input being sought. Council will be aware that the delegation of functions to committees is governed by statute and that not all functions can be delegated to a committee. All proposed functions will need to go through a process of legal review with reference to the underlying legislation that allocates local authority functions between full Council and the Executive (i.e. Cabinet). This legal review process is essential to ensure that the decision-making capabilities of the new committee are legally

sound. The revised terms of reference and proposed functions to be delegated will be set out in a report to Council in May to be considered ahead of the appointments.

- 5.4 The reformed committee will have a new name and an increased membership to allow for greater member involvement in strategic decision making and better accountability. Council should also note that the reformed committee may be of sufficient stature to attract a chair's allowance. Once the functions of the committee are determined and subject to Council formally establishing it at the next meeting of Council in May, the independent remuneration panel will be convened to confirm whether an allowance is due. This process will run during the first few months of the new civic year with the allowance, if approved, being backdated to the date members were appointed to the committee.
- 5.5 It is intended that the reformed committee will have a significant role to play in developing how the emerging National Planning Policy Framework affects NWLDC, the delivery of new homes and driving the review of the Local Plan.
- 5.6 The recommendations to address the findings are:
- Formalise the role of the LPAC to become a formal decision making body of the council
  - Make clearer reference to the Local Plan and what it means in officer reports on applications to Planning Committee
  - The whole membership of the council – not just planning committee members – need to be trained on the content and significance of the Local Plan.

Suggested actions to address the findings on the Local Plan are shown under paragraph 2 on the action plan at Appendix 2.

## **6.0 NEIGHBOURHOOD PLANS, COMMUNITY INFRASTRUCTURE LEVY (CIL) AND SECTION 106s**

- 6.1 With regard to Neighbourhood plans, it was acknowledged that support from officers was well received by communities although there had been little interest to date. There is a need to balance the benefits of neighbourhood plans with resource implications.
- 6.2 Significant concerns were raised regarding the transparency around Section 106 agreements.
- 6.3 It was considered that there is now more certainty at a national level on CILs and it was suggested that investigations be made as to whether CILs were now a viable option, with this being linked to strategic priorities.
- 6.4 Recommendations to address the findings are:
- Consider how a proactive stance on neighbourhood development plans might help with community engagement and delivering council priorities
  - Any undertaking to develop more neighbourhood plans needs to reflect which resources will be required to deliver it
  - Publish comprehensive details of S106 monies on the councils website for greater transparency
  - Revisits decision on CIL to assess whether a CIL could be desirable and effective

Suggested actions to address the findings on neighbourhood plans, community infrastructure levy and Section 106s are shown under paragraph 3 on the action plan at Appendix 2.

## **7.0 ROLES, RESPONSIBILITIES AND RELATIONSHIPS**

- 7.1 The Peer Challenge Team felt quite strongly that poor relationships between members and officers within the planning process were impacting on the council's reputation with partners, communities and neighbours.
- 7.2 It was also felt that members were not separating their ward councillor and committee roles appropriately and that there was no sense of the Planning Committee working together as a team, with the behaviour often being party political or parochial. It was recognised that relationships between officers and members in Full Council and other committees was courteous and respectful with constructive and engaged debate.
- 7.3 It was felt that members see officers as adversaries, with an emphasis on point scoring and, in turn, officers see members as adversaries, appearing to be defensive in their interactions with some members, and this does not help relationships overall. There was clearly a lack of trust in, and no desire to follow, professional officers' advice with a need for greater confidence in officer recommendations.
- 7.4 Member-member relationships were considered variable, good in some areas, but very poor in the planning arena and not all members feel included in the process.
- 7.5 It was recommended that earlier engagement would be beneficial. Councillors, not just planning committee members, need to have earlier opportunities for engagement than at present. Ward members should be encouraged to have early dialogue with case officers or other members of the planning team in order to get a better understanding of the proposal and relevant issues.
- 7.6 The perception of pre-determination is problematic and poor behaviour at committee is not being challenged or addressed.
- 7.7 The recommendations to address the findings are:
- Urgent and immediate training is required for all councillors and officers on the role of members and on member – officer protocols and code of conduct
  - More structured engagement with group spokespersons needs to be introduced
  - Senior members need to create a culture of calling out poor behaviour
  - Improve committee procedures and operations to support the Chairman in running the committee well. The procedures should include provision for officers to respond to comments made by councillors and public speakers.

Suggested actions to address the findings on roles, responsibilities and relationships are shown under paragraph 4 on the action plan at Appendix 2.

## **8.0 THE ROLE OF PLANNING COMMITTEE, INCLUDING PUBLIC ENGAGEMENT AND TRANSPARENCY AND THE FORMAT AND PROCESS OF THE PLANNING COMMITTEE DAY.**

- 8.1 The Peer Review recognised the enthusiasm of members of the Planning Committee and the clear importance of the function but the overall impression was of a muddled meeting that is difficult for non-planning professionals to follow and understand. The review team include some helpful suggestions with regards to how the understanding for members of the public can be addressed, set out in 4.6 of the attached draft report.
- 8.2 In terms of the planning committee itself, there was a lot to consider. Firstly it was felt the size of the committee was too large with best practice suggesting a number between 9 and 11 members for an authority of this size being more appropriate and effective and this has been addressed in the recommendations in this report.

- 8.3 The day of the Planning Committee was considered to be an inefficient day with too much going on which utilised a lot of resources which would be better used elsewhere. For example, it was felt that the briefing currently did not add much value and contributed to the perception of pre-determination.
- 8.4 The site visits were not considered necessary for every application and the lack of plans actually diminished the value of these visits. The briefings given on the bus were felt to be ineffective with the bus itself contributing to a poor use of resources.
- 8.5 At the actual meeting, it was felt that there was a perception that decisions were being made along party political lines and that the quality of the debate was very poor.
- 8.6 Having to have a motion in place before a debate takes place seemed to stifle discussion and the lack of knowledge and understanding of material considerations inhibited the members' ability to appropriately determine applications. The wider practice at other authorities is to allow debate prior to a motion being moved.
- 8.7 It was strongly felt that the layout of the meeting was not helpful for members of the public as they could not see the presentations, which in any event were considered to be very poor.
- 8.8 The experience of applicants at the meeting is inconsistent with the procedures needing to be more transparent. From one meeting to the next the procedures vary which makes it difficult for observers to follow. This is not helped by moving quickly to voting on applications without proper debate on the relevant planning matters.
- 8.9 The format and operation of the planning committee day requires complete overhaul. It is proposed that officer briefing to the committee be brought forward to co-incide with the publication of committee papers, to enable members to understand applications more fully and to equip them to be able to respond to questions and concerns from their constituents.
- 8.10 The briefing would identify the sites which needed to be visited, to enable a thorough understanding of the applications. The use of modern technology within the planning committee could enhance members understanding of sites and limit the requirement to visit a site.
- 8.11 The peer review recognised that the number of overturns of officer recommendations at committee appeared to be increasing and is a marker of poor levels of trust between members and officers. During 2016 the number of overturns was 30.28% during 2017 it was 35.36% and in the three meetings between November 2017 and February 2018 the average overturn was 65%. In comparison Colchester Borough Council in 2017 determined 54 applications with only 1 overturn. The large number of overturns creates uncertainty for applicants and does nothing to add to the customer experience, in addition it puts the council at greater risk of appeal and costs.
- 8.12 The procedures of the committee meeting itself would also benefit from fundamental overhaul. Seating arrangements, currently in groups, gives the appearance of voting along party lines. Alternative seating arrangements should be instigated to address this point.
- 8.13 The recommendations to address the findings are
- Reduce the size of the committee
  - Encourage group leaders to ensure seating at the committee is not on party political lines
  - Changing seating layout of the committee
  - Review officer roles in committee
  - Officers need to be given more opportunity to respond to the public and members comments
  - Increase the size and quality of projected matter at the meeting

- Consistently apply the public speaking rules at the meeting
- Review the requirement for motions at the start of the debate
- Explore how the overall experience could become more transparent, e.g. through webcasting, explaining procedures more clearly to the public
- Have name plates on people's roles at committee to enhance customer understanding.
- Limit site visits to those where there is clear added value
- Review whether hiring a bus is necessary each time
- Where site visits do take place there needs to be more accessible plans
- Consider whether site visits should be on a different day to committee
- Change the timing and nature of the briefing
- Consider whether it should be on a different day of the planning meeting

Suggested actions to address the findings on the planning committee are shown under paragraph 5 on the action plan at Appendix 2.

## **9.0 REPORTS, MINUTES AND UPDATES**

9.1 The Peer Review identified areas for improvement with the quality of reports sent to the Planning Committee across a range of issues to ensure the reports are user friendly for the council's customers.

- There needed to be a greater focus on plain English and better grammar
- Reports should follow more of a narrative structure
- The executive summary can discourage members and broader audiences from reading the full content of the papers
- Reports contain dense paragraphs and are difficult to understand.
- There is a lack of assessment of the representations received which does not improve public confidence in each application being judged on its own merits.
- Concern was expressed that the planning reports did not contain plans and that they lacked a more narrative structure. Selected plans and elevations might aid understanding.

9.2 It was considered that the minutes were far more detailed than they needed to be, and it is proposed that minutes be distilled to a straightforward record of the application reference number, site address and description of development, and the decision that the committee resolved to make. The audio recording should be made available to the public and webcasting could enhance customer understanding and access to the Planning Committee.

9.3 The recommendations to address the findings are:

- Officers need to develop more confidence in their decisions and justifications for decisions
- Members need to show they have received and considered officer advice when making decisions
- Carry out best practice of the structure and layout of reports

Suggested actions to address the findings on reports and minutes are shown under paragraph 6 on the action plan at Appendix 2.

## **10.0 CALL IN**

10.1 With regard to the calling-in of applications it was felt that the process was very complicated and difficult for members of the public to understand.

10.2 The reasons for call-in are not necessarily justified on planning grounds and the potential for ward only call-ins further re-enforces the ward only focus for members. The Peer Challenge Team questioned whether ward members should actually sit on the planning committee after a call-in.

- 10.3 It was considered that the constitutional trigger is giving officers, members and their relatives an advantage.
- 10.4 Given the significant reputational risk that is posed by the unintended consequences of the current call-in arrangements, as well as the frustrations that are felt by those who wish to navigate through them, it is considered that a much simpler system should be instigated.
- 10.5 The recommendations to address the findings are
- Develop a single stage call in, possibly over a longer period of time, for example 28 days at the start of the determination process
  - Members need to clearly articulate strong planning reasons for call in
  - Officers, members/ relatives applications should only be referred to committee if officers are minded to approve an application
  - Consider amending the constitutional trigger so only serving members and officers applications are sent to committee.

Suggested actions to address the findings on call-in are shown under paragraph 7 on the action plan at Appendix 2.

## **11.0 CONCLUSION AND RECOMMENDATIONS**

- 11.1 The Peer Review Team have identified a number of areas for improvement and, whilst members and officers may have their own view and perception of the issues raised, it is important that we consider carefully the recommendations in order to ensure we can improve the experience of the planning process for our customer, members and officers. One area that was consistent throughout the interviews with the peer review is that the 'status quo' is not sustainable and without a step change in direction we would not make the change required to improve.
- 11.2 Planning is a complex and controversial issue and our engagement with the public is vital to demystifying the planning process and ensuring that members and customers feel they are listened to and that whilst they may not agree with the decision finally made, they understand the process. In addition the role of professional officers needs to be recognised and respected by members and their views taking into consideration to ensure member's decisions are robust.
- 11.3 The implementation of the action plan should be shared between officers and members and the cross party task and finish group proposed will enable this to happen in a constructive collaborative manner. The role of the Planning Advisory Service in helping to facilitate the improvement and also support members and officers with examples of best practice to effect the changes will be vital.
- 11.4 It is hoped that, with the support of members, the majority of the actions can be implemented in time for the 2018/19 civic year.
- 11.5 The recommendations include changes to the number of seats on both the Planning Committee and the establishment of the Local Plan Committee as a decision making body. Should these recommendations be approved, the effect on proportionality would be as set out in the table below. As members are aware, a change to the numbers on one committee may result in consequential changes to others, as proportionality has to be applied across the whole council.

<b>Committee/Group</b>	<b>No. Of seats</b>	<b>Con</b>	<b>Lab</b>	<b>Ind Gp</b>	<b>Lib Dem</b>	<b>Ind</b>	<b>Checks &amp; Balances</b>
Licensing Committee	17	11	4	1	1 or 0**	1 or 0**	17
Planning Committee	11	7	3	0	1 or 0**	1 or 0**	11
Local Plan Committee	11	7	3	1	0	0	11
Audit and Governance	10	7	2	1	0	0	10
Policy Development/Scrutiny	10	7	2	1	0	0	10
Employee Joint Consultative	6	4	2	0	0	0	6
Appointments Committee	5	3	1	0	1 or 0**	1 or 0**	5
Electoral Review Working Gp	5	3	1	0	1 or 0**	1 or 0**	5
Investigatory Committee	3	2	1	0	0	0	3
<b>TOTAL</b>	<b>78</b>	<b>51</b>	<b>19</b>	<b>4</b>	<b>2 **</b>	<b>2 **</b>	<b>78</b>

*\*\* As they are entitled to the same number of seats – these members need to agree between themselves which two seats they want from the four available to them. This will be done ahead of the May Annual Council meeting when all the seats are up for re-negotiation.*