
MEMBER INVOLVEMENT IN PLANNING

Responsible Cabinet Member - Councillor John Williams, Economy Portfolio

Responsible Director - Richard Alty, Assistant Chief Executive (Regeneration)

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to agree ways to enhance the involvement of Members in the planning process.
2. The proposals focus on the introduction of Member involvement in pre-application processes and a review of the role of Officer delegation. Significant changes to the scheme of delegation are recommended.

Proposals

3. By giving more time to more significant planning applications earlier in the process, Members can have more influence on the more important planning matters where this is more scope for change. These proposals are therefore to shift time to this earlier involvement by reducing time spent at the end of the process on cases where there is little scope for influence.
4. Earlier Member Involvement:
 - (a) It is proposed to introduce a system of structured meetings to enable developers to present their schemes so that Members and local residents can gain information, help understand local issues and potentially shape proposals at the earliest stage of the process.
 - (b) It is intended that the approach would apply to 'major' applications or applications of significance to the whole town.
5. Review of the Delegation Scheme:
 - (a) Taking this into account, there is also scope for the delegation scheme to be extended in order to help the Committee focus more on the significant applications where more Member involvement has greater scope to influence outcomes. This would help to bring Darlington's approach more in keeping with Government guidance on best practice.

- (b) At present, Officers bring to Committee all planning applications that have attracted opposition, irrespective of both the type and scale of project and number of objections.
 - (c) It is proposed that planning applications would only be automatically brought to Committee when three or more objections are received (or where three or more letters of support are received when it is proposed to refuse permission) unless otherwise directed by the Chair of Committee.
 - (d) However, planning applications would continue to be brought to Committee irrespective of the number of representations received where the decision would be contrary to Council policy, the views of a statutory consultee, or where any Member specifically requests that the Committee deal with the application.
 - (e) These changes would reduce the workload of the Planning Application Committee and Sub-Committee and it is, therefore, recommended that the Sub-Committee be discontinued with its responsibilities amalgamated with those of the main Committee.
6. Economy and Environment Security Committee reported to on 28 April 2009 following a review of Development Control Service and recommended that further delegation powers for Officers be considered.

Recommendation

7. It is recommended that:
- (a) Council agrees to a system of structured meetings be offered to developers to allow Members and local residents to be included in presentations by developers on major planning applications at pre-application stage.
 - (b) Council agrees the revisions to the delegation scheme, as set out in **Appendix 1**.
 - (c) Before new systems are introduced appropriate training for all Members to be provided.
 - (d) The Protocol for Councillors and Officers dealing with planning matters and scheme of delegation be revised to reflect recommendations (a) and (b) above.
 - (e) Once the new system of delegation is in place, the Planning Application Sub-Committee be discontinued, with all non-delegated applications being reported to the Planning Applications Committee.

Reasons

8. The recommendations are supported by the following reasons:
- (a) To allow Members to gain an understanding of the issues surrounding development proposals at the earliest stage to help promote effectiveness of process and help to achieve the best planning outcomes.

- (b) To allow Members to focus more on larger scale developments.
- (c) To help bring Darlington's development control service in line with Government recommendations on best practice.

Richard Alty
Assistant Chief Executive (Regeneration)

Background Papers

- 1 Planning and Compulsory Purchase Act 2004
- 2 The Barker Review of Land Use Planning December 2006
- 3 Planning for a Sustainable Future: White Paper May 2007
- 4 The Killian Pretty Review : Planning Applications November 2008

Roy Merrett : Extension 2037

S17 Crime and Disorder	The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.
Sustainability	The new proposals would increase the involvement of various parties at pre-application stage and awareness of sustainable development issues.
Diversity	The new proposals would allow for engagement with all age groups, socio-economic groups, ethnic and faith groups.
Wards Affected	All
Groups Affected	All
Budget and Policy Framework	This report does not recommend a change to the Council's budget or policy framework.
Key Decision	No
Urgent Decision	No
One Darlington: Perfectly Placed	The new proposals will help to develop the place shaping role of planning.
Efficiency	The proposals would not change the estimated total cost of the development management process.
S17 Crime and Disorder	The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

MAIN REPORT

Background

9. The purpose of this report is to agree a way of enhancing the involvement of Members in the planning process.
10. These improvements take on board recommendations from the recent Killian Pretty Review of the planning system and advice from the Local Government Association on Members role in Planning issued June 2009.
11. These relate to the Place Shaping role of planning, and 'Development Management' being about positively shaping appropriate development rather than just 'Development Control'.
12. This shift in the planning system consequently has implications for the role of Members in the planning process.
13. The proposals focus on the introduction of Member involvement in pre-application processes, and a review of the role of Officer delegation and in particular the Planning Applications Sub-Committee.
14. The delegation proposals reflect recommendations of Economy and Environment Scrutiny Committee.

Pre-Application Member and Community Involvement

15. It is generally understood that Members need to exercise particular caution in the pre-application process. Many authorities have steered Members away from such interaction as a consequence of the Nolan Probity in Planning report and this remains the practice in Darlington, and is reflected in the previous Statement of Community Involvement. Nevertheless there is acceptance that Members could usefully have an active role in pre-application discussions. This has been recently articulated in the Killian Pretty review and the LGA advice on Probity in Planning.
16. The Council is about to refresh its Statement of Community Involvement (SCI) as reported elsewhere on this agenda and it would be opportune to include appropriate processes and protocols to allow Members to involve themselves in pre-application discussions.
17. In particular it is suggested that this could be introduced in relation to major applications that are likely to attract significant public interest and where developers are keen to understand local issues so that they can shape their development proposals and reduce risk of failure. There are significant advantages to all parties if a structured and transparent approach is developed to pre-application discussions that allow local Member involvement. A number of authorities are already doing this and there are several models that could be explored.
18. The proposals for Member and community engagement in major proposals are set out in the revised SCI which has recently been endorsed by Cabinet and is reported elsewhere on this agenda. Procedures at pre-application stage and the proposals for increased delegation to Officers were subject to public consultation as part of the proposed revisions to the SCI document. There were no objections or concerns raised in respect of proposals to increase

the level of delegation. Minor comments were received in relation to pre-application procedures which are considered in detail in the SCI report.

When Members Become Involved

19. At present, Members become most significantly involved in terms of influencing development proposals at the very end of the decision making process, i.e. through the work of the Planning Applications Committee. Once this stage is reached considerable debate may already have taken place on the planning and technical issues associated with the application. Considerable time and resources may have been expended by Officers and developers alike seeking to negotiate satisfactory solutions.
20. A formalised system of providing pre-application advice has been introduced (The One Stop Shop). Officers now invest significant time in pre-application discussions with a view to ensuring the issues are discussed and resolved at the beginning of the process therefore smoothing the formal procedures so far as possible later on.
21. Notwithstanding this, the system as it is currently established allows for Member discussion and involvement only at the Committee stage at the very end of the process. This could potentially mean further alterations/problems being identified much later on leading to schemes being rejected. Despite this process being carried out in good faith, the lack of both Member and local community input into the process often means Members may only become properly aware of development proposals for the first time when they come to be considered at the Planning Applications Committee. It is often the case that new matters come to the fore when debated in Planning Application Committee which is in practice too late in the process and causes significant frustration to all.

What issues Members become involved with

22. There will always be a role for Members at the heart of the administration of the Planning System through determining planning applications and particularly on major proposals where complex issues and considerations need to be weighed and judged. However, where applications only raise immediate neighbour conflicts and disputes there is a growing challenge as to whether Members ought to be involved in such applications if there is a clear policy basis for their determination.
23. The Government has progressively introduced legislation and guidance setting out its agenda for the delivery of a modern and responsive planning system¹.
24. The delivery of an efficient customer responsive service plays an important part in CPA rankings and in attracting financial income through the award of Housing and Planning Delivery Grant (HPDG). Moreover an efficient, flexible, transparent and predictable service is an essential driver for economic development in the Borough.
25. It is important that the Planning Applications Committee is enabled to focus on more complex and controversial applications of major significance and wider importance. This will help it to avoid spending a disproportionate amount of time on more routine matters,

¹ See the Planning and Compulsory Purchase Act 2004, The Barker Review of Land Use Planning, and latterly, the White Paper-Planning for Sustainable Futures and the Killian Pretty Review.

therefore, saving time and addressing inefficiency. It was this objective that gave rise to key recommendations of the Killian Pretty Review ie that Councils should consider regularly updating their schemes of delegation, and that they should seek to ensure that a minimum level of 90% of cases are delegated to Officers.

26. A review of the Development Control Service in Darlington was undertaken last year by Trevor Roberts Associates and the findings reported to the Council's Economy and Environment Scrutiny Committee. This review recommended a review of the level of delegation available to Officers to determine planning applications. An increase in the level of delegation was endorsed by the Economy and Environment Scrutiny Committee and recommended by the Committee in its report to Cabinet.
27. It is important to note that Members have a central role in forming local planning policy on which development control decisions are based. So where Officers propose to take a decision in accordance with local planning policy, there is an argument that Members need not become involved again at the planning application stage even if objections are raised. This would otherwise amount to the policy being reconsidered. Clearly if there is a case where Officers consider that there are other material considerations that should outweigh the policy position, then an application would be brought before Members for consideration.
28. However, in seeking to make the process more efficient through extending delegated powers it is recognised that Members will need to have confidence and assurance that the system is being operated fairly and with rigorous attention to all the various issues that can be raised by interested parties.
29. Consideration has been given as to how Members might gain an increasing stake in the planning application process by becoming involved at the earliest stage with regard to certain types of application therefore allowing Members to have the necessary confidence that Officers will thereafter see through the technical aspects of the planning application process.
30. The overall objectives of any changes would be to reduce the chances of any late 'surprises' being caused to developers through Members only becoming involved at the latter part of the process i.e. at the Committee. All this is said with a view to harnessing the economic development potential of the Borough by taking out any unnecessary and counter-productive restraints on investment, and also to enable local community views to influence development at the earliest possible stage.

Proposed Changes to Procedures

31. Earlier Member Involvement:

- (a) At present the onus is placed on developers to organise public consultation events on their proposals for major developments. The Council's objective is that feedback gained from these sessions should be used by the developer to consider amending their scheme prior to submitting a planning application. This process is not a mandatory requirement but is recommended as good practice within the Council's Statement of Community Involvement.

- (b) What is envisaged by way of change to the system is a formal meeting to allow potential developers to present their schemes in initial draft format to, say, Planning Applications Committee Members, Ward Members and interested local residents, allowing questions to be asked and feedback to be taken on board by developers. This would not replace but would be in addition to the scheme described at (b) above. It would be a more proactive and systematic approach to involving Members and the public. Although such a system cannot be prescriptive, in that both developer proposals and public and Member reactions may change, and developers could not be forced to participate, it is envisaged that such meetings would serve to reduce the potential for any 'surprises' to appear at a later stage.
- (c) To ensure that Members do not fetter their involvement in subsequent decision-making, they would be expected essentially to ask questions at the formal pre-application presentation rather than to express a view. Appropriate training would be provided for Members on this.
- (d) It is intended that this approach would apply to 'major' applications or applications of significance to the whole town. The definition of 'major' is a national one and includes larger housing sites (10 or more dwellings) and industrial estate developments on sites greater than 1 hectare.

32. Review of the Delegation Scheme:

- (a) Taking into account the above context Officers consider that there is also scope for the delegation scheme to be extended in order to help the Committee focus on the more significant applications where more Member involvement has greater scope to influence outcomes.
- (b) At present Officer bring to Committee all planning applications that have attracted opposition, irrespective of both the type and scale of project and number of objections. In the previous year a total of 808 planning applications were processed of which 664 were delegated decisions (82%). This level of delegation is low in comparison to the national and regional average which is in excess of 90%.
- (c) Part of the reason for this is that planning applications in Darlington need to be reported to the Planning Applications Committee on receipt of a single objection. It is worth comparing this low threshold for triggering the involvement of the Committee with the practice operated within the other Tees Valley Authorities:
 - (i) Hartlepool – three objections (applications attracting one or two objections need to be discussed with the Chair of Planning Committee who then decides whether the application can proceed as a delegated matter. The Chair can require that the application be brought to the Committee).
 - (ii) Redcar and Cleveland – five objections.
 - (iii) Middlesbrough – three objections.

33. Taking the Hartlepool model above, for example, had the same scheme been applied by Darlington Council (and assuming the Chair had decided that there was no need for

Committee to decide the applications in question), it would, in the year 2008-09, have resulted in some 113 (78%) of the 144 cases that were taken to Planning Applications Committee being delegated to planning Officers. This would have lifted the overall level of delegation to some 96% of cases, freeing Member time for the recommended increase in involvement in major applications.

34. Seven (6%) of the 113 potentially delegated cases were subject to the Officer recommendation being overturned by Members. It is quite possible in the 'Hartlepool' system these would have been referred to the Committee anyway.
35. 44 of these potentially delegated cases were handled by the Sub-Committee. These 44 cases which could have been delegated were from a total of 51 Sub-Committee items. Potential delegation therefore amounts to some 86 per cent of the Sub Committee's workload. Two of the 44 potentially delegated cases were ones where the Officer recommendation was overturned by that Committee.
36. This raises the question of what value the Sub-Committee process is actually adding (a question posed by the Trevor Roberts review). Whilst it is allowing applicants and objectors the chance to be heard by the Committee, the reality is that objectors and applicants are almost invariably unsuccessful in getting the recommendations of Officers overturned. This is not a criticism of the ability of applicants and objectors to influence the process but is more a reflection of the way householder applications are approached and dealt with by Officers and the nature of the planning system that planning applications have to be determined in accordance with planning considerations set by national policy and case law.
37. Indeed householder matters that arrive before the Committee are almost invariably judged against the various criteria used to assess impact on living conditions such as separation distances and degrees of projection. The distinction between what is and is not acceptable is far more black and white where pre-determined standards are more likely to be relied on and the scope / need for discussion is very much reduced.
38. In a vast majority of householder cases therefore:
 - (a) The expectations of the public are being raised by the promise of being heard by Sub-Committee Members only for the Officer's recommendation to be endorsed and expectations to be dashed.
 - (b) The Sub-Committee may be perceived by neighbours as being part of a rubber stamping exercise, and not listening to their views. The process may in some cases be counter-productive to customer satisfaction therefore.
 - (c) Unnecessary delay is being introduced to the processing of these planning applications. Were the 'Hartlepool' model adopted, then the performance of the Council on speed of handling applications would improve, without significantly affecting outcomes.
39. It is recognised by Officers that with a system of increased delegation in place there will still be occasions when Members feel there are good reasons for wanting an application to be decided by the Committee.

40. It is therefore proposed that Members would retain the power to refer an application to Committee should there be good reasons to do so. Members could request that an application is brought before the Committee where this is done in writing. Where Officer recommendations conflict with agreed Council policy, such applications would always be brought before the Planning Applications Committee as the decision would fall outside the delegation scheme.
41. A regular review of delegated powers will allow Members the opportunity to consider how well the scheme is working and whether further amendments would be appropriate.
42. It is also important to bear in mind that electronic document management will be in place in the very near future. This will enable the delegated reports produced by Officers to be made available on the internet therefore providing residents with easy electronic access to the report providing clear information on how delegated decisions have been reached. It will also put all plans and documents associated with applications on the internet, thus facilitating greater community involvement in applications before decisions are taken.
43. It is considered that a new scheme of delegation would take away the need to hold a separate sub-committee so that any more contentious householder applications could be reported as part of the main planning applications committee.

Summary of Key Points

44. It is important to consider the question of whether the way in which Members are currently engaging in the planning process is as productive as it could be, taking into account the desire to promote efficiency so far as possible and not unnecessarily restrain economic development.
45. Earlier involvement of Members and local communities can also improve transparency and confidence in the planning process. Officers have pre-application discussions with developers, and a public system of allowing Members to receive presentations on major applications would enhance transparency and introduce more public community input pre-application.
46. Such a system could also strengthen Officers' ability to negotiate with developers on issues of concern to local communities. If developers see community and Member concern about issues early in the process, then they may be more likely to change their proposals.

Summary of Proposals

47. That structured meetings be organised as appropriate which will allow Members and local residents to be included in presentations on major planning applications before they are submitted in order to gain information, help understand local issues and potentially shape proposals at the earliest stage of the process.
48. That the system of delegation to Officers set out at **Appendix 1** be adopted. For reference the existing scheme of delegation is shown at **Appendix 2**.
49. This would allow Officers to approve all types of application with up to two objections (or to refuse applications contrary to policy where there are up to two letters of support),

subject to consultation with the Chair of Planning Applications Committee on whether any application should be referred to the Committee for decision. Any Member would retain the right to request that a planning application be brought before the Committee should they consider there to be good grounds for doing so.

Conclusion

50. These proposals will enhance Member involvement in those applications where early involvement can most influence development outcomes, and to develop a more efficient and responsive development management service in Darlington in keeping with Government advice on good practice.