

Notes of the Scrutiny and Overview Committee
Business Improvement Working Group
4th March 2015

Present: Councillors: Brian O'Connell (Chairman), John Chidlow, Philip Circus, Leonard Crosbie, Malcolm Curnock, David Jenkins

Apologies: Councillors: Laurence Deakins, Duncan England, Frances Haigh, Diana van der Klugt

Also present: Councillors: Roger Arthur, George Cockman, Brian Donnelly

Officer: Howard Cheadle, Interim Development Manager

1. RECORD OF THE MEETING HELD ON 27TH JANUARY 2015

The notes of the meeting held on 27th January 2015 were approved as a correct record.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. ANNOUNCEMENTS FROM THE CHAIRMAN OR CHIEF EXECUTIVE

The Chairman announced that this would be the last Working Group meeting of the Council year 2014/15 and he thanked the Members of the Working Group for their work and support during his time as Chairman. Members thanked the Chairman for his excellent chairmanship. The scheduled meeting of the Working Group on 28th April 2015 would be cancelled.

4. WORK PROGRAMME 2014/15 – REVIEW OF PROGRESS

The Working Group considered its Work Programme for 2014/15 and noted progress as follows.

4.1 Planning Enforcement Policy

The Chairman presented a draft report which summarised the Working Group's review of the procedures and processes of the Planning Enforcement team. The report noted the assurances given by the Director of Planning, Economic Development and Property that the Enforcement team would advise local Members whenever it was proposed that enforcement action should be taken, and that communications with Members regarding

planning matters generally, including enforcement, would be considered by the Cabinet Member's new Development Management Advisory Group.

The Working Group felt that the Council's planning officers should decide whether to investigate complaints about possible breaches of planning policy and appropriate action, rather than operating an absolute policy that required every complaint to be investigated and legal action to be commenced for any minor breach.

The Working Group's report would be presented to the Scrutiny and Overview Committee meeting on 16th March 2015. The report did not include formal recommendations because the Working Group felt that the Council's planning enforcement function was generally working well.

The Working Group had welcomed the new Enforcement Policy and felt it was a well written document which, once published, would clarify the Council's policy for Members, parish and neighbourhood councils, and the public. The Enforcement Policy would be posted on the Council's website.

Members discussed the resources for the Enforcement team and were reminded that its Team Leader had told them that there were a sufficient number of officers to undertake enforcement work but that the team was short on an administrative staff. The Working Group agreed that its report should include an additional sentence to state *'The Working Group felt that staffing levels should continue to be monitored against the team's caseload.'* and also be amended to refer to *'zero tolerance'* rather than *'military style'*.

The Working Group was satisfied that the review had been completed, subject to any comments from the Scrutiny and Overview Committee.

4.2 Property and asset management

This review was still ongoing. The Property and Facilities Manager would provide an update at the next Working Group meeting and following his report on the proposed restructure of his department which would be presented to the Personnel Committee in March 2015.

4.3 Five Year Housing Land Supply

The review of Horsham District Council's lack of a Five Year Housing Land Supply had been completed and reported to the Scrutiny and Overview Committee meeting on 12th January 2015.

4.4 Performance of Development Management and communication of planning policies

The review had been completed and its recommendations presented to the Scrutiny and Overview Committee meeting in November 2013. A follow-up

review of progress had been discussed by the Working Group at its meeting in January 2015 and there would be a further update at its meeting in July 2015.

A recruitment process was under way to fill current vacancies for a Development Manager, four Senior Planning Officers, and a Planning Officer. The Working Group noted that salaries for the Council's planning officers were now on a par with other local councils but acknowledged the general shortage of qualified planners and the competition to recruit them. Other councils were experiencing similar difficulties in recruiting planning officers. The Interim Development Manager confirmed that the Council used specialist planning recruitment agencies to seek planners.

Members commented that planning services was a key Council function which required quality staff to be recruited with attractive salary grades, strong leadership to build a cohesive team, with structured training to develop and retain staff. The Working Group welcomed the Interim Development Manager's reassurance that recruitment and performance issues were being addressed, that junior planners were being trained up, and his explanation for the recent decrease in the number of determinations of major planning applications which was as a result of feeding through and clearing a backlog of older applications.

Members discussed the merits of having a single Development Control Committee, comprised of a number of experienced Councillors but with all Councillors being able to attend and address the Committee meeting.

Members, mindful of the upcoming local elections in May 2015, emphasised the importance of not losing corporate knowledge of past planning performance and delivery matters.

Members had noted the decrease in the determination of major planning applications for Quarter 3 in 2014/15. The Working Group agreed to request the Scrutiny & Overview Committee to approve the Working Group's continued monitoring of the performance of Development Management as part of its Work Programme. The Working Group would receive an update at its meeting in July 2015 which would follow the Director of Planning, Economic Development and Property's report to the Personnel Committee meeting in March 2015 about proposed changes to the structure of the Development Management department.

The Working Group noted that the communication of planning policies would be undertaken by the Director of Planning, Economic Development and Property, as part of the implementation of improvements.

4.5 Business Transformation

The Working Group agreed that the Scrutiny and Overview Committee be asked to consider whether it or a Working Group should, six months after the Council's office move to Parkside, review the success of the move and the associated business transformation elements. The Finance and Performance Working Group would continue to receive performance data about the programme's budget and the ongoing savings which are being achieved.

4.6 Performance Graphs for Development Management

The Working Group agreed that the Finance and Performance Working Group should, in future, request and receive the performance graphs for Development Management as part of its remit.

4.7 Monitoring of Key Performance Indicators DM02 a&b for the number of planning enforcement cases received and closed

The Working Group agreed that the Finance and Performance Working Group should, in future, request and receive the data about the number of planning enforcement cases received and closed to monitor that performance.

4.8 Annual Member Overview of RIPA

The Working Group would continue to undertake the annual Member overview of the Council's Corporate Policy and Procedures Document on the Regulation of Investigatory Powers Act 2000 (RIPA).

The Working Group had previously suggested that Members receive training about RIPA which might be considered as part of the induction process for newly-elected Councillors but with all Members being invited to attend.

5. **FINANCIAL IMPACT OF THE OVERTURN OF DECISIONS ON APPEAL AND DETAILS OF THE PERCENTAGE OF PLANNING APPEALS ALLOWED**

The Working Group received data detailing the costs incurred in planning appeals for 2013/2014. There were eight planning appeals, two of which had been allowed on appeal; the other six appeals were still in progress.

Appeals had arisen in six of the eight cases when Members' decisions had been contrary to the officer's recommendation. One of the appeals which had been allowed had resulted in a cost award of £299K against the Council. That amount had not yet been agreed by the Council and it was hoped that negotiations would deliver a lower cost.

In 2014/15, so far, £117K costs for consultant and counsel fees had accrued. The Chairman informed Members that there were also costs for other planning appeal cases which were not yet listed.

The Interim Development Manager asked Members to reflect on the importance of providing robust reasons when the Development Control Committee overturned an officer's recommendation. The Committee meetings were recorded and increasingly appellants requested the relevant recording and listened to the debate to check that the reasons for the refusal of the application had been fully debated, because otherwise there could be an award of costs made against the Council.

The content of those Committee debates was examined as a fundamental part of the appeals process and was a key factor in whether or not a cost award was made against the Council. The Interim Development Manager emphasised the need for the Development Control Committee to clearly outline the planning reasons for a refusal. Members suggested that before a decision was made by the Committee, planning officers and the Council's solicitor could formulate wording to set out the valid planning reasons for refusing a planning application, to assist the Committee's decision making.

Members commented on how Councillors had to balance representing the electorate's views and articulating genuine concerns alongside the necessity to adhere to the rules of planning law. It was suggested that new Members should be thoroughly trained to understand the planning process and the quasi-judicial nature of the Development Control Committee's business. Members suggested that pre-meetings to advise Members more fully and to highlight any risks would be useful.

The Working Group acknowledged the difficult position for planning officers if they had to attend planning inquiries to support the Council's decision when that decision was reached by Members overturning a planning officer's recommendation.

The Working Group agreed that this was an issue that required further discussion and should be addressed in the new Council year following the local elections in May 2015.

The Working Group requested that the planning appeals data be used as a template to which could be added information about planning appeal costs for 2011/12, 2012/13 and the other imminent appeals costs. That template could be used in future to help inform further discussions about how to manage the planning process and potential appeal costs.

The Chairman agreed to report the Working Group's comments to the Scrutiny and Overview Committee and to highlight the scale of recent planning appeal costs. The Chairman would ask the Committee for its views

and suggest a discussion of this matter with all Councillors being invited to attend.

The meeting finished at 7.08 p.m. having commenced at 5.30 p.m.

CHAIRMAN