



Planning Peer Review

**Herefordshire Council**

**November 30 and 2 and 4 December 2020**

## 1.0 Executive Summary

1.1 This report summarises the findings of a Planning Service peer challenge review, organised by the Local Government Association (LGA) with the Planning Advisory Service (PAS) and carried out by its trained peers. The aim of the peer review was to assess the operation of the Development Management (DM) service encompassing delivery and resourcing, enforcement, section 106 and how the service has been operating remotely during this year's pandemic. Due to the links between DM and Planning Policy and concerns expressed from the new political administration about the Local Plan the peer team provide observations on these areas as well. We make suggestions about opportunities for a stronger whole Planning Service vision and priorities.

1.2 Due to the ongoing Covid 19 pandemic, the Council agreed with the peer team that the review would be undertaken virtually. The peer review was also undertaken shortly after the release of the Government's White Paper 'Planning For The Future' in August 2020, the implications of which were not expressly considered.

1.3 The Council recognises the need to commence a review of its Local Plan given the current administration's differing objectives for its existing land use planning policies. While significant numbers of new homes will still need to be found it will be important for the administration to take ownership of leading the Local Plan and have confidence in the evidence base and environmental credentials of its policies and planning decisions.

1.4 Opportunities exist to provide far stronger links between the administration's new four year County Plan and the operation of its DM service. Indeed, we recommend the need for a more outward looking vision for its whole Planning Service. In moving forward, we pose the question as to whether a new Planning Service vision needs to be followed by a review of the management structure to deliver this.

1.5 Members and officers we spoke to said that there was a need to improve trust and confidence between them. Indeed, there is a wider examination of this throughout the whole Council and it will be important for the particular issues thrown up in the areas of enforcement, section 106, and Planning Committee to play into improved member and officer joint working.

1.6 The DM service benefits from good management, competent and committed staff who demonstrate helpful support between the three teams that deal with planning applications. In the experience of peers, workloads while high, are not out of line with similar authorities. The service has risen well to the challenges of Covid 19 and with good corporate ICT support has moved rapidly to remote working and a paperless office with the technical team particularly rising to the challenge of home working. Despite the DM service meeting Government targets for speed and efficiency we see potential for a number of service based improvements in relation to efficiency and commercialisation such as improving the pre application service, consultation responses and seeking opportunities in areas such as spans of control, officer reports, and site visits.

1.7 We heard strong opinions on the operation of the Enforcement service but many of these concerns were in relation to the nature of the discretionary and non-punitive nature of planning enforcement in England more generally. For example, members, Parish councillors and representatives of special interest groups were critical of the granting of retrospective consents and non-intervention on the grounds of expediency. But these are

perfectly acceptable management responses. We see the urgent need for an Enforcement Action Plan containing a Charter/Protocol that would set agreed priorities to provide more clarity for officers and stakeholders.

1.8 The Planning Committee is well chaired and both officers and members have worked together well to make the transition to virtual Committees. The Planning Committee's separation of the ward member role from a planning decision making role is clear. Officer support to the Chair and Planning Committee members is consistent and public engagement is helpfully facilitated. Developers/agents and even some members and officers expressed concerns about a high degree of uncertainty of outcomes at Planning Committee even on allocated sites. We recommend a stronger emphasis in effective member learning and development on probity in planning. We also suggest a number of ways that the Committee can be more efficient.

1.9 The Council has worked well in partnership to develop the Integrated Wetlands Scheme that seeks to mitigate the impacts of phosphate run off into the River Lugg. This will not only improve the environment but also kick start housebuilding and other development in north Herefordshire that is currently stalled. Affordable housing delivery is consistent resulting in an additional 1206 units delivered since 2011 with the Council also planning to start building 2000 council houses over the next four years. However improved leadership is required in relation to tackling the persistent under delivery of housing as demonstrated through the Five Year Housing Land Supply (5YHLS) and Housing Delivery Test Action Plan (HDTAP). Section 106 contributions remain strong and improvements to access ward-based data is planned. We recommend a review of how such planning obligations are managed to help provide greater strategic capacity and relationship management.

## **2.0 Recommendations**

### **Short Term Priorities (within six months)**

**R1. Develop a Local Plan review timetable with clear responsibilities by February 2021. Work to commence on visioning workshops with members and appropriate evidence base reports on key strategic issues.**

**R2. Co-develop a whole Planning Service mission statement and objectives. Set out a clear vision for what the Council wants its Planning Service to achieve, looking more outwards to what success would look like for Herefordshire.**

**R3. Ensure current corporate review of 'Member and Officer Working' includes review of expectations, role clarity and improving cultural behaviours between Planning Committee members, ward members and officers that seek to build trust and confidence.**

**R4. Assign 5YHLS risk and oversight of mitigation measures such as monitoring the Housing Delivery Action Plan and unlocking sites to a nominated officer.**

**R5. Develop an Enforcement Action Plan working with members to agree priorities likely to include;**

- **Co-develop Member and Local Council Protocol/Charter;**

- Regular training for members and officers;
- Process review to identify efficiency for example through reduction of duplication and using triage to reduce unnecessary work at outset;
- Programme for officer development with focus on investigatory skills; and
- Proactive work on top priorities or cases with relentless communication.

#### **Medium Term Priorities (within 12-18 months)**

**R6. Review the structure of the Planning Service in the light of new service mission, post Covid and Planning White Paper to consider the benefits of reuniting policy and development management.**

**R7. Review the overall planning work programme, resources and budget of the Planning Service to prioritise short and longer term projects and resource accordingly. Consider options such as whether the NDP team produce your SPDs.**

**R8. Review DM procedures to focus on managing demand, efficiencies and budget including;**

- challenges should be shared and staff supported to participate in generating options;
- benchmarking with a particular focus on discretionary charges and introducing Planning Performance Agreements (PPAs);
- use Financial Resilience Fund for short term capacity/invest to save e.g. Standing Guidance on ecology/drainage, validation to improve speed, etc

**R9. Review the approach to pre decision section 106 agreements to consider whether case officers should retain responsibility for all pre-decision input in order to provide the Planning Obligations Manager with more strategic and relationship management capacity.**

**R10. Review the member training programme, involve members in planning it, deliver in shorter sessions and use independent facilitators where this would add value.**

**R11. Review ward member and public speaker time limits at Committee and length of officer reports.**

**R12. Consider introducing a Chair's briefing meeting prior to committee day, with wider input from members.**

### 3.0 Background and Scope of the Peer Challenge

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

3.2 The aim of the peer review was to assess the operation of Herefordshire Council's Development Management (DM) service encompassing delivery and resourcing, Enforcement, Section 106 and remote working.

3.3 Our review took the form of an analysis of the Council's background and context statement in relation to the operation of the DM service. We also watched a number of Planning Committees on-line, reviewed some supporting documents and undertook structured interviews with political leaders, Planning Committee members, senior managers Parish councils, special interest groups and developers/agents. Due to the continuing impacts as a result of Covid 19, interviews were conducted online.

3.4 Peers were:

- **Louise Wood** - Service Director for Planning & Sustainable Development, Cornwall Council.
- **Councillor Mike Haines, (Independent)**, Chair of Planning Teignbridge District Council.
- **Brian Glasson** - Head of Strategic Planning & Housing, South Gloucestershire Council
- **Robert Hathaway** - Peer Challenge Manager, Local Government Association Associate.

3.5 Where possible, PAS and the LGA support councils with the implementation of the recommendations as part of the council's improvement programme. A range of support is available from the LGA at <http://www.local.gov.uk>. It is recommended that Herefordshire Council discuss ongoing PAS support with Stephen Barker, Principal Consultant, [Stephen.Barker@local.gov.uk](mailto:Stephen.Barker@local.gov.uk) and any corporate support with Helen Murray Principal Adviser, [Helen.Murray@local.gov.uk](mailto:Helen.Murray@local.gov.uk)

3.6 As part of the peer challenge impact assessment and evaluation, PAS and the LGA will contact the council in in 6-12 months to see how the recommendations are being implemented and the beneficial impact experienced.

3.7 The team would like to thank officers and members at Herefordshire Council and everybody they met during the process for their time and contribution.

## 4.0 Detailed Feedback

### 4.1 Vision and Leadership

4.1.1 In 2020 the Council adopted a new four-year County Plan for Herefordshire which sets out the new administration's political priorities. The overarching vision is:

*“Respecting our past, shaping our future - we will improve the sustainability, connectivity and wellbeing of our county by strengthening our communities, creating a thriving local economy and protecting and enhancing our environment”*

and this builds on the County's earlier declaration of a Climate and Ecological Emergency for Herefordshire. The focus of the work of the Council and its partnerships is to encourage and strengthen its vibrant communities, create a thriving local economy and protect and enhance its natural and built environment. One of the County Plan's key priorities is to enable the building of more affordable homes.

4.1.2 While the Council has set out a clear four-year plan for its administration it recognises that it needs to urgently review the current adopted Local Plan and planning policies to ensure stronger synergy and fit between the County Plan and planning policy. For example, both the Council Leader and Cabinet member for Planning recognise that the Local Plan does not reflect aspirations and priorities of the new administration.

4.1.3 However, the administration recognises that it has not taken timely steps to introduce reviews of the Local Plan. The peer team heard differing reasons why a formal review of the Local Plan had not progressed more quickly despite previous resolutions to start and budget decisions to set aside finances for this.

4.1.4 We were told by some that this delay was partly the result of wanting to wait until a major decision on whether the controversial Western By-Pass around Hereford was to proceed. Some officers considered that the emerging hybrid form of cabinet governance resulted in a lack of clarity in member's decision making and its communication to officers. Some members however considered officers to be overly wedded to existing plans and strategies and not sufficiently alert and attuned to the new political direction of the Council.

4.1.5. Whatever the actual reasons, the need to commence a review of the Local Plan is vital. We strongly recommend that the Council develops a Local Plan review timetable with clear responsibilities, to start in January 2021. Key among early initiatives should be work on visioning workshops with members and appropriate evidence base reports on key strategic issues. It is noted that evidence base work has already commenced on Housing Needs and requirements and Housing land assessments

4.1.6 We see this as a fantastic opportunity for members, officers and stakeholders to collaboratively devise a revised spatial approach for Herefordshire. Planning and land use needs to be at the heart of tackling climate change. The Local Plan review can act as a very creative process in setting a direction more closely aligned to the Place Shaping vision of the new Council. And with a strong evidence base, community involvement and partnership engagement, the work would hold fast for whatever form of Local Plan policy system eventually emerges as a result of the Planning White Paper.

4.1.7 A stronger land use vision will support the DM service's understanding of what type of service it wants to be. DM staff told the peer team that almost their whole focus was on the relentless churn of detailed decision making in line with important but limited Key Performance Indicators (KPIs) centred on timeliness. It did appear to us that the DM

managers, case officers and support staff considered themselves to be operating under immense pressure with very limited opportunity to see themselves as contributing to delivering corporate and community wide outcomes such as better homes, jobs, green and built infrastructure. Member focus on planning process and intricacies of procedures may also contribute to the inward-looking focus we found.

4.1.8 Part of a stronger 'golden thread' between the County Plan, Local Plan, and Planning Service needs to be a compelling service vision underpinned by KPIs that are owned by managers and the Cabinet member. Given the focus in the County Plan for what the administration wants to see for Herefordshire, a Planning Service vision could include the priorities of the local economy, investment in more sustainable modes of transport, building of more affordable and sustainable homes and protection and enhancement of the environment.

4.1.9 We recognise that setting a vision that unites and directs the work of the whole planning service is difficult given that DM, Planning Policy and Neighbourhood Development Plans and Built and Natural Environment currently sit under different Assistant Directors. While communications between the various teams were generally effective with good 'work arounds' overcoming the structural issues, some managers and staff recognised the potential for greater integration between the disparate teams.

4.1.10 The peer team recognise the different models of DM and Planning Policy in local government. In the short time available the peer team is unable to recommend one preferred solution other than to say that given the review of the Local Plan, the development of a vision and other strategic reforms, we suggest that the Council looks at the opportunities of bringing the various areas under a more unified management control. A review of the current structure could examine whether the balance of priorities, resources and accountabilities to deliver the totality of the Planning Service are in the right place in order to meet both short and long term priorities.

4.1.11 Trust and confidence between Officers and Members is currently at a low ebb. We see the need for rebuilding greater trust and confidence between members and officers involved in a variety of areas of the Planning Service. Confidence has been eroded on a number of fronts including the lack of progress on the Local Plan and frustration then in terms of planning decisions that flow from that policy base. Added to that are strong member concerns with the operation of Enforcement and Planning Obligations and members' inability to easily access case officers, enforcement and section 106 officers. Some members expressed concerns that officers were not buying into the culture of new administration with an inability to break out of projects/plans developed under the former administration.

4.1.12 The DM service needs to work with members (and vice versa) to create more opportunities for informal discussions and working together in a 'safe space' within a non decision making atmosphere. At a corporate level the senior management team are working with the Cabinet on 'Member and Officer Working' and the service and its Cabinet member needs to ensure that it has some input into such discussion.

4.1.13 However, it is always important for the service to concentrate on doing the small things well in order to create goodwill and support to be able to do the big things. For example, officers need to show they understand the member pressure from constituents on planning issues and ensure that member's phone calls and e mails on planning issues are prioritised and returned efficiently.

## 4.2 Development Management (DM) Management

4.2.1 The DM service appears well managed and comprised of very competent and professional managers and staff. The DM service has benefited from clear management support in rebuilding the DM team through empathetic leadership. We heard this from the managers and teams and we consider that this is a valuable asset and provides a strong base from which to refocus the effort of the service.

4.2.2 The DM three team structure, based on two area teams and a team focussed on major applications, benefits from good teamwork and mutual support and its work is well supported by a large technical team. Led by three Development Managers we found support for the three team structure from all quarters with staff and managers committed to continuing to make it work. Given the scale and sparsity of the County the area teams help with economies of scale including site visits. The DM managers regularly review workloads to rebalance peaks and troughs between individuals and between the area teams. We were encouraged to hear of Principal Officers in the Majors team mentoring and holding drop-in surgeries to support more junior officers in their development journey. This cross-team support for casework reviews to share thinking and best practice is to be encouraged.

4.2.3 The DM service has risen to the challenge of the impacts of the Covid 19 pandemic and moved quickly to agree mitigation plans in relation to home working. This was a significant achievement for all managers and staff but especially so the technical team who had little or no experience of working from home before Covid 19.

4.2.4 We probed whether the organisational divisions between DM, Planning Policy and NDP, and other supporting areas was impeding or enhancing service delivery and performance. We found evidence of good cross-division communication and many examples of staff working effectively across teams to make things work and get the job done. We also found an established cross-cutting performance management culture at manager level. For example, monthly meetings review a suite of performance measures and the reasons for underperformance are discussed.

4.2.5 We discussed in section 1 the opportunity for the Council to review internal structures in line with setting out a clear vision for its DM role as part of the wider Planning Service. Some planning authorities are developing more fluid roles between for example DM, Policy and NPD through generic job descriptions, training and mentoring. This provides broader experience for officers and allows for greater flexibility over time in resource allocation as priorities change.

4.2.6 Managers and staff raised concerns about workloads while members and developers/agents were critical of delays in deciding applications. The service processes in the region of 4500 applications annually with approximately 70 appeals. Average caseloads do not appear unreasonably high based on the experience of the peers.

4.2.7 The service deals with approximately 500 requests for pre application advice per year. This brings in income of around £170k. We heard from developers/agents that the pre application service was often ineffective and did not add the value that they would expect. Areas of particular concern included:

- long delays in responses with some lasting over six months;
- the main bulk of the pre application advice consisting of consultee responses with little balanced professional judgement added by officers to assist the developer/agent; and

- consistency of overall approach between pre application advice and progression of application once submitted, especially where Planning Committee decisions were involved.

4.2.8 We see significant benefits in improving the service's pre application offer. Strong and effective engagement at an early part of the development provides more potential to improve outcomes in line with the policy and supplementary advice of the Council. This might include for example, directing developers/agents to appropriate ward member involvement, Parish council and community engagement and consultation with special interest groups. If developers/agents gain more confidence in the pre application service, it will also help prevent the present practice of the submission of an initial application that effectively 'acts as the pre application'.

4.2.9 Developer/agents and officers themselves expressed concern about delays in determining planning applications. The peer team were told that significant blockages in consultee responses in areas such as ecology and drainage are significantly increasing the length of time to determine. Area Development Managers advised that they had recently worked with the internal team of ecologists to try and prioritise and triage what was a backlog of some 300 consultation responses. While this is a helpful short term response, more fundamental and lasting solutions need to be found such as the production of standing guidance and consultation thresholds. Based on latest figures, the service decides 73 per cent of major applications in the agreed timescales and 75 per cent of non-majors. Both of these meet central government guidelines.

4.2.10 While seeking faster consultation responses is one area for improvement, quickening the pace of validation at the start of the journey is another. We were told that the target number of days for validation is 10 days, better performing authorities on speed achieve validation rates of 2-4 days. One of the reasons for delays was the predictable reduction in staffing during school holidays, especially in the summer. It is important that the service finds a way to ensure there is capacity at such periods.

4.2.11 Within the Council the DM service is seen as being a little 'out of step' or a 'special case' in relation to the corporate direction of travel on issues such as spans of control and the responses to financial pressures. While any analysis of comparative spans of control and management accountabilities went beyond what we could cover in a short peer review the review of Planning Service structures under a new service vision could examine this more fully.

4.2.12 In terms of examining greater efficiencies and commercialisation within the DM service we see opportunities in a number of areas. There is scope to look outwards and use the three teams to identify improvements and efficiencies. One area for consideration is a review of the length of officer reports to Planning Committee and delegated decisions. We appreciate managers' and case officers' views that the increasing length and detail of Planning Committee reports is necessary to protect against increasingly litigious applicants and third parties. However, we consider that a review with support from legal officers, examining good practice in the use of templates and taking advice from peer authorities might draw out some savings. Some councils such as Cornwall have adopted a risk based minimalist approach to delegated reports, especially where there are no objections. There is a pressing need to examine whether the often very large number of conditions and informatives placed on consents are absolutely essential.

#### 4.2.13 Other examples of areas to examine include:

- looking at opportunities for delegation below area manager level to avoid bottlenecks;
- risk assessing whether householder applications need site visits; and
- front screening including returning applications (with their fees) that would have no chance of success.

4.2.14 Another area of creative opportunity would be enhancing the service's focus on levels of commercialisation. While the service brings in income of £2- £2.2m against costs of £1.6m, it has a £2.5m income target. Our recommendation would be for the service to benchmark against councils such as Telford. One specific area to investigate would be the use of PPAs which are voluntary undertakings that enable local planning authorities and applicants for planning permission to agree the timescales, actions and resources necessary to process a planning application. They can be helpful in encouraging collaborative working, establishing a transparent process for determining the application within agreed time scales, act as a focus for pre application discussions and allow for voluntary payments for abnormal and administrative costs.

### 4.3 Enforcement

4.3.1 The enforcement of suspected or real breaches of planning control is of very high importance to the public, members of the Council, Parish Councils and special interest groups within Herefordshire. While we heard concerns about the operation of the Enforcement Service, and in particular the use of retrospective applications for consent, the view of the peer team is that so many of these concerns are found in equal measure up and down England.

4.3.2 The Council employs committed staff who know their area well. Management oversight is supportive with regular one to one catch ups with fortnightly meetings held in the office during lockdown and performance management that focuses on cases more than a month old. While workloads for the roles of the Enforcement Manager and four enforcement officers remain extremely busy, the caseloads and statistics in terms of use of notices and retrospective applications are not out of kilter to peers' experience. For the period 1 November 2019 – 12 October 2020, the Enforcement Service opened 657 new cases which was significantly lower than the last three years. During this period 586 cases were closed through:

- 23 per cent - (134 cases) - 'no breach as not development';
- 23 per cent – (134 cases) – 'no breach as permitted development';
- 20 per cent – (118 cases) – 'resolved by negotiation/compliance';
- 16 per cent – (96 cases) – 'resolved by grant of retrospective consent'; and
- 7 per cent – (42 cases) – 'not expedient to take formal action'.

4.3.3 As can be seen from the above figures nearly one in two cases were either not development or were permitted development. Despite member and public concern about the use of retrospective consents to resolve cases, it can be seen that only 16 per cent were resolved in this way. The Council demonstrates that it will take significant action if the circumstances demand it, serving 18 enforcement notices and breach of condition notices over the last year. The service currently has 366 open cases.

4.3.4 In order to improve trust and confidence in the Enforcement Section there is a need to significantly narrow the mismatch between the expectations of members, stakeholders and officers. We consider that this is potentially best achieved by members and officers co-developing a Herefordshire Council Protocol/Charter to provide clearer understanding to all involved in the process. The Charter/Protocol would sit within an Enforcement Action Plan which would set out the priorities for Herefordshire, with aligned action plans.

4.3.5 We noted that the Enforcement Service does currently prioritise initial site visits in response to concerns, for example listed buildings and tree felling. We would suggest extending this principle to the investigation of complaints as well. Clearly this will result in some investigations being completed more quickly while others will have to wait. But as long as there is clear buy in to the process and a united stand amongst members, managers and the team then at least there will be an agreed process. We see this as a far more realistic approach which would achieve greater benefits than seeking to simply recommend an increase in staff which in today's financial climate is unrealistic.

4.3.6 We also see potential for the use of targeted approaches on those areas of planning non compliance that cause most concern to local communities. For example, at Cornwall the enforcement service led a successful campaign with a focussed effort on unauthorised signage. A focused approach on priority cases will enable a clear message that the Council takes compliance seriously.

4.3.7 The workloads, lack of prioritisation and generally negative perception of the Enforcement Service is having a damaging impact on officer morale. The peer team were concerned that if trust and confidence are not restored then enforcement officers would be further demoralised with staff choosing to leave. Staff told us that helpful improvements could include a more supportive environment for training and development, agreed prioritisation with members and stronger consistent strategic communication on successes.

4.3.8 We were told of some opportunities for efficiency improvements in the operation of the service and its work with other internal colleagues. For example, some councils use a triage system when a complaint is first received; the purpose of which is to sift out any non breaches or minor breaches through a review and telephone call to the complainant prior to registration. Joint working with legal services would benefit from greater clarity on the complementary roles that enforcement staff and legal staff perform, and a greater focus on shared outcomes. Some historic problems with investigative case preparation and quashed notices has resulted in duplication of effort which has a negative impact on staff, members and stakeholders.

4.3.9 In overall terms we would recommend the urgent development of an Enforcement Action Plan working with members to agree priorities likely to include;

- Co-develop Member and Local Council Protocol/Charter;
- Regular training for members and officers;
- Process review to identify efficiency for example through reduction of duplication and using triage to reduce unnecessary work at outset;
- Programme for officer development with focus on investigatory skills; and
- Proactive work on top priorities or cases with relentless communication.

## 4.4 Planning Committee

4.4.1 We viewed a number of Planning Committees via the Council's recorded webcasts and the live November 2020 Planning Committee and found them to be well run. Ease of access to the on line Planning Committees was good and the publicly available information concerning the operation of the virtual meeting, agenda papers and how the public could take part was helpful.

4.4.2 We were told that Democratic Services and the DM managers had collaborated well with the Chair and Vice Chair and members to ensure a smooth transition from face-to-face meetings to virtual meetings using the Zoom platform. In only missing the April 2020 meeting, the Council is to be congratulated in resuming decision making at Planning Committee in as timely a manner as possible. Based on the Committees we saw, any minor technical glitches were cleared up quickly.

4.4.3 The Committee was well chaired, courteous with good support to members from the democratic service, legal and planning officers. We thought it was very sensible that the Chair reminded Planning Committee members that the meeting is being live streamed and has a 'global reach' and the Chair also reminded members not to use the 'chat facility' that can help to avoid perceptions of separate discussions taking place.

4.4.4 The Committee meetings followed a clear pattern with the Chair maintaining good order and direction. One key characteristic of the way Herefordshire conducts its Planning Committees is the very prominent role of the ward members that is provided for within the Planning Rules of the Council's Constitution. Other very positive elements of the Planning Committee process included:

- good support to public accountability and community engagement through promotion of a number of ways that public speakers could contribute such as speaking live at Committee, recording an audio or video speech or asking their speech to be read out;
- helpful interventions and reassurances from the Lead Development Manager and Legal officer to guide Committee members including support to members in framing reasons for taking a contrary view to officer recommendations including advice on the sustainability of any reasons for refusal at appeal; and
- smooth operation of electronic voting.

4.4.5 There are a number of areas where the Council could review the operation of its Planning Committee process to enhance efficiency and the quality of its decisions. Members, officers and developers/agents noted the increasing length of Planning Committees and wondered whether such long meetings made it difficult for those taking part to fully concentrate on the detail being debated. We are aware that the national trend appears to be that Planning Committees are taking longer on-line than when previously held as face-to-face meetings. However, the last three meetings of the Council's Planning Committee have lasted 3.55 hours, 4.50 hours and 5.45 hours with the longest meeting considering only 4 non-major applications. There are clear difficulties in terms of effective decision making as concentration levels fall. One way of reducing the length of Committee is to put a time limit on the ward member's contribution. In a recent Committee meeting the ward member's initial speech lasted 40 minutes. While this may be exceptional it would seem far more proportionate to the 3 minutes allowed for public speakers and members of Committee, if ward member was similarly time limited.

4.4.6 Some officers, developers/agents, Planning Committee members and ward members considered that a lack of trust and confidence in the outcomes at Planning Committee was leading to attempts to keep some applications away from it. We were told that the lack of confidence comes from the uncertainty created by the current Local Plan not reflecting the priorities of members. This resulted in some members not wanting some items to go to Committee and consequently resulted in an inconsistent approach. One example we were told of us was a medium sized unallocated housing site being granted consent via officer delegation while an allocated housing site went to Committee and was refused. Such inconsistency can limit effective community engagement on applications that do not reach Committee.

4.4.7 Clearly probity in planning demands that Planning Committee take decisions in accordance with the development plan (Core Strategy, Local Plan and Neighbourhood Plans and National Planning Policy Framework) As discussed in section 1, until these policies are reviewed, then such decisions have to be plan led. While Planning Committee members receive mandatory training it is important that the Council assures itself that members have the necessary competencies and skills to undertake their roles.

4.4.8 We would encourage Democratic Services and DM service to explore what might most meet their needs in a training plan. We would encourage examination of regular one-hour slots rather than long sessions. This could start on-line. Training from independent facilitators to supplement existing internal support could assist in re-emphasising the central tenant of probity in decision making. Other areas of learning that were mentioned to the peer team included housing land supply and retrospective applications. Any joint training opportunities that could involve members and officers e.g. viability, biodiversity, design etc are to be encouraged in terms of working together more collaboratively.

4.4.9 We see merit in rethinking the Chair's briefing meeting in more strategic terms. This could involve ensuring that any early indications of Committee members' concerns were covered, likely key questions anticipated and the ground considered and prepared for any alternative motions.

4.4.10 We understand that the Council is reviewing its Constitution and this allows an opportunity to improve information flows to Planning Committee. Presently the Constitution prevents information such as planning appeals information to come before Planning Committee. In the views of the peers this is highly unusual and misses the chance to present potentially vital information on appeal decisions to learn from and support stronger decision making.

## **4.5 Partnerships and Outcomes**

4.5.1 The planning service through the Neighbourhood Plans team have worked very well with Parish Councils to develop a very extensive number of Neighbourhood Development Plans throughout Herefordshire which is impressive. The 113 designated neighbourhood areas and 72 made/adopted Neighbourhood Development Plans (NDPs) clearly show that the service can deliver change against big agendas.

4.5.2 The service has worked well with external partners in seeking a holistic solution to the phosphate issues of land run off that have badly impacted on the water quality of the River Lugg. Action taken by the Environment Agency under the Habitats Regulations Assessment has led to restrictions on building in the north Herefordshire area. This effectively led to a freeze on building on 40 per cent of the County with the inevitable

impact on house building and the local economy. The Council has worked in partnership to develop the Integrated Wetlands Scheme using money from the Local Enterprise Partnership and New Homes Bonus monies. This will assist in removing the restriction and enabling the approval of over 1500 homes that are on hold at the present time.

4.5.3 The Council has consistently delivered on a high proportion of affordable housing through the planning process and purchase off the open market. Since the start of the Core Strategy period (2011-2031) the Council has delivered 47 per cent affordable housing throughout the County resulting in 1206 units at an average of 134 units per year split between flats, houses and bungalows. The Council recognises that it needs to be delivering 241 units per year to meet its 4836 affordable homes target over the plan period.

4.5.4. Another positive move in terms of a stronger corporate response to providing more affordable homes is the Council's recent decision to seek to build 2000 council houses, funded by borrowing, over the next four years, on council-owned sites.

4.5.5 Officers and members could not advise who is leading on active monitoring of the Housing Delivery Test Action Plan (HDTAP) which is a Government imposition on those authorities that are not delivering sufficient housing in their local areas. The 2019 HDTAP set out 4 key actions, one of which include a Local Plan review which of course has made limited progress. Neither was it clear to officers and members who is responsible for leading on the Council's response to the 5YHLS. Given the Council's focus on environmental enhancement and protection, and housing delivery, it is very important that every effort is made corporately and collectively to fix the 5YHLS. While some Planning Inspectorate appeal decisions have given the Council the benefit of the doubt based on its 2019 HDTAP this is unlikely to continue without stronger monitoring and action. It is pleasing to note that the Council has met its housing delivery target and has moved from a 20 per cent authority to 5 per cent thereby increasing its 5 year supply to 4.22 years. Continued work in this area is critical to move the Council into a 5 year housing land supply.

4.5.6 We met with a number of Parish councillors and clerks and representatives of special interest groups such as Hereford Civic Society, Hereford Nature Trust and CAMRA (Campaign for Real Ale). It is encouraging indeed that the DM and wider planning process in Herefordshire can benefit from the enthusiasm and expertise of such groups. In terms of consultation on planning applications they noted better ease of access to information via the website portal.

4.5.7 Special interest groups that focused on Hereford were disappointed in what they saw as a lack of clear focus on protection and enhancement of the built environment. For example, they were unclear as to what happened to the Hereford Design Guide that was promised and also delays in the production of any Conservation Area Appraisals. Groups involved in the protection and enhancement of the natural environment expressed concern about the capacity of the Council to deal with planning applications and wider biodiversity issues and with the quality of environmental data for policy purposes.

4.5.8 Both parishes and special interest groups had taken advantage from time to time to present their case to Planning Committee through public speaking. While they found this helpful, they thought that 3 minutes for public speaking was not sufficient time for larger/more complex applications. The Chair of Planning Committee is however mindful of this and has the power to allow more speakers on certain higher profile and complex applications which has occurred on large scale majors. We do however consider that as

part of any review of the operation of Planning Committee this could be looked at given the strength of feeling on this issue. Parishes and special interest groups would also value enhanced feedback on what happens to applications they comment on. The peer team's view is that it is unrealistic for DM services to be expected to report back to all consultees, including parish councils and special interest groups, on the outcome of each application they have commented on.

4.5.9 To ensure a strategic rather than detailed form of dialogue and communication, some authorities run annual Parish Planning Forums to raise issues of common concern based on an agenda led by parishes. Others have a form of relationship manager where perhaps an area team manager has an oversight over a group of parishes.

4.5.10 The Council places a high emphasis on mitigating the consequences of development through the use of planning obligations - section 106 legal agreements. The service is monitoring approximately 30 existing agreements with an accumulated value of approximately £7million awaiting spend with another 30 schemes under instruction and likely to lead to further agreed contributions.

4.5.11 In order to respond to previous concerns about the lack of easy access and visibility of section 106 monies and spend, the Planning Obligations Manager has ensured that this information is now on the Council's website. This data is now searchable by ward and will far better assist interested parties.

4.5.12 The service is also changing the way that highway schemes using section 106 finance is specified to improve clarity and deliverability which we endorse on the understanding that the resource capacity has been found for this.

4.5.13 In the peers' experience, the Council has an unusual structure for dealing with section 106 agreements with this leading to the Planning Obligations Manager having a wide span of responsibility on the relevant individual applications both pre and post decision. This results in the Planning Obligations Manager (along with some part time technical support) being responsible for nearly every level of section 106 work such as pre application advice, heads of terms, and liaising with developers that in many other authorities would be undertaken by case officers. This results in a lack of capacity to be able to liaise with members, parishes and some internal/ external parties. It is recommended that the service reviews its approach to pre-decision S106 agreements.

## **5.0 Further Support**

5.1 A range of support from the LGA and PAS is available at <http://www.local.gov.uk> and via the PAS website <https://www.local.gov.uk/pas>. Costs may vary.

5.2 Planning Advisory Service (PAS) & LGA Support Offers:

### **PAS Planning Committee Training & Materials**

PAS will work with the authority to deliver to deliver specific training requirements for the Planning Committee.

Short case assessments on areas that support delivering a good development management service can be found at the following website:

<https://local.gov.uk/pas/development-mgmt/planning-applications-support/good-development-management>

PAS has general materials available on available from the PAS website:

- Development Management - Decision making, committees and probity
- Making Defensible Planning Decisions
- Developer Payments - Community Infrastructure Levy, s106 agreements and Viability
- Getting engaged in pre-application discussions
- Design training for councillors

<https://www.local.gov.uk/pas/pas-support/pas-subscribers/councillor-briefings/councillor-briefing-planning-committees>

PAS worked with Association of Democratic Services Officers (ADSO) to produce some materials for committee clerks. This covers an introduction to planning, decision making, motions and amendments, dealing with the public, interests and probity matters.

<https://www.local.gov.uk/pas/pas-topics/planning-committee/materials-committee-clerks>

### **Other Local Authority Planning Committee and Delegated Decision Making Information**

District Councillor engagement in Pre Briefings

<https://www.plymouth.gov.uk/sites/default/files/ProbityInPlanningPlanningCommitteeCodeOfPractice.pdf>

The following three councils are considered to have run good virtual committees: Brent, Liverpool and West Suffolk

5.3 For more information about planning advice and support, please contact [Stephen.Barker@local.gov.uk](mailto:Stephen.Barker@local.gov.uk)

### **LGA Support**

5.4 The LGA has a range of practical support available. The range of tools and support available have been shaped by what councils have told LGA that they need and would be most helpful to them. This includes support of a corporate nature such as political leadership programmes, peer challenge, LG Inform (our benchmarking service) and more tailored bespoke programmes. Helen Murray Principal Adviser is the LGA's focal point for discussion about your improvement needs and ongoing support and can be contacted at [Helen.Murray@local.gov.uk](mailto:Helen.Murray@local.gov.uk)

5.5 PAS and the LGA will follow up about the support that they can provide to the council to help address the recommendations highlighted in this report. A further 'light touch' visit can be made in 6-12 months to see how the recommendations are being implemented and the beneficial impact experienced.



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