

Forest of Dean District Council, Cotswold District Council and West Oxfordshire District Council (Publica)

Development Management Review

June 2022

1. INTRODUCTION

1.1 Publica is a council owned employment company set up in 2017 to deliver shared services between Cotswold, West Oxfordshire, and Forest of Dean District Councils and Cheltenham Borough Council. More specifically, Planning services are provided to Cotswold, West Oxfordshire, and Forest of Dean District Councils. Each of the councils retain their independence and identity but by working together and sharing resources seek to maximise mutual benefit, leading to more efficient, effective delivery of local services.

1.2 The Planning Advisory Service (PAS) have been asked to undertake a high-level review of the Development Management Services at the three Councils to identify areas where performance could be improved and to identify where best practice might be shared across the area.

1.2 The review has been undertaken by Tim Burton appointed by PAS. PAS is part of the Local Government Association (LGA) and provides high quality help, advice, support and training on planning and service delivery to councils, primarily in England. Its work follows a 'sector led' improvement approach, whereby local authorities help each other to continuously improve. Tim has over 30 years' experience working for local authorities, including most recently as Head of Planning for Taunton Deane and West Somerset Councils. For the last 3 years he has worked with PAS providing a range of support to many local planning authorities, including service reviews, Planning Committee reviews and Member and Officer training.

1.3 The review has been based on the application of the PAS Development Management (DM) Challenge Toolkit with particular emphasis on the sections on performance management, pre-application advice, receipt and validation, consultation and allocation, and officer reports. The toolkit aims to provide a 'health check' for Planning Authorities and act as a simple way to develop an action plan for improvements to their Development Management service. There is a link to the Toolkit at the end of this report.

1.4 The review was initially to be focussed primarily on processes and performance at Forest of Dean District Council. High level data was provided for consideration and a full day visit was carried out on 5th May 2022. This comprised discussions with a range of planning staff, focussing on performance and how this might be improved. It was agreed that Tim should also visit Cotswold District Council and West Oxfordshire Council and meet with staff there. These subsequent visits took place on 6th May 2022. Some information on application process and procedures was shared prior to the visits, However, this report is based primarily on the outputs of discussions with team members and their managers.

1.5 All those interviewed were friendly and welcoming and engaged fully with the process and are thanked for providing their honest opinions and feedback.

2. BACKGROUND

2.1 All three Councils are performing comparatively poorly in terms of the speed of determination for non-major applications. Performance for the period January 2020-December 2021 is 73.5% against a minimum required level of 70% at Forest of Dean. The Council is ranked 311th out of 341 local planning authorities nationally. Cotswold is 314th (72.9%), whilst West Oxfordshire are 316th (72.8%). Against this background, PAS has been asked to provide support to improve performance against and to consider best practice for the planning services delivered by Publica.

2.5 These performance issues have undoubtedly been exacerbated by the impacts of Covid and the need to adapt to remote working, as well as a significant upturn in the number of applications being submitted.

2.6 Caseloads remain high and like many other local planning authorities, each of the Councils has struggled to recruit suitably qualified and experienced planning officers to permanent posts in recent times.

2.7 Whilst each staff team identified specific issues and areas for improvement relating to their own district, there were a number of common themes identified.

2.7 The consultant, in consultation with Phil Shaw (Business Manager, Development Management) has identified six priority areas where improvements are sought. These are: addressing issues associated with consultation; the delivery of a more customer focussed service; pre-application advice and development of a strategy for negotiations; validation processes; performance monitoring and reporting; and attitude to risk.

RECOMMENDATIONS

R1 Work with other services to highlight the importance corporately of timely decision-making in planning and identify where the process can be improved including exploration of a more risk-based approach to whether applications can be determined without waiting for consultation responses and where the introduction of standing advice might help improve performance

R2 Ensure that all staff prioritise the provision of progress updates using extensions of time as the primary method to do so (in such circumstances where an extension may be required). Extensions of time should be requested in all cases where the application will not be able to be determined within the statutory target. This recommendation should be supported by a customer protocol to explain this revised more customer focused approach to service delivery.

R3 Consider giving priority to those cases that have been subject to pre-application engagement whilst taking a more robust approach in other cases; together with a review of pre-application charges to ensure that they are covering the full cost of providing the service

R4 Review management information to reduce reliance on officers devising their own mechanisms (Maximise the use of the Enterprise to provide a range of performance information).

R5 Undertake a review of areas of the service at each Council where greater alignment might be achieved and to identify areas where a less risk averse approach might improve service delivery generally. Areas for review to include consultation and notification, officer reports (including their checking) and issuing of decisions

3. ADDRESSING ISSUES ASSOCIATED WITH CONSULTATION

3.1 Consultation delays were identified as being the key constraint to timely decision-making by all three Councils. Delays to determination associated with ecology responses were a particular concern raised at Forest of Dean, whilst drainage was a major issue for West Oxfordshire. It was acknowledged at all three sites that the approach currently taken to consultation is risk averse and that a more proportionate approach at validation stage might reduce the number of consultations being undertaken and the scale of the issue as a result.

3.2 Whilst consultees generally respond to initial consultation in a timely manner, responding to the additional information requests is considered to be extremely slow, with many applications being delayed for several months. If additional information is sought, it is inevitable that the application will not be determined within the eight-week period. It is understood that monitoring of performance only looks at the initial responses and therefore the extent of the problem has been largely hidden

3.3 It was suggested that whilst the importance of timely decision-making in planning is recognised corporately, this does not appear to be reflected in the priority given to responding to planning consultations by other Council services. Within the sample of applications reviewed several applications were delayed by several months awaiting consultation responses. Whilst the planning teams have sought to find solutions to improve turnaround times, performance in this area is largely beyond their control. Therefore, corporate recognition of the importance of timely decision-making in planning needs to be translated into prioritisation of such work across other Council services if performance is to improve.

3.4 The planning teams claimed that they try to take a pragmatic view on whether applications can reasonably be determined without waiting for outstanding consultation responses. However, reference was made to a general unwillingness from Councillors to make decisions in the absence of a final consultation response at both Forest of Dean and Cotswold. In order to speed up the process and reduce the burden of work for consultees it is recommended that the number of consultations undertaken be reviewed and a more risk-based approach taken.

3.5 The production of standing advice can act as a useful way of ensuring technical issues are addressed, whilst reducing the workload for consultees. Whilst there will always be cases where

bespoke advice is required, the introduction of more standing advice could have a major impact upon the speed of determination in many instances.

4 THE DELIVERY OF A MORE CUSTOMER FOCUSSED SERVICE

4.1 Each of the three Councils have traditionally performed well against its planning performance targets. However, for a variety of reasons as has already been set out, performance has declined recently, with decisions on non-major applications routinely taking longer than eight weeks to determine.

4.2 Planning is no different to other customer facing services, whereby those seeking a service should have a right to expect to be kept up to date on progress of their application, particularly in circumstances where the timescales become protracted. The use of an extension of time is the appropriate mechanism to agree a programme for the determination of their application with the applicant or agent when it cannot be determined within the target time. Whilst the Councils should not find themselves in such a position whereby, they need to be used as a matter of course, they can be a key tool to be used in the delivery of good customer service. They are particularly useful when determination times are protracted (as they currently are for various reasons that are identified elsewhere in this report).

4.3 Planning staff, as well as their managers, acknowledge that insufficient focus may have been given to the need to agree the period for determination with the developer or their agent and to review this as may be required. Whilst individual case officers will vary in their responsiveness to customers, the overall impression is that keeping applicants apprised of progress and agreeing extensions of time has not been seen as a top priority. None of the Councils have traditionally seen the use of extensions of time as an integral part of service delivery. With resource issues and other matters (as outlined elsewhere) meaning that performance against an eight-week target has declined, the need to agree extensions of time as a fundamental part of customer liaison has not been appreciated. The reviewer got a clear impression that use of extensions of time had in effect been seen as 'cheating' ie. a means of hiding poor performance. If the Councils are failing to determine applications within the statutory target and not agreeing extensions of time, it is inevitable that performance against the relevant target will suffer.

4.4 An unwillingness to agree extensions of time on the part of developers has not been identified as being a significant contributor to the decline in performance when measured against the 70% target for the determination of non-major applications. Issues around staff vacancies, staff absences during Covid and the need to adapt to new ways of working as a result of Covid restrictions were all identified as having a greater detrimental impact upon performance. In these circumstances, the need to agree extensions of time where necessary must be given a higher priority.

4.5 A more structured approach to liaison with applicants and their agents, that sets out expectations in terms of determination timescales, could be incorporated into the initial acknowledgement letter, confirming that the Council will be proactive in requesting an extension

of time prior to expiry should this prove to be necessary. Applicants should be made aware of likely decision times and extensions of time should be agreed when both parties agree it is appropriate, and in all cases well in advance of the decision. Whilst this approach should reduce the need for developers and their agents to chase progress, the letter could include the case officer details with their working patterns included to enable them to be contacted if required.

4.6 The Council should seek to publish as much information as possible on its website to minimise the need for direct customer contact. West Oxfordshire operate an alert system, which could be further developed and applied to the other Council areas.

4.7 This revised approach to customer interaction would benefit from being set out in a 'customer protocol' to be shared at an Agents forum as a reset in the relationship between agents and their Council. To encourage the take up of extensions of time the Councils may also wish to consider whether priority is given to those cases where the determination will be in accordance with the target or where an extension of time has been agreed.

4.8 Information on performance should be shared with the team and should be discussed at team meetings as well as part of individual performance assessments and 1-2-1s.

5. PRE-APPLICATION SERVICE AND THE DEVELOPMENT OF A STRATEGY FOR NEGOTIATIONS

5.1 All three Councils take a similar approach in seeking to negotiate a positive outcome wherever possible. However, it is questioned whether the approach currently demonstrates best use of a limited resource.

5.2 The Councils see their pre-application advice service as a key component of the delivery of a positive and proactive planning service. Pre-application engagement is encouraged and prioritised accordingly.

5.3 However, the ethos of seeking solutions to enable the granting of permission wherever possible also extends to those proposals where the developer has not engaged pre-application, or failed to take advice. Therefore, it is questioned why a developer would pay for a 'pre-app' if the Council is still going to seek to negotiate a positive solution with them even when they have declined early engagement.

5.4 Whilst a desire to get to a position where a planning permission can be granted wherever possible is a laudable one, the current approach would appear unsustainable based upon the resources available and is undoubtedly a contributory factor in the failure to meet performance targets. In order to encourage an increase in take up of pre-application engagement and enhanced performance in the determination of non-major applications, the Councils may wish to consider restricting negotiation following the submission of an application to cases where the developer has first sought and responded positively to pre-application advice. Other applications would then generally be determined based upon the merits of the proposal as submitted. This

more robust approach would reduce the amount of officer resource taken up with negotiation significantly as well as giving further emphasis to the importance of pre-application engagement. It is important that any change in approach be communicated to developers and also gets buy-in from elected members in advance of its implementation.

5.5 All of the Councils now charge for a pre-application service, although it is understood that Forest of Dean have only recently started charging. If it is deemed not to be a subsidised service, it is important that charges reflect the true cost of providing the service. It would not appear that this is always the case. The DM Challenge Toolkit advises Councils to ask applicants what services they would benefit from; to undertake a time recording exercise to establish the actual cost of particular pre applications and set fees accordingly; to seek customer feedback on value for money; benchmark with similar Planning Authorities to identify appropriate costs. It also advises that fees should be reviewed at least annually using an inflationary measure (e.g. RPI) as a benchmark for price rises.

6. VALIDATION PROCESSES

6.1 Validation is undertaken by a centralised validation team. Whilst there are clearly resource and resilience issues within this team currently, the general approach to validation appears to be a sound one. Indeed, the resource and resilience issues would likely to have been far greater without the adoption of a shared service approach. Whilst staff at Cotswold District Council explained benefits from their previous approach whereby the case officer was responsible for the validation of their applications, the principle of freeing up case officer time in times of constrained professional resource is a sound one and there is no reason why the current approach cannot be successful. At West Oxfordshire the allocating officer is responsible for identifying the consultees. Adoption of this approach elsewhere might address many of the concerns raised around validation becoming a 'tick box' exercise.

6.2 Concerns were also raised around errors occurring in the validation process. The resource and resilience issues leading to limited capacity for training may well be a contributory factor in the number of issues occurring at this point in time. However, resolution of the current resilience issues should alleviate the problem as perceived and does not suggest the need for the adoption of an alternative approach to validation. Up to date and consistent validation checklists will also help to reduce the number of errors being made. It will be important to get buy-in from all staff to this new approach to validation (particularly as this represents a radical shift from that previously applied at Cotswold).

7. PERFORMANCE MONITORING AND REPORTING

7.1 Information available to monitor performance and identify deadlines is generally considered to be poor at each Council, relying on officers and managers to invent their own systems. Deadlines are inevitably being missed simply because staff and their managers are unaware of them. The implementation of Enterprise needs to resolve this issue, with less reliance on officers

to identify their own deadlines and giving managers better information with which to monitor individual staff performance.

7.2 The DM Challenge toolkit identifies a good planning service as one that regularly monitors the statutory performance measures (at least every month), has a variety of qualitative and quantitative performance measures that are important to the Planning Authority including a customer feedback performance target. In order to improve performance in this area, performance information needs to be readily at hand and officers alerted when extensions of time need to be agreed. As is recommended in the Toolkit, the Council is advised to review management information to reduce reliance on officers devising their own mechanisms (Make use of the Planning software to provide performance information/Different staff need different information). A system also needs to be in place to ensure that extension of times are being recorded accurately. Data needs to be in real time, including standard workload reports for each officer that can be run at any time. Reports need to be able to be easily read and explain performance through the use of graphs, comparisons etc.

7.3 The lack of readily available real time performance information is seen as having been a major constraint to performance for both case officers and those who manage them. The introduction of Enterprise provides the ideal opportunity to incorporate high quality real-time reporting and alerts. The DM Challenge Toolkit states that 'project management software should allow an officer to understand whether their application is on track eg. A traffic light system'. The availability of information for all staff should also help to reduce the reliance upon case officers to inform applicants and other interested parties of their application's progress towards determination, as well as helping officers manage their own caseload. Greater use of staff other than the case officer to provide updates should be able to be more effective if the necessary information is easily accessible. There is already some good practice at West Oxfordshire in terms of alerts and notifications, which could be applied more widely.

7.4 Enterprise should provide quarterly information on applications received and applications that are valid (the numbers to be broken down into gross number and by case officer and not yet validated/invalid/valid, plus what type of application they are). There should be the ability to run a report by each area for all of the team to compare performance across the teams. It should outline the number of applications determined/how long it has taken for them to be determined to include where an extension of time has been agreed, as well as data on pre-apps, appeals and fee income.

7.5 This access to performance data should enable more informed performance management practices to be applied. This does not always appear to have been the case previously and represents a huge opportunity to improve overall team performance.

8. ATTITUDE TO RISK

8.1 There are areas where each of the Councils appeared to the reviewer to be overly risk averse. Staff at each of the Councils recognised this and that in light of limited resources a more risk-based approach could be applied. The reviewer is aware that Cotswold DC undertook a process re-engineering exercise prior to the formation of the Publica partnership. The general impression given by those staff who spoke to the reviewer there was that the 'Cotswold approach' had been successful in delivering a high-quality service. However, whilst there may be some reluctance to move away from what was perceived as being good practice, the realities around resources and a desire to align the three services would indicate the need to undertake a wide-ranging review to determine where greater risk might be taken to improve speed and efficiency and ensure that limited resources are being best utilised.

8.2 West Oxfordshire District Council have adopted an approach whereby site notices are relied upon, and individual householders are not notified of proposals directly. This undoubtedly represents a considerable saving in time and money, and it was suggested has not reduced public participation. Whilst this approach may not be seen to be appropriate by the other Councils, other options to publicise applications more cheaply and effectively could be explored.

8.3 In response to Covid restrictions, many local planning authorities have begun to rely upon applicants to display site notices and to provide evidence of doing so in the form of a photograph. This approach will normally result in the site notice being displayed more quickly and can also avoid the need for the case officer to undertake a site visit in certain circumstances.

8.4 Whilst it is important that officer reports provide enough information to understand and justify the recommendation made, there was a recognition at both Cotswold and Forest of Dean that a risk averse approach was leading to reports that were comprehensive in terms of their content even for relatively straightforward proposals. The DM Challenge Toolkit advises Councils to create different report templates for different types of applications e.g. householder, minor commercial, minor residential, major etc. The officer report follows a template and the template changes depending on the type of application and the decision made. Reports for householder applications can be very short unless the decision is to refuse or a Planning Committee item. Major application reports will need to include additional information such as S106 requirements. If an application is being refused it is helpful if it is written in a form that can be used as a written representations appeal statement or sent to the Planning Inspector without any further additional information. The Councils are advised to use best practice to design a number of templates for different types of applications and decisions, including a tick box report for very straightforward householder applications.

8.5 The use of standard wording can ensure that officers include key information e.g. housing supply, Equality Act, Human Rights Act etc. At Forest of Dean in particular, an impression was given that officer reports were being checked in detail by managers (including checking of spelling, grammar etc.). This does not represent best use of managers time and a lighter touch approach could be taken. However, it will be incumbent upon case officers to be more rigorous in

their own checking in future, rather than knowing that if they make an error, someone else will correct it. It is hoped that case officers would respond to a culture where officers have greater responsibility for their own decisions in a positive fashion.

8.6 In order to minimise delays in the issuing of decisions, it is important that a number of senior officers are authorised to sign off decisions.

8.7 At Forest of Dean in particular, the process for the issuing of decisions appears unnecessarily complex. If the report has been signed off by a senior manager, there would seem to be no reason why it then has to be referred back to the case officer for a further check before it is issued. Removal of this additional handover would reduce the potential for delay.

8.8 When considering adopting a greater attitude to risk, it will be important to get buy-in to new ways of working from the staff at each Council. Moreover, it will need to be explained to Councillors that a more risk-based approach is essential if performance is to be improved. Individual officers should not be criticised unduly should more mistakes occur as a result.

8.9 The scheme of delegation at Cotswold DC allows for Councillors to call applications in to the Planning Committee at the end of the process, meaning that almost inevitably those applications will not be able to be determined within the statutory time period. This is not seen as being good practice and it also unnecessarily extends the period of uncertainty for all parties involved. It is recommended that consideration be given to revising the time period for call-in to align with that for representations (ie 21 or 28 days from the date of notification).

9. CONCLUSION

9.1 During the most recent assessment period none of the Councils are performing well when judged against the government's performance target in relation to non-major applications. Whilst this can, in part, be attributed to an increase in the number of applications being submitted, resource issues and the need to respond to Covid19 related challenges, these are issues are equally being faced by a significant proportion of Councils across the country. Therefore, it is important that performance is improved to ensure that none of the Councils become at risk of designation as well as improving the service provided to developers more generally.

9.2 A step change in terms of the priority the Councils gives to agreeing timescales for determining applications with applicants and agents, based upon a far more rigorous approach to seeking extensions of time should deliver demonstrable improvement to performance in the period to the end of 2022. The implementation of the other recommendations in this report will assist the Councils in reducing overall determination times resulting in the need to agree extensions of time becoming a less frequent requirement in the future.

PAS Development Management Challenge Toolkit

<https://www.local.gov.uk/pas/development-mgmt/development-management-challenge-toolkit>