

## **PAS Committee review**

### **Christchurch and East Dorset Councils**

#### Introduction

Christchurch Borough and East Dorset District Councils work in partnership. In the planning service one team of officers serves both Councils although there are separate Planning Committees. The main offices are based in Christchurch, where the Christchurch Planning Committee is held. The East Dorset Planning Committee is held in Wimborne, where there is also a small amount of office space available for officers nearby.

The authorities were identified as being at risk of designation as poorly performing. In East Dorset this was because of a potential failure to meet the target for the determination of non major applications. In Christchurch this was on the quality measure, based on the number of appeals allowed on major applications.

A separate piece of work has already been undertaken with Council officers with the aim of establishing new streamlined procedures for the processing of householder planning applications to assist both Councils in meeting the target for dealing with non major applications without relying on agreeing extensions of time.

This report follows a visit to the Councils on 8 and 9 November 2017 when officers and Members from both Councils were interviewed, and a committee meeting from each Council was observed. Recordings of previous meetings of the Christchurch Committee were also viewed. The work concentrates on the need to make decisions that can, if necessary, be defended on appeal, but also considers areas where the committee procedure could impact on the timeliness of the decision making and thus the target for dealing with applications within a given time.

#### Background

It is fair to say that the integration of the planning service of the two Councils has not been easy. They had different systems, procedures and cultures, and operated from different offices, with staff on different contracts. Although the partnership was established some time ago, there has been more recent disruption and uncertainty as a result of the location of all planning staff to the refurbished offices at Christchurch, with only limited working from Wimborne.

In common with many other authorities the Councils have found it difficult to recruit planning staff. This has resulted in a dependency on expensive temporary agency staff and a resultant lack of continuity.

The service has also been impacted by the introduction of a new back office computer system across the Councils which has not met expectations in terms of functionality. In particular the inability to easily produce reports on the data in the system (as opposed to officer reports on applications) has made it difficult to monitor performance on an ongoing basis.

It appears that the disruption contributed to a drop off in performance, particularly from East Dorset who were, perhaps, most impacted by the office move.

In terms of performance on major applications, and in particular appeals on major applications it is important to note that in both Councils the number of major applications determined in a year is low (in the period under consideration there were 39 major applications in Christchurch ) and the number of those decided at appeal is even smaller (in this period just 3 in Christchurch) This means that a single appeal decision can have a significant impact on the success rate of the Council in percentage terms.

In Christchurch two major appeals were allowed in close succession and this has impacted on the overall figures.

#### What has been achieved so far

Without prompting, and without exception, it was stated that there had been marked improvements since the current Head of Service joined the authorities, and the work of the Development Manager was also acknowledged. A wide range of improvements have already been put in place including:

- Changes to the constitution to raise the threshold for the number of objections at which applications automatically get reported to committee and the review including the Chairman and Vice Chairman of the Planning Committees
- Changes to the constitution in relation to procedures for Councillors to refer applications to committee
- The introduction of a new report template across both Councils which is clearer and more concise
- As well as the mandatory training, the introduction of regular training and briefing sessions for Members immediately before committee meetings.
- An emphasis on advice to Members to discuss any concerns they may have about an application with officers before committee
- The introduction of officers presenting reports at committee. This is good for their personal development, but also ensures that they have ownership of the report and the application at all stages.
- Guidance for officers in report writing and presentation at committee to ensure that they are concise and focussed, to provide clearer advice to Members.
- Underperforming officers have left the organisation.

## What we found

All the Members and officers we met were very friendly and forthcoming, and we are grateful to them for giving up their time.

We were able to speak to almost all the Committee Members from both Councils – 10 from East Dorset and 7 from Christchurch. The East Dorset members we saw after their committee meeting but the Christchurch members before theirs.

All the Members we spoke to were very clear about their role, and the need to determine applications in line with local and national policy. They all said that there was a general improvement in the planning service and that they had benefited a great deal from improved training. They generally said that they found the new report template better than before because of its more concise format. Members said their relationship with officers was good. They were also happy with the weekly list being the method by which they were generally informed of new applications. They recognised that they had a key role to play in the formulation of the Local Plan and that they had clear opportunities to be involved.

We found that both committees were generally well managed and chaired well. Before the meetings started the committee administrator explained the procedures to the public speakers and at the start of the meeting the chairperson explained the procedures to the audience. The rooms were set out well and technical equipment all worked well, and there was a lot of information available on the screen during the consideration of the applications. Both committee meetings we watched did take a relatively long time to deal with a short agenda, but the issues were fully debated.

One matter of good practice - appeal decisions are reported back to committee and used for training.

Some Members recalled that in the past there were occasional tours of the district to review recent developments. They referred to this as "The Good the Bad and the Ugly" Such tours can be difficult to arrange, not least because of the delay between an application going to committee and being completed, and the timing when many Members work during the day. However, they can be very beneficial, particularly where the committee decision was finely balanced, and seeing a successful development could improve Members' confidence.

Some Members felt that they would like more involvement in applications at the pre-application stage, and to some extent during the application process. More involvement, properly managed to avoid the risk of accusations of pre-determination, would have the advantage of giving Members more time to fully consider all the aspects of a case, and reduce the risk of unexpected outcomes at committee.

We also met a number of officers including the Strategic Director for Growth and Economy, the Head of Planning, the Principal Planning Lawyer, the Partnership Legal and Democratic Services Manager and the Democratic Services Officer.

All expressed generally positive views about member/officer relationships although there is room for some improvement. They accepted that members would challenge their views at Committee. Particular comments were around the inability of the councils to recruit planning staff, perhaps adversely impacted now by local government reorganisation in Dorset, and the need to deal with S106 agreements quicker. There are long standing issues with enforcement cases that also need to be addressed.

Dealing with the specifics of the two committees:

### **East Dorset**

This meeting was chaired and run well. Due to a process error over a site notice, and the late submission of photographs to Members but not Officers on one application, Members had no alternative but to defer consideration of the application. This was through no fault of their own, and generally the matter was handled well, although a clear reason for the deferral was not given, which could potentially lead to misunderstandings from the public.

Although there was a lot of information on the screen, it was sometimes difficult to follow because of rapid switching backwards and forwards between slides. However, the image on one particular application showing the previously refused application overlaid on the current proposal was very good. The presentations on the application for the extension and the flagpole could have been more concise.

There did not appear to be anything in this meeting that would suggest a risk of decisions being made that would be hard to defend at appeal.

A concern was that one member is not a regular attendee and whilst there is no issue with the committee being quorate, consideration should be given to the future structure and membership of the Planning Committee.

### **Christchurch**

Several Members raised concerns about the behaviour of a few of their colleagues, and felt that their actions could harm the reputation of the committee. We were not able to speak to those Members referred to.

The meeting was well managed and chaired, but the behaviour of three Members did give cause for some concern. One in particular adopted a somewhat mocking tone, raised procedural issues, and moved refusal of one item on the agenda. Planning can be a matter of opinion, but there is an overriding presumption in favour of sustainable development, and it appeared that this was not properly understood. The fact that the motion to refuse was tabled so early on in the consideration of the application, before any debate, suggests that the Member had predetermined the case, rather than just being predisposed to refuse.

The motion failed and the application was subsequently approved in accordance with officers' recommendations. However, there is a concern that these actions did not make the committee look professional in the eyes of the public who are not interested in, or impressed by, internal conflict within an organisation. The objectors who the Member was championing, will be disappointed that the application was approved, and the applicants will no doubt have found the proceedings very stressful. . .

In this case the three Members involved were not sufficient to sway the decision. However in the case of a more controversial application, where other Members might, after the debate, be minded to refuse an application, they could make the difference between an application being approved or refused leading to a risk to the Council that the decision could be challenged, either by the Local Government Ombudsman or through a Judicial Review. Furthermore, if a motion to refuse was poorly worded, or the case not fully substantiated, it would be difficult to defend on appeal with a potential of costs being awarded against the Council. .

### Recommendations

These recommendations are in no particular order and come from our discussions over the two days. Not all of them are discussed in detail in this report.

- Establish a clear procedure for the submission of comments on applications, particularly those submitted after the committee agenda has been published. These should be to a single email or physical address and not direct to Members, to enable officers to ensure that everybody has received the same information. Give members clear instructions on an appropriate response should they receive comments directly.
- Look at ways of enabling Members to be more involved at an early stage in a proposal, in a managed way, to avoid the risk of allegations of predetermination.
- Require all Committee Members to undertake compulsory refresher training. It would not be reasonable to require them to attend all the short pre-committee update sessions, but perhaps institute a requirement for attendance at an agreed percentage of them. Consider a few longer sessions that would be compulsory to attend, or a longer annual refresher. It would be reasonable for this requirement to come from the Council's Solicitor or Monitoring Officer.
- Consider the reinstatement of the "Good Bad and Ugly" tour as part of Member training.
- Undertake training on how to act at committee to avoid reputational damage, in addition to training on making defensible decisions.
- Consider inviting Members to watch each other's committees in a small peer review or critical friend capacity.
- Consider basic planning training for all Members, not just those on committee, to enable them to explain procedures to constituents, and to manage their

expectations. Promising to fight a development on an allocated site only gives residents false hope, and in the end damages the Council's reputation. A better understanding of planning could help reduce the number of applications referred to committee and thus help speed up decision making.

- When resolving to grant permission subject to a S106 agreement seek a dual resolution, one to grant permission subject to the agreement, one to refuse permission if the agreement is not completed within an agreed deadline perhaps with a final referral to Committee before doing so. This has not been practical in the past because of delays from the Council's side, but this should not be an issue now that a permanent planning lawyer is in post. Applicants will be more willing to agree an extension of time when there is an agreed end date, and the dual resolution should discourage delays from the applicant's side by not wishing to start the clock ticking on the implementation condition on the permission. Ideally S06 negotiations would be well advanced before an application is reported to committee. In association with this, the adoption of standard wording and clauses would help speed up decision making.
- Review whether it is good practice to have Members of the Executive, the policy making side of the Council, sitting on Planning Committee making planning decisions
- Consider whether it would be beneficial to have a pool of trained substitutes to sit on committee. This would assist in cases where several Members may have to declare an interest and a meeting might be only just quorate. This does not look good, as people can view it as the Council not taking the matter seriously, but it also increases the risk of a decision being made that is not defensible at appeal. A further advantage is that it would enable a committee member who felt particularly strongly about a particular case to speak publically about it and address the committee, while a substitute would vote on the matter.
- While a small pool of substitutes can help maintain a full house at committee, where, as we understand it, one member of the East Dorset Committee has missed a number of meetings, consideration should be given to giving that place to someone else on a permanent basis, or reducing the number of places on that committee.

### Conclusion

It would appear that the issues that lead to the Councils being identified as being at risk of designation as poorly performing are largely historic. A range of improvement measures have already been put in place and more recent performance on both the timeliness and quality of decision making is much improved.

There is always room for improvement, and there remain concerns that a few Members do not fully appreciate the implications of their actions.

We hope that the suggestions that we have made will help the Council's progress on their improvement journey.

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