Planning Committee Peer Review

Guildford Borough Council

November 3, 4 & 6, 2020

1.0 Executive Summary

1.1 This report summarises the findings of a planning committee 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 Council's Planning Committee along with some more specific related questions on Committee processes.

1.2 Due to the ongoing limitations to normal working practices and the need for social distancing as a result of the continuing Covid 19 world pandemic, the Council agreed with the peer team that the review would be undertaken virtually. Therefore, our report and findings reflect a set of specific circumstances that have prevailed since the coronavirus crisis and the report should be viewed within this context. The peer review was also undertaken not long following the release of the Government's White Paper 'Planning For The Future' in August 2020. The peer team have not therefore considered the potential implications of the proposals in the White Paper on the operation of Planning Committees.

1.3 We clearly recognise the existing and on-going impacts that the Council and planning service has had to manage since March 2020 as a result of the Covid 19 pandemic. This has affected all the work of the planning service, including the requirement to carry out planning committee meetings online to comply with Government guidance and regulations in relation to public meetings in indoor spaces.

1.4 Another important consideration for our review is that the Council's Local Plan is relatively new. Adopted in April 2019, the Local Plan was hugely controversial due to changes to the Greenbelt and housing allocations in the countryside. We were told that in part, the public backlash resulted in a change of political administration in the local elections in May 2019. This brought many new members into the Council and onto Planning Committee which also saw a change in Chair in 2020. Guildford remains an area of high environmental constraint and acute housing shortage with very high average house prices of £561,267 in July 2020 against average prices in England at £254,423.

1.5 Planning performance as measured by speed and quality of planning decisions is good with appeals performance in the last year especially high. The development management service is competently managed while Planning Committee members are mostly knowledgeable in relation to planning and very enthusiastic and passionate for their local areas.

1.6 In 2017 the Council reviewed the operation of the Planning Committee with the result among other things of reducing its number from 23 to 15; this meant a move away from a ward member for each ward being represented on the Committee. While the Council protocols and guidance for the Planning Committee are very clear and comprehensive, we found a lack of role clarity among some members. Some new members saw their role on the Committee as representing the views of local residents as opposed to focusing on the needs of the whole Borough in line with the Council's up to date Local Plan. This has led to some fractious meetings and the refusal of some housing applications against officer advice and the thrust of the Local Plan. Such decisions are also out of kilter with the thrust of the Corporate Plan and Housing Delivery Board. Such overturns will often inevitably end at appeal and be costly and time consuming for the officers and the Council.
We see the need for Group Leaders and the Monitoring Officer and the use of appropriate training to support members in ensuring their clear interest and passion for planning to be focused on the role required while sitting on Committee.

1.7 The Planning Committee is well chaired and good joint working between democratic services, development management and members has enabled a good transition to 'virtual' Committees. We found a good focus on supporting continued public engagement using the online platform. However, some of the meetings are very long and lasting until 22.50. We provide some recommendations for making these more efficient and user friendly - such as reviewing the types of application coming before Committee for decisions.

1.8 More collaborative working between officers and members has the potential to help rebuild trust and confidence in the lead up to and operation of the Planning Committee. This lack of confidence between some members and officers has had a negative impact on the perception of customers and stakeholders who attend Planning Committee. We recommend more opportunities for stronger communication between members and officers before Committee. This should involve creating opportunities for officers and members to discuss appropriate issues outside a formal Committee process – a clearer 'open door' policy. We also see more potential for more strategic and tactical use of the Chair's briefing allowing officers and the Chair to be as alert as possible to the flow and upcoming issues at Committee. We also recommend reviewing the extent to which officer reports could more clearly evidence where, in balanced decisions, they have placed their own 'weight' in the assessment of competing policies. Members feel that this would provide them with clearer guidance as to where they could legitimately place different weight in the assessment of policies.

1.9 In order to strengthen the Committee's focus on taking clear and defensible decisions we agree with the majority of people we spoke to that modifications are required to the existing practice of 'adjourning in public' during the meeting. This, plus reconsidering the process by which officer recommendations are presented to Committee would support the principle of taking open and transparent decisions but with the best chances of success at any subsequent appeal.

1.10 Parish council and special interest groups take a great interest in planning in Guildford and take their consultee roles very seriously. Parish councils would like to be more involved in appropriate training and would value a permanent slot in public speaking if they so wished. We consider this commitment from Parish councils should be welcomed and possible changes made to Planning Committee procedures to allow for this.

1.11 Developers/agents consider that Planning Committee decision making is uncertain and far too much like the 'roll of a dice'. This has brought some of its decisions into disrepute especially after some have been the subject of extensive consultation and engagement with local communities, officers and ward members. If the Borough is to address its acute housing shortage more quickly, the development industry wants to see more consistent decisions in line with the Local Plan. The Council also needs to maintain sufficient housing delivery to ensure that planning policies do not become out-of-date

2.0 Recommendations

R1. Provide greater certainty in planning process by ensuring decision making conforms with planning policies and material planning considerations acting on behalf of the whole Guildford community and ensuring that there is clear separation between ward level responsibilities and decision-making role on Committee.

R2. Explore ways to rebuild trust and confidence between officers and Members. Consider running an independently facilitated workshop to be held between officers

and Members, separate to the Planning Committee meeting, to better understand their roles, issues and concerns.

R3. Examine ways for Planning Committee and relevant officers to discuss and learn from appeal decisions to ensure that decisions on planning applications are undertaken, on behalf of the whole Guildford borough community, in a fair, impartial and transparent way. The present system tagged onto the end of often long Planning Committees is not conducive to creating a learning atmosphere.

R4. Review Planning Committee reports to see if further explanation can be given on the weight to be afforded to the Local and Neighbourhood Plan policies as well as material planning considerations such as the National Planning Policy Framework (NPPF).

R5. Ensure planning officers and Committee members are more aware of the impact of what a lack of housing delivery has on the weight given to Local Plan policies and kept appropriately updated on the work of the Housing Delivery Board.

R6. Review the opportunity for further guidance in the form of a supplementary planning document to help guide new high quality and sustainable development.

R7. Review the Planning Committee referral system focusing particularly on the Member referral process (7-day procedure) and householder referral system to ensure that applications are not unnecessarily delayed and Planning Committee can focus on the strategically more important applications.

R8. Revisit the site visits protocol with particular emphasis on who attends and on ensuring a consistent approach of officers and conduct of members during the site visit.

R9 Review the member overturns process so that alternative motions are raised by Members and advice is provided by officers prior to the officer recommendation vote being made.

R10. Undertake bespoke probity in planning and appeals training for members with a neutral facilitator, for example, someone who has direct experience of being a Planning Inspector.

R11. Review public speaking opportunities for Parish councils and special interest groups.

R12. Examine the possibility of setting up a Task and Finish joint officer/member group led by an independent, senior, well respected person to take Peer Review recommendations and other improvement needs forward. Take advantage of viewing the operation of other Planning Committees to aid learning.

3.0 Background and Scope of the Peer Challenge

3.1 This report summarises the findings of a planning improvement peer challenge, organised by the Local Government Association (LGA) in cooperation with the Planning

Advisory Service (PAS) and carried out by its trained peers. 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 challenge was to review the operation and conduct of Guildford's Borough Council's Planning Committee, along with examining some detailed procedures and practices specifically mentioned by the Council.

3.3 Our review took the form of an analysis of the Council's background and context statement in relation to the functioning of the Planning Committee, watching a Planning Committee on line, reviewing some supporting documents and structured interviews with political leaders, planning committee members, senior managers and parish councils. Due to the continuing impacts as a result of Covid 19, interviews were conducted online.

3.4 Peers were:

- Tracy Harvey - Head of Planning and Building Control at St Albans City and District Council;
- Councillor Linda Robinson (Conservative) Lead Member Peer, Wychavon District Council;
- Peter Ford - Head of Development Management, Strategic Planning and Infrastructure Department, Plymouth City Council; and
- 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 Guildford Borough Council discuss ongoing PAS support with Rachael Ferry Jones, Principal Consultant, Rachael.Ferry-Jones@local.gov.uk and any corporate support with Mona Sehgal Principal Adviser, Mona.Sehgal@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 Guildford Borough and everybody they met during the process for their time and contribution.

4.0 Detailed Feedback

4.1 Vision and Leadership

4.1.1 The Planning Committee benefits from clear and specific written procedures that are highly prominent in the Committee agenda and re-emphasised in the Chair's introduction. The Committee is well chaired, characterised by good adherence to procedures such as its 'rules of debate'. Both members and supporting officers have adapted well to the virtual Planning Committees that started in May 2020 after a hiatus in March and April 2020 due to the Covid 19 pandemic.

4.1.2 The recently adopted Local Plan provides clear and up to date direction for land use management and planning decision making in the Borough. In April 2019 the Council adopted its Local Plan: Strategy and Sites 2015 – 2034 informed by an up-to-date, extensive and robust evidence base. In order to provide land for the 10,678 additional homes required, the Council has allocated major strategic sites, some on undeveloped land in the countryside. The plan also makes provision for approximately 1,200 dwellings on non-strategic sites within and as extensions to existing villages, some of which are now inset from the Green Belt. It has a strong focus on proving 40 per cent affordable housing on appropriate housing sites to support meeting the acute housing shortage.

4.1.3 However, the Local Plan has been locally very controversial. It has been the subject of three legal challenges and one appeal which were all dismissed. It also provided part of the background to the changes in political leadership at the Council in May 2019.

4.1.4 Not all members of the Planning Committee are clear of their role while sitting as Committee members. Members are clearly knowledgeable and passionate about their local areas but a minority are not recognising that their role while sitting on Planning Committee is to represent all the wider needs of the Guildford community. While the role of Planning Committee members is clearly set out in the Council's 'Probity in Planning' document, it was clear to the peer team that at least some members of the Planning Committee seemed fettered in their decision making by the campaigning stand they had taken against the adoption of the Local Plan. Indeed, a minority of members advised the peer team that they saw their primary role on Committee as representing their residents' views, even if that brought them into conflict with the policies of the Local Plan. This is clearly unacceptable.

4.1.5 Currently, Planning Committee members are expressing significant differences of views on the application of adopted planning polices in relation to certain applications. This is especially the case for housing applications on inset land in the Greenbelt often played out between some new Planning Committee members and longer serving Committee members. This has resulted in some significantly controversial planning decisions on housing applications. Political Group Leaders are aware of this tension and are working within their groups to reinforce the distinctive role of Planning Committee members over and above their role as ward councillors.

4.1.6 We discuss this need for greater teamwork throughout the report but we see a significant need for rebuilding trust and confidence between at least some members and officers. For now, suffice to say, there is a clear need for the Committee to act in a more consistent and collaborative manner, working much harder to respect the different but complementary roles that officers and members have to perform. They also need to demonstrate and respect these differences in a mature and professional manner.

4.1.7 Given the significant need for new housing in the Borough, any unnecessary delays through the development management process are to be avoided. This is important if the Council is to have a chance of meeting its objectively assessed housing needs. The Borough has underperformed in enabling the delivery of sufficient numbers of houses for a long period. The Council's 2019 Housing Delivery Test measurement for the whole Borough is 83 per cent of its housing requirement over the three previous years. This underperformance has demanded the production of a Housing Delivery Action Plan.

4.1.8 Refusals of some notable housing applications are delaying market and affordable housing and are out of sync with the objectives of the Housing Delivery Board and Local Plan Working Group. The Board has been active in monitoring progress against housing delivery targets. The Board has also received and commented on the Council's Housing Delivery Action Plan (2020), which assesses the causes of under-delivery and identifies actions to increase delivery in future years. The Board will continue to monitor and provide comment in relation to the delivery of sufficient housing to meet the requirements of the Local Plan. Clearly delays in approving development on adopted and consented schemes runs counter to the corporate needs of the Council for its existing and future residents. Also, it is important for the Council to recognise that if sufficient homes are not delivered then there is a risk that planning policies will be out of date and the local environment will be vulnerable to speculative development that runs counter to a plan led system and the benefits that having an up to date plan affords the Guildford Borough Council area.

4.1.9 The peer team also considered that Planning Committee members were not sufficiently attuned to financial implications of its decisions for the whole Council. A report on this has recently been considered by Corporate and Governance Standards Committee on appeals and costs, and any actions arising out of this need to be carefully considered. This is to become a rolling six monthly report and linked to our recommendation about learning from appeals, needs to become a helpful tool/process to assist in examining evidence based decision making. While the Council's appeals record in defending its planning decisions is improving it clearly needs to be mindful of the fiscal implications of its decisions. Given the very difficult financial positions of most councils due to Covid 19 and loss of income and additional workloads – this has perhaps never been more necessary.

4.2 Development Management Decision Making

4.2.1 The development management team is well led with a chartered town planner of significant experience and expertise supported by planning development managers who manage a team of approximately 35 staff covering development management, enforcement and planning administration. Case officers who we heard presenting at Planning Committee form a very competent team of planners. In the face of working in a very challenging atmosphere at Planning Committee and with very high workloads, we were impressed with the professionalism shown.

4.2.2 The development management service continues to benefit from significant service improvements implemented in 2017 as a result of a recognised need to modernise aspects of the operation of the Planning Committee and its supporting procedures. One aspect that we were told has benefited from member and officer joint work is the improvements to officer presentations and reports. Officer reports are comprehensive while presentations at the virtual Planning Committees were well prepared and confidently delivered. Indeed, the graphical images accompanying the presentations such as site plan and pictures were much better through watching on the Microsoft Teams platform used by the Council.

4.2.3 Members of the Planning Committee wanted to see further changes to officer reports in order to provide them with a better understanding of where the officer had applied relevant weight to planning policies and other material considerations. This they felt would then provide them with a stronger and clearer understanding of where they could legitimately apply different weight in arriving at the appropriate planning balance. We think there is merit in exploring this further. Officer reports to Committee could help members to focus on areas where they have the ability to weigh evidence differently to them. Some councils seek to focus their case officer's reports on areas of planning policies and material considerations where their members have the liberty to weigh evidence differently to officers. They do this through clear summaries and highlighting key areas for members' attention. This can also help the Chair in steering member's attention away from questions and long debates on non-material considerations. It could also help in assisting officers in the writing of appeal statements if the officer recommendation is overturned by the Planning Committee.

4.2.4 In determining weight in the planning balance, it is also important for members to be mindful of their discretion in relation to technical matters when questioning officers and when in debate mode. In planning decision making it is an established principle that while *'weight is a matter for the decision maker, (but) in expert areas (for example habitats, flooding, highways, heritage) there are bodies whose views should be afforded considerable weight in the absence of cogent reason to the contrary'*. (*Wealden v Secretary of State for Communities and Local Government 2017 EWHC 351).*

4.2.5 The Council's Planning Committee deals with a large percentage of 'householder' and 'others' applications in its meetings. So far in 2020, the Committee has dealt with 50 applications deciding 14 'majors', 18 'minors' and 18 'householder' and 'others'. This means that over one in three applications decided by Committee are small scale householder applications. The peer team consider that the Council needs to challenge whether the skills and capacity of its Planning Committee are "appropriately concentrated on the applications of greatest significance to the local area" (Planning Advisory Service (PAS) Probity in Planning). This is particularly pertinent when the time taken to decide such small-scale applications is disproportionate to their importance with many such applications taking well over an hour to debate.

4.2.6 Given that the thresholds for automatic call in to Committee for a householder application are relatively high at 10 letters of support/objection contrary to the officer recommendation, the answer probably lies in examining some form of half-way house between an officer delegated decision and a full Committee decision. Some councils such as South Hams District Council in Devon decide such called in applications by delegating authority to the Head of Planning but in consultation with the Chair and ward member. Wychavon District Council operates a Delegated Panel Procedure for smaller applications involving the Head of Planning in consultation with Chair, Vice and ward member (see section 5 for more details). Another solution is that the Council could consider removing the automatic referral, since it could potentially be abused by organised individuals relying on ward members to refer the application if they considered it is in the interests of their ward.

4.2.7 We see greater opportunities for ward members, Planning Committee members and officers to work together more productively at pre-application stage and prior to the Planning Committee. On large scale applications with Planning Performance Agreements (PPAs) formal significant opportunities exist for members, parishes, local residents and

special interest groups. However, there is less opportunity with smaller pre-applications until a planning application is submitted.

4.2.8 We received mixed views from Committee members in relation to their willingness and confidence to discuss planning applications at an early stage with case officers. Some members had prioritised this and felt that they had had productive discussions with case officers early enough in the application cycle when there were more opportunities to influence the development or discuss mitigation. Other members did not adopt this same practice with some wrongly feeling that this brought them too close to a form of predetermination. This would not be the case as long as normal protocols about keeping an open mind and not showing bias were followed in any discussions. Plymouth City Council adopt this practice which is written into their Planning Committee protocol and we would encourage the Council to explore this further.

4.2.9 Both members and officers said that they would also value more informal contact between them in advance of the preparation of Committee reports and the period once Committee reports are made public. This has clear potential for members to ask questions of officers in advance of reports being written to enable officers to ensure that appropriate member issues are covered. It also allows members to clear up any queries they have on the proposal in advance of the Planning Committee that can improve its efficient running.

4.2.10 One clear area for change that could assist earlier communication between ward councillors and officers is a review of the 7 day notification procedure. The present arrangement means that if an objection contrary to the officer recommendation has been received, a decision cannot be issued until opportunity is given for a ward member to comment. This can result in the application then going to Committee. We recommend reviewing this to a front-loaded system to encourage earlier engagement that gives case officer and applicant more scope to consider making any changes to address concerns. For example, the Planning Committee notification could be moved to within the 21 day statutory public consultation stage which could then be withdrawn if councillors were satisfied with negotiations that subsequently take place.

4.2.11 Revised procedures since 2017 which promoted site visits in advance of Planning Committee have helped prevent unnecessary deferrals. While site visit protocols and guidance are in place, some Planning Committee members and officers raised concerns about the need to ensure stricter adherence to published guidance and best practice to avoid perception of bias. For example, it is importance to ensure that Planning Committee members are strongly discouraged from drifting off into groups on site to avoid any concerns about bias. To clarify, the peer team saw no evidence of this as site visits are currently suspended due to COVID, however this matter was raised as a concern from a number of different sources during the peer review.

4.2.12 Training for members is mandatory before they are allowed to sit on Planning Committee although as we commented earlier, the one vital area of role clarity remains a significant concern. We recommend that further training in Probity in Planning covering the role of a Planning Committee member is undertaken. This needs to be delivered in a way that will connect with members. Possibilities include member to member delivery and learning from viewing other Planning Committees.

4.2.13 Prior to Covid 19 there was a good series of themes covered in bite size training just before Planning Committee including parking and highways and biodiversity. Opportunities exist to further develop learning and development through possibly a more member led approach on issues that they consider important. From the more contentious

applications recently considered at Committee these would appear to cover matters such as housing policy and mix in relation to the Strategic Housing Market Assessment, 'very special circumstances and design in the Green Belt, and the identification of harm in developing reasons for refusals. In order to support effective decision making it would be helpful to ensure that strategic housing officers, relevant policy planners and any other specialist officers are available at relevant Committee meetings. Given current tensions around the application of Local Plan policy on Greenbelt and the Strategic Housing Market Assessment housing size mix this may help bring up to date and relevant expertise into the discussion.

4.3 Operation of Planning Committee

4.3.1 Since 2017, changes made by the Council in a review of its Planning Committee's procedures and practices provide very clear guidance to officers, members, applicants, objectors and stakeholders and are prescribed in its Probity in Planning guidance and Constitution. At that time the Council also reduced the number of members of the Planning Committee to 15 and we were told that this has increased levels of participation.

4.3.2 We referred earlier to the comprehensive guidance and procedures relating to the operation of Committee. These are prominently and helpfully located at the front of the Planning Committee agendas and are clearly articulated by the Chair at the start of each meeting. The Chair and Vice Chair recognise that this takes time at the start of each meeting and want to consider ways to possibly shorten this section. While this is very sensible given the length of meetings (which we pick up later in this section) there is strong merit in reinforcing the messages around probity in planning, mutual respect and taking defensible decisions in line with the Local Plan especially given our findings presented earlier.

4.3.3 The Chair is relatively new to the role but despite this she demonstrated clear competencies and skill in the role. The Committee meetings followed a clear pattern with the Chair maintaining good order and direction to the Committee. The Chair is well supported by the planning development manager, case officers, the legal officer and the democratic services officer. We recognise the difficulties in the virtual Committee setting of ensuring that officers can 'catch the eye' of the Chair (and vice versa) to come into the debate at the appropriate time. It is important that opportunities are not lost to provide direction and support to members through the Chair as a result of the virtual platform.

4.3.4 One discipline that we felt was good practice within the Council's 'Rules for Debate' was the adherence to a three-minute speaking rule not only to public speakers and ward councillors, but also to Members of Committee themselves. The Chair was well supported by the democratic services officer in ensuring fairness and promoting efficiency at the meeting. However, despite this, and as found at most virtual Committee meetings in other councils, Guilford's Planning Committee meetings are generally taking longer. Since the introduction of the virtual Planning Committee at Guildford in May 2020 meetings have started at 19.00 and four meetings have lasted until at least 22.40, with the longest ending at 22.50. There are clear dangers in terms of effective decision making at that time of night as tiredness kicks in and concentration levels fall. This perhaps is more accentuated during this Covid 19 pandemic, given the very long hours both members and officers spend on screens through 'Zoom' or 'Microsoft teams' leading to a kind of 'virtual fatigue'.

4.3.5 One obvious way to seek to avoid this is to start meetings earlier than 19.00. We are aware that officers took this suggestion to Planning Committee members in May/June

2020 but were told that the starting time needs to stay at 19.00 and that change would be very difficult given working patterns and daily commutes for some members. However, we consider that the Council needs to revisit this and now maybe a good time to do this especially as presumably most members who are working are working from home? The Council already has a notional cut off at 22.30 in its procedures but of course if the last planning item is already being discussed it does probably make sense to see that through rather than reconvene the day after. The other way to cut the length of meetings is to deal with less householder applications as discussed earlier in this report. Finally, a very important discipline is for Planning Committee members only to speak when adding value to the debate as this unnecessarily draws out the length of the meeting.

4.3.6 The Chair's briefing is seen as a valuable meeting attended by the planning development manager, case officers, and the legal and democratic services officer. It is held once the agenda and reports are made public. Given the need to improve collective working between Planning Committee members and officers and given the relatively high numbers of recent overturns (all three officer recommendations in the October 7 2020 meeting were overturned) we see opportunities to use the Chair's briefing for more tactical preparation for Planning Committee. This could involve ensuring that any early indications of Committee member's concerns were covered, likely key questions anticipated and the ground considered and prepared for any alternative motions. Indeed, it could be argued that holding the Chair's briefing in advance of the finalisation of the agenda and officer reports (as practised in some other councils), provides even more opportunities to foresee issues and manage the decision-making process more effectively. This would lead to mutual support and stronger preparation in advance of Committee.

4.3.7 The Planning Committee does not always seem to operate as one team. This is perhaps epitomised by comments we heard from some Planning Committee members, ward members, corporate officers in the Council and planning managers who referred to Committee as 'the 'battleground' and decision making as 'a lottery'. We fully recognise that Planning Committee is not a rubber-stamping exercise and members are entitled to weigh things differently to officers. But this has to be subject to policy and legal tests of materiality. Training in Probity in Planning has been tried but has not had the full desired impact. We recognise that new councillors who are members of the Planning Committee are on a learning curve. We are also encouraged by the self-awareness shown by the administration's Group Leaders in commissioning the Peer Review. But role clarity and evidence-based decision making is vital if the Planning Committee is to function appropriately in taking consistent and defensible decisions in support of the Local Plan into the future.

4.3.8 We appreciate the political context and environment that planning decisions are presently taken in. Indeed, the political battle over the adoption of the Local Plan has clearly created divisions between some of the large number of new Planning Committee members, some longer serving Committee members and planning officers – a tension played out visibly at Planning Committee. A large number of people we spoke to said that Planning Committee did not exhibit high levels of collaborative working and was characterised by too much of 'them' and 'us'. Some Committee members considered that officers were too pro-development while officers considered that some members were determined to always go against officer recommendation if local residents opposed the proposal. Indeed, we were told that this tension had led to personal criticism of officers by members and that some planning officers are feeling demoralised and undervalued by the attitudes of some Planning Committee members. Interviews with special interest groups, developers and agents and some parish councils indicated that attitudes shown were

having a negative impact on the way that Committee is perceived by the public and other stakeholders.

4.3.9 Group Leaders are very clear that members of the Planning Committee should stand down from the Committee and speak as ward councillors if they want to be seen to represent the views of residents at Planning Committee. This accords with the Council's guidance and best practice. Our view is that if this continues into the future, Group Leaders may need to consider whether the members on the Committee have the right blend of competencies and skills to provide democratic accountability for the whole Borough. We would also expect Group Leaders to continue to take advice from the Council's monitoring officer on this matter as well.

4.3.10 We found very little support from officers, the majority of members, developers/agent and stakeholders for the Committee's adopted practice of 'Adjourning in Public' known locally as 'The Huddle'. This involves the Chair and proposer and seconder of a motion discussing with planning officers, and where relevant, legal officers, appropriate refusal reasons or conditions. This is to ensure that they are sufficiently precise, state the harm and support the correct policies to justify the motion. However, the majority of people we spoke to said the process could be adversarial, had the appearance of decision making on the hoof and looking unprofessional with an amateurish name that was not befitting the importance of a planning decision.

4.3.11 We fully recognise the reasoning behind the adjournment that seeks to ensure defensible decisions are taken which give the Council maximum opportunity to defend any appeal and avoid costs being awarded against it. And the fact that it happens in an open forum rather than a previous system of 'in camera' is helpful to avoid accusations of bias.

4.3.12 The peer team want to link our recommendation to improve on the 'The Huddle' to the need to review the process and sequencing of alternative motions to support greater clarity in decision making. At present the procedure at Committee is that once the debate has concluded, the Chair will automatically move the officer's recommendation. We witnessed a number of examples where it was very clear from the debate that Members were not going to accept the officer's recommendation to approve the development. Despite this the Chair's correct adherence to the agreed protocols meant that the motion had to be put and following an awkward silence awaiting a seconder, the officer's recommendation duly fell. An alternative motion with discussion about reasons for refusal then followed and once seconded the Chair called for 'The Huddle'.

4.3.13 We see opportunities to strengthen this approach. Once it is clear that Planning Committee members are set on a certain direction that is contrary to the officer's recommendation it is suggested that an alternative motion is requested and if seconded, then the planning and legal officers offer clearer and more proactive support to members to agree defensible reasons. These reasons- including planning conditions as necessary-should be established before the Committee votes for transparency for all members and the public. If officers cannot identify from the debate a defensible reason for a motion contrary to the officer recommendation then members still have the opportunity to revisit the original officer recommendation without having voted. Of course, to successfully adopt this approach, members, the Chair and officers will have to be well prepared. The Chair and officers should read the political signals as the debate ensues. Members should adequately identify the 'harm' that would occur if the development were to be allowed. Members should consider within their debate;

- What is the harm? For example, depth and height and proximity to the boundary;
- Why is it harmful? For example, overbearing impact to X; and
- What is it contrary to? For example, development plan policies.

4.3.14 Our recommendations about more officer/member engagement, stronger Chair's briefings and officer reports with more discussion about appropriate balance and weight play into upfront work that can help effective decision-making.

4.3.15 In situations where planning and legal officers do not consider there are reasonable prospects of the Council successfully defending the appeal on planning grounds, or where such action may put the Council at fiduciary risk, then they need to, and be encouraged to, report this without fear or favour. After receiving officer advice, the vote then takes place on the alternative motion. The crux is that this process allows Members to fully consider the risk of the alternative motion whereas the current situation means that the officer recommendation can fall without **any** significant consideration of the risks associated with reasons for refusal. In all of this we appreciate that fiduciary risk is a non-material planning consideration so needs to be dealt with and introduced carefully.

4.3.16 Members of the Planning Committee asked the peer team about the practice of needing sound planning reasons to defer the determination of applications at Committee. Planning applications should be decided efficiently and any deferments should be based on sound planning reasons. The number of deferrals should be minimised as it is an inefficient use of Committee time to bring applications back for decision. Officers and members need to ensure that they make the most effective use of conditions and officer delegation to meet member requirements and avoid unnecessary delays in decision making.

4.3.17 In the Planning Committee meetings, we observed a high number of abstentions. This was particularly evident at the November 4 2020 meeting. This does not represent good practice as members are selected for Committee on their ability to be able to make sound judgements on the basis of the evidence before them and not to 'sit on the fence' or to be fearful of being seen to vote one way or another. This can demand strength of character but this is what is required of Planning Committee members.

4.3.18 We were also asked for our views on the weight that should be given to precedent decisions and the extent to which the views of officers should be consistent on the issues of precedence. All applications have to be taken on their merits and based on the particular facts and characteristics of each site. No two sites or developments are ever the same. Neither the Council should rely on the precedent principle in its decision making, or the applicant in advancing their case to allow development. There is clear case law on this issue. What officers can do is to advise members of the weight given to previous decisions based on case law and appeal decisions. Then members are in a good position to consider if they agree with the weight suggested by officers.

4.3.19 Finally, we consider that the Planning Committee needs to ensure that it benefits from constant learning and refocusing. Opportunities to strengthen this include:

- debrief between officers and Members particularly after virtual meetings;
- ensuring sufficient time to learn from and discuss appeal decisions, rather than having to rush through an item last on a list late at night;

- revitalise, incentivise and encourage stronger Planning Committee attendance at the bi annual visits to the 'good, bad and ugly' built developments to assess the quality of the decisions and the development; and
- create the opportunity for officers and Members to discuss Planning Committee processes outside of the formal Planning Committee meeting so that they can better understand their roles, responsibilities and concerns.

4.4 Community, Partners and Outcomes

4.4.1 Democratic services, planning and supporting ICT officers have worked well to bring Planning Committees on line. The Council's March and April Planning Committees were intentionally cancelled to provide time to go through some intensive training to set up and make the 'virtual' Planning Committees work. While some councils moved faster and only lost one Planning Committee at the start of the Covid 19 pandemic, the Council very helpfully introduced an extra meeting in August to cover a backlog. The management decision to move the service to paper light and into full electronic delivery some two years ago has proved vital to maintaining a good service to its customers and to the Planning Committee during this Covid 19 pandemic given staff having to work from home.

4.4.2 We recognise that in particular this has been a steep learning curve for members of the Planning Committee but they seemed to have adapted well. We received very little feedback concerning any major technical difficulties that prevented Committees from functioning appropriately. The peer team appreciate some of the limitations of the Microsoft Teams platform that most councils seem to use.

4.4.3 The peer team found comprehensive guidance for members of the public on how the Committee is run and how to take part. We found accessing the live on-line meeting and accessing previous webcasts of the Committee relatively easy. The Council helpfully provided separate wide-ranging guidance for the public on accessing the virtual Planning Committee as well as advice on how to participate if required. One area of good practice was the service provided by democratic services whereby, during the Committee, public speakers were notified when their application was coming up. This allowed public speakers to not have to sit through hours of Committee deliberations on other applications that they were not interested in.

4.4.5 In relation to public engagement we were particularly asked for our views on whether Planning Committee members and speakers should be allowed to show photos and materials at Committee. The peer team's view is to stick with current practice of not allowing this as there is too much potential for difficulty in relation to openness and transparency for all parties. We suggest maintaining the reliance on professionalism of officers to show relevant information in the report and via presentations that can assist a consistent and fair approach in the wider public interest.

4.4.6 Some areas for the council to consider to possibly improve the 'viewer experience' while operating as a 'virtual' Committee include:

- Members of the Planning Committee being labelled as such for clear identification;
- speaker's cameras turned on when speaking and the speaker highlighted on the viewer's screen;
- avoiding use of the 'chat' facility to promote alterative meeting type scenarios which are then played into the online discussion leaving people outside the 'chat 'facility confused as to what is happening; and

- Members reminded that the Planning Committee is live and recorded and to not allow the 'home' surroundings and 'virtual' Committee to lull them into a false sense of security and use inappropriate phraseology or language; and
- avoiding the display of telephone numbers on the screen when speakers are invited into the meeting.

4.4 7 Outcomes in terms of planning performance assessed by Government measures such as speed of deciding applications and quality of decisions as measured by appeals decisions are very good. Figures for 01/01/20 to 25/11/20 show planning performance in deciding 'major' applications within 13 weeks (including agreed extensions of time) is currently 98.00 per cent, while 'minors' decided in 8 weeks is 8100 per cent. These are both well above local and national targets. 'Householders and others' at 84.00 per cent of decisions in 8 weeks is only marginally below the 85 per cent target and with the heavy increase in workloads and capacity issues caused by Covid 19 this is good performance. Performance of appeals has risen over the last three years from only 50 per cent in 2017 to 84 per cent at present.

4.4.8 We would mark out as good practice the positive focus on the use of performance information in the planning service. This is clearly not a 'nice to have' but forms a strong part of management and support to the direction and focus of the service. For example, the Development Management Headline Statistics focus on a wide range of indicators such as income, pre-applications and planning performance agreements and appeals information.

4.4.9 The planning system can demonstrate that it is adding value to planning applications submitted to the Council. Examples include Grange Park Opera, a new opera house in the Horsleys and works to protect the stunning Grade 1 listed house and a recent permission for Royal Horticultural Society Wisley which involves a substantial remodelling of front of house and a new education centre to the rear. Both members and officers mentioned the comprehensive programme of consultation with councillors, special interest groups and the local community in relation to a large 520 house scheme at Garlick's Arch that supports a current planning application.

4.4.10 The increasing move by the Council to direct developers/agents to parish councils and the variety of special interest groups (such as Guildford Vision Group, Guildford Society, Normandy Action Group etc) as part of pre-application consultation is welcomed. The peer team found a clear desire among such groups to take part in early consultation to ensure, as far as possible, that local needs and concerns were reflected at the earliest stage in emerging plans and designs. The involvement of special interest groups in Guildford town is particularly necessary give the absence of a Town Council.

4.4.11 Parish councils, while consulted on applications, considered that the planning service could do more in terms of giving greater prominence to its views as to the 'local voice and expertise' on planning matters affecting their villages or areas. They also felt that the feedback loop in terms of what happens to their representations could be improved. The planning service does record the statutory consultation responses from parishes in officer reports and parish councils can use the opportunity of one of the two public speaking slots if it acts efficiently in making appropriate requests. However, we do recognise that the timing of Parish council meetings can militate against this. Given that there are two public speaking slots both either in 'support' or in 'objection' to an application there could be opportunities for the Parish councils to be offered first refusal although the full details would need to be thought through.

4.4.12 What was clear from talking to both Parish councils and special interest groups was that the stronger the relationship and communication channels that these groups had with their Borough councillors, the better they understood and were able to ensure their views were transferred. Parish councillors and clerks would also like to be invited or be offered appropriate training in areas such as material planning considerations and defensible reasons for refusal and were looking to the Council to support them in this. In this way they were showing self-awareness that on occasions, Parishes recognise that they are not always able to clearly articulate their concerns using the best planning reasons.

4.4.13 In speaking to developers/agents, their major concern was that despite having a very recently adopted and therefore up to date Local Plan, the operation of the planning system at Guildford was not providing them with any certainty. They considered that decisions at Committee were a 'roll of the dice' and that the debate and decisions were damaging the reputation of the Council and undermining business confidence in investing in Guildford. This was even more so when especially large schemes had been through extensive pre-application advice, local community and member engagement – only for that to be disregarded when it came to the actual decision.

4.4.14 Most of the developers/agents we spoke to had been involved in Committee decisions and had been surprised at the adversarial and non-collaborative culture between some members of the Committee and officers and the lack of respect and trust. Given that this Committee should be the 'shop window' for how Guildford takes decisions in public, they considered that this did not reflect well and needed to change.

4.4.15 The peer team do not concur with a minority view from some Planning Committee members that Guildford's planning officers are unbalanced or overly biased towards development. Planning managers and officers are providing the Planning Committee with their professional judgement based on the Local Plan that recognises that the Borough needs significant growth to meet local housing and employment need. Developers/agents told us that Guildford's planners are hard negotiators and no push overs and have a strong team of experts both in house and external to support their professional judgements. We have already considered earlier how officer reports can be amended to focus on the issue of 'weight' given to policies and also to ensure they provide maximum support to members when they want to apply a different weight to those ascribed by officers. However, in the absence of any change in Local Plan policies, officers need to continue to provide their best professional judgement to Planning Committee members of the Planning Committee, irrespective of the political background to the Local Plan Sites and Strategy

4.4.16 Clearly delays in allowing appropriate development frustrates the Corporate and Local Plan aims of significantly increasing housing, especially affordable housing, to meet local needs. It also works against the thrust of the Housing Delivery and has implications for the delay in infrastructure. We recognise the increased focus of the new administration leading the Council on building one, two and three bed properties for market and social rent. But as recent appeal decisions have shown, the blunt hammer of the sub-regional Strategic Housing Market Assessment needs careful handling and more nuanced consideration that reflects the policies built in flexibility in taking account of a site's size, location and characteristics. In all of this the Planning Committee need to main a good focus on meeting acute housing need in the Borough.

4.4.17 In terms of delay, developers/agents also advised that at present there are significant delays with agreeing and completing section 106 agreements. Without these, necessary consents and funding cannot be drawn down which again slows development

activity on appropriate sites. It is important for the planning and legal services to examine capacity in this area.

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

Plymouth planning committee webcasts

https://plymouth.public-i.tv/core/portal/webcasts

https://plymouth.public-i.tv/core/portal/webcasts/enctag/Planning

Plymouth planning committee public information

https://www.plymouth.gov.uk/planninganddevelopment/planningapplications/whathappensafteryoumakeplanningapplication

https://www.plymouth.gov.uk/planningcommittee

District Councillor engagement in Pre Briefings

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

Awaiting information from South Hams on delegated decision making panels (to be inserted post GBC comments).

Delegated decision making panels (Wychavon)

http://mgov.wychavon.gov.uk/modern.gov/documents/g4009/Public%20reports%20pack%20Tuesday%2015-Apr-2014%2018.20%20Council.pdf?T=10

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

Havant developer consultation forums. Havant has a developer forum that developers present their proposal pre application submission to the council, the public can attend. This may be a charged service.

http://www.havant.gov.uk/development-consultation-forums

5.3 For more information about planning advice and support, please contact rachael.ferry-jones@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.

5.5 Mona Sehgal, Principal Adviser is the LGA's focal point for discussion about your improvement needs and ongoing support and can be contacted at Mona.Sehgal@local.gov.uk

5.6 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 will be made in 6-12 months to see how the recommendations are being implemented and the beneficial impact experienced.