



Planning Improvement Peer Challenge

Cornwall Council

On site 18-20 November 2015

Final Report 7 January 2016



1. Background and scope of the peer challenge

1.1 This report is a summary of 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 oriented and are tailored to meet individual councils' needs. Indeed they are designed to complement and add value to a council's own performance and improvement focus. 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.

1.2 The peer challenge involves an assessment against a framework for a local authority planning function which explores:

- **Vision and leadership** - how the authority demonstrates high quality leadership to integrate spatial planning within corporate working to support delivery of corporate objectives
- **Community engagement** – how the authority understands its community leadership role and community aspirations. Then how the authority uses spatial planning to deliver community aspirations
- **Management** - the effective use of skills and resources to achieve value for money, accounting for workload demands, ensuring capacity and managing the associated risks to deliver the authority's spatial vision
- **Partnership engagement** – how the authority has planned its work with partners to balance priorities and resources to deliver agreed priorities
- **Achieving outcomes** - how the authority and other partners are delivering sustainable development outcomes for their area

1.3 As part of the above five themes the Council asked the Peer Challenge to look at the following areas:

- evaluate the Council's corporate priorities for sustainable development and economic growth and the role of elected members and political groups to support delivery of these;
- consider the effectiveness of the respective roles of officers and councillors in presenting and determining planning applications;
- review the extent to which local and national planning policy is taken into account and whether this supports or hinders the determination process;
- consider the quality of advice provided to councillors;
- review the mechanisms for community involvement and the means for engaging communities in consideration of development proposals;
- evaluate the behaviours, attitudes and values of officers and members involved in planning and recommend measures that will improve the potential for good outcomes; and

- review and comment on the efficiency and effectiveness of decision making arrangements.

1.4 Peers were:

- **Richard Alderton *Head Of Planning And Development - Ashford Borough Council,***
- **Bridget Downton *General Manager - Planning and Community Services - Purbeck District Council***
- **Cllr Stuart West *Conservative Group -Shropshire Council***
- **Cllr Paul Crossley *Liberal Democrat Group -Bath and North East Somerset Council***
- **Phillipa Silcock *Principal Consultant - Planning Advisory Service.***
- **Robert Hathaway *Peer Challenge Manager, LGA associate,***

1.5 PAS makes a significant investment in each planning Peer Challenge and want to support councils with implementing the recommendations as part of the Council's improvement programme. After the planning Peer Challenge report is finalised the following support is available to the council:

- A range of additional planning support from PAS, the most relevant bits of which care identified at the end of the report; see the website for more details or contact Phillipa Silcock at PAS
- A range of other support from the LGA – some of this might be at no cost, some might be subsidised and some might be fully charged <http://www.local.gov.uk/>

1.6 As part of PAS's impact assessment and evaluation of its support, PAS or the LGA may get in touch in 6-12 months to find out how the council is implementing the recommendations and what beneficial impact came from this.

1.7 The team appreciated the welcome and hospitality provided by Cornwall Council and partners and the openness in which discussions were held. The team would like to thank everybody they met during the process for their time and contribution.

2.0 Executive Summary

2.1 In common with local government as a whole Cornwall needs to be more self-sufficient with new modes of funding. We would expect to see the Planning Service more centre stage helping to generate investment and capitalise on the Council's own land assets to help generate revenue income to support the Council's medium term financial plans. Without a stronger and more consistent focus on locally generated income including new homes bonus, council tax, business rates and land sales the Council will struggle financially to deliver high quality services to its often dispersed communities. This, and concern about the capacity for new development to help support other corporate objectives, links to our recommendation about building as much political consensus as is possible to ensure long term financial stability.

2.2 We did not get a sense that plan making is central to Cornwall's agenda. In the absence of a strong Local Plan base and spatial strategy, an unhealthy level of unpredictability has grown up about decision making on major planning applications which causes uncertainty in the market and can only damage prospects for investment in the area. This links to our recommendation for an enlivened corporate ambition that places more focus on the strategic role that the planning system can play; seeking as much political buy-in as is realistic would be an important first step. To deliver on this vision we then see the need for strong political and managerial leadership and follow through throughout the planning process if it is to deliver on agreed corporate goals of economic growth and meeting housing needs.

2.3 To improve the process of determining planning applications and reduce the Council's exposure to costs awards we make recommendations to improve decision making at planning decision making committees. These involve reducing the number and size of planning decision making Committees and changes to tighten up some procedures.

2.4 A much stronger sense of shared direction and a greater sense of team work is required if Cornwall is going to maximise the potential that development can bring to the economy of the area. Councillors and officers need to work more co-operatively and use their joint capacity to best effect and to develop a greater strength in strategic leadership working with local communities. We therefore provide some recommendations to improve mutual trust and respect including a stronger approach to tackling unacceptable councillor behaviour.

2.5 The Council needs to re-build a relationship with the development industry which currently is at low ebb. The Council and Service need to rethink their strategic relationships with the development industry and engage early to extract the best benefits for the area in terms of houses, jobs and infrastructure. After all, the Devolution Ask recognised that 'stimulating private sector investment is a key priority'. This links to our recommendation to ensure effective dialogue with councillors and officers at the Developer Forums and a reinstatement of the importance of early political involvement in pre applications advice involved in relevant major applications. Early engagement and

providing more certainty in decision making will increase the potential for maximising community gain and higher quality development

Recommendations

R1 Build political consensus and commitment to a vision for the way planning policy and decision making relates to the key priorities and challenges for the Council in delivering devolution, long term financial sustainability and providing homes and jobs for local people

R2 Maximise the opportunities of the new Chief Executive arriving to invigorate the senior leadership team's recognition of the importance of decision making on planning issues and the need for spatial strategies to help tackle the Council's key corporate challenges

R3 Endeavour to widen political consensus around the emerging local plan and its delivery to demonstrate that Cornwall has genuine commitment to meet the needs of its whole community

R4 Make sure the Council is clear about how planning is going to contribute to the delivery of the devolution deal by producing a clear and practical delivery plan.

R5 In the light of the recommendations above, develop a carefully conceived programme of awareness building amongst all councillors, so that the challenges facing the Council; the crucial role of strategic community leadership; the wider benefits of development and new investment in economic and social terms and the importance of working in partnership with the officer team are understood and embraced.

R6 Provide bespoke training to enable councillors to develop the skills to perform key planning roles in a more focused and streamlined planning decision-making framework (see recommendations below).

R7 Reconsider the need to have a separate Strategic Planning Committee with a view to devolving decisions on strategic matters to the area committees. Complement this change with strong leadership from all party groups to ensure that the most suitable members - that is those with a strong awareness of the pan Cornwall commitments are put forward for this important role.

R8 Reduce the risk of inconsistent decisions and legal challenge by ensuring that the consideration of local opinion is proportionate in process terms to consideration of policy and other matters. Redefine the approach to public speaking and reduce the role played by Divisional councillors at Committee.

R9 Review committee procedures and the size of Area Committees to help focus the debate; make use of the most able councillors that understand planning issues; and help to reduce the average time taken at Committee which can be excessive.

R10 Review some details of the scheme of delegation and call in procedures to ensure a consistent approach and manage the workloads of Committees particularly in light of R7. Retain the broad ratio of cases currently delegated / committee items which is in line with good practice nationally.

R11 Review the way Planning Policy Advisory Committee works to ensure that going forward it takes account of a full range of social, economic and environmental considerations and provides the leadership and strategic sense of direction that is absolutely essential to deliver sound, evidence based plans

R 12 Demand a culture of mutual respect and trust between officers and councillors by establishing stronger, more regular working relationships and other means to strengthen joint working.

R13 Work with officers and members to tackle the perception amongst staff that unacceptable behaviour by a small number of councillors may not be properly tackled by senior management and political leaders. A clear policy on the issue is needed in the light of previous incidents and political agreement over action needed should the problem reoccur.

R14 Improve the Council's strategic relationship with the development industry through, for example, re energising councillor involvement in the Developers Forum and through the wider ambassadorial role of the Planning Portfolio Holder.

R15 Work on the pre-application phase of the development process to ensure that both communities and councillors have an opportunity to engage in early discussions over development proposals; to shape proposals, to ensure that optimum levels of developer contributions contribute to local needs and to reduce the uncertainty that currently stands in the way of meeting need for homes and jobs.

3.0 Context

3.1 The challenges of delivering a quality planning service in Cornwall are many. The peninsula's geography, delivering with less money and the scale of the workload have demanded that the Council finds new ways of working. The Development Management Service receives over 7,000 formal planning applications per year. Its high officer delegation rates at 96 per cent and risk based approach to determining householder applications process has helped it meet some very high standards of performance. Speed of deciding applications, especially the most important 'major' applications, is good and the Service successfully defends over two thirds of appeals made against its decisions. Given budget reductions of a third of what was available in 2009, the Development Management Service delivers well in many areas and for the vast majority of its customers.

3.2 One of the most significant challenges for planning in Cornwall remains dealing with the exceptionally strongly held views about local choice and communities who are fiercely

committed to protecting their communities and landscape. The committee structure of three area committees and one strategic committee, whose job it is to deal with applications which have a wider than local impact, was in part a mechanism for dealing with this issues in the early years of the new unitary council. The policy framework for making decisions is weak; Cornwall does not yet have its own Local Plan; and the adequacy of housing land supply remains an issue. This makes local choice very difficult given the weight decision makers have to attach to Central Government guidance and the need to meet the wider needs for homes and jobs in Cornwall as a whole. Add to this increasing market interest in Cornwall and finely balanced coalition politics and this then sets the context for recent concerns about an upturn in allowed appeals with significant financial costs and reputational harm.

3.3 One of the key reasons for the Peer Challenge was the recent poor record in defending appeal and the subsequent award of high costs against the Council. It is important to state that these concerns centre on a very small number of applications. Approximately 4 per cent of applications (280) go to the three Area Sub Committees or Strategic Planning Committee. However in 2014, the Planning Inspectorate awarded 26 cost applications against the Council for unreasonable behaviour following its inability to successfully defend its reasons for refusing planning consent. This cost the Council £330,000 in addition to the actual costs of defending the appeals. In 2015 to date, the Inspectorate has awarded 5 cost applications that have cost a total of £96,000.

4.0 Leadership to Deliver the Corporate Agenda

4.1 The Council has clear corporate direction set out in the Devolution Deal agreed by Central Government and its four year strategy, business plan and budget. The work of the planning service is guided by an annual Economy, Enterprise and Environment Directorate Plan.

4.2 In July 2015 Cornwall became the first rural authority in the country to be offered a devolution deal. In its devolution bid, the Council stated that it wanted to *'create a proactive, responsive planning system that reduces bureaucracy, stimulates economic growth, and inspires confidence, creating sustainable development in Cornwall, that balances our environmental, social and economic needs.* In 'The 'Case For Cornwall', the Council recognised there is a substantial gap between housing delivery and need but acknowledged viability issues and appreciated that Cornwall must maximise every opportunity for housing delivery.

4.3 The Cornwall Council Business Plan 2015-2019 aims to save £196m, nearly one third of its budget. To achieve this, the Plan commits councillors to working with partners to improve local wellbeing. It includes values of inclusive leadership and respect and trust and states that its decisions will be based on the *'best interests of Cornwall'*.

4.4 We were impressed by the quality of leadership provided to the Service by the Portfolio Holder and Head of Service. In 2014 supported by strong senior service managers and sector specialists, the Service helped facilitate the building of 2,700 houses including 1000

affordable homes. These figures rank with some of the best delivery in England in comparable areas. On the vast majority of performance measures the Service delivers a good service. It delegates 96 per cent of its decisions to officers, approves over 80 per cent of its major applications in time and successfully defends over two thirds of appeals made against its decisions

4.5 Our brief did not extend to exploring the qualitative issues involved in large scale housing and commercial space delivery – including the quality of place-making and overall design, and the extent to which local communities are positively involved in the creation of new places. These issues tend to have a direct bearing on people’s attitude to and acceptance of new development. Our experience of the sceptical, and sometimes anti-development, sentiments expressed suggest that these aspects of the planning service might benefit from a future review.

4.6 Even though the Service has some very good performance levels, the Leader, Portfolio Holder and Head of Service display high self-awareness of the improvement needs. The Leader has worked well with the Portfolio Holder and set her the task of looking at the reputation of the Service to help drive community needs and aspirations. Through the Portfolio Holder's ‘Working for Communities’ initiative she has a good grasp of the brief and following extensive consultation with local councils¹, community network areas and developers was aware of important improvement needs. We were particularly impressed with the unusually frank honesty of the Position Statement in discussing the recognised improvement needs of the Service provided in advance of the Peer Challenge and recommend that this action plan is taken forward with strong commitment to drive future changes to the service.

4.7 Local Divisional (ward) councillor involvement and interest in the planning system is very high. Supported by good IT alerts when applicants submit planning applications in their divisions, the majority of divisional councillors have high levels of communication with Development Management case officers and local councils. The Council’s Constitution and Protocols and Procedures clearly set out decision making processes including ‘call ins’ for committee decision making.

4.8 The Council provides strong training to all divisional councillors, local councillors and staff. New Divisional councillors selected onto one of the decision making planning committees must attend a two day induction programme within six months of being chosen. We consider that six months is too long for councillors to be allowed to take planning decisions without adequate training given. We would not therefore recommend more training but a change to the constitution to mean that councillors cannot decide planning applications unless trained.

4.9 Despite these key strengths, the Service is not maximising the contribution it could make to delivering on the area’s economic and housing needs. We did not sense a clear corporate or political recognition of the importance of planning to deliver on the objectives

¹ The Cornish descriptor for Truro City Council and town and parish councils.

of the Devolution Deal and Council Business Plan. From our discussions with Group Leaders and councillors we were unclear as to the strategic positioning of the service in the political arena. We found no clear shared council wide understanding of the collective impact of planning decisions on delivering corporate priorities which in turn contributes to the lack of agreed high level political co-operation supported by managerial leadership. Examples include the continuing lack of an adopted Local Plan with on-going debate and resistance to following the lead given by the Plan Inspector in his interim findings. We learned of a general anti-development stance among many councillors including some Chairs and a lack of early clear direction from political leaders and corporate managers on major planning schemes. The Council needs much better consensus in understanding stated corporate objectives and having the courage to carry these into planning decision making.

4.10 The Council and Service has gained an unwelcome reputation for unpredictable decision making that seriously undermines its ability to secure the best deals from development activity. Some high profile Committee² overturns of officer recommendations and some very negative public councillor comments about developers has led some in the development industry to consider Cornwall as ‘closed for business’. According to the development industry this, plus continuing delays in adopting a Local Plan, has in some cases dented investor confidence and made them increase their costs to mitigate against uncertainty and risk. This is likely to have the direct impact of reducing potential developer contributions to community facilities and other infrastructure.

4.11 We agree with the leadership of the Service that it needs to develop a better consensus around planning decision making – both on policy and applications for development. This needs to build from a better understanding around delivering financial stability and the jobs (especially higher paid jobs) and homes needed for local people, aligned to the Devolution Ask. We recommend that a new commitment creates a compelling case to demonstrate to the wider Council and residents that without locally generated income in the form of growing business rates, development of public assets (for example to produce a continuing rental income stream) or new homes bonus – the Council will struggle to deliver other services given diminishing Central Government grant. Supporting a new commitment – the 2016/17 review of the Directorate Plan could increase the prominence and importance of the Development Management system with appropriate performance management focus.

4.12 We consider that the recent ‘Working for Communities’ exercise by the Portfolio Holder, the results of this Peer Challenge, the arrival of a new Chief Executive in early 2016, the planned adoption of the Local Plan later that year and 2017 local elections provide clear opportunities to put the Service and its work more at the centre of strategic thinking. This would help move the Service from frustration to a positive strategy supported by stronger joint leadership at a corporate and political level.

² Unless otherwise stated, Committee(s) in this report refers to the Central, East and West Sub Area Committees and Strategic Planning Committee.

5.0 Member/Officer Relationships

5.1 The Council has many formal and informal opportunities for discussion between councillors and senior managers. For example we were impressed with the way the Service uses the Informal Planning and Development Group³ to share learning across the decision making and policy committees, test pilot ideas for continuous improvement and to set training priorities.

5.2 Divisional councillors told us that on the majority of mainstream applications, joint working with officers including accessibility, listening and working with consultee was generally good.

5.3 Good relationships exist between the Service's senior managers and Chairs and members of Committees. We attended Committees and at these meetings were well chaired with appropriate behaviour and language between councillors and officers.

5.4 However despite what we saw, we were told from a very broad cross section of Committee Chairs, Committee members, legal officers, senior managers, case officers and developers/agents that councillor frustration with the national and local planning system had boiled over into unacceptable behaviour. The team were disturbed to hear reports that female officers were on occasions subject to taunts. We were also told that it was not uncommon for officers to be told they were 'in the pockets of developers'. The Leader, Portfolio Holder, Head of Service and senior managers accept that some examples of poor behaviour exist.

5.5 We had an overwhelming sense that mutual trust and respect had broken down between some councillors and Development Management case officers. It was reported to us that councillors had on times clearly overstepped the line resulting in the use of inappropriate criticism and language. While some accounts related to councillor behaviour shown at some Area Sub Committees – more heavy criticism was reserved for Strategic Planning Committee. Some staff told us that this poor behaviour had strayed outside of Committee to improper language in e mails and in telephone conversations and meetings.

5.6 Senior managers accept that this behaviour has sadly become normalised among some councillors and they feel that they and the majority of staff are almost desensitised to it. In consequence, the serious complaints of some members of staff have not been followed through as they should and perception is developing that that staff are not sufficiently protected by senior managers. Chairs of Committees and legal officers recognise the issue but formal reporting and sanctions have been the exception rather than the rule. Where at least the Council did apply one sanction to a councillor for totally unacceptable behaviour – the sanction was short lived. Officers also reported a 'culture of ambush' at Committees. They felt that councillors were often trying to catch them out with either difficult questions that could have been asked prior to the meeting or irrelevant questions. In short, staff have little confidence that they will receive reasonable protection

³ Monthly formal meeting of chairs and vice chairs of planning decision making committees and Policy Advisory Committee supported by planning officers, legal officer and other specialist officers as necessary.

and some Development Management case officers refuse to attend Strategic Planning Committee.

5.7 However some Committee members in turn feel that officers are over sensitive about their recommendations and over committed to defending them. They feel that what is perceived as poor behaviour is really strong challenge to a development proposal that often does not have support from the local community (we discuss this further in the report). Committee members feel that some officers give too little discretion to them to take an opposing view when there is a legitimate balancing of issues involved –especially when members want to refuse an application recommended for approval (this aspect is also addressed later in the report). Councillors have suggested that there needs to be a better way for officers to nuance their recommendations so that councillors can understand where it is appropriate to balance issues and which issues are not open for debate.

5.8 We are in no doubt that bad behaviour and inappropriate language must be immediately challenged by the Chair with support from legal and if necessary the Monitoring Officer and Chief Executive. However the longer term solution must surely be cultivating a sense of shared and joint responsibility for planning –with a strong one team ethos. Rebuilding trust, confidence and credibility is vital if any new vision for the Service is going to be realised. To achieve this there are clear roles and responsibilities for the Leader working in co-operation with political group leaders, the Portfolio Holder, Chairs of Committees, the new Chief Executive and Head of Service.

6.0 Relationships with Development Industry

6.1 We heard from developers/agents involved in residential and commercial schemes that planning officers supported by specialist officers such as highways, affordable housing and natural environment do a professional and timely job. Performance figures on speed of decision making bear this out. Developers/agents valued the Developers Forums that were good arenas for discussing new national and local policy, supplementary guidance and were used to transfer learning. While the Portfolio Holder did recently attend, developers had noted the recent tail off in political attendance that they felt was a missed opportunity and a retrograde step.

6.2 Market interest in Cornwall is significantly stronger than in recent years and overall house building rates are rising together with interest in premises for new business ventures. Post building surveys have shown that the vast majority of market homes are lived in by people from the surrounding area. House builders pointed to the common perception that new homes are bought by people outside the area, rebutting this “myth” with evidence of recent strong sales from people keen to stay in their local towns and villages responding to pent up demand and low building rates in the past

6.3 Developers/agents advised us that officers were challenging in their analysis of planning schemes. In particular they recognised strong challenge in relation to viability analysis and the delivery of affordable housing. We were impressed with the focus and internal capacity on affordable housing. At the Area Sub Committees we attended there

were a large number of applications for affordable and some enabling market housing, especially on sites in villages. Case officer reports detailed the policy and viability basis for affordable housing and Committee members were assisted in their decision making by the attendance by affordable housing officers. The focus and emphasis on affordable housing is such that in 2014 1,000 affordable houses were constructed that amounts to 37 per cent of all houses built in Cornwall. This clearly supports delivery of the objectives of the Devolution Deal and Business Plan.

6.4 However developers/agents were extremely critical of what they perceived to be, at times and in some areas, a very strong anti-development bias among councillors. This manifested itself in councillors sometimes in public meetings describing developers as ‘rapacious’ and ‘charlatan’. The public and at least some councillors have accused officers of being in the ‘pockets’ of developers. No evidence was brought to our attention to back up such claims. Developers felt that while in many similar economically challenged areas they were welcomed – in Cornwall they were seen as the ‘bad guys’.

6.5 Developers/agents felt that the level of uncertainty of how the Committees would vote on their planning applications was almost unique in their experience. They said that in most places an officer recommendation meant something – but not in Cornwall. Dealing with such uncertainty and risk comes with costs and developers told us that these costs had to be factored into viability leaving less room for manoeuvre on community benefit. Due to the climate of suspicion and poor joint working they also advised that many councillors did not engage with large scale schemes early enough thereby denying opportunities for effective community leadership to maximise opportunities. This was particularly an issue in pre application discussions where they said individual councillors had varying approaches. Relationships with one large local development company had broken down to the extent that there was virtually no councillor involvement or effective community consultation. This is regrettable and obviously outside of the high level values and objectives listed in the Devolution Deal to move Cornwall forward in partnership.

6.6 We would encourage the whole Council to rethink its working style and partnership approach to working with developers and investors to maximise delivery in accordance with financial and housing needs of Cornwall. This would include as appropriate its joint work with the Local Enterprise Partnership (LEP) and the policy and implementation links that connect back through the Service. A stronger focus on the advantages of economic gain rather than infrastructure deficit chimes more closely with the avowed strategic political strategic direction of the region. We see clear opportunities for the Planning and Economic Development Portfolio Holders to lead on this through already existing arenas such as the Developers Forum and LEP groups.

7.0 Evidence Based Decisions

7.1 Overall performance on decision making is mainly good. The service has a very high workload. In 2014 of the over 7,000 mainstream ‘major’, ‘other’ and ‘householder’ applications decisions, and received 270 appeals. Of these the Planning Inspectorate

allowed 88 (33 per cent). In successfully defending over two thirds of all appeals made against it, the Council is generally making sound qualitative decisions on all appeals received.

7.2 Planning decision making is supported by high quality sector expert advice that is provided by the Council's in house officers. Highway officers are embedded within the Service and this allows for effective joint working. The Service also has good capacity in the form of expert affordable housing, landscaping, ecological and heritage advice. We understood that urban design capacity has been reduced – whilst we were not able to explore this issue fully, we do believe that public acceptance of development will be easier when high quality schemes are being delivered. The Council may wish to reflect on how it resources securing design quality through the planning service.

7.3 The Committees we attended received comprehensive officer reports that contained relevant robust technical evidence that would allow Committee members to make rational decisions in line with the development plan, the National Planning Policy Framework (NPPF) and other relevant material considerations. We were particularly impressed with the way the Committees were advised of the 'key issues' that members needed to take account of as part of the case officer presentation. The single 'key issue' slide provided the opportunity for the Committees to stay focussed on the main planning issues raised by the proposed development. It also provides clear potential for balanced decision making helping the Committees to stay on track when deciding what weight should be given to key issues when taking a balanced decision.

7.4 Developers were very critical over delays in policy planning and their perception that their views on policy were not particularly sought or welcomed. Until very recently councillors have struggled to reach a consensus on the objectively assessed need for housing to 2030. The Service are aware that the lack of an adopted Local Plan and Sites Allocation Plan and lack of five year housing land supply has contributed significantly to a lack of certainty for developers and local communities. The Council's Planning Policy Advisory Committee has very recently approved the revised housing target of 52,500 for the period 2010-30 following the suspension of the plan examination to relook at this and other issues. We were also told that the assessed jobs need was 38,000 for the same period. This is at the lower range of need and still has to be ratified by Full Council. Eventual acceptance of the need for significant housing growth will provide an important moment around which some political consensus can develop. This will provide better opportunities for councillors to steer a more certain path for local communities, land owners and developers. As one councillor aptly put it 'we are better with a Local Plan than without one'. In a plan led world we strongly agree.

7.5 In the absence of a Local Plan, the Council's record in defending appeal decisions is below average. According to the Department of Communities and Local Government statistical returns, between 1 January 2013 and 31 December 2014, 32 appeals were decided in respect of major applications. Of these 18 (56 per cent) were allowed. This

contrasts to a national rate of 38 per cent for local planning authorities (LPAs) who had more than 10 major applications during the year per during the same period .

7.6 Using data given in the Council's position statement, a majority of Cornwall's appeal decisions involving Committee member overturns have resulted in appeals being allowed. In 2013/4 this was 66 per cent, in 2014/5 this dropped to 55 per cent but rose in the part year April to September 2015 to 62 per cent. While the overall comparable appeals allowed figures between Cornwall and England are in line and in some cases better, it is clear that the results when appeals are taken to Public Inquiry are significantly worse. It is also in these cases that high claims for costs will be made given the large costs of legal representation. We have not had an opportunity to read all the appeal decisions in order to gain a view about comments made by the inspector regarding the quality of submission and we also appreciate the relatively low numbers in appeals heard through the Public Inquiry route. However even within these constraints, it is clear that Cornwall needs to learn from the past in terms of making more defensible decisions in the future.

7.7 The Chancellor in his November statement on the spending review indicated that the Government will take a new performance measure on the quality of decision making in LPAs. LPAs will suffer designation if more than 10 per cent of major applications are allowed on appeal meaning that fee income and local control over decision making would be removed. We do not have the up to date figures for this measure but clearly Cornwall will need to take account of this quality measure in the future.

7.8 In 2014, the Council had to pay £330,000 in 26 separate costs awards to applicants due to its inability to defend its reasons for refusal and on the grounds of its unreasonable behaviour. In 2015 to date the Planning Inspectorate has awarded five separate costs awards against the Council. These awards amount to £96,000. These costs are found from the Service's budgets. Given that costs come out of the service budget, we consider that the Council as a corporate body is unhelpfully 'insulated' from the effects of poor decision making.

7.9 The Council's analysis of appeals and costs indicated revealed similar reasons for allowed appeals and awarded costs. We consider that the Committees must move away from a culture where some members feel able to ignore sound evidence when taking planning decisions. The volume of local objection alone is not sufficient basis to refuse an application unless there is clear and relevant evidence to support opposition. Committee members have a key role to make sure that decisions are not made simply on the basis of the volume of local objection – however popular this might be, it is not a defensible nor a sufficiently strategic basis for operating and is likely to continue to lead to substantial costs against the Council for larger applications if not addressed.

7.10 Highway issues provide the biggest area of conflict between officers and Committee members. Other themes include the meaning of sustainable development especially in relation small housing developments in villages, landscape conservation –especially in the Area of Outstanding Natural Beauty and affordable housing and viability.

7.11 Likewise the Committees cannot work on the basis that local residents' opposition will 'trump' sound evidence or the development plans. Committee members, when deciding planning applications should not simply act on behalf of local residents nor should they take decisions based on the volume of community opposition. When we attended one of the Area Sub Committees a member stated that 'we are here to represent our residents'. The reality is that councillors on planning decision making committees have a legal obligation to decide planning applications based on policy grounds and relevant material considerations. While councillors have a democratic responsibility, the views of the existing residents have to be set within the context of a plan led planning system. This is not always easy or comfortable for councillors.

7.12 In order to support Committee members in making decisions about planning applications, and not give undue weight to local opposition, we recommend that the Council removes the prominence given to the Divisional councillors at Committee. At present we consider the speaking, questioning and debating rights allowed to the Divisional councillor too heavily skews debate towards protecting and promoting local and vocal community interests. We discussed this with Chairs of Committee and they agree that Divisional councillor questioning of applicants and other speakers has gone much further than they are comfortable with. Legal officers also agree. We fully appreciate that legitimate and reasoned opposition and active public engagement is a cornerstone of the UK planning system but we strongly feel that a rebalancing exercise is needed in Cornwall.

7.13. To support Divisional councillors in their community leadership role and bearing in mind very high levels of opposition to development and especially house building in many communities, we recommend that the Council provides additional support and training for councillors in how to deliver hard messages.

7.14 Committee members told us that officers needed to be more proactive and nimble in supporting acceptable and 'cost' defensible grounds for refusal in 'balanced' cases where they wanted to refuse against officer recommendation. Following a recent well attended Planning Inspectorate training session, that focussed on the appeal system and the need for sound balanced evidence based decisions, Committee Chairs and senior managers appear more alert to this. We saw, particularly at the West Area Sub and Strategic Planning Committees evidence of stronger joint working between officers and members being more discursive and reflective on the needs to supply defensible reasons for refusal that would limit the risks at any appeal and reduce the likelihood of costs awards.

8.0 Committee structure and operation

8.1 Committees are held monthly in local communities including Bodmin, Camelford, Liskeard, Penzance and Truro and provide good opportunities for public participation in planning decision making. The Area Committees are held in alternate venues for the East and West Areas to make access more equitable to Cornwall's communities. All the meetings we observed were well attended with applicants, supporters, objectors, divisional councillors and local councillors using public speaking opportunities. Venues, agendas and

names of the 15 members on the Committee were all clearly and helpfully shown on the Council's website in advance of the meeting. Webcasting of the Strategic Planning Committee, held at County Hall Truro, allows people the opportunity to listen to and watch the meeting without having to travel. We understand from the Council that this opportunity is well used by people who live in Cornwall and beyond.

8.2 Support provided by Democratic Services officers in relation to welcoming attendees and providing agendas and in making the voting and decision taken clearly was helpful – especially to people not used to attending such meetings. Speakers were audible, helped by amplification at most venues and slide presentations were visible from the public gallery.

8.3 Most of the Committee meetings we attended were very long in comparison with the experience of the Peer team. We were told that this is normal. The Strategic Planning Committee was exceptionally long lasting from 10.00 to 18.40 (with breaks). We admire the stamina of Committee members, officers and the public but question the efficiency of such long meetings. Given such long meetings, concentration levels are bound to dip and such long meetings militate against public engagement.

8.4 While attending one Area Committee we observed what we believe may have been a situation where a Committee member did not declare what appeared to be a financial interest in a decision where he stayed in the debate and voted. This is unacceptable and the legal officer working with the Chair has a clear role here to intervene in order to ensure compliance with well accepted 'Nolan' principles and – the Council's own protocols. In all Committees we attended we noted Committee members either arriving late, or walking in and out. These members then continued to vote. In many councils, non-attendance throughout the whole of the presentation and debate would result in that Committee member not being able to vote. We recommend that in order to ensure safe and responsible decision making that the Council reviews its protocols in this area.

8.5 Between January 1 – August 31 2015 the service audited Area Sub Committee decision making which has shown that there are some significant variations in decision making. Some interesting facts were revealed including:

- significantly fewer items are called to the West Area Sub Committee and that Committee takes the least time to determine each item;
- Central Area Sub Committee has the highest rate of decisions contrary to recommendation; and
- East Area Sub Committee is more likely to approve applications recommended for refusal.

8.6 The audit confirms our on-site observations that the agenda and length of the West Area Sub Committee meeting was shorter than at East or Central. We saw a very good joint working relationship between the Chair and a senior planning manager and we understand that there is very good communication between officers and councillors prior to

Committee. While there may be other factors to consider that explain some differences in Area Sub Committee efficiency, for example types of application received, we suspect there are lessons such as these able to be shared across the Area Sub Committees.

8.7 Opportunities exist for the Council to improve the quality and efficiency of planning decision making through a review of the number, make up and responsibilities of Committees. The team felt that it would be beneficial to consider whether the need to engage and be accessible to local communities could still be accommodated in a system with one fewer Area Committee meeting more frequently.

8.8 We see no reason why these Committees could not deal with all types of planning applications. There would be a significant saving from not needing a Strategic Planning Committee and the remaining committee members would be encouraged to raise their eyes from a local perspective to take account of the needs of the wider community of Cornwall. If the numbers of applications considered at committee remained approximately as at present (280 per year) and the new Committees met fortnightly, then each of two Committees would deal with approximately six applications per sitting.

8.9 To support high quality decision making and to ensure maximum capacity of councillors, we recommend that the number of members on the Committee be reduced to 11. Given the vital importance of planning decision making to the future of Cornwall we would encourage political leaders to ensure that councillors with appropriate strategic thinking and decision making skills are selected to sit on the new Committees. Focussing decision making on fewer councillors will increase the potential for policy based and strategic decision making and allows for more bespoke training.

8.10 Even in advance of a more fundamental restructuring of Committees we consider that are procedural issues that would help improve the quality and efficiency of decision making. While some of these have been mentioned elsewhere, they include:

- reviewing the scheme of delegation to ensure that only those items that need to go to Committee, and especially to Strategic Planning Committee, do so - examples include some section 73 applications in relation to conditions;
- ensuring that the Code of Conduct in relation to member's declaration of interests is fully adhered to;
- only allowing members to vote on an application if they listened to the whole application, including all the debate;
- limiting the involvement of the Divisional councillor to public speaking only;
- changing the public participation section to eliminate cross-examination of members of the public and applicants / agents;
- limiting the Committees to sit for no more than 4 hours unless exceptional circumstances dictate;

- refresher training for committee chairs to focus the committee and reduce repetition and the duration of meetings so they are more accessible for public and other participants;
- making sure that officers' reports consistently report that the Council has undertaken a viability assessment to inform relevant housing applications; and
- consistent availability of highways officers at Committee when applications involving highway issues.

9.0 Conclusion

9.1 The Peer Challenge has found that while the allowed appeals and costs are main 'presenting' issues – a lack of political consensus and corporate strategic prominence contribute to some weaknesses in the Service. Our recommendations are aimed at ongoing improvement to support high quality performance in many other areas of the Service.

9.2 We are encouraged by the awareness of the Leader, Portfolio Holder, many councillors and senior managers as to the need for change. . PAS will look to support the Council where it can best use and focus its resources and we list below some relevant resources and tools.

Chons da!

Planning Advisory Service – further support

The Planning Advisory Service (PAS) offers a wealth of information, tools and activities. Information is available at: <http://www.pas.gov.uk>

We have listed some specific areas of information and support relevant to the recommendations from the Peer Challenge. This list is not a prescriptive “menu” but something that can be used as the Council considers how to respond to some of the challenges in this report. Also, if there is anything not covered below that you think would be useful given the report recommendations, please get in touch to discuss.

Peer support

The officer peers (Richard Alderton and Bridget Downton) have both indicated their willingness to continue to offer support where appropriate. This will be dependent on personal availability and the specific issues required. It would be helpful if such requests could be channelled through PAS.

DM tools: PAS has produced a suite of materials which should help with various aspects of the DM process. These are available to download and use.

- **DM Challenge kit:** A new product that uses the experience of some of the top performing LPAs to ask questions about the way that development proposals are handled. This complements the planning quality framework which looks at various indicators of a councils planning performance. Cornwall did start work on the PQF but have not completed the work. The Council might also consider implementing the survey modules of the PQF to learn more about what the recipients of the planning service think about their experience.
- **Pre-app processes:** PAS has a number of pre-application resources available to download and use.

In addition, PAS could come and do a day's workshop with officers on pre-application discussions using the materials. See the offer [here](#).

- **Conditions:** PAS has produced a best practice note on applying and discharging conditions
- **Project managing major applications:** PAS has produced a new note about handling major applications
- **Using S106s – standard templates etc**

Viability training

To support informed discussions with applicants and to help officers understand applicant needs, PAS may be able to provide some viability training specifically for Cornwall Council this is currently being explored.

Help and support for councillors

The LGA and PAS are able to provide support and mentoring for members.

In particular PAS is holding several Leadership Essentials courses to deal with current topics in planning such as the Government's new changes to the planning system, the political role in leading planning services, and developer engagement and development

viability. Several of these would be suitable and helpful for chairs of the planning committees and the Planning Policy Advisory Committee.



Local Government Association

Local Government House

Smith Square

London SW1P 3HZ

Telephone 0207 664 3000

Fax 0207 664 3030

Email info@local.gov.uk

www.local.gov.uk