

Planning Advisory Service (PAS) – Peer Review of Planning Committee
Report by Director of Planning and Resources

Summary:	The report outlines the key findings of the recent Planning Advisory Service (PAS) Peer Review into the Broads Authority's Planning Committee and associated procedures.
Recommendation	Members note the findings of the Peer Review Report and approve the proposed Action Plan to enable its implementation.

1 Background

- 1.1 In February 2014, the Planning Advisory Service (PAS) was commissioned by the Broads Authority to undertake a Peer Review of its Planning Committee and associated processes. The driver for the review was to explore whether there was anything that the Authority should be doing to improve the quality of its decision making but also to improve the “experience” of the public/agents/applicants who attend committee.
- 1.2 The Authority has not undertaken a comprehensive review of its Planning Committee Procedures since the service was brought “in house” in 2007. Some periodic reviews of the Standing Orders as they relate to Officer Delegations have been undertaken and a review of officer level administrative and technical procedures has been completed in accordance with Audit Recommendations in January 2014. Some of the neighbouring Local Planning Authorities have undergone some form of peer review of their service and it was therefore considered a positive and healthy measure to undertake such a review at this time. PAS were approached and offered to undertake the work free of charge. Two Peers were appointed to this review, one an elected Councillor and one a Planning Officer, both external to the Authority. The Councillor Peer is Mike Haines an Independent Member of Teignbridge District Council in Devon and the Officer Peer is Andy Ashcroft – the Assistant Director of Economic, Environment and Cultural Services at Herefordshire Council.
- 1.3 In order to carry out the Peer Review, Mike and Andy between them attended three meetings of the Planning Committee in March, April and May 2014. They also carried out a number of 1:1 interviews with Planning Committee Members, Planning Staff, Committee Officer and two Planning Agents (who have had applications at committees mentioned above). In addition both peers have also had access to copies of committee agendas, committee documentation including public speaking arrangements, site visit guidance,

historic committee papers, standing orders and application statistics as well as undertaking their own research.

2 Peer Review Findings

- 2.1 A copy of the full Peer Review report is attached at Appendix 1 for Members' Information. In essence the report is complimentary of the operation of the Planning Committee and makes a number of positive statements about the way the committee operates, the standard of committee papers, officer presentations and the general experience for visiting member of the public. This is welcomed.
- 2.2 The report concluded that the Broads Authority Planning Committee is performing very well both in general, and in relation to the discharge of its functions under the Broads Act 1988 in particular. This is demonstrated in six specific areas:
- A welcoming and accessible meeting
 - Good engagement of the public at the meetings
 - Good debates at the meetings themselves
 - Excellent officer reports and associated presentations
 - Excellent and positive relationships between committee members and officers
 - Site visit arrangements
- 2.3 In addition the report identifies four Areas of Improvement that the Broads Authority should investigate in more detail to improve the overall planning committee experience. It is recognised that this is not proposing radical changes because these are not considered to be necessary however some positive tweaks to the current system are suggested in the following areas, all of which are to an extent interrelated and interdependent:
1. Structured Broads Authority Training
 2. Material and Non Material Planning considerations
 3. Public Speaking
 4. Delegation Arrangements
- 2.4 There are six recommendations covering the four areas above and these are explored in the table below together with a Suggested Action for each one; when taken together these form an Action Plan for the Implementation of the Report.

3 Next Steps – Recommendation and Action Plan

- 3.1 The suggested actions outlined below were endorsed by Planning Committee Members at their meeting on 15 August 2014. It should be noted that the implementation of the recommendations can be actioned without the need for further approvals. Changes to the Scheme of Delegations would require agreement by the full Broads Authority.

Area for Improvement	PAS recommendation	Comments	BA Suggested Action (endorsed by Planning Committee on 15 August 2014)
Planning Committee Training	Recommendation 1 A planning training session is organised for the Broads Authority Planning Committee during the remainder of the calendar year.	Members have previously agreed (June 2013) to two formal sessions per annum – in <u>addition</u> to the Design Tour and for attendance at one to be mandatory for Planning Committee Members. However it is clear from the PAS report that emphasis needs to be placed on these sessions taking place and that the most opportune time would be after a Committee Meeting.	Annual Programme of two dates (October and April) to be agreed by Members including topics. Suggested first topics include material and non-material considerations as referred to in Recommendation 3 below. In addition Planning Committee Members requested second topic to include the statutory tests for conditions. Session confirmed for 10 th October 2014 to cover both suggested topics.
Planning Committee Training	Recommendation 2 Thereafter planning training is undertaken by the Committee on an annual basis, or as and when any major changes in planning legislation or practice take place.	See above	See above
Planning Committee Training/Material and Non Material Planning	Recommendation 3 The training event should include a specific focus on material and non-	See above	See above

Considerations	material considerations		
Public Speaking	Recommendation 4 Refresh the Speaking at the Planning Committee guidance note to require appropriate prior notification for the applicant/parish council/objectors.	The current wording of the guidance states that prior notification is encouraged. If prior notification is not given then the opportunity to speak will be at the Chairman's discretion. This is seen as striking the appropriate balance and there would be a concern if an objector having made the effort to attend a meeting was not permitted to speak.	No change to current arrangements.
Public Speaking	Recommendation 5 Consider the introduction of more transparent timing mechanisms for the public speaking system.	Agree that the timings should be stated clearly at each committee and that a more "visual" timing process is required so that speakers are aware how much time is elapsing.	Investigate more rigorous but visible timing mechanism – Broadland and South Norfolk both have these in place.
Scheme of Delegations	Recommendation 6 The scheme of delegated to officers is received and updated in general, and with particular emphasis on the exception set out in paragraph 6.17 of this report.	Members considered that it would be undesirable to differentiate between any of the three categories – e.g objector, statutory consultee or Parish Council and require a different level of weight to be applied to them. Members considered that the	No change to Scheme of Delegations but Officers to be more rigorous in the implementation and interpretation

		current wording in the delegations sets an appropriate level for the significance of the material consideration required. However Members agreed that they would support Officers in applying a more rigorous implementation of it.	
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Background papers: None

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Date of report: 27 August 2014

Broads Plan Objectives: None

Appendices: APPENDIX 1 – Planning Advisory Service (PAS) – Peer Review of Broads Authority Planning Committee and associated procedures

The Broads Authority

Peer Review of the operations of the Planning Committee

1. Introduction

- 1.1 The Broads Authority invited the Planning Advisory Service (PAS) to undertake a peer review of the operation of its Planning Committee in February 2014.
- 1.2 The Planning Advisory Service invited Councillor Mike Haines (Teignbridge District Council) and Andrew Ashcroft (Herefordshire Council) to undertake this review.
- 1.3 This report sets out the findings of the review and identifies a series of recommendations in relation to areas where there is scope for improvement in the delivery of the service.

2. The Broads Authority

- 2.1 The Norfolk and Suffolk Broads is Britain's largest protected wetland and has the third largest inland waterway. The Broads Authority was established in 1989, and has specific responsibility for conservation, planning, recreation and waterways.
- 2.2 The Broads was granted national park equivalent status under the Norfolk and Suffolk Broads Act 1988. This applies a special duty to manage the Broads for the purpose of:
 - Conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
 - Promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
 - Protecting the interests of navigation.

None of these three purposes take precedence.

- 2.3 The planning policy context is well-established. The Core Strategy was adopted in 2007, and sets out the vision for the Broads until 2021. A series of development management policies were adopted in November 2011. Most of the Broads Authority consists of low-lying land within the flood plain and the risk of flooding is a major issue. It was on this basis that a Development & Flood Risk Supplementary Planning Document was adopted in 2008. All these documents provide a sound and sustainable basis against which planning applications are determined.

3 The Broads Committee Arrangements

- 3.1 In 2007 the Broads Authority brought the whole planning service "in house". Prior to that time planning applications were determined by the component local authority on an agency basis.
- 3.2 The committee meets on a 4 week cycle at Yare House, the Broads Authority Headquarters. It has the traditional range of roles and responsibilities, which include:
 - Development control, enforcement and section 106 agreements
 - Listed buildings

- Conservation areas
- Trees
- Derelict and waste land
- Advertisements
- Certification of appropriate alternative development.
- Planning Policy

3.3 The Committee currently consists of 14 members. Five are Secretary of State appointees, eight are component local authority appointees, and one is appointed by the Broads Navigation Committee.

3.4 The Broads Authority has an extensive scheme of powers delegated to officers. In relation to the planning functions the delegation arrangements are set out in an exceptions way (i.e. all matters are considered to be delegated unless covered by certain exceptions). Key exceptions include:

- Applications for major development
- Applications that are departures from development plan policies
- Applications where objections have been received from statutory consultees and where it is proposed to grant permission
- Applications where representations have been received from parish councils which raise material planning consideration of significant weight
- Applications where requests have been received from members of the authority/ward members of the relevant district council and which set out a material planning consideration of significant weight
- The Director of Planning & Resources refers the application to Committee
- Applications submitted by members or officers.
- Applications where objections have been received from others and which raise material planning consideration of significant weight.

3.5 A system of public speaking at the Committee is well-established, and was observed at each of the three meetings attended by peer review team members.

3.6 The Broads Authority is one of the smallest local planning authorities in the UK in terms of the number of applications received. In 2013/14 212 applications were submitted. The vast majority of these applications fell into the minor and other categories.

4. **The Review Process**

4.1 As part of the review we visited the Broads Authority Planning Committee meetings in March/April/May 2014 (Mike Haines - March and May 2014 / Andrew Ashcroft - April and May 2014). As part of those visits interviews were carried out with committee members, officers and agents involved in the submission of planning applications.

4.2 The findings of this review are underpinned by three sources of evidence:

- (a) A review of the constitutional and other documents that relate to the running of the Planning Committee
 - (b) Observations from attendance of the three committee meetings
 - (c) Feedback and discussions with officers, committee users and agents
- 4.3 We would like to offer our thanks and appreciation to all concerned for the courtesy and welcome that we experienced.

5. **Observations from the Review**

- 5.1 In general terms we have concluded that the Broads Authority Planning Committee is performing very well both in general, and in relation to the discharge of its functions under the Broads Act 1988 in particular. This is demonstrated in six specific areas:
- A welcoming and accessible meeting
 - Good engagement of the public at the meetings
 - Good debates at the meetings themselves
 - Excellent officer reports and associated presentations
 - Excellent and positive relationships between committee members and officers
 - Site visit arrangements

These six areas are summarised briefly.

Accessible Meetings

- 5.2 It was clear from our three separate visits to the Committee during the review that the meetings were both welcoming and accessible. The room in which the Committee is held is adjacent to the main Broads Authority reception area, and is light and airy. It is of a sufficient size to accommodate the traditional public attendance pattern, and provides a non-threatening environment which contrasts markedly from a traditional council chamber.
- 5.3 Visiting members of the public and professional agents were greeted by the Committee Clerk, and there was full access to hot and cold drinks. The practice of Committee members and officers introducing themselves at the start of the meeting also helped to make the meeting more relaxed and informative.

Engagement of public at meetings

- 5.4 It was evident from our meetings that the public speaking system was fully embedded in the culture and operation of the Committee. The Chairman was particularly good at advising visitors of the arrangements and checking that all the relevant parties had been given the appropriate opportunities to comment on applications.
- 5.5 The approach was also complemented by the Committee administrator who spent a considerable amount of time and effort before the meeting explaining the procedures to visitors and making sure that they understood the seating arrangements.

- 5.6 These relationship issues were underpinned by the availability of high-quality written information at the meetings. Printed copies of the agenda/reports were available on each seat in the public seating area. It was also particularly helpful to see printed information on the composition of the Committee, including member photographs. In combination these issues contribute significantly to Committee meetings that are engaging to visiting members of the public.

Debate at the Committees

- 5.7 We were consistently impressed with the quality of Committee debates at our three visits. It was clear that the Committee had a high level of understanding of the issues covered by the various applications being determined, tested issues amongst themselves and with officers, and then proceeded to make decision on the basis of the debate.
- 5.8 It was also very clear that the Committee understood and respected the special planning duties conferred on the Broads Authority. There was always a very clear ethos and approach to safeguard the special natural and physical environment of the Broads.

Officer reports and presentations

- 5.9 We were very impressed with the quality and detail of the officer reports. Without exception they include a thorough analysis of the policy issues and material planning considerations in relation to each application, and conclude with a reasoned and balanced recommendation.
- 5.10 These reports were followed up with very impressive presentations at the meeting itself. The combination of the verbal presentations and the visual presentation of the application details provided very clear guidance both to the committee members and to visitors. The room size also helped in both the audibility and visibility of the presentations.
- 5.11 Officers also provide good and clear answers to member questions during the meeting.

Member/Officer relationships

- 5.12 It was clear from our attendance of the three meetings that excellent working relationships existed between officer and members. This showed itself in the following areas:
- Member questions to officers (seeking clarity on proposals or policy guidance)
 - Officer responses
 - Clear signs that members had sought advice on certain matters before the meeting
 - Members taking assurance and/or direction from officers in an appropriate, balanced and professional way.
- 5.13 The combined effect of this approach was very much to give reassurance to communities and/or individuals that the Broads Authority was discharging its planning functions in a controlled and balanced way, and on the basis of good, sound, professional advice.

Site visits

- 5.14 The Code of Conduct for Members on Planning Committee and Officers includes clear guidance on the conduct of site visits and has recently been amended (December 2013), From member interviews it was clear that this had produced an improvement in site visit procedures.

6. Potential Areas for Improvement

- 6.1 Within the context of the observation from the review as set out in Section 5 of this report we have identified potential areas where the Authority could further improve the delivery of its planning function. These are set out below, together with linked recommendations.
- 6.2 Each identified area for improvement is free-standing. However there is a strong functional relationship between the four identified areas and there was evidence at the Committees we attended that the issues were cumulative in their effect and impact on service delivery. These overlaps are identified in the sections below.

Lack of organised, structured Broads Authority Training

- 6.3 It was clear from the meetings that we attended that the quality of the debates were very good (paragraph 5.7) and that the Committee clearly wanted to safeguard the special features of the Broads Authority (paragraph 5.8).
- 6.4 However it was equally clear from our observation of the meeting and our discussions with officers and committee members that there had been no recent, dedicated training session for all members of the Planning Committee (other than that for new members, and the April 2014 Design Quality Tour) although a report on formalising training provision had been presented and agreed by members in June 2013 and some informal briefings on NPPG and Biodiversity Offsetting had taken place. On this basis committee members had different levels of understanding of the regulatory planning function. This was reinforced by the different levels of experience of the committee members. This lack of recent, structured Broads Authority training results in local authority appointed members (entirely reasonably) relying on the training that they will have received historically from their host authority.
- 6.5 Structured Broads Authority committee training would provide the opportunity to advise committee members in a consistent way on the following matters:
- The basics of the Planning system
 - The special responsibilities to be delivered in the Broads Authority
 - The relationships between planning policy and development management.
- 6.6 Training would also help in bringing together the wide background and experience of the committee and introduce an element of shared ownership and collective standards in decision making. There are a variety of commercial organisations that could undertake this role, or there may be opportunities for training to be delivered by other local authority officers/members.

It may well be appropriate to organise any training event for the Friday afternoon immediately after a Planning Committee. Once initial training has taken place, it could usefully be repeated on an annual basis.

Recommendation 1

A planning training session is organised for the Broads Authority Planning Committee during the remainder of the calendar year.

Recommendation 2

Thereafter planning training is undertaken by the Committee on an annual basis, or as and when any major changes in planning legislation or practice take place.

Material and non-material planning consideration

- 6.7 This report has previously made reference to the quality of the debates at the Committee and the extent to which the Committee members listened to the comments made by members of the public during the public speaking exercise.
- 6.8 However there were occasions when the Committee spent time debating issues which were not material considerations either because they had been raised in objector's letters and/or had been specifically mentioned as part of the public speaking section of the meeting. In some cases these debates quickly came to an end. In others they were curtailed either on the basis of officer or other member advice. In this regard we detected a very clear overlap with the wider issue of Committee training in general and the inevitable lack of consistent understanding of the difference between material and non-material considerations amongst membership of the Committee. This could clearly be a key part of the recommend training event (Recommendation 1).

Recommendation 3

The training event should include a specific focus on material and non-material considerations.

Public Speaking

- 6.9 Earlier sections of this report have already commented on the accessible meetings and the associated engagement of the public (paragraph 5.2-5.8)
- 6.10 Within this context we do not wish to undermine the system which is well received by officers, members and visiting agents and members of the public. Nevertheless we have identified two areas where the current arrangements could be tightened to provide even greater clarity and integrity to the system. These areas are prior notification of speaking and speaking time allocation at the meeting itself.
- 6.11 In relation to prior notification of a request to speak the helpful guidance note indicates that it would be helpful if a request to speak is made to the Committee Secretary as soon as possible (preferably at the latest by 3pm the day before the meeting). These arrangements are far more flexible than those in operation at other local authorities, and it was clear from our visits to the Committee that at times it was unclear until a particular application was debated whether or not speakers would be attending for that

item. Whilst this was handled sensitively at the meeting it had the ability to create uncertainty. In some cases it may have been the case that the applicant would have not asked the appointed agent to speak at the Committee if no other person was doing so.

6.12 This matter would be overcome by the introduction of refreshed arrangements that addressed:

- The requirement for prior notification
- The publication of a schedule of speakers for each meeting based on prior notification
- Appropriate revisions to the guidance note.

Recommendation 4

Refresh the Speaking at the Planning Committee guidance note to require appropriate prior notification for the applicant/parish council/objectors.

6.13 The second area for improvement relates to the arrangements for monitoring the amount of time allocated to the various public speakers. The guidance note is very clear that five minutes is allocated to each speaker (or group of speakers) on each application. This accords with the time allocated in other local authorities. However it is not clear at the meetings that each speaker has been advised of this time restriction, and that the time is being directly monitored at the meeting. Our observations at the meetings indicated that most public speakers had concluded their presentation in well under five minutes. However it would be useful for the Chairman to make it clear at the start of each meeting that public speaking was restricted to five minutes, and that there would be a clear and identifiable system for alerting all concerned that the allocated time was either about to end or had ended. Other local authorities use a range of methods, which include a coloured lights system, a timing bell or a digital clock system.

The introduction of such a system would be helpful to manage the meetings themselves, and remove any risk of a judicial review of planning decision where it was clear that one party had been allowed to address the Committee for a period longer than advised.

Recommendation 5

Consider the introduction of more transparent timing mechanisms for the public speaking system.

Delegation Arrangements

6.14 The Broads Authority has an extensive scheme of powers delegated to officers (see paragraph 3.4). The scheme of delegation is designed in a modern and progressive fashion, and operates in a similar way to the arrangements in other local authorities.

In particular the arrangements identify that all applications are delegated to officers subject to various exceptions.

- 6.15 In our view the exceptions are very general, and result in a higher proportion of applications being considered by the Planning Committee than in other rural local authorities.
- 6.16 In our view it is entirely appropriate that the following types of applications are referred to the Committee:
- Applications for major development (of which there are few in the Broads Authority area)
 - Applications that are departures from the development plan and where officers are recommending approval
 - Applications submitted by member or officers
 - Applications considered necessary for Committee determined by the Director
 - Applications where requests are received from Committee members or the district ward member and which set out material considerations of significant weight
- 6.17 However in our view the Broads Authority would benefit from a review of the following exceptions to the delegated arrangements:
- Applications where objections have been received from statutory consultees and where it is proposed to grant permission
 - Applications where representations have been received from parish councils and which raise material planning considerations of significant weight
 - Applications where representations have been received from other persons and which raise material planning considerations of significant weight.
- 6.18 Within this wider analysis we would suggest that the priority should be on addressing the third exception (comments from other persons). The impact of this exception to the delegation arrangements is that relatively minor applications are reported to Committee on the basis of either one or a handful of objections to a proposal that is otherwise acceptable in policy and design terms. This has the clear potential to delay the processing of an application and to take up valuable Committee time on minor, non-strategic applications. We saw clear evidence of debate of such applications at our various visits to the Committee.
- 6.19 In raising these comments we are however aware of two related issues. The first is the relatively limited number of applications being received by the Broads Authority each year. By definition a high delegation rate would result in little business for the Committee every four weeks. The second issue is that of the non-elected nature of the Broads Authority. The issue of the 'democratic deficit' was raised with us both by officers and members, and this is an area that will properly inform the debate on how best to reconfigure the delegated arrangements to suit local circumstances and expectations.



planning advisory service

- 6.20 Given the specific circumstances that affect the operation of the planning service in the Broads we do not wish either to be prescriptive in this area or to signpost the Authority to other delegated arrangements in place elsewhere. Clearly the approach taken will be a matter for local research and discretion.

Recommendation 6

The scheme of delegated to officers is received and updated in general, and with particular emphasis on the exception set out in paragraph 6.17 of this report.

Cllr Mike Haines
Teignbridge District Council

Andrew Ashcroft
Herefordshire Council

Schedule of recommendations

Recommendation 1

A planning training session is organised for the Broads Authority Planning Committee during the remainder of the calendar year.

Recommendation 2

Thereafter planning training is undertaken by the Committee on an annual basis, or as and when any major changes in planning legislation or practice take place.

Recommendation 3

The training event should include a specific focus on material and non-material considerations.

Recommendation 4

Refresh the Speaking at the Planning Committee guidance note to require appropriate prior notification for the applicant/parish council/objectors.

Recommendation 5

Consider the introduction of more transparent timing mechanisms for the public speaking system.

Recommendation 6

The scheme of delegated to officers is received and updated in general, and with particular emphasis on the exception set out in paragraph 6.17 of this report. **END**