

North Yorkshire County Council

Executive

13 December 2022

Report of the Member Working Group on Planning

Report A - Recommended Approach Relating to Planning Governance for North Yorkshire

Local Government Review (LGR) Planning Workstream:
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1.0 Purpose of Report

- 1.1 To brief the Executive on the work of the LGR Planning Member Task and Finish Group relating to Planning Governance and to ask them to endorse the recommended approach.
- 1.2 To consider the options on the proposed number of Planning Committees and indicate their view on the most appropriate way forward so that the necessary preparatory work can be undertaken before vesting day.

2.0 Background

- 2.1 At the meetings of the Planning Task and Finish Group held on 22 August 2022, 12 September 2022, 3 October 2022 and 19 October 2022 issues relating to Planning Governance were discussed. This included different options relating to Planning Committees and the Scheme of Delegation and other issues relevant to the new council's constitution such as elements of the 'Planning Code of Conduct' and the governance surrounding the production of Development Plans. At the final meeting the views of officers assisting the Constitution and Governance Group were also discussed.
- 2.2 This paper summarises the final position of the Planning Task and Finish Group for the consideration of the Council's Executive in making the necessary recommendations to allow this work to be progressed.

3.0 Planning Committee Form

- 3.1 At the meetings of the Planning Task and Finish Group there was clear support for certain types of applications to be considered by a Strategic Planning Committee. This was particularly where the impacts from a development, should it be allowed, would be felt across a wider geography than the proposed Area Based Committees. This did not include simply physical impacts but environmental, economic and social.
- 3.2 It was suggested that this Committee could meet in different locations around the new authority area and could include the chairs of area based planning committees to ensure connectivity.
- 3.3 Beyond the Strategic Committee the Task and Finish Group focused on two related options; as per the business case, both linked future planning committees to the proposed area

committees delineated on parliamentary constituency geographies. Initially Members expressed some concern about this approach. This was essentially down to two factors:

- the loss of connectivity between Planning Committees and adopted development plans; and
- the work of the Boundary Commission may lead to changes to the parliamentary constituencies removing some of the benefits of the proposed approach.

3.4 However, following detailed discussions it was accepted by Members that maintaining committees based on a district geography to address the first point above would present a significant problem in terms of Member numbers and capacity. In several district areas it would be difficult to form workable Planning Committees. This is exacerbated when the need for substitutes is considered for when a Member is unavailable or has a conflict of interest.

3.5 The second concern expressed by Members with regard to moving to the proposed area committee approach related to the potential impacts of the work of the Boundary Commission. Essentially that this work may alter constituency boundaries and thus reduce the benefits of the proposed approach. Given the lack of clarity on the likely final position of the Boundary Commission it was accepted that this issue could not be fully addressed at this time.

3.6 The rationale behind the committee structure included within the business case was accepted by the group and that Area Planning Committees should be a sub-committee of the main Area Committees of between seven to nine Members meeting monthly depending upon workload. It was highlighted that using an approach that links Planning to the main area committees would create consistency with other aspects of decision making and a connectivity with the wider democratic functions of the Council.

3.7 A further option presented at both meetings that would maintain the co-terminosity with the MP Constituencies and thus would be in broad alignment with the business case would be to set up Planning Committees as sub committees of amalgamated area committee geographies. Effectively instead of six there could be three area planning committees with Members drawn from two wider area committees. Potentially this could be done on the following basis:

- Harrogate and Knaresborough and Selby and Ainsty;
- Richmond and Skipton and Ripon;
- Thirsk and Malton and Scarborough and Whitby.

3.8 It was outlined that the latter proposal in reducing the number of committees would clearly bring some benefits in streamlining decision making. It would also help capacity issues in terms of Members and Officers and improve efficiency. That said the geographies and populations covered are inevitably significant.

3.9 Members of the Task and Finish Group were effectively split when considering whether an approach based on three or six area committees was most appropriate.

4.0 Scheme of Delegation

4.1 Critical to the effective future running of Planning Committees within the new Council is ensuring an appropriate scheme of delegation. The scheme of delegation effectively sets the rules which determines whether a planning application will be decided by a Member

Planning Committee or by planning officers under the delegated powers given to them by the council.

- 4.2 The research undertaken combined with an understanding of likely workloads highlighted that to ensure that the new planning authority is able to efficiently deliver the targets identified by Government there needed to be a fairly high threshold in terms of application types that should go to committee. It is an important part of the democratic process however to ensure that complex and significant applications are considered by Members. The proposed contents of the scheme of delegation arising from work of the Member Task and Finish Group are attached as Appendix A to this report. The exact wording of the scheme of delegation will be a matter for legal colleagues working on the new Council's constitution.
- 4.3 The draft scheme of delegation was subject to considerable debate which were considered in putting together the proposed wording included in Appendix A. The key points discussed are summarised below.
- It was questioned whether the threshold of 500 houses for the Strategic Committee should be used; the point was raised that level of concerns was often less about number and more about locations. It was suggested that the ability of Members to call in items would address this issue and there was still a value in including the threshold.
 - The point of whether a commercial and industrial development threshold should be included with regard to the Strategic Committee was also raised. The ability of the Head of Planning to call in items that affected more than one area committee geography was considered to address this point.
 - The draft scheme doesn't include an approach which identifies trigger points relating to levels of objections and instead relies on the ability of Head of Planning in consultation with the Chair to call items into committee following notification by Members. This differs from the approach taken by some District Councils, but the group considered such an addition to be unnecessary.
 - The scheme of delegation for both the Strategic and Area Committees included that applications requiring an Environmental Impact Statement or constituting a departure from the relevant development plan would only be considered by committee if recommended for approval. It was discussed whether all applications of this type should be considered by committee, but it was concluded the proposed wording was appropriate
 - The ability of Members to call in applications was debated at length; the final wording includes the request to call an item in to be considered by the Head of Planning in consultation with the relevant Chair and the need for it to be demonstrated that the application raises significant material planning issues.
 - The group considered whether there should be referral up to the Strategic Planning Committee from the Area Committees in limited circumstances. It was concluded however that it is important that the Area Committee aren't seen as second tier committees and empowered to make decisions.
- 4.4 Using the draft Scheme of Delegation, attached at Appendix A and considering planning decisions made in the North Yorkshire area during Q4 of 2021/22. It is considered that six Planning Committees established as sub committees of the main Area Committees would deal with a manageable workload of around four to eleven applications per quarter.

- 4.5 The proposal for planning decision making to be made across a smaller number of meetings (ie three area planning committees) would also be manageable in terms of workload with between 14 to 16 applications for each committee per quarter. It could be argued that committees considering this level of applications represents a more efficient use of Member and Officer time than the approach including six Area Committees.
- 4.6 During the same period analysis shows that the Strategic Planning Committee would potentially deal with one application.

5.0 Planning Code of Conduct

- 5.1 Probity in planning is about ensuring that decisions on plan making and planning applications are undertaken, on behalf of communities, in a fair, impartial and transparent way. A local planning authority needs a Planning Code of Conduct for Councillors and Officers to set out how this objective will be ensured. Most codes of conduct include the following items:
- a brief overview of the planning system and the role of decision makers
 - councillor and officer conduct
 - registration and disclosure of interests
 - predisposition, predetermination or bias
 - lobbying of and by councillors
 - officer reports
 - public speaking at planning committees
 - decisions which differ from an officer's recommendation
 - committee site visits
 - reviewing past planning decisions and the outcomes
 - complaints and record keeping
 - training.
- 5.2 Most aspects of the code reflect the statutory position relating to Planning. The areas where there tends to be a degree of variation relate to public speaking and site visits. These were considered by the Member Task and Finish Group.
- 5.3 It is suggested that the code should make it clear that wherever possible, objections or representations to planning applications should be made in writing but acknowledge that in some cases that this is not possible or there may be benefits in having individuals speak on certain items.
- 5.4 Where speaking at committee is appropriate it is suggested that each speaker is allowed five minutes, however this may depend on what is agreed for the Council's overall Standing Orders (currently at North Yorkshire County Council it is three minutes). It is also suggested that speaking is undertaken in the following order:
- one speaker representing the objectors (eg a neighbour, an interested individual or a representative of a residents group)
 - the relevant town or parish council representative;
 - a ward member;
 - any other person allowed to speak at the discretion of the committee chairman; and
 - finally, one speaker representing the applicant – usually the applicant themselves or their agent.

- 5.5 Where there is more than one objector, they will be encouraged to agree on a spokesperson who is prepared to cover all the points of concern, so as to make best use of the time available.
- 5.6 To ensure the efficient running of meetings the code will indicate that persons wishing to speak on an application will be limited to those who have previously made representations. All speakers will be expected to register at least 48 hours prior to any meeting.
- 5.7 The key issue debated by the group was the time given to speakers and whether they should be subject to cross examination by Members. It was concluded that a five minute speaking time would be supported and questions would only be allowed at the discretion of the chair.
- 5.8 Local planning authorities should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. A visit should only be used where the benefit is clear and substantial. The purpose, format and conduct relating to site visits was discussed by the group.
- 5.9 With regard to the Code of Conduct it is suggested that a site visit should be held if the Head of Planning and/or the Planning Development Manager in consultation with Chair of the relevant committee considers it will assist Councillors in reaching their decision. Also, if Members feel a site visit will be necessary after considering the officer report this should be requested at the earliest opportunity in advance of the Planning Committee. When a site visit is held prior to the meeting of the Planning Committee it was highlighted that all Councillors attending the Planning Committee should also attend.
- 5.10 It was discussed that in addition to Planning Committee Members; Division Members and the relevant town or parish councillors will also be invited to the visit. In certain circumstances a representative of the applicant may have to attend to comply with health and safety requirements and in those cases a representative of the objectors will be invited to attend to ensure fairness. The Applicant/Agent will also be informed that a site visit will take place in order to ensure that site access can be arranged.

6.0 Development Plans

- 6.1 At the meetings of the Task and Finish Group the importance of engaging Members during the production of the Local Plan was raised. Whilst the submission of the plan to the Secretary of State will require both Executive and Full Council approval and Executive approval for formal consultation there is a degree of discretion in how Members are involved in plan development. With regard to this the following two points were highlighted:
- Firstly, the need to involve and consult with the Area Committees; and
 - Secondly, the need to include the Strategic Planning Committee in the decision making process
- 6.2 Over and above the involvement of established or formal committees different ways of including Members in Plan Development are used across the North Yorkshire districts, some public and some private. The exception to this would be Harrogate Borough Council which uses a hybrid approach. This is detailed below and recommended as a basis for a future approach.
- 6.3 Harrogate's District Development Committee is a politically proportionate committee that has both a formal and informal role in the preparation of the council's local plan. During the preparation of the Local Plan it meets informally with officers and acts as a sounding

board/advisory body to inform plan making. It means that Members are more informed of the process and officers get a better understanding of the issues that are raised. These meetings are not public. In addition to meeting informally with the committee, there are also all Member workshops and briefings at key points in plan preparation.

- 6.4 The Committee also meets formally in public at key points in plan preparation in order to provide its views on the content of the Local Plan to the Executive before consultation is undertaken. This approach effectively negates the need for a Scrutiny role.
- 6.5 Neighbourhood Plans are also an important component of the Development Plan for the new authority. Before adoption a plan must be approved by Executive and Full Council. Prior to this point however there are several stages of development. The potential involvement of Members at each of the stages was considered by the Member Task and Finish Group and is set out in figure 1 below.

Figure 1: Proposed process and sign-off for stages of neighbourhood plan preparation

Stage	Proposed process and sign-off
Consultation on proposed neighbourhood area (if required)	<p>There should be no approval needed before consultation on a proposed neighbourhood area begins.</p> <p>Information should however be provided to the Executive member with responsibility for planning, the relevant area committee and division councillor(s)</p>
Area Designation	<p>Approval for area designation should be delegated to the Executive Member with responsibility for planning or to the Head of Planning.</p>
Comments on Draft Plan (pre-submission) Consultation	<p>No approval needed for formal comments made in response to the consultation on the draft plan.</p> <p>However, in cases where the draft plan would not meet the Basic Conditions or would not be in conformity with existing or emerging policy comments could be referred to the Strategic Planning Committee for endorsement.</p>
Submission consultation	<p>There should be no approval needed before consultation on a submitted neighbourhood area begins.</p> <p>Information however should be provided to Executive Member with responsibility for planning, the relevant Area Committee and division councillor(s)</p>
Comments on Submission Consultation	<p>Approval for formal comments made on the submitted plan by NYC should be delegated to Executive Member with responsibility for planning.</p> <p>If the plan doesn't meet the Basic Conditions or isn't in conformity with existing or emerging policy should also be referred to the Strategic Planning Committee for endorsement.</p>
Examination	<p>There should be no approval needed before a submitted neighbourhood area is examined.</p>

	However, information should be provided to cabinet member with responsibility for planning, the relevant Area Committee and division councillor(s)
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7.0 Financial Implications

7.1 The financial considerations associated with the report will be considered as part of the final decision making with regard to the final recommendations being approved at Full Council.

8.0 Legal Implications

8.1 Planning decision making is a statutory function. The recommendations included within this report will help ensure that the new North Yorkshire Authority can discharge its statutory duties. The legal implications of drafting the new constitution with the appropriate delegations will be considered through the recommendations of the Constitution Working Group to the Executive and then Full Council.

9.0 Equality Implications

9.1 The Equality Impact Assessment included as Appendix B does not identify any equality issues.

10.0 Environmental Implications

10.1 The Climate Change Impact Assessment Initial Screening form attached as Appendix C does not identify any impacts at this stage but this will need to be evaluated further once a decision has been made on the number of committees.

10.2 Climate change impact can be mitigated by reducing need for private car travel. This includes ensuring that the meeting venues and times are appropriate for the use of public transport – particularly noting the geographic location of the proposed areas and what public transport is available from those areas to the venue. In addition, enabling meetings to be 'hybrid' so that members of the public that wish to speak are able to attend remotely would be beneficial.

11.0 Reasons for Recommendations

11.1 It is important that the statutory planning functions continue as seamlessly as possible post vesting day for the new authority. The last Planning Committees held by the North Yorkshire Districts and the County Council will be, at the latest, in March 2023. Given work volumes and targets for decisions it is important that new committees will be able to stand up in April 2023. To ensure that the correct processes to allow this to happen can be put into place and appropriate briefings and training given it is important that the decision on the matters relevant to planning committee are made in advance of vesting day.

<p>12.0 Recommendations</p> <p>12.1 The Executive is requested to:</p> <ul style="list-style-type: none">i. Endorse the recommended approach of the LGR Planning Member Task and Finish Group relating to Planning Governance;

- ii. consider the options on the proposed number of Planning Committees and indicate their view on the most appropriate way forward so that the necessary preparatory work can be undertaken to prior to the Vesting Day.

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Background Documents: None

Appendices:

Appendix A – Draft Scheme of Delegation

Appendix B – Planning Governance Equalities Impact Assessment

Appendix C – Planning Governance Climate Change Impact Assessment