



Northumberland County Council

Review of the Planning Service

January 2015

Contents

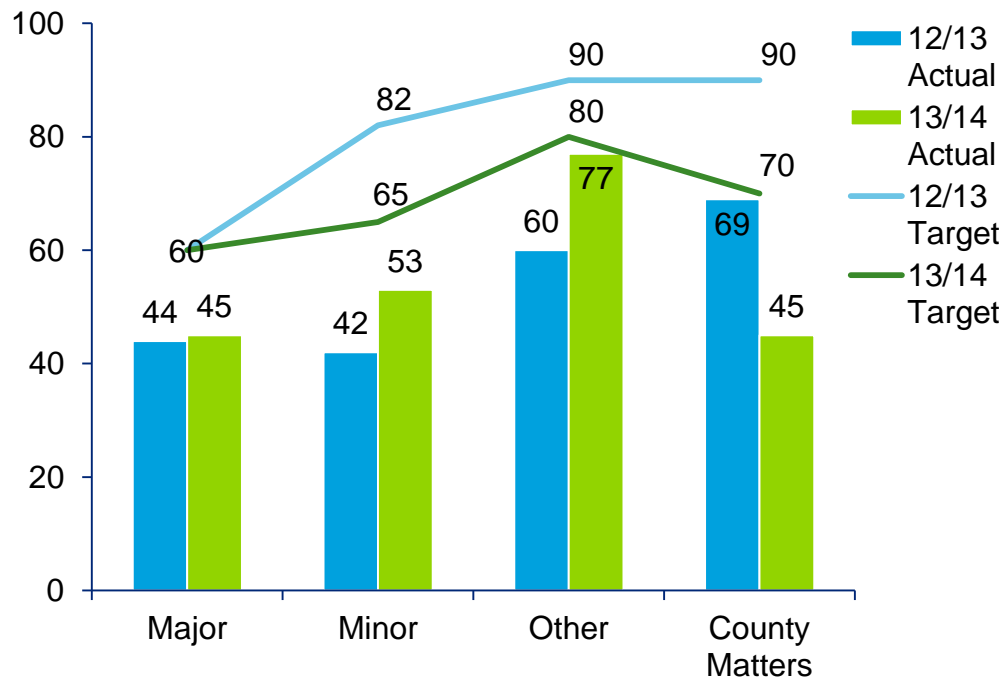
Scope of Work	3
Executive Summary	4
Statement of Responsibilities	7
Planning Committees	8
Member and Officers' Interests	16
Local Development Framework	19
Other Planning Considerations	22
Appendix 1: Recommendations	25

Background and scope of work

Background

Performance in the Planning Service has been consistently poor since the merger of the six district and borough planning services following local government reorganisation in April 2009. The key performance indicators for the speed of decision making for the four categories of planning applications demonstrate performance to be consistently below target and targets set are below national averages.

Graph to show % of applications processed within target timeframes



Following discussions with the Leader and Deputy Leader of the Council, the Chairman of the Audit Committee and the Lead Executive Director – Corporate Resources, we agreed to carry out a review of the Planning process as part of the 2013/14 external audit Value for Money (VFM) programme.

Scope

Our review was initially scoped to cover the following:

- the number and cost of appeals, including why appeals are lodged, the decision-making process and outcomes of appeals;
- the effectiveness of advice from officers in Planning and Legal; and
- the completeness of declarations of potential conflicts of interest and how these are addressed in relation to individual planning applications and wider planning processes.

As we conducted our work, a number of other areas arose which we have extended our review to cover. These additional areas include consideration of the Committee workload, the volume of applications at Committees and triggers for applications being considered at Committee and the Local Development Framework (LDF).

In addition, the Authority has also commissioned two reviews by the Planning Officers Society Enterprises (POSE) in relation to Planning Committees and Development Management Performance and Processes. We have endeavoured to avoid overlap between our review and the POSE reviews where possible, however due to the nature of the reviews there are some common areas. Where this has occurred we have drawn links between the two so the findings of both reports may be considered in conjunction. As a consequence of the additional areas reviewed and the need to consider the outcome of the POSE reports, the scope and timing of our work has changed and consequently elements of this review from now part of the 2014/15 VFM programme.

Our work was carried out in two stages:

Stage 1: documentation review ; and

Stage 2: discussions with relevant members and officers, including the Executive Director with responsibility for the Service, to clarify our understanding of the processes followed and any issues arising from the documentation review.

Executive Summary

Planning Service performance reporting demonstrates that targets for the speed of decision making on planning applications have consistently not been met across major, minor and other planning applications for several years. In addition issues have been raised by officers and members over the overall quality of decision making with regard to planning and the associated costs where inappropriate decisions have been made. Whilst we acknowledge that the Authority has implemented some initiatives to improve the service, such as the fast track service, our work indicates that there remain significant issues with the performance of the planning service. These issues relate to the timing of decision making, the workload being undertaken by committees, the proportion of appeals being lost by the Authority, the controls in relation to declaration of interests, the delays in developing the Core Strategy and the effectiveness of the related governance arrangements in place. We recommend that the Authority takes robust action to address these concerns as a priority.

Planning Committees

There are currently four planning committees within the Authority, three Area Planning Committees which cover geographical areas and one committee which covers more strategic applications (the Planning, Environments and Rights of Way Committee). Currently the workload undertaken by these committees is particularly high when compared with other similar Local Authorities, with POSE noting that only 90% of decisions are delegated compared to 93-97% in comparable authorities. The high number of applications dealt with at Committee is driven primarily by two specific triggers. These are an objection by Parish or Town Councils and receipt of 5 or more letters of support or objection. If either of these occur an application is automatically brought to committee for consideration. POSE suggests a number of proposals to improve these triggers to reduce the workflow to Committees which the Authority should implement as a priority.

Reducing workload would allow a reduction in the frequency and length of Committee meetings. Currently there is particular pressure on the North and West Committees with 79% of total committee applications in 2013/14 being directed to these Committees. There are currently 55% of members involved in at least one planning committee and attendance at planning committees has historically been good. A significant amount of member resource is, therefore, being input into Committees which could potentially be redirected elsewhere.

The current largely geographical committee structure does not create an equitable workload for members. The significant workload experienced by the Committees should be reduced through an increase in the decisions being delegated to Officers. Greater levels of delegation will allow a decrease in the member time required at Committees and would consequently facilitate a reduction in the number of planning Committees. This would allow the Council to move away from a geographical committee structure to a more strategic one, for example, having just two or three committees, one county wide committee reviewing strategic applications and a further one or two county wide committees reviewing those applications deemed non-strategic. Reducing the number of Committees, which will require changes to the scheme of delegation, will allow the Council to draw further resource and cost efficiencies from the planning service.

In addition, Committees require a significant amount of Officer resource which results in less time being available to deal with other applications, and which in turn will have an impact on the time they are able to spend on delegated decisions. Having increased time to spend on delegated decisions and efficiently processing them, could contribute to an overall improvement in the planning service performance. We understand that changes have begun to be implemented in the management structure to drive efficiencies, however for these to be fully effective the planning service as a whole must be considered including the committee structure and the triggers for non delegated applications.

Executive Summary (continued)

A review of statistics in relation to planning appeals show that applications considered by committee account for up to 43% of appeals, however as Planning Committees consider 10% of total applications, this is a high proportion overall. Furthermore, 2012/13 statistics showed that the Authority was successful for 33% of appeals that had been lodged in relation to applications where a Committee had overturned the officer's recommendation. This is a low success rate when compared to the success rate for appeals where the committee decision concurred with the Officer recommendation (64% success rate) or the application was dealt with by the Authority under delegated authority (78% success rate). This indicates that overturns of officer recommendations are not always robustly supported by planning policy. It is crucial that planning decisions are validly supported as failure to do this is resulting in additional costs, both in terms of defending an increased number of appeals and the direct costs incurred in relation to those that are decided against the Authority.

The recent High Court judgement in relation to an application for a wind turbine (Joicey versus Northumberland County Council) identified a number of failings in the planning process including failure to provide timely access to supporting reports, backdating records, weaknesses in officer reports (no list of supporting reports and a misleading statement that there was no relevant planning history) and the appropriateness of the Council's conclusion in relation to whether certain parties were "financially involved".

Members and Officers' Interests

At the Committee meetings we observed, members appropriately declared interests and followed protocol by leaving the committee meeting at the appropriate time when the related application was being discussed. Our discussions with those involved in the Committees, however, indicated that protocol in respect of this is not always appropriately followed.

In addition, on some occasions members will find themselves in difficult positions as they are making decisions on planning applications within their own ward resulting in additional tensions. There is no requirement for members to declare an interest when an application in relation to their ward is considered at Committee, however, we recommend that in order to demonstrate transparency, this should be considered.

The constitution states that a personal interest must only be declared if it is not already entered on the Authority's register of interests. However, there is currently no process in place to ensure that all interests on the register are considered alongside applications. This also increases the risk that a member could inadvertently vote on an application where there may be a personal and prejudicial interest and could result in other committee members being unaware of the personal interests held which reduces the effectiveness of the control.

The constitution has been interpreted cautiously resulting in any applications where the officer has declared an interest going to committee rather than just those where there is a personal and prejudicial interest. As a result, there may be scope for applications, where interests are personal and not prejudicial, to be dealt with under delegation but with the appropriate controls in place. Whilst there has been nothing to suggest that interests are not been declared by officers it is good practice to have a control list of officers' interests to assist in allocating workloads effectively in the first instance. However ultimately, the identification of interests in relation to officers is down to individual declarations on the part of officers, and it is correct that officers should still continue to declare any interests as they arise.

Executive Summary (continued)

Other Planning Considerations

Whilst site visits can be useful tools for Committee members, officers have expressed concern over the level of attendance at Committee site visits which raises questions over the importance of them in reaching the application decision. In addition, some members have noted that at times site visits have been held in the past when they were not necessary. This can often result in inefficiencies in dealing with applications and subsequent delays. As protocol currently states that all members should attend site visits, the Authority should revisit the protocol on attendance to allow flexibility should all members not be able to attend. In addition, due to the cost and time involved in organising a site visit it would be helpful to also incorporate into the protocol a minimum level of attendees, which if not reached results in the site visit not occurring.

The Authority's LDF currently still consists of the local development plans (LDPs) adopted by the six predecessor district councils that were in force on 1 April 2009, together with a number of other plans. The Core Strategy will be a key document within the LDF as it will provide guidance on where development will take place and how proposals will be assessed. Some members cite the lack of a Northumberland Core Strategy as a source of difficulty in making planning decisions. The absence of a Core Strategy and a single Local Development Plan will continue to cause difficulty, and increases the risk of development occurring that is not aligned with the Authority's wider strategies and plans. While we recognise that there are a number of challenges connected to the Core Strategy, including the Core Strategy Statutory Process, the progress with the LDP has experienced significant slippage. Therefore increased priority should be attached to the development of the Core Strategy to avoid any further delays and the information on the website should be updated to inform stakeholders and the wider public, particularly critical given the importance of the consultation processes

Concerns have, however, been raised by both Members and officers over the effectiveness of the LDF Member Working Group. We note that the minutes do not reflect action points or document how issues raised at previous meetings have been addressed, the Working Group does not report to any Committee (Scrutiny or Policy Board) and the minutes of the Group are not received by the Policy Board. It is not, therefore, clear how the Group fulfils its fundamental purpose of making recommendations to and advising the Policy Board. In addition, whilst the balance of membership reflects the political balance, it is not representative of the geographical split of the County. Therefore governance arrangements should be reviewed to assess effectiveness and improve transparency, including membership and the role of the Working Group, the role of the Policy Board in providing leadership and driving / monitoring progress, and reporting to both Policy Board and Scrutiny.

Conclusion

Our VFM review (and the recent POSE reports) have identified a number of significant issues and concerns with regard to the quality, structure, performance, governance and costs of the planning service. A number of important recommendations have been included in this report to address the issues identified. We encourage the Authority to take forward these recommendations as a priority.

Statement of Responsibilities

The Audit Commission published a 'Statement of responsibilities of auditors and of audited bodies' alongside the Code of Audit Practice. The purpose of this statement is to assist auditors and audited bodies by summarising where, in the context of the usual conduct of the audit, the different responsibilities of auditors and of the audited body begin and end, and what is expected of the audited body in certain areas. The statement also highlights the limits on what the auditor can reasonably be expected to do.

This report has been prepared on the basis of, and our audit work carried out in accordance with the Code and the Statement of Responsibilities, copies of which has been provided to Northumberland County Council by the Audit Commission.

While this report includes suggestions for improving accounting procedures, internal controls and other aspects of your extended business arising out of our review, we emphasise that our consideration of the systems of internal control are conducted solely in line with our agreed scope and having regard to our responsibilities under Auditing Standards and the Code of Audit Practice. We make these suggestions in the context of our review but they do not in any way modify our audit opinion which relates to the financial statements as a whole. Equally, we would need to perform a more extensive study if you wanted us to make a comprehensive review for weaknesses in existing systems and present detailed recommendations to improve them.

Any conclusion, opinion or comments expressed herein are provided within the context of our opinion on the financial statements and our conclusion on value for money as a whole, for the year ended 31 March 2014.

We view this report as part of our service to you for use by Northumberland County Council for Corporate Governance purposes and it is to you alone that we owe a responsibility for its contents. We accept no duty, responsibility or liability to any other person as the report has not been prepared, and is not intended, for any other purpose. It should not be made available to any other parties without our prior written consent.

Section 1

Planning Committees

1. Committees

The Northumberland County Council (“the Authority”) Planning Service comprises four committees with three of the committees being split geographically (the North, West and South East Area Planning Committees) and one committee which considers the more strategic planning applications (the Planning, Environment and Rights of Way Committee “P&E Committee”).

POSE noted that in comparison to other Local Authorities, Northumberland has a much lower number of applications being dealt with by officers under delegated authority with only 90% being delegated. POSE benchmarked this against other similar local authorities and found that the delegation rates were higher than Northumberland, ranging from 93% to 97%.

This high Committee workload will have implications for both member and officer resource and an impact on the value for money achieved by the Service. Recent Planning Service performance reporting demonstrates that targets for the speed of decision making on planning applications are not being met across major, minor and other planning applications. This is an ongoing trend with the Planning Service featuring in the Authority’s performance overview matrix as being consistently low performing. It is clear that further actions are urgently required to facilitate the improvement of this service. We acknowledge that the Authority has implemented some initiatives to improve the service, such as the fast track service, a single IT system, a Central Registry System and the implementation of LEAN processes, however more needs to be achieved if the planning service is to improve and achieve its target KPIs going forward. We recognise that there were a number of significant challenges to overcome following Local Government Reorganisation (LGR), but LGR occurred over 5 years ago and the pace of progress needs to be accelerated significantly.

Reasons for applications going before Committee

POSE noted that the proportion of applications dealt with under delegated authority was lower than other comparable authorities. Applications can go before Committee for a variety of reasons. An analysis of the reasons as to why applications were brought to committee has been undertaken for the 6 month period from April 2014 to September 2014. Some applications may go to a Committee for more than one reason. Approximately 22% of applications in the North and West met more than one criteria compared to approximately 55% of applications in the South East and P&E Committee. While there are a number of other reasons that would also result in applications being brought to Committee, the table below notes some of the key reasons identified in the 6 month period and the number and percentage of applications brought to Committee as a result of these.

Committee	5 or more objections	Parish/Town Council Objection	Officer interest
P&E	53% (9)	35% (6)	0% (0)
South East	56% (9)	31% (5)	0% (0)
West	43% (24)	50% (28)	9% (5)
North	36% (16)	56% (25)	4% (2)

1. Committees (continued)

The analysis identifies the main reasons for applications being brought to committee to be parish and town council objections and 5 or more objections or letters of support. Parish/Town Council objections were particularly predominant in the North and West Committees, accounting for at least 50% of applications to committee. The Council has historically included the Parish/Town Councils as if they are a statutory consultee, however they do not meet the definition of a statutory consultee for planning purposes. National Planning Guidance indicates that they are still an important consultee (albeit not statutory). Therefore, while we acknowledge that the Parish/Town Council may still be consulted, as they are not a statutory consultee, the scheme of delegation does not require parish / town council objections to trigger an application being taken to committee so this practice could be revisited without the need to revise the scheme of delegation. The receipt of 5 or more objections is, however, specified in the scheme.

Within the North and West Committees more than 75% of applications within our review period met only one criteria. This indicates that there is significant scope to reduce the Committee workload through revisiting the parameters of the two main triggers.

In addition, officers' interests were particularly prominent in the West where an officer has a known interest. A stringent interpretation of the constitution (see also Section 2) in respect of this results in applications regularly being brought to Committee that otherwise may have been dealt with under delegated authority (see page 18 for further details).

During the six months reviewed, applications were brought to five out of seven meetings in relation to one particular officer's known interests. This is another area where changes are suggested by POSE. Whilst the impact of this would be limited compared to the top two triggers, as the constitution provides scope for a less cautious interpretation, this is a measure which could be implemented with immediate effect [R1].

POSE make a number of suggestions to reduce the number of applications being brought before committees and to embed efficiencies within the ways in which the Committees operate. We recommend that the Authority review the proposals noted by POSE to identify those which would work most effectively for the Authority and seek to implement those that are agreed [R2].

Frequency of meetings

A review of committee meetings from the last 5 years demonstrates the following number of meetings.

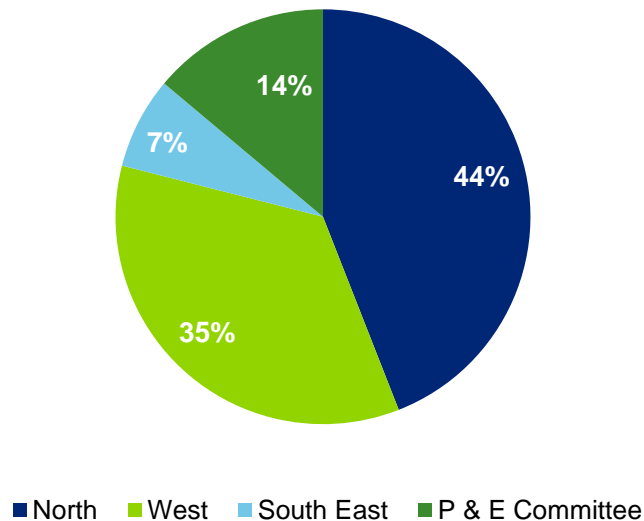
	2010/11	2011/12	2012/13	2013/14	2014/15 (to September 2014)	Total Number of meetings
P&E	12	11	12	11	7	53
South East	11	12	11	9	5	48
West	13	12	13	12	8	58
North	13	12	12	16	8	61
Total	49	47	48	48	28	220

There has been little change in the number of meetings over the past 5 years, although 2014/15 does indicate there could be an increase in meetings in 2014/15 if the meetings continue to be held as frequently in the last six months of the year. There are differences between the number of meetings held by each committee. The North Committee has had the most meetings over this period closely followed by the West, while the South East Committee has 21% fewer meetings than the North. The number of North Committees in 2013/14 peaked at a 5 year high. Conversely, the South East Committee had a 5 year low in 2013/14.

This demonstrates the disproportionate workloads of the committees. The true difference in workloads can only be fully understood when considering the workload of each Committee on the basis of volume of applications. It is acknowledged that some applications will be more complicated and will require more time for consideration, therefore a comparison of the volume of applications will not be an absolute measure of workload.

1. Committees (continued)

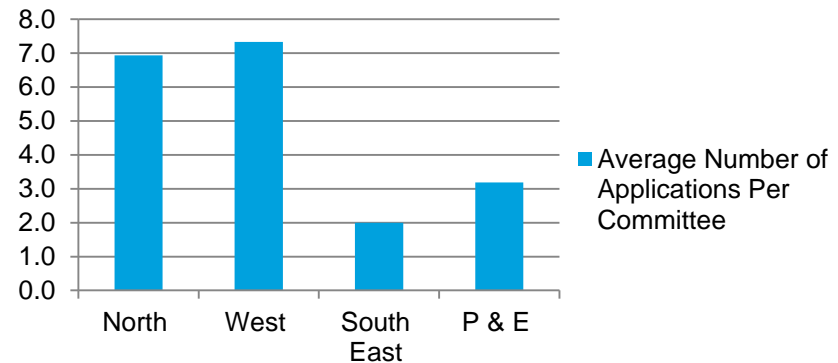
Total applications at committee – 2013/14



This demonstrates that the North Committee hosts the majority of applications that go to Committee, forming almost half of the total applications in 2013/14. The West is responsible for approximately a third of the total decisions, with the South East having a much smaller amount, with only 18 applications going to Committee in the year.

Our discussions with Officers and Members indicated that the North and West Committees particularly are prone to being lengthy. This is consistent with the findings of POSE who also noted the impact this could have on the quality of the debate. An analysis below shows an average number of applications per committee for 2013/14 and evidences the variance between the applications going to each Committee. This demonstrates why the North and West Committees may run later than the others.

Average Number of Applications Per Committee Meeting



Actions, such as those suggested by POSE, need to be implemented to address the imbalance of workloads between the committees [R2]. Having such a disparity in the number of applications being considered by each Committee means that additional pressure is unduly being placed upon the North and West Committees. This may have a number of implications on the planning service. If the quality of debate is reduced as the meetings progress into the evening, then this is likely to have an adverse effect on the decision making process and could result in decisions being made which are more likely to be open to challenge at a later date. Responding to these challenges inevitably comes at a cost to the Authority, both in terms of Officer resource and any monetary settlement that has to be paid as a consequence of the appeals process.

The current largely geographical committee structure does not create an equitable workload for members. The significant workload experienced by the Committees should be reduced through an increase in the decisions being delegated to Officers. Greater levels of delegation will allow a decrease in the member time required at Committees and would consequently facilitate a reduction in the number of planning Committees. This would allow the Council to move away from a geographical committee structure to a more strategic one, for example, having just two or three committees, one county wide committee reviewing strategic applications and a further one or two county wide committees reviewing those applications deemed non-strategic. Reducing the number of Committees, which will require changes to the scheme of delegation, will allow the Council to draw further resource and cost efficiencies from the planning service [R3].

1. Committees (continued)

Attendance and Membership

Attendance at each planning committee varies but is generally good. As POSE notes, and demonstrated below, the South East has the highest number of membership when comparing the three Area Planning Committees and conversely, as already evidenced, has the lightest workload. This may be a result of historical arrangements following the Local Government Reorganisation in 2009, however currently it is not logical to have a committee with 50% more members than its two counterpart committees when it considers an average of 2 applications per month and only 14% of total applications.

	No of members	% attendance
P&E	15	87%
South East	15	75%
West	10	87%
North	10	86%

The membership of the committees does mean that there are a high proportion of members involved in planning with 37 members (55%) sitting on one or more planning committees. Furthermore, 13 of these members sit on 2 committees, namely an Area Planning Committee and the Planning, Environmental and Rights of Way Committee. This results in a significant time commitment from members over the course of the year.

To put this into context, there was approximately a total of 470 attendances at a planning committee during 2013/14 by committee members. Each of these attendances may entail several hours of preparation to read all of the material prior to the meeting and the time spent in the committee meetings themselves. In addition, each member would have additional pressures on their time including site visits and undertaking training. This is a substantial time commitment for members to undertake. Given the considerable time commitment that serving as a member of a Planning Committee entails and the significant number of members who are involved in the Planning Committees, it is questionable if this is the most effective use of members' time. Consideration should be given to the potential solutions put forward by POSE in relation to the options for alternative committee structures as it is clear that the current one does not facilitate an equitable flow of work to each committee [R1]. Implementation of a more effective structure could also result in the benefit of additional member resource being able to be redirected elsewhere.

1. Committees (continued)

Officer Resource

POSE note that the caseload of planning officers, at approximately 90 cases per officer, is significantly lower than other Local Authorities within the benchmarking group at 150 cases per officer. This indicates that the Authority is not under resourced in planning. The implication is that the resource is perhaps not being used effectively.

In addition to extensive member commitment, the current committee structure and workload involves a number of other costs, the most significant of which is officer time. Detailed records of how officer time is allocated are not available, however, discussions with officers confirm that a significant proportion of their time is spent undertaking Committee activities.

There are a number of officer activities that are undertaken in preparation for the committees. These include writing reports, preparation of the presentations, attending the pre-committee meeting with the chair, attending the meeting itself, organising and attending committee site visits and circulating and addressing late representations. Undertaking all of these activities for almost 50 committees per year will result in a high proportion of officer time being dedicated to ensuring all the required protocols are being followed and all the required information is provided to the Committees. In addition, our review of minutes and observation of meetings demonstrate that a number of Officers attend each meeting depending on the issues arising which results in the Officer resource utilised being wider than the planning team. Officers in attendance can include but is not limited to: the Committee Clerk, Head of Service or Senior Planning Officer, several planning officers, a legal officer, a highways officer, public protection officer, housing officer, a sustainable drainage officer and a conservation officer.

The significant time commitment to committee applications by officers will result in less time being available to deal with other applications thereby adversely impacting the wider planning service performance. We understand that changes have begun to be implemented in the management structure to drive efficiencies, however for these to be fully effective the planning service as a whole must be considered including the committee structure and the triggers for non delegated applications.

Other Committee Costs

In addition to officer time there a number of other committee costs incurred at each committee. These include but are not restricted to the following:

- venue costs;
- cost of printing papers;
- postage costs of circulating papers; and
- travel expenses.

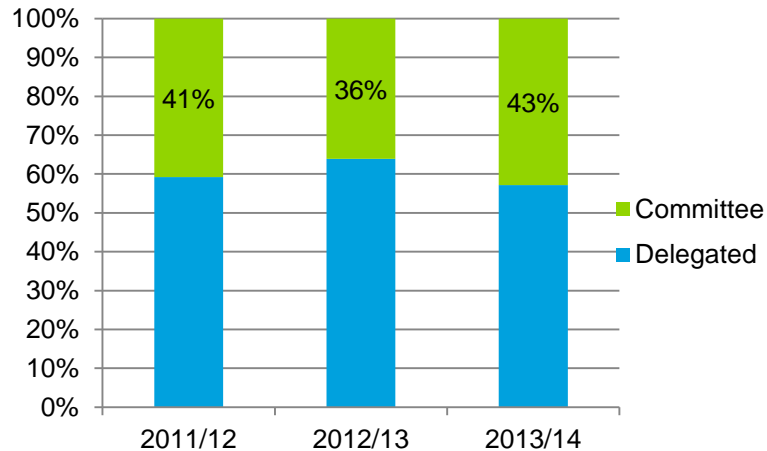
Fewer meetings in the year would therefore contribute to direct cost savings as well as increasing productivity for members and officers as more time is made available to pursue other tasks. It is essential that the Authority takes forward the recommendations from POSE as this will contribute to achieving efficiencies and improving performance which will result in improved value for money being derived from the service [R2].

1. Committees (continued)

Planning Appeals

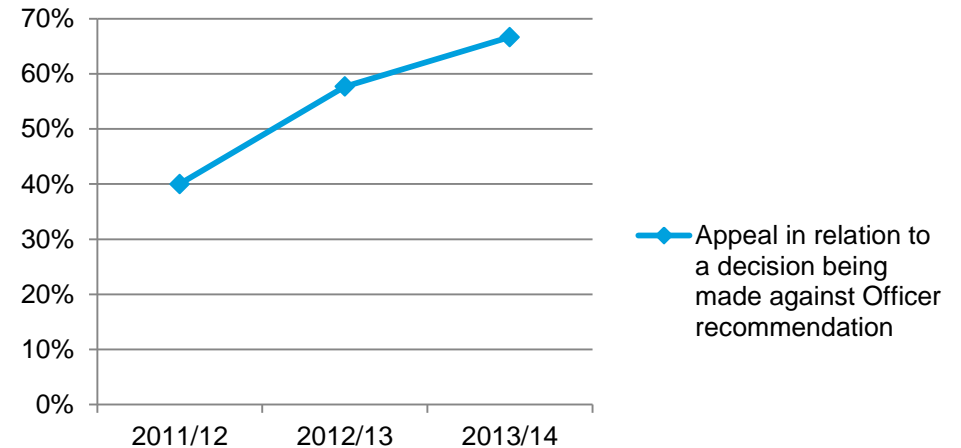
Planning appeals occur when an applicant wishes to challenge the planning decision that has been made by either the Committee or the Officers under delegated authority. Therefore it is essential that planning decisions are robustly supported by planning policy. The analysis in this section is based upon statistics compiled by the planning services for the POSE review and is comprised of appeals information up to 24th March 2014.

As noted above, committees account for 10% of the decisions on applications, however the graph below demonstrates that up to 43% of appeals were in relation to committee applications representing a relatively high proportion of appeals. There will undoubtedly be instances of appeals being lodged as applications going to Committee are likely to be more complex and contentious given the nature of the applications that are considered by Committees.



It is also notable that an increasing proportion of appeals in relation to Committee decisions are made following an overturn of the officer recommendation. The graph below demonstrates that for the statistics provided for 2013/14, this percentage had reached as high as 67%.

Appeal in relation to a decision being made against Officer recommendation



It is appropriate that the Committees consider and challenge the officers' recommendations and where they have valid planning concerns, overturning the Officers' recommendations is an appropriate course of action. Valid planning reasons must, however, be clearly detailed.

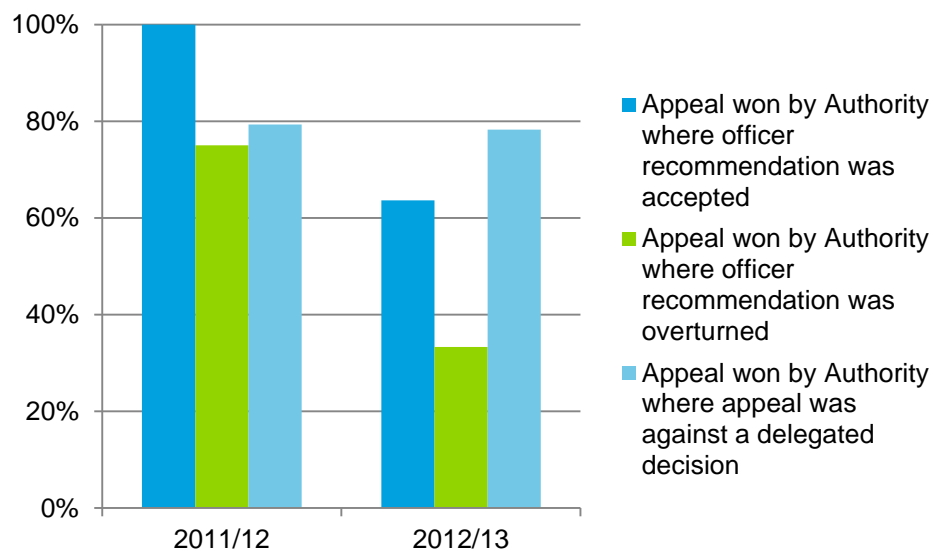
As part of this review, we reviewed a sample of applications determined by committee, five of which were subject to appeal. Three appeals were dismissed and the reasons given for the two that were allowed, both of which were overturned, were:

- the Committee decision was not in accordance with the National Planning Policy Framework (NPPF) and local core strategy (being the district strategy still in force in the absence of the county wide strategy); and
- the Council cannot demonstrate a 5 year supply of housing land as required by the NPPF as the local plan is out of date (see Section 3 below).

1. Committees (continued)

The recent High Court judgement in relation to an application for a wind turbine (Joicey versus Northumberland County Council) identified a number of failings in the planning process including failure to provide timely access to supporting reports and the appropriateness of the Council's conclusion in relation to whether certain parties were "financially involved".

The below graph demonstrates the success rates of the Authority in relation to appeals being dismissed. Statistics are provided for 2011/12 and 2012/13 as at the time the statistics were collated, a number of appeals for 2013/14 were still in progress and therefore the outcomes were largely unknown.



The graph shows that the overall success rate for appeals generally has declined in 2012/13. The level of appeals won by the Authority following an appeal against officer recommendation has remained consistent. While, the Authority's success rate for appeals against applications decided by Committee have decreased overall, the largest decrease is where an appeal was lodged following an overturn by a planning committee of an officer recommendation. The success rate in this category in 2012/13 was just 33% which suggests that overturns of officer recommendations may not always be robustly supported by planning policy.

We understand that feedback on appeals that are lost is provided to members but this is not a formal mechanism. And some members stated in interview that they did not always receive such feedback. While reports on appeals are lodged at committees with a commentary provided where deemed appropriate, we recommend that a reasons for appeals being lodged and lost be monitored more closely and the need for additional training be kept under regular review in the event of trends or patterns emerging [R4].

It is crucial that planning decisions are validly supported by planning policy as failure to do this will result in an increased number of appeals being brought against the Authority which are successfully awarded. Officer's confirmed that appeals require a significant portion of Officer time to collate and prepare the information and present the Authority's rationale for their decision. In addition, if the appeal is awarded against the Authority then the Authority will have additional costs to pay.

Section 2 Member and Officers' Interests

2. Interests

Members interests

Due to the nature of planning and in part due to the geographical organisation of the Northumberland Planning Committees whereby Committee members are drawn from the wards within the remit of the Area Planning Committees, it is inevitable that members will have at times interests to declare in relation to planning applications.

In the meetings we observed, we noted that members appropriately declared interests at the beginning of the meeting and observed protocol by leaving the committee meeting at the appropriate time when the related application was being discussed. Our discussions with those involved in the Committees, however, indicated that protocol in respect of this is not always appropriately followed. We acknowledge that it is difficult to implement controls to ensure completeness of declarations, particularly personal interests, as there is often no way for this to be identified unless it is declared.

In addition, on some occasions members will find themselves in difficult positions as they are making decisions on planning applications within their own ward. This can result in potential tension between acting as a locally elected councillor and a planning committee member with further difficulty in ensuring that decisions are based only on strict planning considerations. There is no requirement for members to declare an interest when an application in relation to their ward is considered at Committee. Within the sample we reviewed, there were several occasions when the ward member was the committee member who moved the motion or seconded a motion on the application. While this is perfectly acceptable where the ward member is acting as a member of the planning committee and not as a ward representative, to further assist in transparency, members may want to consider going forward declaring an interest where an application relates to their ward [R5].

We noted that the minutes do not always clearly document what was happening in the committee meeting. For example, minutes do not always explicitly make clear that members were leaving and re-entering the meeting. Our review identified one occasion where two members were recorded as having an interest in an application but the incorrect application was documented in the minutes within the disclosure of interests section. Both members were correctly documented at a later point in the minutes as not being present for the agenda item for which they had declared an interest, with one exiting the meeting entirely at an earlier point and one being documented as leaving and returning appropriately. However, should decisions be challenged at a later date, if the minutes of the committee meetings are confusing or not accurate and robust, the Authority may be more vulnerable to successful challenges. The Authority should therefore review the process for minutes being taken at planning meetings and provide additional training for the minute takers where appropriate to ensure that the minutes record all of the required detail and are accurate [R6].

In terms of the interests being declared within meetings, the constitution states that a personal interest must only be declared if it is not already entered on the Authority's register of interests. There is, however, no process in place to ensure that all interests on the register are considered alongside applications. This also increases the risk that a member could inadvertently vote on an application where there may be a personal and prejudicial interest, as well as potentially resulting in other committee members being unaware of the personal interests held, thereby reducing the effectiveness of the control. If members are not required to declare their registered personal interests at the Committee meetings, a process should be implemented whereby applications that are being directed for consideration at Committee are monitored against the register of interests to ensure that all interests in applications are known [R7].

2. Interests (continued)

We carried out a review of members interests recorded on the register of interests against some wider research (eg company directorships held) and identified several potential interests not disclosed on the register of interests. Failure to update the register of interests could result in interests in applications being unidentified. The requirement to disclose interests is in place to protect members and ensure appropriate conduct as well as ensuring due process is followed by the Authority. Therefore, members should be reminded of their responsibility to disclose all interests on the register of interests and the requirement for additional training on the appropriate disclosure of interests should be considered [R8].

Officer Interests

As previously noted in Section 1, the constitution has been interpreted cautiously resulting in any applications where a planning officer has declared an interest going to committee. The constitution states that *“an officer who believes he or she may be seen to have a personal interest in a planning matter shall declare it at the earliest opportunity, so advise the Director of Local Services or the Chief Executive and have no further involvement in the processing or consideration of that matter”* (para 4.9 of Guidance for Elected Members and Officers Dealing with Planning Matters). There is no reference in this section of the Constitution to say personal interests must result in applications going to Committee. The Delegated Powers (dated 1 April 2010) state that applications must be determined at Committee where any senior officer of the Council or any member of staff employed in the Development Management Service *“has a personal and prejudicial interest”*. There appears to be a distinction in the nature of the interest, meaning that only prejudicial interests need to go to Committee.

As a result, there may be scope for applications, where interests are personal and not prejudicial, to be dealt with under delegation but with the appropriate controls in place. This is an area which POSE also note within their report. We recommend that advice is sought from Legal regarding the interpretation of the above to assess scope for applications which are currently taken to Committee due to officers personal interests to be dealt with under delegated authority [R9].

We understand from discussions with officers from the Planning Service that applications which go to Committee are already dealt with by an officer who does not have an interest in the application, maintaining a clear segregation between the officer potentially conflicted and the officer undertaking the work on the application. No indication that interests are not been declared by officers have been identified but it may be good practice to have a control list of officer interests. Officer's interests are currently not collated within a register in the same way as members. Such a control list will assist in allocating workloads efficiently, as it will allow applications to be appropriately assigned to an independent officer in the first instance. It will also allow for greater transparency in the process particularly in light of any change in practice depending on the interpretation of the constitution which could result in more applications being dealt with by delegated authority [R10]. However ultimately, the identification of interests in relation to officers is down to individual declarations on the part of officers, and it is correct that officers should still continue to declare any interests as they arise.

Section 3

Local Development framework

3. Local Development Framework

Local Development Framework (LDF)

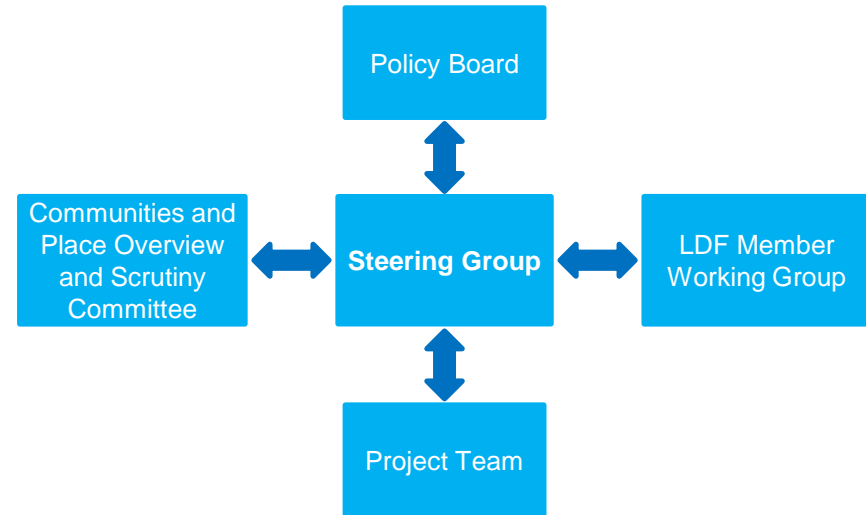
The Authority's LDF currently still consists of the local development plans (LDPs) adopted by the six predecessor district councils that were in force on 1 April 2009, together with a number of other plans. The Core Strategy will be a key document within the LDF as it will provide guidance on where development will take place and how proposals will be assessed. Progress in developing the Core Strategy has, however, been slow for a number of reasons including a lack of priority placed on it in the earlier years following LGR and external factors such as the need to align with the strategies of neighbouring authorities.

Some members cite the lack of a Northumberland Core Strategy as a source of difficulty in making planning decisions. Compliance with the NPPF and current (district level) core strategy have also been referred to within reasons for appeals being allowed (as detailed in Section 1). Whilst the National Planning Policy Framework, together with advice from officers should mitigate the impact on current planning decisions which must follow the six current, albeit out of date, plans, the continued absence of a Core Strategy and a single Local Development Plan will continue to cause some difficulty, and risks development that is not aligned with the Authority's wider strategies and plans.

The initial timetable for the development of the Core Strategy anticipated adoption in September 2011. As noted above, progress has been slow and the timetable this has continued to slip. The timetable on the website currently forecasts adoption in Autumn 2015 but from discussion with officers, we understand the current timetable to be submission for government approval in Winter 2015 so adoption would not be until 2016. Increased priority should be attached to the development of the Core Strategy to avoid any further delays and the information on the website should be updated to inform stakeholders and the wider public, particularly critical given the importance of the consultation processes [R11].

Governance arrangements

The governance arrangements for developing the Core Strategy are set out on the Authority's website as follows.



This governance structure is out of date and not operating in practice:

- The Policy Board is the decision-maker but no reports have been taken to the Policy Board throughout 2014 to date and the next report is scheduled for November 2014. Engagement with the political leadership is carried out in regular but informal meetings with the Leader and the Policy Board member responsible for Planning, Housing and Regeneration;
- The Steering Group was intended to take a strategic overview of the preparation of the LDP and ensure it is in line with other Council strategies but this no longer exists.

3. Local Development Framework (continued)

- There have been no reports to Scrutiny since October 2013 prior to phase 2 of the consultation process.
- The governance structure summarises the role of the Member Working Group as being to “make recommendations to and offer advice to the Policy Board on the preparation of the Plan and related planning strategy matters”. The terms of reference of the Group state its purpose to be to “create an opportunity for members to discuss issues and opportunities with key officers in relation to the preparation of the LDF”. The Group meets monthly and meetings are minuted.

Concerns have, however, been raised by both members and officers over the effectiveness of the Group. Given the nature of some of the concerns (e.g. the completeness and accuracy of minutes in recording discussions and issues raised by members), it has not possible to independently assess the validity of all concerns raised. The minutes do not reflect action points or document how issues raised at previous meetings have been addressed. We understand the general approach to be officers follow up matters raised and, where significant changes are required to the draft strategy, a revised section is taken to a later meeting of the Group.

The Working Group does not report to any Committee (Scrutiny or Policy Board) and the minutes of the Group are not received by the Policy Board. Although two members of the Working Group, including the Chairman, are also on the Policy Board so it is assumed that they update Policy Board colleagues, it is not clear how the Group fulfils its fundamental purpose of making recommendations to and advising the Policy Board.

The membership of the Group is determined to achieve political balance with the current make up of the Working Group being four Labour members (however one of these places has been allocated to an Independent Member who has chaired the Group since 2013); three Conservative and one Liberal Democrat. In addition, a Conservative Member from the West had been co-opted onto the Working Group until summer 2014. The balance of membership is not, however, representative of the county with four members being from the West, three from the South East and only one from the North. The Group is therefore dominated by Members from the rural West.

Workshops have been held involving all members of the Council to brief them of progress and provide an opportunity to comment, with one session held to date in 2014 and a second planned in November 2014 prior to the next public consultation. Whilst these sessions provide critical opportunities for members to comment on the consultation proposals, they do not form part of the formal governance arrangements for the development of the LDF and Core Strategy.

Consultation is undertaken at various stages in the development of the Core Strategy. Consultation on the scoping document was carried out from 31 October 2013 to 2 January 2014. The feedback from the consultation was shared with the Working Group but not with Policy Board. This will be addressed in the report to Policy Board scheduled for November 2014 in advance of the consultation on the draft document. Again, this raises questions over the timeliness of reporting and lack of transparency in the process.

The governance arrangements should be reviewed to assess effectiveness and improve transparency, including membership and the role of the Working Group, the role of the Policy Board in providing leadership and driving / monitoring progress, and reporting to both Policy Board and Scrutiny [R11]. The information published on the website should also be updated [R12].

Conflicts of interests

During the course of our review, concerns have been expressed over the lack of clarity of members' interests. We note that involvement in campaigns against changing the green belt boundaries and land ownership in an area of the county that is potentially affected the proposed changes in the green belt area were not disclosed on a timely basis. We understand that there is confusion over whether these constitute disclosable interests but such interests are likely to be perceived as conflicts of interest. We recommend that guidance is provided to the Working Group to manage any potential conflicts and help embed transparency within the process [R13].

Section 4 Other Planning Considerations

4. Other planning considerations

Site Visits

Site visits can be useful tools to aid the decision-making process. Although members have commented on several occasions within the minutes on how useful they found the site visits, the process is not always effective.

Officers have expressed concerns over the level of attendance at some site visits. Poor attendance at site visits can result in queries at the Committee meeting which could have been resolved on the earlier site visit had the member been present. In addition, some members thought that there could be scope to reduce site visits as some site visits were not considered necessary.

There are numerous costs attached to site visits. For example, officers' time in organising and attending the site visit (the protocol states that at least two officers should be present on site visits) and other costs such as bus hire and mileage.

The constitution states that "a site visit by members of a Planning Committee may be held where a proposal is contentious or particularly complex and the impact is difficult to visualise or assess from the plans and supporting information."

Currently, there are occasions when site visits are requested within a committee meeting whilst the application is being considered which can often result in inefficiencies in applications and subsequent delays. POSE commented that site visits should be requested in advance of the Committee and that the current protocol could be applied more forcibly to ensure that site visits are held only when necessary. We would endorse this course of action [R14].

Furthermore, the site visit protocol states that where site visits are considered appropriate they should involve the whole committee. On occasion it is inevitable that members cannot attend site visits due to other commitments. On the one hand, where there is poor attendance from members it may raise questions regarding how pivotal the site visit was in reaching the decision and whether the decision could have been made without the site visit. On the other hand however, there could be an increased risk of challenge to a decision where a site visit was determined to be necessary but was poorly attended.

Given the practicalities of all members being available to attend all site visits, the Authority should revisit the protocol on attendance to allow flexibility. In addition, due to the cost and time involved in organising a site visit it would be helpful to also incorporate into the protocol a minimum level of attendees, which if not reached results in the site visit being rescheduled [R15]. This could be done in conjunction with [R14].

Officers are introducing new methods of working, including the use of technology such as the trialling of video presentations, to reduce the need for site visits. At the Committee attended where this was used (note in this instance it was for a rights of way application not a planning application) members did not appear receptive to the introduction of the technology. However, this is in the early stages of implementation and as the use of this becomes more proficient, members may see the potential benefits of incorporating new ways of working and technology [R16].

4. Other planning considerations (continued)

Reports

The reports we reviewed were all of a consistent format utilising a standard template. In most instances it was clear within the opening paragraphs of the report why the application had been brought to the Committee. The sample of reports we reviewed contain all the key issues in relation the application and provide a clear officer recommendation.

The recent High Court judgement in relation to an application for a wind turbine (Joicey versus Northumberland County Council) identified a number of failings in the planning process including failure to provide timely access to supporting reports, backdating records, and weaknesses in officer reports (no list of supporting reports and a misleading statement that there was no relevant planning history). The sample of reports we reviewed also omitted a list of supporting reports. We understand that an investigation is to be carried out into the findings of this judgement and we recommend that the report format and guidance to all planning officers is reviewed [R17].

Each report documents the responses of the consultees which are the Town or Parish Council and other interested parties which could be other departments within the Authority or other organisations, such as Northumbrian Water and the Environment Agency. Concerns were expressed by members over the completeness and timeliness of input from other parties. From the sample of reports we reviewed we also noted that there were often omissions from consultees. In several cases where the consultee had not responded, the consultee was part of the Authority e.g. waste management, trees and woodland officer and highways etc. Whilst there may be difficulty in obtaining responses from third parties, officers of other departments within the Authority should respond to the requests from planning officers to ensure that planning officers have all available information to present to committee. Staff in the relevant departments should be reminded of the importance of timely responses, the implications (cost and performance related) of failure to do so, and an escalation process is put in place to try and eliminate non responses going forward [R18].

Sharing of best practice

From discussions with officers there does not appear to be a formal process for sharing best practice or lessons learned between officers. Best practice was noted as being shared on a more ad hoc basis. As officers work in varying locations, this may increase the risk of points of good practice or efficiency not being shared. A process should be set up whereby any best practice identified can be shared across all officers. For example an individual could be charged with collating all identified ideas and initiatives and cascading this information through the team via email [R19].

This could also be extended to members within areas such as appeals. Although the outcomes of appeals are often fed back to members at the end of a Planning Committee, more focused information regarding the reason for the outcome and any learning as a result of it should be shared with members.

Section 106 agreements

The policy on determining requirements within S106 agreements is provided in the Local Development Plans (LDPs) of three of the districts for some aspects such as the provision of play areas in new housing developments. These may be used as guidance in negotiating S106 agreements in the other three districts but the lack of a consistent policy for the county leads to inconsistencies in agreements reached. We understand that a protocol is being developed and this should be implemented as soon as possible to strengthen the arrangements and achieve consistency [R20].

Currently, S106 agreements are negotiated by the Planning Officer responsible for the application, although the Planning Officer will consult with colleagues from other departments as appropriate e.g. highways. The lack of segregation can increase the risk that the optimal arrangements are not achieved as the Planning Officer may more focused on delivering the development. Although a protocol should assist in managing this risk, consideration should be given to whether segregation of duties, or a dedicated officer to undertake review of the proposed terms of agreements is appropriate [R21].

Appendix 1

Recommendations

Appendix 1 - Recommendations

Ref	Recommendation
R1	Review the triggers that result in applications being taken to committee, including the interpretation of the receipt of a parish council objection requiring a committee decision, and the triggers within the scheme of delegation.
R2	POSE make a number of suggestions to reduce the number of applications being brought before committees and to embed efficiencies within the ways in which the Committees operate. We recommend that the Authority review proposals noted by POSE to identify those which would work most effectively for the Authority and seek to implement those that are agreed.
R3	We recommend that the Council reviews the current Committee structure as a priority. The Council should consider moving away from a geographical committee structure to a more strategic one, for example, having just two or three committees, one county wide committee reviewing strategic applications and a further one or two county wide committees reviewing those applications deemed non-strategic. Reducing the number of Committees, which will require changes to the scheme of delegation, will allow the Council to draw further resource and cost efficiencies from the planning service.
R4	We recommend that reasons for appeals being lodged and lost be monitored more closely and the need for additional training be kept under regular review in the event of trends or patterns emerging.
R5	Consider extending the disclosure of members' wards when applications from those wards are being determined by the committees.
R6	The Authority should review the process for minutes being taken at planning meetings and provide additional training for the minute takers where appropriate to ensure that the minutes record all of the required detail and are accurate.
R7	If members are not required to declare their registered personal interests at the Committee meetings, a process should be implemented whereby applications that are being directed for consideration at Committee are monitored against the register of interests to ensure that all interests in applications are known. .
R8	Members should be reminded of their responsibility to disclose all interests on the register of interests and it should be considered whether there is a requirement for additional training.
R9	Obtain advice from Legal regarding the interpretation of the constitution and delegated powers to assess scope for applications which are currently taken to Committee due to officers personal interests to be dealt with under delegated authority
R10	We recommend establishing a register of officer interests within Planning to assist in allocating applications to officers and aid transparency.
R11	Increased priority should be attached to the development of the Core Strategy to avoid any further delays and the information on the website should be updated to inform stakeholders and the wider public.
R12	The governance arrangements for the development of the LDF and Core Strategy should be reviewed to assess effectiveness and improve transparency, including membership and the role of the Working Group, the role of the Policy Board in providing leadership and driving / monitoring progress, and reporting to both Policy Board and Scrutiny.

Appendix 1 – Recommendations (continued)

Ref	Recommendation
R13	We recommend that guidance is provided to the LDF Working Group to manage any potential conflicts and help embed transparency within the process
R14	Address the POSE recommendations for the management of site visits and application of the protocol.
R15	Consider imposing a minimum level of attendees for site visits, which if not reached results in the site visit being rescheduled.
R16	Continue efforts to develop the use of alternative working practices, including the use of technology, to reduce the number of site visits.
R17	We recommend that the report format and guidance to all planning officers is reviewed alongside the investigation into the findings of the Joicey case.
R18	Staff in the relevant departments should be reminded of the importance of timely responses, the implications (cost and performance related) of failure to do so, and an escalation process is put in place to try and eliminate non responses from consultees.
R19	A process should be set up whereby any best practice identified can be shared across all officers. For example an individual could be charged with collating all identified ideas and initiatives and cascading this information through the team via email. This should also be extended to include members where appropriate.
R20	The Authority should seek to complete the s106 protocol that is being developed as soon as possible and roll it out among planning and legal officers to ensure consistency in agreements are achieved going forward.
R21	Consideration should be given to whether segregation of duties, or a dedicated officer to undertake review of the proposed terms of agreements is appropriate.



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.co.uk/about for a detailed description of the legal structure of DTTL and its member firms.

Deloitte LLP is the United Kingdom member firm of DTTL.

This publication has been written in general terms and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte LLP would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte LLP accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

© 2015 Deloitte LLP. All rights reserved.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 2 New Street Square, London EC4A 3BZ, United Kingdom. Tel: +44 (0) 20 7936 3000 Fax: +44 (0) 20 7583 1198.