

TANDRIDGE DISTRICT COUNCIL

PLANNING POLICY COMMITTEE

Minutes and report to Council of the meeting of the Committee held in the Council Chamber, Council Offices, Station Road East, Oxted on the 21st September 2023 at 7:30pm.

PRESENT: Councillors Sayer (Chair), Chris Farr (Vice-Chair), Blackwell, Booth, Sue Farr, Gray (substitute in place of Botten), Moore, Prew and Steeds

ALSO PRESENT: Councillors Crane, Gillman, O'Driscoll, Nicholas White and Wren

ALSO PRESENT (Virtually): Councillors Gaffney, Pursehouse and Windsor

APOLOGIES FOR ABSENCE: Councillors Botten, Alun Jones and Robinson

109. MINUTES OF THE MEETING HELD ON THE 18TH JULY 2023

These minutes were confirmed and signed as a correct record.

110. LOCAL PLAN OPTIONS

Following the Local Plan procedural meeting on the 27th July 2023, the Inspector had written to the Council advising that, in his view, it would not be possible to make the Plan sound and that he would recommend non-adoption. Two options were presented:

1. the Inspector writes a report concluding the Plan is unsound and not adopted; and
2. the Council withdraws the Plan.

A report was considered which assessed the relative merits of both options to assist the Committee in making a recommendation to Full Council.

The Chair expressed great disappointment that the Council's suggestions and arguments for retaining a Local Plan with main modifications (TED 61 and TED 58) had not been accepted and considered that the Council now owed it to residents to ask the Inspector to write a report.

The Committee debated the matter and voted unanimously in support of Option 1. It was confirmed that receipt of the Inspector's report would end the dialogue between himself and the Council.

COUNCIL DECISION
(subject to ratification by Council)

RECOMMENDED – that Option 1 (the Inspector writes a report setting out why the submitted Plan is unsound and should not be adopted) be pursued.

111. PLANNING PERFORMANCE AGREEMENT FRAMEWORK

The Committee considered proposals for introducing voluntary Planning Performance Agreements (PPAs) as part of a pre-application service. Their purpose was to establish transparent procedures for determining large and/or complex applications and to encourage joint working with applicants and other interested parties (they are not a means of obtaining consent). A suggested pro-forma was presented as a basis for guiding the process for agreeing a PPA and which could be adapted to meet the bespoke requirements of a particular application.

The accompanying report also identified key principles which would need to be applied when setting an associated charging scheme, namely:

- the need to apply reasonable, costed charges for discretionary services which reflect both direct costs and an appropriate recovery of overheads
- the recharging of one-off external support costs (e.g. highway modelling)
- transparency, consistency and benchmarking against other Local Authorities
- an annual review process.

In response to the debate, it was confirmed that Ward Members would be notified when a PPA had been entered into and would be kept informed about the subsequent key stages of the process. The Chief Planning Officer considered that developers would probably be keen to engage local Councillors. However, it was acknowledged that such Member involvement would need to take account of the Planning Protocol.

RESOLVED – that:

- A. the Planning Performance Agreement (PPA) pro-forma, as attached in Appendix A to the report, be agreed in principle as the basis for negotiating performance agreements with developers on major and largescale applications; and
- B. authority be delegated to the Chief Planning Officer, in consultation with the Chairs of the Planning Committee and Planning Policy Committee, to set the appropriate scale of charges.

112. QUARTER 1 2023/24 KEY PERFORMANCE INDICATORS - PLANNING POLICY COMMITTEE

Information was presented about:

- key planning performance indicators for the first quarter of 2023/24 (1st April to 30th June 2023) as submitted to the Department for Levelling Up, Housing and Communities
- the Committee's risk register
- efforts to reduce the backlog of planning applications, including a funding application to the Planning Skills Delivery Fund.

Members expressed their appreciation of the Development Management team's efforts to reduce the application backlog. However, concern was expressed regarding the proportion of outstanding cases which were over a year old. The Chief Planning Officer confirmed that the team was aware of the situation and explained the context of some of those cases. She also confirmed that an imminent review of the enforcement service would include the scope for improving website content (e.g. publication of enforcement notices).

RESOLVED – that the Quarter 1 (2023/24) performance indicators and risks for the Planning Policy Committee be noted.

113. QUARTER 1 2023/24 BUDGET MONITORING - PLANNING POLICY COMMITTEE

An analysis of expenditure against the Committee's £1,338K revenue budget for 2023/24, as at the end of June 2023 (Month 3) was presented. A £197K overspend was forecast, mainly due to an increase in the provision for the cost of defending planning appeals; additional expenditure on enforcement and the Gatwick DCO; and a reduction in land charges income.

Regarding the Committee's capital programme (entirely funded by Community Infrastructure Levy income) expenditure of £0.5m was forecast, with the £2.1m carry forward from 2022/23 to be reprofiled into 2024/25.

In response to the debate, the Deputy Chief Executive explained the intention to invest in permanent staff throughout the planning service. However, she reflected on the challenging nature of the recruitment market for certain specialisms and advised that, for the medium term, it would be necessary to retain and seek a few high calibre interim staff within the planning teams.

RESOLVED – that the Committee's forecast revenue and capital budget positions as at Quarter 1 / M3 (June) 2023/24 be noted.

114. BIO-DIVERSITY NET GAIN

The Environment Act 2021 had introduced a minimum requirement for certain types of development to deliver a 10% biodiversity net gain (BNG) through the planning system from November 2023. A report was presented to inform Members about the emerging BNG regime, including the concept of 'mitigation hierarchy' whereby environmental harm arising from a development should be avoided; adequately mitigated; or, as a last resort, compensated for. While BNG mitigation / compensation should, preferably, be achieved on the development site, developers would have the option to fulfil BNG obligations through off-site measures (i.e. on 'receptor sites'). It was confirmed that developers would incur financial penalties if such 'off-site mitigation' took place on receptor sites outside the District. The responsibilities associated with becoming a receptor site were also discussed.

The report explained key aspects of BNG statutory provisions and the implications for the Council, including:

- the Biodiversity Metric (produced by the Department for Environment, Food and Rural Affairs (DEFRA)) to assess changes in biodiversity value brought about by development or changes in land management

- a BNG site register being developed by DEFRA and Natural England
- the requirements for local authorities arising from the introduction of BNG, as identified by the Planning Advisory Service, which would impact on several Council functions, e.g. development management, CIL, corporate policy and legal
- key work areas for embedding BNG within the Council, including short term essential tasks for preparing for the implementation of relevant legislation in November 2023; establishing a baseline biodiversity evidence base over the medium term; and integrating BNG into planning policy and wider corporate strategies
- an explanation of how and when BNG will be applied to planning applications, including a summary of exemptions such as householder applications
- the requirement to monitor relevant schemes over 30 year periods to ensure BNG compliance, including S106 obligations, which would trigger additional workloads for planning, finance and legal services.

Since the original publication of the report, an extra recommendation (E below) had been added which confirmed the Council's aspiration for 20% BNG. Attention was drawn to the need to justify any such increase and to consider any potential impact upon the viability of other developer obligations (e.g., regarding affordable housing and public open space provision).

Discussion focused on the potential financial implications of BNG for the Council and the need to recover costs where possible, including receipt of upfront payments to cover the cost of a 30 year BNG monitoring regime, either upon signing a Section 106 agreement or the commencement of development. It was also confirmed that an ecologist had been recruited to provide in-house capacity for implementing BNG. Arising from this, the scope for working with neighbouring District and Boroughs to share resources and best practice was discussed.

The importance of attempting to map the current ecological status of sites was raised. This would help guard against any unscrupulous attempts to degrade the ecological quality of sites prior to submitting applications (i.e. by establishing evidence of a prior baseline against which BNG requirements would have to be measured).

RESOLVED – that:

- A. Members note the report and the Chief Planning Officer be authorised to undertake the further work necessary to embed BNG within the Local Planning Authority and associated support services;
- B. the basic 10% BNG requirement from November 2023 onwards be adopted until further work can be undertaken to develop a robust evidence base on biodiversity;
- C. Members note the requirement for monitoring BNG statistics, BNG legal agreements and BNG planning conditions and the resourcing implications;
- D. Members note the need to consider staff cost charging schedules for all aspects of BNG related work, particularly administration and monitoring and the intention of the Chief Planning Officer to bring a report back to this Committee on the matter in November 2023; and

- E. the feasibility and achievability of a higher target in Tandridge District than the mandatory 10% BNG be investigated and a further report be submitted to the Committee's November meeting on the progress of evidence base work relating to the Council adopting such a higher percentage target.

115. GATWICK AIRPORT UPDATE

Gatwick Airport Limited's (GAL) application for an Order to grant Development Consent for its Northern Runway Project had been accepted by the Planning Inspectorate (PINS) to proceed to a public examination. A report was submitted to inform the Committee about the key stages of the examination process, including the significant workstreams for the planning policy team which had now been triggered, i.e.:

- the relevant representations period commenced on 4th September and would run until 29th October
- PINS had issued ten initial observations under Section 51 of the Planning Act 2008, including advice to address the concerns of the local authorities consortium regarding the need for more effective engagement and the preparation of an Issues Tracker (initially, four separate Issues Trackers were provided, however GAL subsequently committed to the production of a consolidated Tracker which would be updated to include future issues raised through relevant representations)
- the full suite of Environmental Statement documents had been released, which enabled public scrutiny of the impacts as identified by GAL (192 documents across 16 thematic areas) – the affected authorities and their consultants were reviewing the documents to consider the assertions made with a view to seeking an appropriate basis of mitigation and/or compensation
- TDC Officers had commenced drafting its Relevant Representation in anticipation of the 29th October due date
- the Council was pursuing bespoke Statements of Common Ground with GAL regarding air quality and noise, with responses on ten other thematic areas deferred to Surrey County Council and/or other adjoining authorities as appropriate
- the Council had agreed to engage with the affected Surrey authorities in the preparation of a joint Local Impact Report, led by Surrey County Council, to be submitted to PINS in advance of the commencement of examination.

In addition, the report explained the work being undertaken by consultants AECOM, York Aviation and Ekosgen to evidence local air quality and noise impacts within the District.

The report also updated the Committee about GAL's FASI-S Airspace Change Programme (the consultation process for which was separate to the DCO) including the options appraisal analysis which indicated that new flight paths will overfly the District and create noise impacts over a wider area. TDC's consultants had been asked to consider this in undertaking their assessment of future cumulative air quality and noise impacts.

RESOLVED – that:

- A. the contents of this report regarding the progress made to date in the DCO process and the current position be noted; and
- B. the contents of the report regarding recent developments in relation to FASI-S be noted.

116. GATWICK AIRPORT DEVELOPMENT CONSENT ORDER (DCO) APPLICATION PROCESS - FINANCIAL IMPLICATIONS

The press and public were excluded from this item in accordance with Section 100A (4) of the Local Government Act 1972 (as amended) on the grounds that:

- i) the item involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act; and
- ii) the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

On 23rd March 2023, the Committee approved a £30k budget for Gatwick DCO related work until its next meeting on 22nd June 2023, pending clarification on future expenditure. That budget figure had been supplemented by the provision of two payments from GAL (£9k and £10k) taking the overall budget to approximately £49k. In September 2023, the provision of a further £15k had been agreed by the Chief Executive (under urgency powers) to fund additional technical advice.

The Committee was informed about financial commitments which could be offset against the existing approved spend and the need for an extra £10k to cover specific further work and any other unforeseen contingencies that may occur until the end of the examination period.

RESOLVED – that future expenditure of up to £10,000 in connection with the Gatwick DCO process be approved.

Rising 9.46 pm