



Councillor Involvement in Planning Decisions

Final Report



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On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

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CONTENTS

EXECUTIVE SUMMARY	8
CHAPTER 1	
Introduction	12
1.1 Project aims and objectives	12
1.2 Context	13
1.2.1 The Local Governance Reforms and Elected Representatives	13
1.2.2 The Role of Councillors in Modernised Local Government	13
1.2.3 Implications of the first Barker Review (2004)	14
1.3 Report structure	15
CHAPTER 2	
Methodology	16
2.1 Literature review	16
2.2 Planning Inspectorate appeals data	16
2.3 Questionnaire survey	16
2.4 LGA seminar	17
2.5 LPA interviews / case studies	17
2.6 Hypotheses	18
CHAPTER 3	
Quantitative data	19
3.1 Results from questionnaire survey	19
3.1.1 Questionnaire survey	19
3.1.2 Type of response	19
3.1.3 Geographical distribution	20
3.1.4 Size of application	22
3.1.5 Approvals and Refusals	23
3.2 Results from Planning Inspectorate appeals data	23
3.2.1 Purpose	23
3.2.2 Data considered	24
3.2.3 Total number of major residential appeals	24

3.2.4	Geographical distribution of major residential appeals	24
3.2.5	Background information held by PINS	25
CHAPTER 4		
	Early Member involvement	26
4.1	Hypotheses	26
4.2	Findings	26
4.2.1	Codes of Conduct	26
4.2.2	Pre-application involvement	28
4.2.3	Pre-Committee involvement	31
4.2.4	Lobbying	31
4.3	Summary and recommendations	32
CHAPTER 5		
	Democratic decision-making	34
5.1	Hypotheses	34
5.1.1	The role of the Planning Committee in the new local government	34
5.2	Findings	35
5.2.1	Different decision-making structures	35
5.2.2	Number of decision-makers	36
5.2.3	Political representation	37
5.2.4	Planning Committee meetings	37
5.2.5	Role of the public and third parties	40
5.2.6	Delegation	40
5.2.7	‘Referral up’ to full Council or other Committee	42
5.3	Summary and recommendations	43
CHAPTER 6		
	Decisions contrary to officer recommendation	46
6.1	Hypotheses	46
6.2	Findings	47
6.2.1	H1: Member-officer relations	47
6.2.2	H2: Stakeholder mediation	48
6.2.3	H3: Decision-making structure	48
6.2.4	H4: Political balance	49
6.2.5	H5: Finely balanced planning issues	50
6.2.6	H6: ‘Ownership’ of policy	51
6.2.7	H7: Level of Member training	53

6.2.8	Other factors	54
6.2.9	Early Member involvement	56
6.3	Summary and recommendations	56
CHAPTER 7		
	Links between policy and decision-making	59
7.1	Hypothesis	59
7.2	Findings	59
7.2.1	Representation of Cabinet Members on Planning Committee	60
7.2.2	Involvement in regional policy development	60
7.2.3	Overlap between authority Committees	60
7.2.4	Statements of Community Involvement	61
7.2.5	Champions	61
7.2.6	Policy training	62
7.2.7	Ownership of plan policies	63
7.3	Summary and recommendations	64
CHAPTER 8		
	Conclusions and Recommendations	65
8.1	Introduction	65
8.2	Key findings	65
8.2.1	Early member involvement	65
8.2.2	Democratic decision-making	65
8.2.3	Decisions contrary to officer recommendation	66
8.2.4	Links between policy and decision-making	66
8.3	Recommendations	66
8.3.1	Early member involvement	66
8.3.2	Democratic decision-making	67
8.3.3	Decisions contrary to officer recommendation	67
8.3.4	Links between policy and decision-making	68
8.3.5	Member training	68

APPENDICES

Appendix A: Notes on the Barker Review of Housing Supply (2004)	69
Appendix B: Bibliography	72
Appendix C: Survey Questionnaire	81

LIST OF TABLES

Table 3.1: Comparison between development trends and case study responses	20
Table 3.2: Major residential determinations compared with responses received	22
Table 3.3: Residential appeal cases determined 2002-06 (50 or more units)	24

LIST OF FIGURES

Figure 3.1: Geographical distribution of case study examples	20
Figure 3.2: Case study responses compared with development activity	21
Figure 3.3: Application size (units)	22
Figure 3.4: Size of case, by region	23
Figures 3.5a and 3.5b: Appeals determined by the Planning Inspectorate, 2002-06	25
Figure 5.1: Planning Committee Membership	36

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EXECUTIVE SUMMARY

Arup and sub-consultants were commissioned by Communities and Local Government (then ODPM) to obtain a better understanding of the relationships between Planning Committees, officers and Cabinet Members in local authority planning decision-making. The research also considered whether current arrangements and procedures are leading to the most effective governance of planning within local authorities.

The research had three related elements:

- a review of background information, including relevant literature, recent good practice guidance and appeals data held by the Planning Inspectorate;
- a questionnaire survey of English planning authorities and the membership of the Home Builders Federation; and
- interviews with planning officers and Members from authorities all over England, including members of the Local Government Association's Environment Board and LDF Task Group.

A series of hypotheses were identified and tested through the interview process. Our findings can be summarised under four headings:

- early Member involvement;
- democratic decision-making;
- decisions contrary to officer recommendation; and
- links between policy and decision-making.

EARLY MEMBER INVOLVEMENT

It was hypothesised that early Member involvement (formal or informal) maximises the value of Member input to the decision-making process.

There are a wide variety of approaches to Member involvement at the pre-application stage, from 'none at all' to positive encouragement. A considerable volume of good practice guidance is available on this subject. Much of it encourages engagement but also advises caution, and this message of caution has been heeded to such an extent that some authorities (and/or individual Members) are now reluctant to get involved in discussions prior to the Planning Committee meeting.

Where authorities have set out clear lines of engagement, pre-application involvement is considered to be beneficial for applicants and for the authority in reaching a better quality planning decision. Further benefits can accrue where clear guidelines are accompanied by Member training initiatives.

DEMOCRATIC DECISION-MAKING

It was hypothesised that:

- the application of a democratic decision-making process produces a predictable planning decision; and
- ‘good’ democracy creates more predictable planning decisions, by allowing a better understanding of the process and providing opportunities to influence it.

A range of decision-making structures are in use across the country. The influence of party politics was found to be less significant than the individual Committee members’ skills, knowledge and experience. Different authorities’ delegation schemes were examined, and some of the mechanisms for dealing with contested decisions were also discussed.

Our hypotheses considered whether the application of a democratic decision-making process produces a predictable planning decision, but the research findings do not strongly support this. It can be argued that, where decisions are taken by elected Members, or taken by officers based on development plans that were approved by elected Members, the process is a ‘democratic’ one. However, it is far from clear that the *predictability* of such decisions is a direct effect of the democratic nature of the processes involved. The definition of ‘good’ democracy would be a separate study altogether. Furthermore, the fine balance between the relevant planning issues simply makes it difficult to predict the outcome of some applications.

DECISIONS CONTRARY TO OFFICER RECOMMENDATION

It was hypothesised that decisions contrary to officer recommendation arise due to:

1. Members and officers not communicating during the application and determination process
2. absent or ineffective stakeholder mediation during the application and determination process
3. change in the decision-making structure during the application and determination process
4. an unpredictable political balance, whether this is macro scale (elections), midi scale (decisions going to the full council), or mini scale (individual Councillors sitting on the Committee)
5. planning issues which are finely balanced
6. Members lacking ownership of plan policies

7. Members lacking training

and

Authorities which encourage early Member involvement experience fewer decisions contrary to officer recommendation.

Decisions contrary to officer recommendation account for a very small proportion of the overall determinations each year. We have not found sufficient evidence to conclude they are a significant problem in England. They may occur more frequently in areas with out-of-date development plans – where there is more scope for interpretation of the policy context, or on occasions where there is less than optimum communication between Members and officers – where there is scope for relevant information not to be shared between all the participants, but in many cases it may simply be that the planning issues are very finely balanced.

We have identified a range of recommendations which could help to reduce the number of decisions which are contrary to officer recommendation, but we do not conclude that any authority should be aiming to eliminate these entirely; there should always be scope for Members to express a different view from their officers.

LINKS BETWEEN POLICY AND DECISION-MAKING

It was hypothesised that closer linkages between policy and development control result in better (more predictable) planning decisions.

It was found that although around 45% of elected Members are actively involved in development control decision-making in an average authority, few Members of the Planning Committee are involved in forward planning to any meaningful extent. This has a potentially negative impact on the extent to which Members feel they have ‘ownership’ of the policies which they are expected to implement through the granting or refusal of planning permission.

Regular ‘policy update’ training events were also found to be beneficial to Members and to the quality of their decision-making. Of course, Member decision-making is also influenced by a number of other factors, but the promotion of closer links between policy and development control would help to foster more consistent, plan-led, decision-making and potentially increase the scope for elected Members to get involved in planning.

CONCLUSIONS

In summary, there is no uniform approach to Councillor involvement in planning decisions. Of course, there are some common elements, but the differing local decision-making contexts mean that some degree of flexibility is required across the country. Different local planning authorities have approached the issue with varying degrees of caution, although good practice guidance suggests that Councillor involvement is to be welcomed as long as the parameters are clearly defined.

Our case study authorities reported that regular Member training can yield significant benefits, resulting in high quality planning decisions. Members who are well briefed about current planning policy and guidance are likely to be better equipped to make predictable decisions in accordance with adopted policy.

Decisions contrary to officer recommendation are found in a very small proportion of cases across the country. They may occur more frequently in areas with out-of-date development plans, or less than optimum communication between Members and officers, but in many cases it may simply be that the planning issues are very finely balanced.

CHAPTER 1

Introduction

1.1 PROJECT AIMS AND OBJECTIVES

Arup and sub-consultants have been appointed by Communities and Local Government to obtain a better understanding of the relationship between Planning Committees¹, officers and cabinet Members and to provide information on whether current arrangements and procedures are leading to the most effective governance of planning within local authorities.

In the light of recent planning reforms and the Review of Housing Supply by Kate Barker (March 2004), the study provides factual information about Member involvement in the decision-making process, whether this has a bearing on the speed of the process, and the extent to which Member decisions accord with officers' recommendations.

As stated in the project brief, the study seeks to explore:

- the extent to which Members are involved in pre-application discussions, and the impact of any involvement on the outcome of planning decisions
- the extent and impact of Member involvement in post-outline planning permission discussions and decisions
- the extent to which Members are involved in the promotion of development proposals in the local area
- the extent to which the actions of applicants and other stakeholders influence the decisions of Members
- the extent to which the same members are involved in both policy-making and decision-taking
- whether there is any pattern in the nature, frequency or geographical incidence of decisions which do not accord with officers' recommendations
- the extent to which a 'local champion' for an area influences the implementation of local authority plans
- the overall involvement of Councillors in respect of planning applications, especially applications for large-scale housing developments

¹ For the purposes of this report, 'Planning Committee' is used to refer to any committee of the local authority with the power to determine planning applications.

- the advantages and disadvantages of the Barker proposal² in terms of elected Member involvement

This is done by testing a series of hypotheses, determined in collaboration between the study team and the client Steering Group.

1.2 CONTEXT

1.2.1 The Local Government Reforms and Elected Representatives

Central government launched the ‘Modernising Local Government’ programme in 1997. Successive white papers and local government legislation have been mirrored by a fundamental reform of the planning system in the Planning and Compulsory Purchase Act 2004.

There has been a great deal of interest in the role of effective political leadership within local authorities in achieving the goals of the Government’s modernisation agenda. This agenda is intended to improve service performance and strengthen community leadership and democratic renewal.

Central Government legislated for executive or cabinet government in the majority of local authorities to strengthen clarity of vision, community leadership and visibility. The Local Government Act 2000 introduced new forms of executive government into local authorities in England and Wales. The four models introduced were ‘elected mayor and cabinet’, ‘elected mayor and council manager’, ‘cabinet and leader’ and a streamlined committee system (an option available only to authorities with populations under 85,000).

Before examining the role of Councillors within planning, it is first necessary to outline the various roles of Councillors within local government more broadly, and how these may have changed as a result of the 2000 Act. Councillor roles have traditionally been defined around issues of representation and policy-making. These have categorised Councillors as: the representative; the specialised policy-maker; and the broad policy maker. Under the representative approach, Councillors may also be thought of as ‘watchdogs’ and ‘champions’, suggesting that there is potential for both scrutiny and leadership in the role of Councillors.

Councillors have generally played the role of the committee Member, the constituency representative and the party activist. Service chairs vary according to whether they perform a political or an administrative role, and whether they act as chairs or ministers in committee. Backbencher roles, by contrast, are more fluid, and can be expanded or contracted, within the limits in which they are set.

1.2.2 The Role of Councillors in Modernised Local Government

Since the introduction of the modernising agenda, Councillors under the new political management arrangements are one of two types: executive or backbencher. The executive role is to propose the policy framework and implement policies within the agreed framework. The role of the backbencher is to represent constituents, share in policy and budget decisions of the council, suggest policy amendments, and scrutinise the executive’s

² This refers to Barker’s Recommendation 11: the introduction of additional ‘Outline’ and ‘Design’ routes to obtaining planning permission (see Appendix A for further details)

policy proposals and their implementation. There is a responsibility on the executive Councillors – whether mayors or cabinet Members – to propose policy and oversee implementation, and on the backbench Councillors to represent their constituent and scrutinise the executive.

This implies a split of the broader policy-making function away from the backbencher, but the government also encourages backbenchers to be more proactive in their activities, arguing that there is potential for the exercise of leadership in their role too, particularly in terms of representing constituency interests. According to the Prime Minister in a pamphlet written in 1998, “many Councillors are already acting as community leaders of their ward and there is great scope to develop this role”³.

Although the backbencher is expected to perform a scrutiny role on the executive, there is also an expectation that he or she will become more of a champion on behalf of his or her constituency. When considered in the context of Planning Committees and development control decision-making, this may suggest a potential conflict with backbenchers increasingly championing community and ward interests, utilising the planning application process as a way of challenging the executive’s policies. This may be exacerbated if backbenchers disagree or question the relevance of policies for their constituencies if those policies are viewed as having originated directly from local authority-wide interests or indirectly from central government national planning policies. There can also be an inherent conflict between the representative role of Councillors and their ‘quasi-judicial’ role in determining planning applications. Among the other issues, this report addresses how authorities manage this tension.

1.2.3 Implications of the first Barker Review (2004)

Kate Barker’s Review of Housing Supply made a number of recommendations which, if implemented, would have an impact on elected Member involvement in the planning system.

Alongside the statutory changes to planning, further reforms to the planning policy process are underway as a result of the Barker report, and the proposed amendment to Planning Policy Statements on housing growth and allocations.

Councillors in some shire areas of southern England have expressed alarm at the prospect of finding additional land for housing; the problem stems from some Members possessing a no- or low-growth perception to further housing demand at the regional and sub-regional levels of planning. Councillors occasionally decline to accept officers’ recommendations for higher growth figures, even when these are justified with reference to market demand, economic growth, and rising unaffordability.

At the planning application stage, the high-growth agenda has also caused tensions with some Members attempting to block applications for high numbers, or else attempting to amend the number of housing units proposed for individual sites.

Careful management of the planning process should ensure that strategic requirements are met and addressed at the policy-making stage, making issues of principle more difficult to resist at the planning application stage.

³ Blair A (1998) *Leading the way: a new vision for local government*. Institute for Public Policy Research

Pending the Government's proposed announcement on the future of planning gain, and the prospect of a supplemental charge, there may be advantage in future of backbench Councillors playing a more prominent role in advising officers of the scale and extent of planning gain that should be raised to benefit localities to offset the political, environmental and social concerns raised by further housing growth, especially where some of that growth is earmarked for greenfield sites. This would require greater input into the drafting of policies and, where appropriate, Action Area Plans to ensure that community issues and the potential advantages of development were being addressed upfront.

Finally, the government has announced that greater resources may be released for individual authorities that allocate more land for housing than that allocated within existing development plans⁴. Elected Members may view this in one of two ways: either as a welcome opportunity to provide more resources to the authority for further future investment; or as an attempt to renege on policies agreed to at the policy formulation stage to provide growth while protecting community interests. This could potentially undermine Councillors' faith and reliance on adopted plans and strategies, and may cause less predictability in the local planning system in the medium to long run as decisions become more ad hoc in nature.

Further discussion on the Barker review is provided in Appendix A.

1.3 REPORT STRUCTURE

Part 1 sets out the background to the research, and the findings from an initial survey of LPAs and the development industry. Chapter 2 explains the methodology which has been employed in this research, before the survey findings are reported in Chapter 3.

The bulk of the analysis has been undertaken in relation to a series of hypotheses which were established at an early stage of the research, in discussion between the client Steering Group and the project team. Part 2 (Chapters 4-7) discusses each of the main hypotheses in turn.

Part 3 sets out our conclusions and recommendations (Chapter 8).

⁴ The New Growth Points Initiative encourages local authorities to increase their housing allocations by offering funding for the infrastructure which would be necessary to support it. At a minimum, LPAs qualifying for this funding are expected to provide over 20% more housing than the level proposed in development plans (to 2003); this should be at least 500 additional homes in any LPA. See the Communities and Local Government website for further details <http://www.communities.gov.uk/index.asp?id=1162073>

PART 1

CHAPTER 2

Methodology

2.1 LITERATURE REVIEW

The study team reviewed a number of policy, guidance and academic documents in order to inform the research. Several bodies have issued guidance documents on the subject of Member involvement in recent years, including the Planning Advisory Service, the Local Government Association and the National Planning Forum, in addition to the formal requirements set out in Statute. Issues surrounding Member decision-making have also exercised a number of academic authors.

A bibliography is attached at Appendix B. Key messages are noted where relevant in Chapters 4-8.

2.2 PLANNING INSPECTORATE APPEALS DATA

A search was carried out on all residential applications over 10 units which were determined by the Planning Inspectorate during 2002-03 to 2005-06 (COMPASS data). This data was analysed to find out whether there were discernible patterns in the frequency and nature of appeals of different types, or a particular geographical concentration of appeals. Our findings are discussed in Chapter 3.

One early finding was that the Planning Inspectorate does not routinely record whether the decision was in line with an officer recommendation. The award of costs to one party may indicate inconsistency on the part of another, but it is not currently possible to tell from the published data whether this relates to a decision contrary to officer recommendation or not.

Furthermore, the results of the COMPASS search could not be presented to us in the form of a searchable database, which would have made subsequent analysis more efficient.

2.3 QUESTIONNAIRE SURVEY

One of the elements of the study was an investigation into Member decisions which do not accord with officer recommendation. This affects only a very small proportion of decisions made each year. There are a variety of reasons for this outcome and the research has sought to explore these by establishing the facts and identifying current practice.

A questionnaire survey was sent to all LPAs and all Members of the Home Builders Federation. This was intended to collect basic information on a range of ‘major dwellings’ cases where the planning decision did not accord with the officers’ recommendation. A copy of the questionnaire is attached at Appendix C. Respondents were also asked whether they would be willing to take a further role in the research. This data informed the choice of case study authorities for further consideration (see section 2.5 below).

We received a total of 91 examples from LPAs and house-builders across England. We also received a number of responses from LPAs who chose not to complete the survey form but explained how Members are involved in the determination process in their authorities.

The results of the questionnaire survey are discussed in detail in Chapter 3.

2.4 LGA SEMINAR

Hosted by the LGA, this workshop session with Members of the LGA’s Environment Board and LDF Task Group further explored the current roles that Members play in planning decision-making.

The workshop involved a discussion around the following questions:

- to what extent are the same Members involved in both plan-making and decision-taking?
- to what extent do Cabinet (or other) Members champion the implementation of local plans?
- what is the extent of Members’ engagement with planning officers?
- at what stage(s) in the planning application / determination process do Councillors become aware of individual applications, and what involvement do they have as applications progress through the system?
- what are the views of participants on the frequency and nature of decisions which do not accord with officers’ recommendations?

2.5 LPA INTERVIEWS / CASE STUDIES

The study team visited 17 local authorities. (We aimed for two from each of the Regions, and two London boroughs, but a second London borough was not available to participate within the study timescale).

These authorities were identified through a combination of measures. Some volunteered to take part in the project, and sent case study examples to us. Others were referred to us by HBF members in their questionnaire returns and we sought to hear the local authority’s views on the cases in question. Others were selected by virtue of the ‘overturn’ rates they reported in other Arup studies (data collection relating to Best Value Standards Authorities and the Planning Delivery Grant): the selection included some authorities who reported the

highest rates, and others who reported very low rates. Together, these authorities represent a broad spread of development contexts and geographical settings. This approach was approved by the client and the Steering Group.

In each of the authorities, separate interviews were held with senior planning officers and Councillors who are involved in development control. These were confidential, and have therefore been reported in an anonymous format; comments have not been attributed to authorities or to individuals, except where it is useful to draw a distinction between officers and Members, in which case their status is reported.

The interviews covered a range of topics, including:

- Governance arrangements – what is the political balance?; what are the arrangements for delegation to officers and ‘referral up’ to full council?; how do officers and Members view the effectiveness of this arrangement?
- Member involvement – the extent of elected Members’ involvement in planning decisions: how does this happen, and under what circumstances? Are the same Members involved in policy-making?
- The decision-making process – the conduct of committee meetings. e.g. are applicants permitted to speak?; does the authority have recognised mechanisms it can deploy where a high level of public interest or opposition is foreseen or becomes apparent?
- Member-officer relationships and communication – how often do officers and Members meet, under what circumstances, and what types of issues are discussed? What happens if there is a difference of view between officers and Members, before committee?
- Detailed discussion of a small number of cases where a decision did not accord with the officers’ recommendation – what factors contributed to the officer recommendation and the Members’ decision?; the key events leading up to the decision, including the actions of the applicant and how these were perceived by Members; interviewees’ opinions on anything which would change or improve the process if a similar case arose in future.

2.6 HYPOTHESES

A series of hypotheses were agreed between the study team and the client. These were intended as a means of structuring the research and have been tested through the case studies. Relevant hypotheses are presented at the beginning of each topic chapter (Chapters 4-7).

CHAPTER 3

Quantitative data

3.1 RESULTS FROM QUESTIONNAIRE SURVEY

3.1.1 Questionnaire survey

Local authorities and members of the Home Builders Federation were invited to tell the study team about any of their cases where Members had taken decisions that were contrary to officer recommendation. This included cases which had been approved as well as refused.

Respondents were asked complete a questionnaire survey form for each case (see **Appendix C** for a copy of the form). They were asked to focus on major residential applications, but we also accepted responses in relation to smaller residential applications and a number of non-residential or mixed-use cases. Except where stated, every case has been included in the analysis below.

3.1.2 Type of response

Total figures

In total, 91 English case study examples were submitted to the project team. (Eight examples from Wales were also received.) These case studies reflect a range of development scales and settings, and have been submitted from all over the country. This chapter analyses the responses received and seeks to draw out themes which subsequently influenced the research interviews.

Local planning authorities

We received responses from 38 local planning authorities. This is approximately 10.5% of all planning authorities in England.

Sixteen authorities returned questionnaire survey forms, providing a total of 32 case study examples. Others chose instead to send descriptive explanations of the decision-making process in their authorities; this has also informed the research and is discussed further in Chapter 4.

A small number of respondents were critical of the basis for the survey, suggesting that decisions contrary to officer recommendation are only a small part of the planning caseload and should not be a focus for the research project.

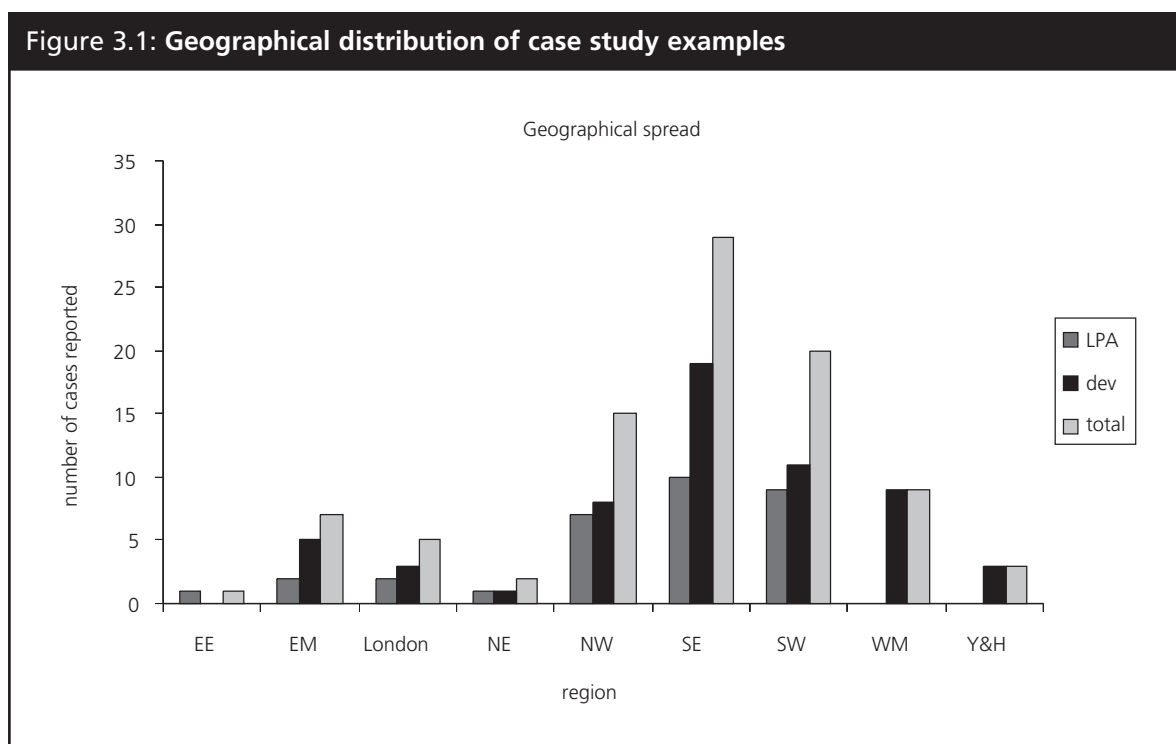
Home Builders Federation

We received responses from 33 members of the Home Builders Federation (submissions from separate regional branches of large companies were counted separately). This is approximately 11% of the total membership of the HBF at present.

Many developers reported more than one case, and more than one authority. In total, HBF members reported 59 cases from 46 planning authorities.

3.1.3 Geographical distribution

Figure 3.1 shows the geographical distribution of responses we received. Some 60% of all the case study examples were submitted by respondents in the South East, London and the South West. A further 25% were received from the North West. A few were received from the North East and Yorkshire and the Humber, and one was received from the East of England. With the exception of the East of England, this pattern is perhaps to be expected, given the general settlement pattern in England, and consequential levels of development pressure.

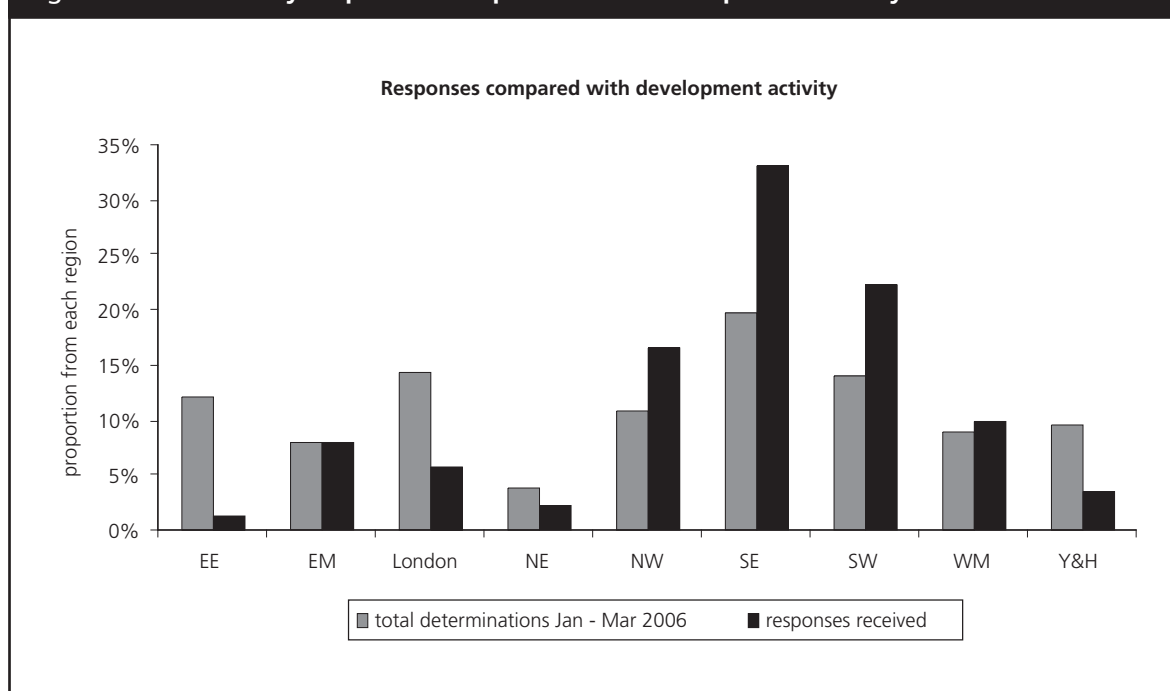


We may compare this pattern of responses with actual decisions made in the first quarter of 2006 (Communities and Local Government data – see Table 3.1 and Figure 3.2 overleaf).

Table 3.1: Comparison between development trends and case study responses

	<i>total determinations Jan – Mar 2006</i>		<i>case studies received</i>	
EE	16,000	11.9%	1	1.1%
EM	10,500	8.9%	7	7.7%
London	19,100	16.2%	5	5.5%
NE	5,200	4.4%	2	2.2%
NW	14,200	12.0%	15	16.5%
SE	26,200	22.2%	29	31.9%
SW	18,700	15.8%	20	22.0%
WM	11,700	9.9%	9	9.9%
Y&H	12,500	10.6%	3	3.3%
Total	118,100		91	

Sources: Communities and Local Government⁵ (columns 2-3) and Arup (columns 4-5)

Figure 3.2: Case study responses compared with development activity

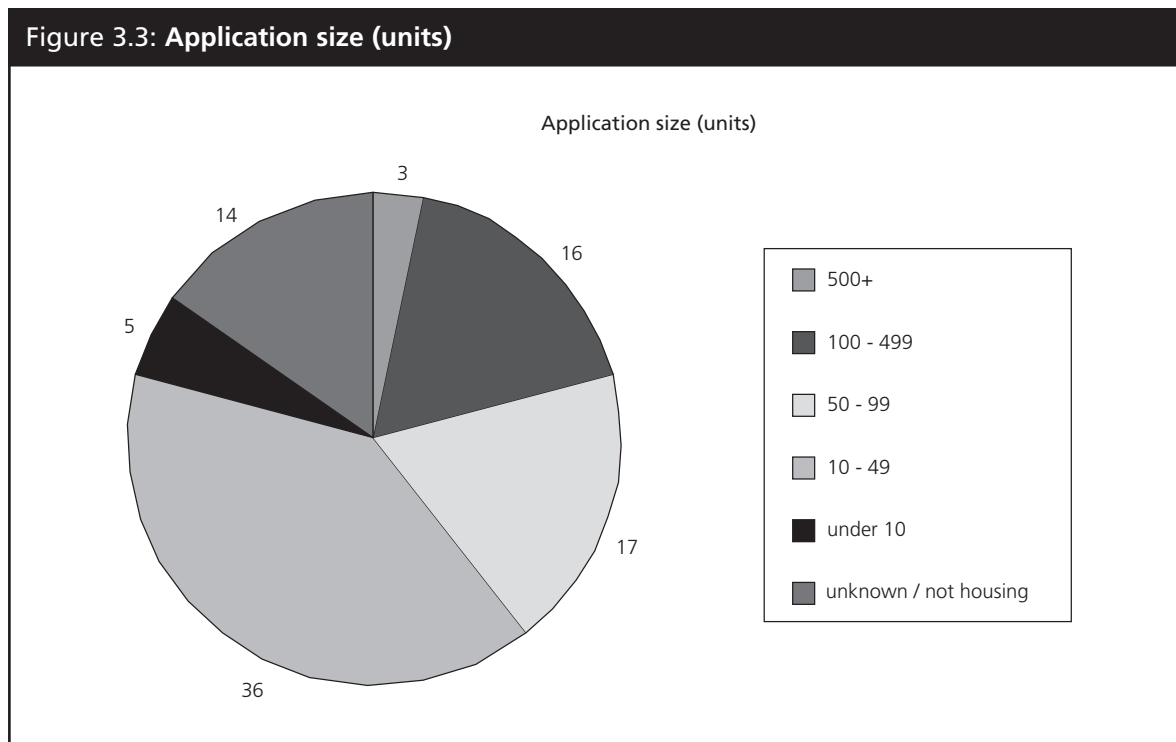
This data suggests that activity in London, the East of England and Yorkshire and Humberside was under-reported, while there was a proportionally strong response from the South East and South West. However, it should not automatically be assumed that it demonstrates a greater proportion of decisions contrary to officer recommendation in the South East, South West or North West. Data on decisions contrary to officer recommendation are not collected for all authorities so we are not able to conclusively comment on the national picture⁶.

⁵ Table 2: Planning decisions by district planning authorities by speed of decision, Government Office Region and type of authority. Communities and Local Government, June 2006: http://www.communities.gov.uk/pub/897/TablesInExcel_id1501897.xls

⁶ Only the Best Value Standards Authorities are asked to report on the proportion of their decisions which are contrary to officer recommendation each year, and this figure is only an estimate

3.1.4 Size of application

The majority of cases reported to us related to applications for between 10 and 49 homes. The bulk of the remainder of the cases was split relatively evenly between large (50-99) and very large (100-499 units) applications and those for non-residential use (see Figure 3.3).



Respondents were asked to focus on cases of 10 or more housing units, so the proportions in Figure 3.4 above should not be interpreted as the actual breakdown of decisions contrary to officer recommendation across the country as a whole. Indeed, comparison with actual determination figures shows that ‘major’ residential decisions (10 units or more) accounted for only 2% of all cases in the first quarter of 2006 (Table 3.2 below).

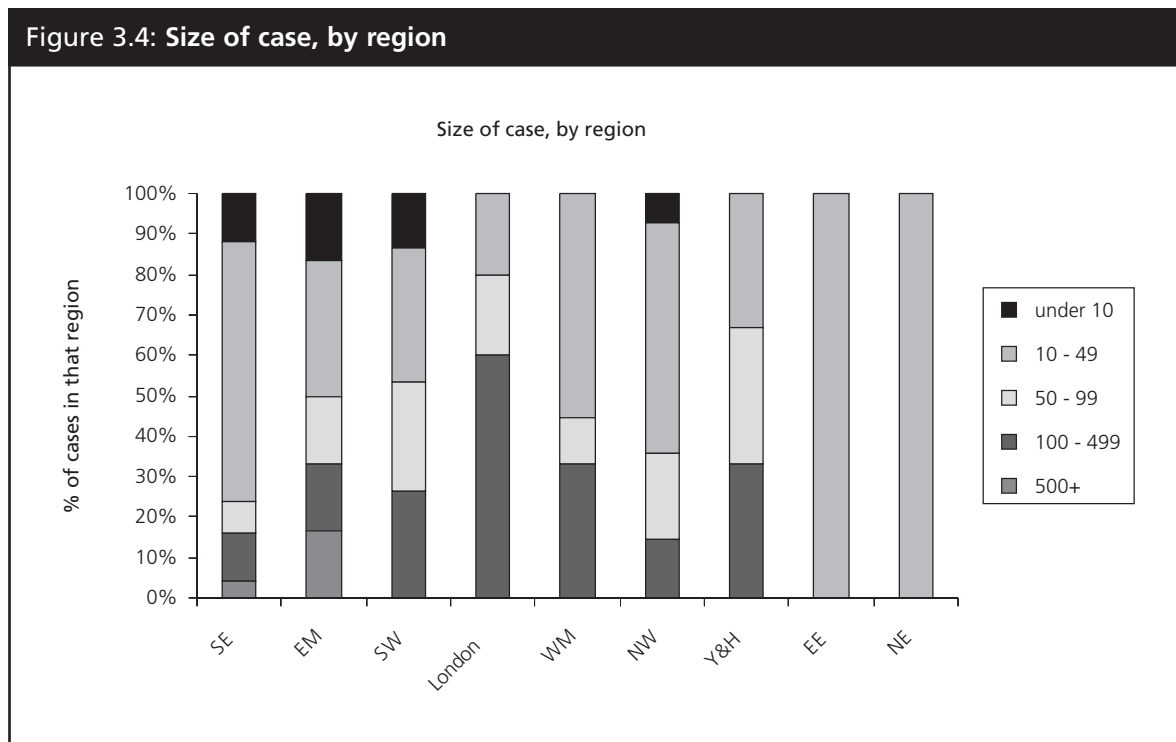
Table 3.2: Major residential determinations compared with responses received total determinations

	<i>total determinations Jan – Mar 2006</i>	
Major residential	2,700	2%
Minor residential	16,100	12%
Other (householder apps)	64,800	48%

Source: Communities and Local Government⁷

⁷ Table 3 Planning decisions by district planning authorities by speed of decision, and type and size of development, Communities and Local Government, June 2006
http://www.communities.gov.uk/pub/897/TablesInExcel_id1501897.xls

The size of housing applications varied across the country, as shown in Figure 3.4 below. The largest applications reported to us were in the South East and the East Midlands, although London reported the highest proportion of applications for over 100 units. Interestingly, the regions which reported the most cases (South East, South West, North West) have large proportions of applications in the 10-49 bracket, further supporting the assertion that it is these types of applications which are generally more likely to be subject to decisions which are contrary to officer recommendations.



3.1.5 Approvals and Refusals

Around 90% of the cases reported to us had been refused, contrary to officer recommendations for approval. The many reasons for this are explored fully in Chapter 6.

3.2 RESULTS FROM PLANNING INSPECTORATE APPEALS DATA

3.2.1 Purpose

As reported above, part of the project methodology was to ask the development industry and local planning authorities for examples of cases where a decision had been made contrary to officer recommendation. Most commercial developers tend to appeal against a refusal, and we considered that appeals data might therefore help to illustrate patterns in the refusal rate across the country. Our aim in looking at appeals data was to establish roughly how many appeals for major residential development are made each year, and to identify the geographical incidence of these. Of course, decisions which are approved, contrary to officer recommendation, are not reported to the Inspectorate. In the absence of more comprehensive information, it cannot be concluded from this whether there is a higher incidence of decisions contrary to officer recommendation in particular areas of the country, nor would it be wise to attempt such an exercise.

3.2.2 Data considered

We analysed the data held by the Planning Inspectorate on all appeals with a residential element of 10 units or more (or any ‘flatted’ development), which were determined between 1st April 2002 and 31st March 2006. There were 3021 of these appeals in total. Given the scope of the project, this was deemed too large a dataset to analyse in detail, so a screening criterion was selected: applications of 50 or more units. There were 364 of these in total. The summary findings for this second dataset are discussed below.

3.2.3 Total number of major residential appeals

The data shows that planning authorities have been refusing the largest residential applications at a rate which has remained broadly stable for the past four financial years, with a roughly equal number of large (50-99) and very large (100+) appeals made to the Inspectorate each year (see Table 3.3 below for details).

It would appear that, since 2002, an increasing proportion of very large cases (100+) have been upheld, while the medium-large cases (50-99) showed a peak in dismissals in 2004-05. It is too early to tell whether this is indicative of a wider trend, but there may be merit in tracking these decisions in future: are the largest appeals now more likely to be upheld than in the past? And is a medium-large (50-99) appeal really more likely to be upheld now than prior to 2004-05? Such a trend could indicate that ‘the PPG3 agenda’ is making its way into planning decisions, and point to an increasing role for national level guidance in planning decisions. These issues will be discussed further in Chapters 5 and 7.

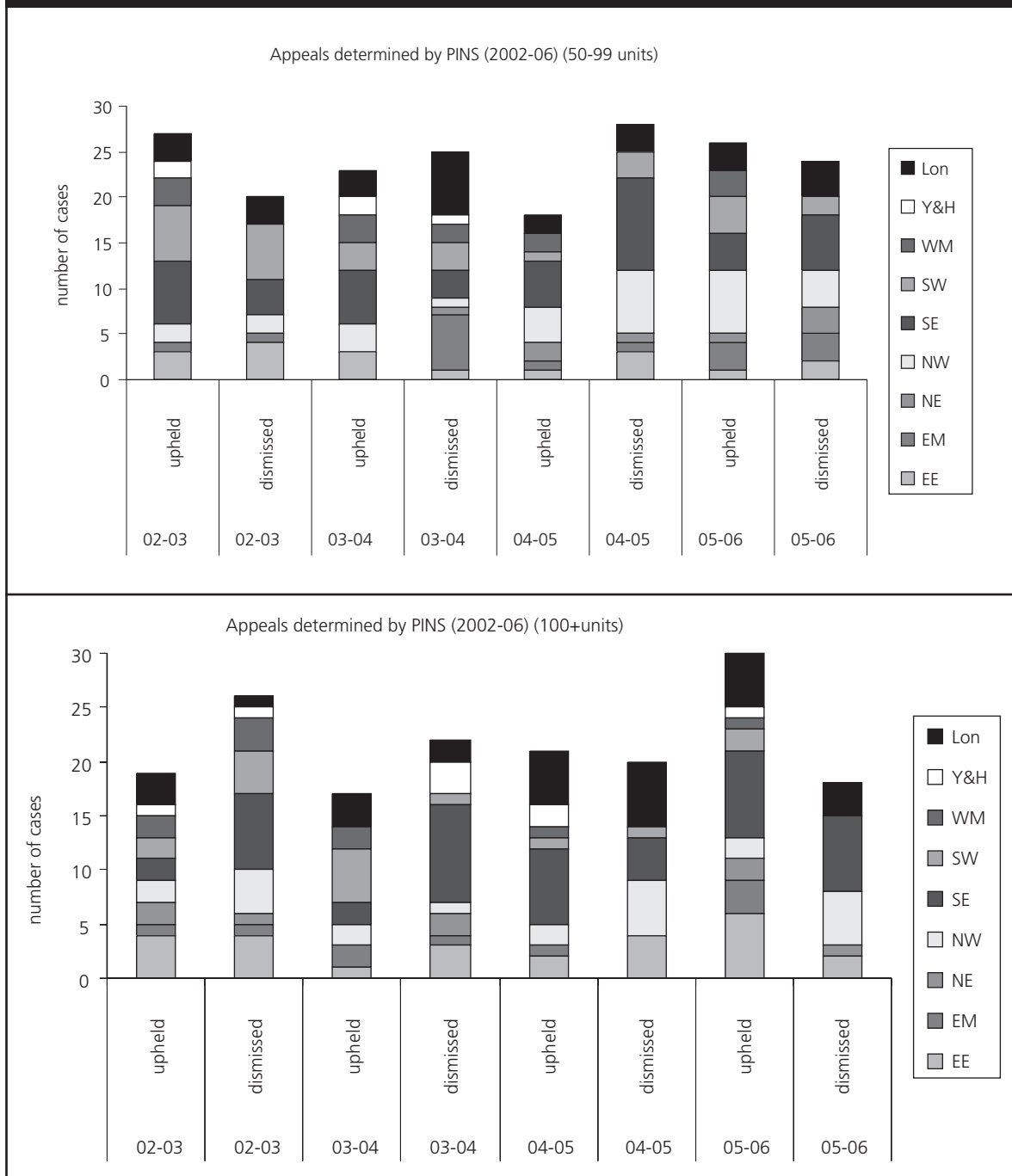
Table 3.3: Residential appeal cases determined 2002-06 (50 or more units)

<i>appeals</i>	<i>2002/03</i>	<i>2003/04</i>	<i>2004/05</i>	<i>2005/06</i>
total 50-99	47	48	46	50
dismissed	27	23	18	26
upheld	20	25	28	24
total 100+	45	39	41	48
upheld	19	17	21	30
dismissed	26	22	20	18
Total	92	87	87	98

3.2.4 Geographical distribution of major residential appeals

We have broken down the appeals data by region (see Figures 3.5a and 3.5b), in order to show the geographical incidence of major residential appeals in England since 2002-03. The data shows a mixed pattern, with different regions experiencing a lot of appeals activity in one year but not the next. One discernible trend is that the majority of the largest appeals are made in the South East, indicative of the high development pressure in this region.

Figures 3.5a and 3.5b: Appeals determined by the Planning Inspectorate, 2002-06



3.2.5 Background information held by PINS

The background information on each case does not include a record of whether it arose following a decision which was contrary to officer recommendation. The PINS records do include some information about costs awarded, if applicable, but such an award is not always a reliable indicator of a decision which was contrary to officer recommendation.

PART 2

CHAPTER 4

Early Member involvement

4.1 HYPOTHESES

The first hypothesis is that:

“early Member involvement (formal or informal) maximises the value of Member input to the decision-making process”

This chapter sets out our findings from a series of interviews with local authorities across England, and reference to recent good practice guidance, in order to test this hypothesis.

4.2 FINDINGS

4.2.1 Codes of Conduct

Local authorities’ approaches to Member involvement vary considerably: some encourage it, while others strictly regulate contact between Members and applicants, or do not allow it at all. Some draw a clear distinction between acceptable activities for Planning Committee Members and Ward Members.

The activities of all elected Members (and officers) are strictly defined through the local authority’s Code of Conduct. Some authorities based their Codes closely on the National Model Code of Conduct (adopted under Part III of the Local Government Act 2000). Others have adapted the text to reflect their local circumstances, informed by some of the guidance issued on the subject by parties including the Local Government Association, the Standards Board for England and the RTPI.

Every Code sets out what is considered to be appropriate conduct for all Members of the Council. Many authorities have adopted additional guidance for Members of the Planning Committee. At least one of the interview authorities requires all its Members to abide by its Planning Code of Practice, not just those on the Planning Committee.

However, some authorities report an over-cautiousness in terms of what Members are permitted to do. After a few well-publicised cases of malpractice and inappropriate behaviour reported to the Ombudsman, some authorities may be reluctant to relax their restrictions and allow any form of Member involvement prior to the Committee meeting. It may be that a shift in attitude is required among the Monitoring Officers responsible for upholding the Codes of Conduct, in order for authorities to feel confident in their ability to allow a limited amount of pre-application Member involvement.

there can be a difference of view between the planners and the upholders of the Code of Conduct [Monitoring Officers] – and the latter tend to win” – officer

A number of the interview authorities have detailed Protocols in place, concerning every aspect of Member involvement. Interviewees (both officers and Members) considered that these were very helpful in setting out clear lines of engagement and explaining what was expected of each of the parties involved, including developers and Members of the public. Furthermore, it was acknowledged that in setting out these detailed procedures, the authority was effectively formalising relations which could otherwise be conducted ‘under the radar’ of the other parties affected by the application. This can reduce the risk of any unexpected information appearing at the Planning Committee that could affect the determination decision.

Example of Codes of Conduct with caution and encouragement

One case study authority advises its Members thus on contact: “don’t agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Assistant Director (Development Control) to organise it... Don’t attend a planning presentation unless an officer is present and/or it has been organised by officers”.

However, it also includes the following advice: “do note that, unless you have a personal or prejudicial interest, you will not have fettered your discretion... through:

- listening or receiving viewpoints from residents, applicants or other interested parties;
- making comments to residents, applicants, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided that you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate”.

Recent guidance

The Planning Advisory Service (2005) guide, Positive Engagement: a guide for planning Councillors, has a list of ‘do’s and don’ts’ for Members. See <http://www.idea-knowledge.gov.uk/idk/aio/1203540> for details.

4.2.2 Pre-application involvement

There was a wide difference of view between authorities on the issue of pre-application discussion, although it was noticeable that within any one authority, Members and officers generally agreed on the most appropriate approach. The choice of approach appears not to fall along party political lines but to reflect instead the individual authorities' circumstances. Some interview examples are reported in the box below.

Differing views on pre-application discussion

"it's OK to meet the developer as long as it's out in the open" (Member)

"if an applicant hasn't got a hope of getting permission, we'll tell him so" (Member)

"we consider pre-application involvement to be unwise" (Member)

"if developers want to involve Members, we put them off; if they persist, we offer it to all Members and tell Members of the Committee not to go" (officer)

"until recently, only the officers did pre-app; now they report to Members at an earlier stage and member concerns are reported to the developer" (officer)

"there is no member involvement in developer discussions" (officer)

"we don't want Members to go off and take the role of the planning officer" (officer)

"developers are encouraged to meet the officers but not the Members. Occasionally, developers will meet the Leader and the Chief Executive on a very major scheme" (officer)

Recent good practice guidance (e.g. LGA 2005; PAS 2005; NPF 2005) advises that it can be beneficial for Members to be involved at the pre-application stage, within carefully established limits (see boxes overleaf, and Appendix B).

The **LGA Probity in Planning Update 2002** offers guidance on pre-application contact, including the following:

- Any pre-application or pre-determination discussions should be held within clear guidelines.
- Officers should make clear whether or not they are the decision-maker.
- A note should be made of all potentially contentious meetings or telephone conversations.

(paragraph 9.2)

The Local Government Association produced a guide in 2005 on **Member Engagement in Planning Matters**⁸. Key messages from this guidance include:

- Members must maintain an impartial listening role and avoid expressing an opinion or giving advice beyond outlining local policies;
- The discussions should not develop into negotiations and it must be clear that they are not part of the determination process;
- Officers of appropriate seniority should attend the discussion and written notes of the proceedings should be kept on file;
- For major or contentious applications, Members' involvement should be authorised by the main committee, and their involvement should be recorded in any subsequent committee report;
- Councils should set out in advance how they will deal with discussions which touch on commercially sensitive or confidential information, bearing in mind the need for transparency and the requirements of the Freedom of Information Act; and
- Members should not seek to influence or put pressure on officers to support a particular form of action.

However, not all authorities have updated their own guidance to reflect this position, nor indeed do they all intend to do so. Many LPAs do not permit any contact between Members and developers before the application is brought to committee, and several interview authorities reported that contact was 'discouraged' but not forbidden entirely.

Some interviewees considered that there should be no contact between applicants and Members of the Planning Committee at the pre-application stage. In spite of the guidance, there remains considerable nervousness among some LPAs about involving Members prior to the Planning Committee meeting itself. This was most evident in interviews with authorities which had recently undertaken training on matters of probity.

Members themselves often appeared cautious about getting into situations where they would find it difficult not to give an opinion (as opposed to simply asking questions). Consequently, in some places it has been reported that Councillors appear 'quiet' at public meetings when development proposals are discussed. There is a distinction to be drawn between Planning Committee Members and Ward Members here: the Ward Members (if not also holding Planning Committee positions) generally want to be more vocal in representing their constituents' views, while Planning Committee Members are required not to express an opinion.

However, some authorities considered it unrealistic to expect applicants not to seek an opinion from their local Member. Members differentiated between advice offered 'over the gate' and more formal discussions. In wards where a local Member also sits on the Planning Committee, there are sometimes mechanisms in place to distinguish between one role and the other. For example, in one interview authority, with more than one Member per ward, the Planning Committee Member is expected to refer applicants to the non-Committee Member.

⁸ See the LGA website for further details:
http://www.lga.gov.uk/Documents/Briefing/Our_Work/planning/members%20engagement.3.2.05.pdf

A number of authorities reported that they had put more formal meeting arrangements in place. These included DC Consultative Forums and Site Development Committees (see boxes overleaf). The benefits of these were reported to include:

- an early airing for potential problems (and possibly an associated reduction in the number of cases refused due to a lack of time for negotiation);
- regular discussions, strengthening Member-officer relations;
- clear expectations of all participants;
- efficient use of Planning Committee time; and
- formalised lines of engagement.

Development Control Forums

These were recommended by the National Planning Forum (2005), and have so far been implemented by one of the authorities we interviewed.

The Development Control Forum is a public meeting, where a developer is able to explain proposals directly to the Councillors who are likely to be involved in any decision on a subsequent planning application. It also enables the public and key stakeholders to hear about proposals at an early stage.

Its prime purpose is to identify issues that an application will need to address, at a stage where this is still possible; it is not a forum for negotiation. Applicants have a maximum of 20 minutes in which to present their proposal to the Forum. Councillors are expected only to seek clarification, not to voice opinions about the merits of the proposal. Speakers appear by invitation only but anyone is able to submit written comments for consideration by the planning officer, who passes these to the developer. At the end of the meeting, the aim is to establish a consensus on the important issues, which is recorded in writing and posted on the council's website.

Forum debates concentrate only on 'major development' proposals which are likely to raise issues which are sensitive to the wider community. Developers are not required to participate but they are encouraged to take this opportunity to address the local community.

The DC consultative forum formalises and legitimises pre-application contact between applicants, officers, Councillors and members of the public. Its openness and transparency are further enhanced by the fact that it is broadcast on the internet.

Officers and Members agree that the DC Consultative Forum has been 'a success':

- some applications are amended prior to submission to take account of local concerns;
- others may not be amended (if local concerns are contrary to adopted development plan policy, for example) but there has at least been an opportunity to explain the planning process and to manage expectations; and
- officers and Members get a better understanding of local concerns.

Planning Panel

One of the case study authorities sets up a Planning Panel for selected major applications. This allows the developer to come and brief Members and officers, in the light of the planning brief, but not to discuss the merits of the application.

4.2.3 Pre-Committee involvement

The interview authorities were almost unanimously agreed that Members should not have any discussions with applicants between the submission of an application and the Planning Committee hearing at which it is determined.

Members are however often involved in pre-Committee briefings, falling between 2 weeks and 2 hours prior to the Planning Committee meeting. Typically these meetings take the form of a private round-table discussion between the Committee Chair, Vice Chair, and Head of Planning. Officers highlight the cases which they expect will raise the most interest at Committee, and Members have an opportunity to indicate the matters which they will wish to comment on at the meeting. This is intended to ensure that there are no ‘surprises’ at Committee. It can be especially useful in resolving Member questions which, if kept until Committee before they are asked, might otherwise necessitate a deferral. Discussions at this stage can also clarify what a given application actually consists of, and how this relates to its setting.

4.2.4 Lobbying

Of course, Members do not operate in isolation. Lobbying is an inevitable element of the planning process, and Members are approached by parties seeking both their support and their opposition to many applications every year. The LGA (2002) advised that Councillors should be very careful in responding to lobbying: “when being lobbied, Councillors should not express any opinion about the desirability of an application, and should restrict themselves to procedural advice. Any opinion that is expressed should be accompanied by the caveat that the Councillor will only be able to make a final decision once he or she has heard all the relevant evidence and arguments at the Planning Committee” (Probity in Planning Update, 2002, paragraph 8.2). They also advise that any lobbying by Members within the council should be restricted to ward Members only: Members of the Planning Committee should certainly not be advocating a particular position and then expecting to vote on the application.

Declaration of lobbying activity

Several case study authorities reported that Members have to declare any lobbying to which they have been subject, at the start of the Committee meeting.

Example of guidance in a Code of Conduct

In its Code of Conduct for Members, one of the case study authorities includes guidance for Members about how to respond to lobbying. The authority has prepared a standard form of words to acknowledge representations made to Members. This indicates that there are concerns raised by the application, but reminds the recipient that as a Planning Member, you cannot commit the Council and that it is not possible to hold a properly informed and final view until the matter has been fully discussed at the Planning Committee.

It also includes a list of very clear guidelines for site visits, including: "site visits shall not be undertaken unless it can be demonstrated that the reasons are clear and the expected benefit could be substantial", and the Planning Committee, having agreed the need for a site visit, will be "unaccompanied with neither the applicant nor agent nor objector in attendance".

4.3 SUMMARY AND RECOMMENDATIONS

It was hypothesised that:

"early Member involvement (formal or informal) maximises the value of Member input to the decision-making process"

It was suggested by one Member that 'a quiet Councillor is a dead councillor', as far as political life is concerned. In principle, elected Members have an understandable desire to remain visible to the electorate, and this causes tensions for a planning system where it is imperative that Members remain impartial prior to the Committee hearing. The latest good practice guidance recommends early involvement, within carefully observed parameters. However, some authorities (and individual Members) remain cautious about the merits of early involvement, due to concerns about probity (perhaps in light of previous experiences), and are not following this guidance.

Most authorities have based their Code closely on national guidance, especially the LGA's *Probity and Planning* from 2002. While newer guidance (*Positive Engagement*, 2005) encourages involvement within clear rules, the more comprehensive LGA guidance remains unchanged. We are aware that *Probity and Planning* is under review at the present time, and may shortly be updated.

Authorities which did encourage Member involvement reported that this is of benefit, addressing key issues at an early stage in the application process and contributing to 'better' developments. Those which set out detailed protocols found these to be especially useful, setting clear lines of engagement while enabling the different parties to hear each other's points of view.

Member training is seen by officers to be of considerable benefit, as well as being welcomed by Members. Although take-up rates are variable, where it is undertaken training is widely considered to help Members make more robust planning decisions. This is partially due to the connections which are drawn in training between the policy framework and the local circumstances (discussed in more detail in section 6.2.7).

In summary, therefore, the research findings would appear to support this hypothesis. Early Member involvement is felt to be strongly beneficial by authorities which practice it, as long as this is carried out within clear and strictly observed guidelines.

Our recommendations are therefore as follows:

- Authorities should update their Codes of Conduct to reflect the support for early Member involvement which is now advocated in national guidance
- Codes of Conduct should include advice which relates specifically to the planning process, and clear lines of engagement should be drawn with regard to pre-application involvement in particular
- Detailed Protocols and DC Consultative Forums could be used more widely
- In authorities where this does not already happen, authorities should hold a meeting prior to Planning Committee which is attended by the Chair, Vice Chair and senior officer(s) to discuss the cases which are to be determined and raise the issues which are likely to exercise the Committee Members at the meeting
- Monitoring Officers should be fully informed of the potential benefits of early Member involvement: further training, and consistent guidance, could help

CHAPTER 5

Democratic decision-making

5.1 HYPOTHESES

The following hypotheses are proposed:

“the application of a democratic decision-making process produces a predictable planning decision”

and

“‘Good’ democracy creates more predictable planning decisions, by allowing a better understanding of the process and providing opportunities to influence it”

The National Planning Forum (The Conditions for Creative Planning (2005, paragraph 1.6) reported that the cabinet structure can make Planning Committees more likely to support objectors and make decisions in conflict with policy. This was partially attributed to back-bench Members feeling disenfranchised by the cabinet system, “using the Planning Committee to find a role and a power base”. However, other authorities did not report significant problems in this regard; the problem is by no means universal.

5.1.1 The role of the Planning Committee in the new local government

Taking into account the new decision-making arrangements in local government, and the nature of governance and the reformed planning process, there is scope for Councillors to occupy substantially different roles to those they undertook in the past.

These new roles are broader activities reflecting Councillors’ duties as champions of community interests and are shaped less by the mechanics of the decision-making processes. Councillors’ roles as actors in the Planning Committees of the new local governance can be broken down into four overlapping categories:

1. **The community leader.** Councillors can be leaders of their wards locally by representing constituents in various contexts. Councillors can draw communities in to taking part in limited speaking opportunities within the Planning Committee, and within the constituency, by generating discussion and agreement. Councillors may also take on the role of a channel of communication between the constituency and the executive by providing feedback more generally in relation to planning issues.
2. **The scrutineer.** Councillors must, under the new arrangements, scrutinise the activities of the executive in their council. This wider scrutiny role is possible where Councillors, as democratic representatives of constituents, scrutinize issues of detail in relation to individual planning applications.

3. **The policy-maker.** Councillors influence the making of policy through scrutiny committees, proposing changes to existing policies, and suggesting new policies, but this may only occur in a limited way at the Planning Committee, perhaps by questioning the cabinet Member for planning.
4. **The local partner.** There is a wealth of partnerships now prevalent in local governance, such as local strategic partnerships, and in relation to individual development projects. An important role exists for Councillors as local champions to work with other agencies, Members and groups in the community. Councillors are frequently Members of boards and partnerships beyond the realms of the local authority itself, and work in partnership with communities on various projects that may be discussed at the Planning Committee.

Since the implementation of the new arrangements in local government, some Councillors have criticized the power relationship between the executive and the backbencher because of perceptions of unevenness. There is a danger within the Planning Committee that backbenchers will feel cut off from decision-making, and their scrutiny role reduced as the executive, and the front loading of the planning system, create a perception that less heed is being paid to their views. If the Planning Committee does become more of a scrutiny process on issues of detail, and is also a democratic forum where Members of the public and others are able to express their views in public, some extra feedback process is required to channel issues relating to policy back to the executive. Perhaps this could occur with a more formal questioning session of the cabinet Member within the Planning Committee.

5.2 FINDINGS

5.2.1 Different decision-making structures

The case study authorities employed a variety of decision-making committee structures. These can be summarised as follows:

- single Planning Committee (small proportion of the total Council membership)
- single Planning Committee (large proportion of the total Council membership)
- main Planning Committee, with Planning Sub-Committee to determine smaller / less controversial applications
- two or three Area Committees (some with an overarching Strategic Committee, or similar, to determine the very largest or most contentious applications)
- two or three small Planning Committees, considering applications from across the authority area, with an overarching Strategic Committee to determine the very largest applications

Some authorities also have mechanisms in place whereby a decision can be 'referred up' to the full Council or another decision-making body (see section 5.2.7 for further details).

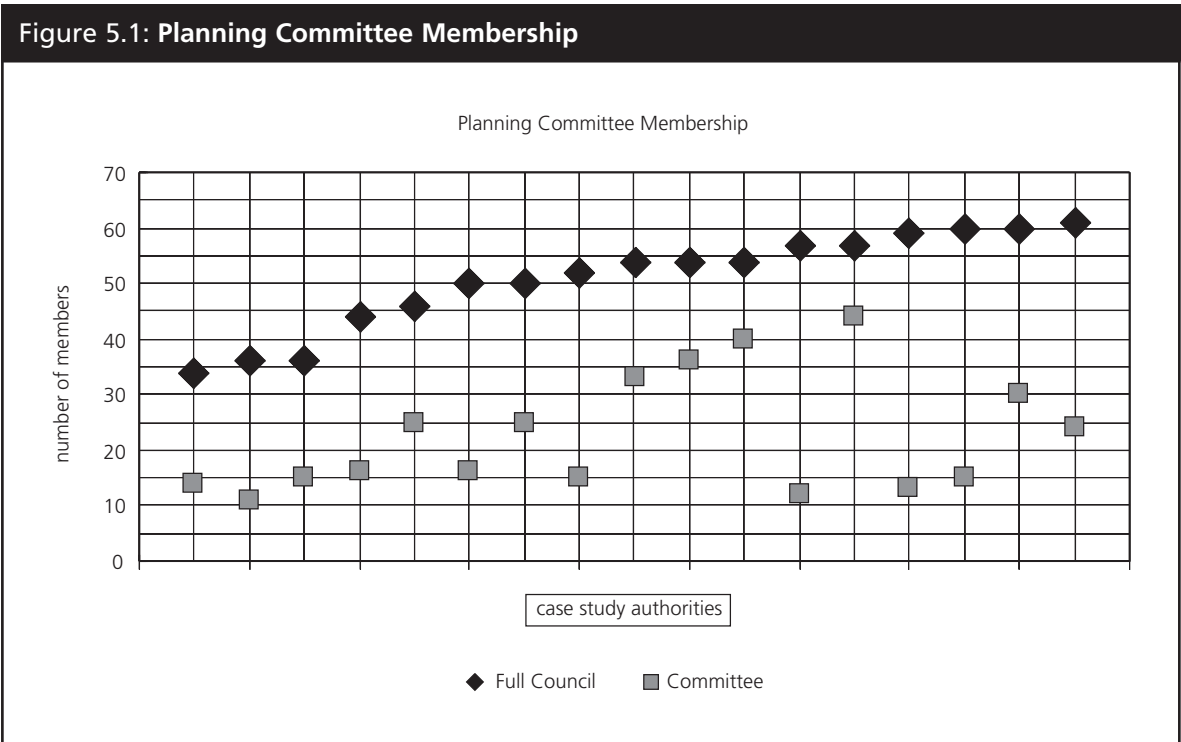
Our three Area Committees are a key link to the community, have an intense focus on local issues, and great knowledge – but my role is to refocus the Members away from their town or parish and see the big picture”

– Area Planning Committee Chair

5.2.2 Number of decision-makers

The case study authorities reported a wide variety in the number of decision-makers expected to sit on Planning Committees. Figure 5.1 shows the total Members sitting on Planning Committees, compared against the size of the full Council, in each of the case study authorities.

The ‘Planning Committee’ here includes the number of seats on any number of Area Committees, Sub-Committees and/or Strategic Committees in the authority, as applicable. Some authorities have a single Planning Committee of as few as 12 Members, while others seek to maximise Member involvement in this element of the authority’s work by operating up to four sub-Committees of 8–22 Members each. The proportion of Members represented on Planning Committees varies from just 21% of the full Council (12 out of 57 Members) up to 77% (44 out of 57). The average of our case study examples is 44%.



Advocates for smaller Committees (e.g. 10-12 Members each) suggest that they can be advantageous, for several reasons. Fewer Members makes a Committee more streamlined (and easier to keep in order). Small Committees may be more likely to retain a strategic focus: larger Committees are more likely to include the local Ward Member.

Other authorities consider a larger Committee (e.g. 15-25 Members) to be beneficial. This way, a greater proportion of Councillors are able to take an active role in decision-making in the authority. It may also be more unlikely that a sufficiently large alliance can build up and secure a decision contrary to policy or officer recommendation.

Considerations of sheer size need to be balanced against the number of Committees in any one authority, however. Officer and Member workload is determined by the overall number of Committees, and officers can use their time more efficiently if they only need to service one or two Committees.

It has been argued that Committee size does not matter if the authority has a sufficiently good scheme of delegation. We do not agree. Our studies show that the more Members there are on a committee, the less they feel separated from their constituency role, and so the greater the tendency to depart from agreed planning policy for reasons other than robust planning ones. This is because the Committee Members do not feel they have to play a special role in exercising their planning decision making functions.

Members of a smaller committee, on the other hand, from the evidence of our research can more easily take the impartial decision making role, while taking fully into account all the relevant material considerations, including the relevant policies, views of ward Members, and opinions of members of the public.

5.2.3 Political representation

All authorities are required to reflect the broad political make-up of the full Council on the Planning Committee. Substitutes must be drawn from the same party as the Member they are (temporarily) replacing. An authority with diverse political representation will therefore need to include the whole political spectrum on their Planning Committee.

Good practice guidance (such as the Planning Advisory Service (2006) Elected Members' Planning Skills Framework), proposed that Councillors who act as substitutes for Members of the Planning Committee should possess the same competencies as those full-time Members for whom they stand in. This was not always found to be the case in practice, however: in the case study authorities, not all substitutes were required to undertake the same level of training in planning issues as the full Members of the Planning Committees.

We don't see [Councillors] as political representatives, we see them as individuals"

– rural authority officer

It was frequently reported that voting at Committee was very much a matter for the individuals attending the meeting, rather than along party lines. The requirement for replacement Committee Members to be drawn from the same party therefore has little direct influence on the likelihood of a particular planning outcome.

Both of these factors serve to demonstrate that political make-up of the Planning Committee is of very limited significance in terms of predicting a planning decision. This is supported by frequent comments from both Members and officers in interviews that Planning Committees 'absolutely do not' run along party lines.

5.2.4 Planning Committee meetings

Ward Member involvement

Ward Members are always allowed to speak at Committee, but not always allowed to vote. If the Ward Member is also a Committee Member, they would normally have to choose between

- Sitting on the committee, but remaining impartial about the application and retaining a voting right
- Sitting on the committee but abstaining from voting or speaking if they had expressed a view on the application prior to the meeting
- Sitting on the committee and speaking for or against the application, but abstaining from voting
- Seeking a dispensation to speak and/or vote even if they had expressed an interest in the application before the meeting

In any democratically elected political system, Ward Members are expected to represent the interests of their constituents on the wider stage. In all the case study authorities, Ward Members were permitted to speak at Planning Committee meetings. The nature of this varied quite widely, however.

Some Ward Members were expected to open the debate about the application in their ward, following a factual introduction from the case officer, while in other authorities, they were expected to speak last, so that they had the opportunity to consider all the arguments put before them before coming to their own view. In other authorities, Ward Members were expected to take the same level of involvement as a member of the public, for example notifying the Committee of their intention to speak three days prior to the meeting, speaking only at the invitation of the Chair, or putting their case without subsequently being able to take part in debate.

The LGA Probity in Planning Update (2002) advises that where a Member has previously expressed a view on a proposed development (whether in support or opposition), they should not vote on the relevant planning application, but may continue to argue for (or against) the development in the same way as a Member of the public (paragraph 6.12). The case study authorities would appear to be putting this advice into practice.

The LGA guidance also advises that Members of the Planning Committee who wish to represent their constituents' views on a controversial application should make an open declaration of support or opposition and then not vote on the application (paragraph 8.7). One of the case study authorities reported that it follows this advice, and many of the Councillors consider it to be helpful. It allows them to comment freely on the merits of the application and relieves some of the pressure to make difficult decisions (for example, in cases where the adopted policy framework is contrary to wider public feeling).

Members of the Planning Committee who are also Parish Councillors should not vote at the Planning Committee if they have taken part in the decision of the Parish Council"

– Borough Council's guideline

Planning Committee Chairs

The research interviews demonstrated the vital importance of high quality Chairs. Many of the Chairs interviewed for this research were very impressive, possessing excellent interpersonal skills including:

- understanding how best to conduct meetings
- understanding how to involve applicants at the Committee meeting
- enabling the public to express their views in a structured and controlled way
- enabling all views to be heard at Committee
- maintaining an apolitical stance

Officers in several of the case study authorities reported that they “have to train the Chair to do a good job“. This was substantiated in several interviews where Chairs and officers were interviewed together and Chairs would defer to their chief officers on matters of fact. This demonstrated excellent working relations and a high degree of trust, both of which are considered to be essential in an efficient planning system (as discussed further in section 6.2). However, a small number of authorities reported more problematic relations:

Our Planning Committee is like a school class whose teacher has lost control, ...making up policy on the hoof”
– officer

Deferral

One authority reported that where decisions go contrary to officer recommendation and subsequently go to appeal, a Member of the Planning Committee responsible for the decision is asked to lead the authority’s case at appeal.

Alternatively, in debates where it looks as though a decision is likely to go against officer recommendation, some authorities have introduced a mechanism to defer the application until the next Committee. See boxes below for details.

Case study example of deferral

As the Planning Committee debate progresses, decisions which appear to be going against officer recommendation are deferred until the following Committee meeting. This is considered by participants to have a number of benefits for the quality of the eventual outcome:

- a ‘cooling off’ period for Members to reconsider their position
- officers prepare a report on the Members’ proposed grounds for their decision, highlighting any reasons which are unlikely to stand up at any subsequent appeal (where applicable)
- officers have time to investigate new concerns raised at Committee
- developers sometimes take the opportunity to amend their proposals to make them more acceptable to the Committee

It is reported that many of these potential decisions are subsequently revised, and the Committee ends up agreeing with the officers’ recommendation in approximately 50% of the cases which have been deferred for further consideration in this way.

Further case study example of deferral

In another case study authority, where members are minded to make a decision which is contrary to policy, the application is deferred. This is to allow for a further report on reasons for refusal or other advice, including legal advice or e.g. the need to refer as a departure, or to prepare a planning obligation as appropriate. This is considered by Members and officers to provide an effective discipline, and avoids decisions being made in the heat of the moment.

5.2.5 Role of the public and third parties

Twelve out of the 17 case study authorities allow the public (and third parties) to speak at their Planning Committee meetings. Some require certain criteria to be met before public speaking is permitted, for example requiring a minimum number of objections to be received. Many strictly limit the time available for public speaking, either a few minutes per speaker (typically 3 or 5 minutes), or a few minutes per viewpoint – requiring all the proponents or objectors to collaborate on their contributions prior to the meeting.

One authority reported that it had only introduced an opportunity for public speaking in the past 18 months, but considered this to have had a beneficial impact on decision-making; interestingly, it attributed the change with a considerable drop in the deferral rate. Another considered that allowing members of the public to speak had been ‘incredibly successful’ and they had been ‘astounded’ by the quality of the presentations they had received (in terms of focus on planning matters, timekeeping, etc).

Five authorities reported that they do not allow the public to speak at Committee. One considered that, if public speaking were allowed, this would offer an unfair advantage to applicants whose cases were heard by the Committee instead of being determined under delegated powers, as they would be able to put their case directly to the decision-maker in person.

5.2.6 Delegation

The majority of planning applications are determined not by elected Members but by planning officers under the authority’s Delegation Scheme. There is a target delegation rate of 90% (originally a Best Value Performance Indicator). The interview authorities reported delegation rates between 85% and 95%, with most reporting rates of around 90%. One authority stated that their delegation rate was roughly 10% lower than the “potentially delegate-able” cases they received each year, due to officer and Member requests for certain sensitive cases to be called in to Committee.

Several of the interview authorities have recently been seeking to increase their delegation rates and minimise the number of cases sent to the Planning Committee for determination. This is considered to streamline the planning process and enable the Committee to focus on the applications where their input is most needed.

Delegation Schemes

Many decisions are automatically delegated to officers, in accordance with each authority’s Delegation Scheme. Influenced to some extent by the level of development pressure in the authority area, the criteria vary in many respects, including:

- the size or type of applications which are routinely delegated for officer determination;

- the degree of opportunity for Members to request that applications are heard by Committee rather than being determined by a senior officer; and
- the number/seniority of officers required to agree on a delegated application .

The different Delegation Schemes also included a variety of reasons why an application would not be delegated, but called in for determination by the Planning Committee. These included the following circumstances:

- Member request for hearing by Planning Committee (request made by local Ward Member, or any Member of Planning Committee – see below for case study examples);
- Officer discretion (for example a case which could be politically sensitive);
- Objection from the public (in our case study authorities, ‘trigger’ levels vary between 1 and – in one authority – 1,000 objections!);
- Objection from an amenity society;
- Application is made by Member, officer or a close relation;
- Sheer size of application (some authorities refer any ‘major’ application; others only refer the very largest, while others do not employ this criterion at all);
- Sensitive nature of application;
- High level of public interest (judged by officers or reported via objections to proposal);
- If approved, application would be a departure from policy; or
- Developer has not agreed to a planning obligation in line with Council policy.

There are some similarities between authorities, however. Senior officers can always request that an application goes to Committee if they consider it would be more appropriate for it to be determined there, and Members get the opportunity to pass comment on the proposed officer decision if it would be contrary to adopted policy. Officers and Members must always have access to sufficient information to make informed choices about which cases to delegate and which should be heard by the Committee.

Member Call-In

Automatic delegation can be overturned by Members who request that an application is called-in for determination by the Planning Committee. The degree of Member call-in varied across the case study authorities. Some reported that Members were keen to call in applications which would not normally require the attention of the full Planning Committee. There were several suggested reasons for this, including disagreements between Members and Officers about the preferred decision, and a willingness on the part of the Member to raise the profile of their ward, or to raise their profile among their constituents.

On a delegated decision, “the only way we [Members] can disagree is to take it to Committee”
– Portfolio Holder

Some authorities reported further details about their call-in process. These are presented in the case study box overleaf.

Case study examples of call-in processes

In one authority, an application is called in for determination by Committee if the Ward Member disagrees with the officer's proposed recommendation (approval or refusal). In this case, the Ward Member must give planning reasons for disagreeing with the anticipated delegated decision.

In another authority, if a Member has requested a call-in, they can 'de-call-in' if they later agree with the officer recommendation. This was reported to reduce the number of items going to Committee by about 50%, in that particular authority.

Another example reported that Ward Members were not allowed to call-in applications, but these automatically go to Committee if one or more objections are received from an amenity society. In this case, the Ward Member will ask the amenity society to raise an objection, in order for the application to be called-in.

In order for delegation to work effectively, there needs to be a very high level of trust between officers and Members. Members need reassurance that officers will make the same decisions as they would if they were determining the application, and that officers are bringing forward the more appropriate applications for determination by the Committee. It was encouraging to note that a high level of trust was encountered in nearly all the interview authorities.

5.2.7 Referral up' to full Council or other Committee

In cases where the Planning Committee is unable to reach a decision, or there is considerable disagreement about a decision which has recently been determined, some authorities have procedures in place to allow the decision to be 'referred up' to another body. This may be the full Council, or another (e.g. Strategic) Planning Committee.

Case study examples of 'referral up'

In one case study example, an application can be referred up for determination by the full Council if 25% of the Planning Committee members write to the Chief Executive within 48 hours of the decision.

Another authority reported that it had a mechanism in place for an application to be referred to the full Council if 2 Committee Members were unhappy with the decision made at Committee. However, this had not happened in practice since 2002.

Another authority automatically refers a decision to full Council if the Planning Committee wishes to make a decision contrary to officer recommendation on a matter of principle or policy.

Referral up to full Council is widely seen as a last resort. Not all Councillors have sufficient planning training, and there is a significant risk that instead of focusing on the planning issues, the debate will be drawn down to the subjective / emotive level. This can be very time-consuming, with unpredictable results. In authorities which only hold a full Council meeting twice a year, there are obvious implications for the speed of decision-making.

An alternative – as reported by one or two of the case study authorities – might be to have a two-tier Committee structure, where the upper tier determines applications that cannot be agreed at the lower tier.

Grounds for referral

In one case study authority, the Planning Committee can make decisions contrary to officer recommendation where the judgement is a subjective one, for example on design grounds. However, where a matter of objective policy is involved, or there is a contingent liability or perceived costs, the application must be referred to another committee for determination.

5.3 SUMMARY AND RECOMMENDATIONS

The following hypotheses were proposed:

“the application of a democratic decision-making process produces a predictable planning decision”

and

“‘Good’ democracy creates more predictable planning decisions, by allowing a better understanding of the process and providing opportunities to influence it”

The research findings do not strongly support these hypotheses. It can be argued that, where decisions are taken by elected Members, or taken by officers based on development plans that were approved by elected Members, the process is a ‘democratic’ one. However, it is far from clear that the predictability of such decisions is a direct effect of the democratic nature of the processes involved. The definition of ‘good’ democracy would be a separate study altogether. Furthermore, the fine balance between the relevant planning issues simply makes it difficult to predict the outcome of some applications.

Both the processes of local government organization and management, and the planning system, are undergoing significant reform at the present time. The changes to local government structures have now been made, although the planning changes are taking longer to be fully implemented. This is only to be expected as the new planning policy framework takes several years to be put into place.

Changing the formal structures of how local government is managed and the form of statutory planning tools is important, but they are not sufficient in themselves to secure meaningful or consistent changes in behaviour within the Planning Committee, which remain in practice largely unreformed. The successful implementation of cultural change within the planning system, and specifically within development control decision-making,

depends on recognition of the diversity of interests that are represented within planning locally and in individual constituencies, and eventually find voices within Planning Committees.

The research has unearthed a range of different practices on the management of development control (outlined above). As the new processes under the Planning Act 2004 are fully implemented, there should be sufficient flexibility at the local level to exploit the creative efforts of those charged with implementing them. Such flexibility should reduce local political frustration with policy and the executive on the one hand, and provide a stimulant to backbench Councillors, recognising their skills in understanding and communicating issues relating to detail.

Development control is a national process, but the way it resonates locally varies from place to place, community to community, project by project. By recognising the importance of contexts and capabilities, as well as constitutions, it is possible to turn these factors into resources for wider local government and planning change.

Some Members feel that it is their democratic duty to represent the views of their constituents and this does raise tensions where they are also decision-making Members of the Planning Committee. Some authorities have sought to get around this issue by applying clear guidelines discouraging Committee Members from voting if the application relates to their ward. Others permit the public to address the Committee but limit the involvement of the Ward Member to a presentation by invitation only. The LGA seminar reported that there should be no reason why LPA Members should not 'wear more than one hat', but there is a strong need for training to ensure that they know what they should and should not do within each role.

The purpose of delegation is for Members to concentrate on the cases which they are best placed to address, leaving officers to determine the great majority of less contentious ones. To some extent, delegated decisions are more predictable because there is arguably more of an emphasis on the adopted development plan, which was adopted by democratically elected Members. However, most members of the public would not see this as a particularly democratic process.

Our recommendations are therefore as follows:

- a high level of trust must be established between Members (especially Planning Committee Members) and officers, in order to maximise the effectiveness of the delegation arrangements
- an appropriate balance must be achieved between the degree of delegation and the continuing involvement of elected Members in planning decision-making: increased delegation would appear to lead to more predictable planning decisions (in line with adopted policy) but some degree of Councillor involvement should remain for the more significant or controversial cases or where the issues are finally balanced
- all Members of the Council should receive training in planning matters, especially where there is a structure in place to allow decisions to be referred up to full Council or any possibility that they will be asked to stand in for a Member on the Planning Committee

- consider replacing Area Committees (i.e. those with a geographical remit) with a series of Committees that have an authority-wide remit, and meet on a rolling monthly basis (see also: section 6.2.3)
- the optimum number of Area or other sub-Committees should be considered in relation to officer workload in servicing these Committees
- existing good practice guidance should be adhered to
- consideration should be given to the deferral of decisions where the majority of the Committee are minded to make a decision contrary to officer recommendation: this may lead to a minor increase in the average length of the determination process, but should yield considerable benefits in terms of the quality of the planning decision
- authorities should consider removing the option of referral up to full Council with an arrangement to refer the most contested decisions to a Strategic Planning Committee or other sub-Committee made up of Members with planning training

CHAPTER 6

Decisions contrary to officer recommendation

6.1 HYPOTHESES

Major developers, and housing developers in particular, have complained that after lengthy negotiations with officers, and a recommendation for approval, applications are turned down at Committee. One of the research themes is to investigate the extent of these decisions contrary to officer recommendation, and the factors which influence these decisions. As noted in Chapter 3, such decisions affect a small minority of cases across England. However, by looking at a few of them in detail we can draw out wider lessons.

The following hypotheses are proposed:

“Decisions contrary to officer recommendation arise due to:

- 1. Members and officers not communicating during the application and determination process (Member-officer communication)*
- 2. absent or ineffective stakeholder mediation during the application and determination process (officer-stakeholder communication, including but not limited to officer-applicant relations)*
- 3. change in the decision-making structure during the application and determination process (e.g. change of political control, policy framework, delegation scheme)*
- 4. an unpredictable political balance, whether this is macro scale (elections), midi scale (decisions going to full council), or mini scale (individual Councillors on committee)*
- 5. planning issues are finely balanced*
- 6. Members lacking ownership of plan policies*
- 7. Members lacking training”*

and

“Authorities which encourage early Member involvement experience fewer decisions contrary to officer recommendation”

6.2 FINDINGS

Some of the sub-clauses of this hypothesis have been found to be applicable in only a small minority of cases (e.g. sub-clauses 3 and 4), while others do indeed appear to commonly contribute to decisions which are contrary to officer recommendation. In particular, sub-clause 5 (different interpretations of finely balanced planning issues) has arisen frequently in case studies, and sub-clauses 1, 2, 6 and 7 are also significant. The sub-clauses are discussed in turn below.

6.2.1 H1: Member-officer relations

Level of trust

Many authorities reported very high levels of trust between Members and officers; in some cases, this has been built up over decades of joint working. Trust between officers and Members was considered essential to the effective operation of the planning service as a whole, and planning decisions in particular. With a target delegation rate of 90%, Members need to trust that the officers will make the same decisions that they would if the case were to be determined by the Committee. High levels of trust make it more likely that Members will not call in an application for determination by the Planning Committee, resulting in faster decision-making and less risk of a decision contrary to recommendation for applicants. Where trust has broken down, Members may be more likely to request that cases are heard by the Planning Committee.

The relationship between officers and Councillors must be based on “mutual trust and understanding of each other’s positions”

LGA Probity in Planning Update (2002, paragraph 5.1)

Calibre of participants

Some Members raised the calibre of Committee Reports as an issue (and, implicitly or explicitly, the calibre of the planning officers themselves). Some Members described strong levels of trust which have built up between themselves and high-calibre officers, with the result that they were frequently willing to accept officer recommendations.

However, others attributed their willingness to overturn an officer recommendation to the poor quality of reporting which was produced for the Committee. For example, local Members with decades of experience may feel that a new officer has failed to grasp many of the issues which are relevant to a given location, and consequently choose to disagree with their recommendation.

I trust officers’ decisions as much as my own – but we all get things wrong sometimes’

– Member

Frequency of contact

Most authorities reported that Members and senior officers had good, informal, relationships and that Members felt that they could ask questions of the officers at any time. More formally, senior Members and officers meet prior to Planning Committee meetings (as discussed in more detail in section 4.2.3).

Conclusion

In principle, hypothesis 1 can be supported: communication between Members and officers is essential in order to operate an effective planning system. However, our research found very few examples where relations were so bad that officers and Members did not communicate on a regular basis. It seems likely that the quality of the information shared by officers and Members through these channels of communication may be more important than an actual lack of contact.

6.2.2 H2: Stakeholder mediation

It was hypothesised that “absent or ineffective stakeholder mediation during the application and determination process” could cause decisions which are contrary to officer recommendation. It was anticipated that this might be a contributing factor in the case studies, if for example applicants were not aware that the supporting information they had submitted was deficient, or if a vociferous group of residents had not been fully informed about a proposal and subsequently exerted pressure on their local Member.

In practice, stakeholder mediation is the job of officers, not Members. Officers and applicants are jointly responsible for ensuring that the public have sufficient information about a proposal to make sense of it, and officers are tasked with managing their expectations of what the planning system can deliver. Members may be asked to represent the views of the local community at the Planning Committee, but – as discussed elsewhere – there is a distinction between the role of the Ward Member and the Planning Committee Member.

In one case study, it was apparent that more effective stakeholder mediation would have avoided a decision contrary to officer recommendation, and the local planning authority had since put mechanisms in place to avoid a future recurrence of the problem. In several others, community pressure was a significant factor in Member approaches to proposals.

This hypothesis therefore cannot be strongly supported by the research findings, although the way an authority seeks to deal with these pressures – at both political and officer level – will have a significant bearing on decision-making.

6.2.3 H3: Decision-making structure

It was hypothesised that changes in decision-making structures during the application and determination process might be more likely to result in a decision which was contrary to officer recommendation. It was suggested that changes in political control, or the planning framework, might have an impact. In practice, this has not been demonstrated, for two reasons.

A change in political control may result in a change in Planning Committee Membership, but these individuals are required to hear each case on its merits (see 6.2.4, below): party politics are not reflected in the Planning Committee chamber.

Although the overall application preparation and submission period may last for several years, during which time the policy framework may indeed be revised, the final officer recommendation is not made until shortly before the Planning Committee meeting. Most applications are subsequently determined in a matter of months, and are unlikely to be affected by political change in this relatively short period.

However, several authorities reported that one specific change in their Committee structure has resulted in a reduction in the number of decisions contrary to officer recommendation: the replacement of Area Committees with district-wide committees. Authorities reported the following benefits:

- consistency of decision-making across the authority area
- more strategic decision-making
- less emphasis on local issues
- fewer conflicts of interest
- faster decision-making (see box below)

The Planning Advisory Service recently undertook a review of Area Committees which reported similar findings. See Appendix B for further details.

Case study: replacement of Area Committees

Several authorities have recently replaced their Area Committees with district- or borough-wide committees. In one example, an authority has replaced 3 Area Committees with 3 district-wide committees, A, B and C. These sit every 6 weeks, on a rolling programme so that there is a Committee meeting every 2 weeks. Any applications which are deferred by Committee A must wait until it meets again, but this ensures consistency and applies to only a small fraction of cases.

A separate Strategic Committee is convened to determine the very largest development proposals, and any departures from the plan. This is made up of Members of the other Committees.

Further case study: replacement of Area Committees

One of our case study authorities had been criticised in a recent review for its “cumbersome” structure of 3 Area Committees. It had subsequently restructured into a single Planning Committee and increased the extent of officers’ delegated powers. This was highly contentious: some Members felt that this would take democracy further away from residents and reduce the influence of local Members, while other observers considered that a reduction in the influence of local Members would be a virtue.

In practice, development control performance was significantly improved following the introduction of the new structure, and decisions contrary to officer recommendation fell significantly.

6.2.4 H4: Political balance

It had been suggested that the political balance of an authority could influence the likelihood of decisions contrary to officer recommendation. In itself, this is not generally the case.

Many authorities were emphatic in their assertions that planning decision-making does not take place along party political lines. Members from each party report that they do not discuss how they will vote on particular applications prior to Committee, and it would be improper for them to do so. Each application is expected to be determined on its merits, according to the relevant planning issues, unaffected by party political considerations.

It is quite likely that individual Members of a given party will tend to hold the same values, but Members (and some officers) reported that similar voting patterns among party Members would arise by coincidence rather than design. Indeed, the individuality of Planning Committee Members was often reported (as discussed in section 5.2.3).

Alliances [between Members of the Planning Committee] do happen to secure refusals, but they generally form within the meeting rather than being put together beforehand"

– officer

Some authorities had seen a change in overall political control since the adoption of their development plan. The new administration may be opposed to aspects of the inherited development plan. Even where overall control is unchanged, the arrival of new Members on the Planning Committee can increase officers' workload in explaining the rationale behind the adopted policies. It may also make the new Committee more likely to question the officers' recommendations, with an increased risk of a determination contrary to recommendation.

In summary, therefore, it can be concluded that a change in the overall political control of the council has more of an impact on planning decisions than the party political views of individual Members of the Planning Committee.

6.2.5 H5: Finely balanced planning issues

As democratically-elected Members of local authorities, Planning Committee Members are expected to represent the electorate. Planning applications are however expected to be determined in accordance with the adopted development plan, shaped by national and regional policy, unless material considerations indicate otherwise. Local authority Members are therefore subject to potentially contradictory pressures.

Members are now very aware of the need for clear reasons for any decision, but can get frustrated when their concerns can't be justified by policy"

– officer

Where the issues are finely balanced, officers may not have a strong view on what their recommendation is. In some cases, officers will seek Members' views prior to making a recommendation. Sometimes officers will recommend a site visit to show Members the context for themselves (although there will also be a recommendation in the Committee Report as well).

Members are there to make decisions, and should have no fears about putting their judgement in the place of the officers’”

– Planning Committee Chair

Design is one of the issues which typically divide the Planning Committee. Although there is a good deal of guidance on design issues, design remains one of the most subjective elements of planning applications, difficult to cover in policy terms without over-prescription.

It was commonly reported that ‘the balance of planning issues’ is a frequent reason for decisions contrary to officer recommendation. In some cases, this was actually a welcome outcome for officers, who felt constrained by outdated plan policies and were pleased that Members felt able to make a more pragmatic, ‘common-sense’ decision. These are relatively weak grounds on which to defend an appeal, however. This ‘policy gap’ is discussed in more detail in section 6.2.6 below.

6.2.6 H6: ‘Ownership’ of policy

It was hypothesised that decisions contrary to recommendation are caused by a lack of policy ownership among Members of the Planning Committee. Several authorities reported that this is the case, especially where plans predate the election or appointment of the particular Committee Member. Even long-standing Members may not have had the opportunity to be closely involved in the formulation of local policy.

National policy

Officer recommendations should relate to adopted policy, including national and regional policy as well as the adopted local plan or UDP. However, several interviewees (officers and Members) considered that central Government policy did not sufficiently reflect their local circumstances. This is not a simple political question of some authorities simply disagreeing with aspects of Government policy; there is concern that centralised policies (especially involving quantifiable targets or standards) are leading to proposals for forms of development which are out of character with particular types of setting. Particular issues included the guidance on residential density, infilling, car parking standards and the definition of ‘brownfield’ sites for redevelopment.

Consequently, Members reported that they are sometimes minded to determine applications contrary to recommendation. A few cases were reported where the Inspector had agreed with the Members at the subsequent appeal, although this was by no means universal. Indeed, the Inspectorate was criticised by some interviewees (especially Members) for, in their view, failing to give due weight to the particular local circumstances of a case. It was suggested that Inspectors typically adhere to national policies, resulting in built development which is inappropriate in the local setting.

Policies should be more locally attuned, not centralised dogma”

– Planning Committee Chair

Age of development plans

The age of adopted development plans seems to be an important factor, which was not originally included in the hypothesis. Given the continuing emergence of new policy, it becomes likely that where there is an older development plan, an increasing number of applications will be approved which are contrary to the adopted plan. This has two key implications.

Firstly, where the development plan is some years old, it does not reflect recent Government policy. This means that new national policy is expected to be applied by the decision-makers in its 'raw' state, without first being interpreted for the local context through the means of a development plan review.

Problem with an old development plan

In one broadly rural case study authority, the local plan is many years out of date. This means that there is no policy which differentiates the application of national policy on densities or brownfield development between different kinds of settlements or areas. This presents clear difficulties in cases where the straight application of national policy is seen as being in conflict with the character and amenity of local villages.

Secondly, where the adopted Development Plan policies no longer reflect the key development pressures in an area, Members may take a pragmatic view and vote in accordance with emerging (as yet unpublished) policy where they can. We have heard of numerous cases which have gone to appeal because Members have sought to apply what they consider is a more up-to-date 'common sense' approach than the adopted plan policy would permit.

Member involvement in policy-making

As a minimum, the statutory guidance (s38(1) of the Local Government Act 2000, paragraph 5.18) states that "the executive will need to ensure that there is effective two-way communication between them and [any committee which takes development control decisions] and should consult any such committee on successive drafts of the Development Plan while policy is being formulated".

Many newer Members don't show any ownership of the current local plan [adopted in 2001] and tend to try to invent their own interpretation"

– officer

Direct 'ownership' of plan policies is fostered where Members feel they have an opportunity to influence the formulation of those policies. Some authorities sought to actively engage Members of the Planning Committee in forward planning, although most reported that Members' overlap between development control and forward planning activity tended to be incidental rather than by design. Links between DC and policy are discussed further in Chapter 7.

Conclusion

The degree to which Members feel any ‘ownership’ of plan policies does seem to have a significant impact on the decisions which are made at Committee: the hypothesis is therefore supported.

6.2.7 H7: Level of Member training

It was hypothesised that a lack of ‘Member training’ contributes to decisions which are contrary to officer recommendation. This would suggest that Members are naturally more inclined to make their own decisions based on their own views rather than the adopted policy framework, and that ‘training’ would emphasise the importance of adhering to this policy framework. This suggestion would downplay the planning knowledge of many Members: case study interviewees – typically Committee Chairs, Vice-Chairs and experienced senior Committee Members – generally demonstrated a keen understanding of planning issues.

However, some case study authorities did report variable levels of knowledge among the ‘rank and file’ Planning Committee Members, and it was generally agreed that the ‘better’ Members are those who have higher levels of training and keep up-to-date with policy developments. (‘Better’ in this context included Members who tended to seek planning reasons for their decisions.)

The level of Member training also has implications in terms of policy ownership, as discussed above: Members need to fully understand the planning framework within which they operate.

Most authorities consider that Member training is a very worthwhile exercise. In practice, officers reported that the take-up of Member training opportunities was variable. Some make it compulsory for all Members, in some it is compulsory for Planning Committee Members, and in others it is available but not required. One interview authority requires Planning Committee Members to attend three training sessions a year or risk losing their seat on the Committee. Other authorities are less stringent: one interview authority requires regular Committee Members to undergo training – but not their substitutes.

Some officers described their attempts to encourage more Members to attend training events but appeared to have limited success, regardless of the time of day, the format of the training session, or the topic to be discussed.

Different authorities operate a variety of training types; commonly an authority will offer several different kinds over the course of a year. These can include in-house sessions (led by officers), or courses led by external parties (for example, CABE, RTPI, Oxford Brookes University, other planning consultancies).

Member training methods include:

- topic-based presentations or workshops (typically selected by officers, in response to local issues);
- one-day study tours or reviews of past permissions (‘good, bad and ugly’) – these are considered to be very informative: an effective demonstration of planning decisions in practice;

- presentations to Members at the end of a Planning Committee meeting, with a brief progress update on emerging policy documents for example;
- policy based ‘training days’, where policy is shaped by Planning Committee Members in the process of discussing emerging/key policy issues;
- Member visits to Forward Planning and/or Development Control Departments;
- Town and Country Planning Summer School; and
- Ongoing contact with officers: ‘open door’ policies are common, where Members can simply come to the planning department and ask questions of officers when they wish.

Some authorities reported low levels of interest from Members; these appeared not to be limited to particular types of session, or particular topics, but were widespread. A few authorities reported that they were seeking to encourage more Members to undergo training.

Officers were unanimous in their view that Member training brings significant benefits to an authority. Many Members also expressed their support for training events. Particularly popular were the day tours of the district (or further afield) which look at previous planning decisions and consider the outcomes (for better or worse). This is considered to be especially valuable in illustrating to new Planning Committee members the impact they can have on their area.

One authority considered that, following a large political swing at the last election, training for the large number of new Members had been ‘rather rushed’ but they were seeking to resolve this over the coming year with more topic-specific briefings.

Another authority reported that they only undertake a course of Member training immediately after elections. This is not considered to be effective practice, given the continual evolution of planning policy and guidance: training must be kept up-to-date if it is to be worthwhile.

A considerable volume of good practice guidance has been published in recent years (as outlined in Appendix B). A minority of interviewees made direct reference to it or to proposals contained within it. Some authorities have sought to introduce new working methods which are in line with the guidance, although these initiatives have generally been started by officers rather than Members, but Members have supported the objectives and taken part. In fairness, some of the guidance is very recent, and needs time to permeate into planning authorities’ consciousness. In any case, given the demands on their time, Members will only be able to undertake a small number of training sessions per year.

Conclusion

For the reasons set out above, the research would support the hypothesis that a lack of Member training can contribute to decisions contrary to officer recommendation.

6.2.8 Other factors

A number of other factors became apparent during the case study research, which had not been considered when the hypothesis was constructed. Examples are discussed below.

Statutory consultee responses

In cases where the planning issues are finely balanced, the consultation responses from statutory consultees may have a significant influence on officer recommendations. Advice from some of these bodies carries considerable weight.

Several cases were reported to us where Members criticised the quality of the information received from statutory consultees, considering this advice to be inaccurate in comparison with their own familiarity with the local context. In one case, Members disagreed with the advice from the highway authority, and recommended refusal for a housing scheme. This was later approved on appeal, but it was alleged that the development subsequently experienced the problem that Members had anticipated in the beginning.

Relations with local interest groups / lobbying

Our interviews showed that good and clear relations with local interest groups, amenity societies and residents' associations could add value to planning decisions and help to avoid cases where determinations went against officer recommendation. Mobilised objectors help to flush out the contentious issues thrown up by cases early in the process. Once such issues are in the open, officers can demonstrate both to the groups and to the Planning Committee through their reports that their recommendations have been taken into account. This helps to remove the most common form of case where decisions do not agree with recommendations – the ambush – because the reports can recognise the things that members are most likely to be concerned about on behalf of local people.

We noted that there was a higher degree of mobilisation among local interest and other groups where restraint policies were priorities in the adopted development documents (most notably, Green Belt, National Parks, and Areas of Outstanding Natural Beauty). In such cases, authorities were sometimes able to predict the likely results of consultation with such groups, making consistent and predictable decisions easier to deliver.

Statements of Community Involvement have a critically important role to play: see section 7.2.4 for further discussion of these.

Case study example of the influence of amenity societies

One authority reported that Members are not able to request a call-in, but applications which are the subject of an objection letter from an amenity society are automatically referred to Committee. Consequently, Members have formed informal alliances with amenity societies in the district and ask them to object to applications which they would like to see determined by the Committee.

Scale of applications

As discussed in section 3.1.4, the largest proportion of overturns were reported to be applications which are between 10 and 50 units. Many of the cases referred to us related to developments at the lower end of this range. Typical examples included urban infilling on brownfield sites, and single villas being demolished and replaced with a small block of flats, reflecting the difference between central Government policy and local decision-makers' concerns. These smaller schemes may also have a disproportionate impact on their neighbours, and may therefore be more contentious than proposals for sites which are further away from existing residents.

One reason why the largest applications may be more likely to be determined in accordance with officer recommendations is perhaps due to the intensive negotiation (and supportive local plan policies) involved with a ‘super-application’. The considerable investment of time and resources by officers and some Members during the pre-application and determination process, and the likelihood that the site will already be allocated for that use in the local plan, make it more likely that the authority will approve the application, subject to appropriate conditions and s106.

6.2.9 Early Member involvement

Generally speaking, it would appear from the case study authorities that Member involvement at early stages of the planning application does have benefit in terms of informing all participants about each other’s concerns.

However, it is not clear that this can be directly responsible for a reduction in decisions contrary to officer recommendation. As noted above, the issues affecting any single application are numerous and diverse.

6.3 SUMMARY AND RECOMMENDATIONS

The following hypotheses were proposed:

“Decisions contrary to officer recommendation arise due to:

- 1. Members and officers not communicating during the application and determination process (Member-officer communication)*
- 2. absent or ineffective stakeholder mediation during the application and determination process (officer-stakeholder communication, including but not limited to officer-applicant relations)*
- 3. change in the decision-making structure during the application and determination process (e.g. change of political control, policy framework, delegation scheme)*
- 4. an unpredictable political balance, whether this is macro scale (elections), midi scale (decisions going to full council), or mini scale (individual Councillors on committee)*
- 5. planning issues are finely balanced [local concerns/ambitions vs adopted planning policy?]*
- 6. Members lacking ownership of plan policies*
- 7. Members lacking training”*

and

“Authorities which encourage early Member involvement experience fewer decisions contrary to officer recommendation”

This research sought examples of decisions contrary to officer recommendation from the development industry and local authorities in England. The response received (a total of 91 cases) is not large enough for us to conclude that this is a major problem, relative to other issues influencing the rate of new development, but the case studies have given us a good insight into the reasons why decisions can be made contrary to recommendation.

There are many different reasons for these decisions. Some of our hypothesised reasons were shown to be of minor significance (i.e. sub-clauses H3, changes in the decision-making structure, and H4, an unpredictable political balance), while others have more of a role to play (i.e. sub-clauses H1, Member-officer communication; H2, stakeholder mediation; H5, finely balanced planning issues; H6, Member ownership of plan policies and H7, Member training).

The most common examples are where planning considerations have been finely balanced and the case could have gone either way at Committee. This is also typically influenced by the level of Member training which has been undertaken, the quality of relationships between the officers and the Members, and the extent to which the planning policy framework is considered to reflect local concerns appropriately. The early involvement of Members was considered to be beneficial but there is insufficient evidence from the case studies to back up the hypothesis that early involvement alone can reduce the likelihood that a decision will be made contrary to officer recommendation later.

The time to worry is if there are no overturns"

– Borough Council officer

There is a question as to whether authorities should be seeking to eliminate all decisions contrary to recommendation, on the grounds of improving the predictability or efficiency of the planning system. Councillors point to their democratic function as representatives of the electorate, and some have gone as far as to suggest that they bring an element of "common sense" to decisions which would otherwise be determined according to a policy framework which is not well suited to the current local circumstances.

There is also the question of 'predictability', and the extent to which this is a true indication of a high quality planning system.

Finally, in relation to training, awareness and knowledge, the new role for Planning Committee Members under the reformed local government and planning processes suggests some key dimensions of capability are now required. These relate to:

- personal effectiveness, including an ability to work with and understand others;
- an ability to recognize and understand the difference between strategic and detailed issues;
- showing political intelligence, including having the ability to understand and work effectively with the political currents and dynamics both within and across groups; and
- the ability to mobilise others in the organization and to liaise effectively as champions with others in the area.

These key dimensions require training and awareness to be provided to Planning Committee Members. Such skills may currently extend beyond the present – possibly limited – form of training currently provided by local authorities, which has rather limited itself to issues concerning the principles of the planning system.

We would therefore make the following recommendations:

- Decisions contrary to recommendation should not in themselves be considered ‘a problem’; where the planning issues are finely balanced, there should always be scope for Members to express a different view from the officers. Accordingly, no authority should aim to eliminate the occurrence of such decisions
- Members and officers should work to build high levels of trust, sharing high quality information on a regular basis
- Member training should be encouraged in all authorities, and Members should be encouraged to keep their skills and knowledge up to date by attending training sessions on at least an annual basis. Among other subjects, training should be offered to Members (and officers) on emerging policy issues
- Member training initiatives should include a variety of activities; actual site visits / tours of the authority area seem to be especially informative, if focused on topical issues or locations
- Members should understand the policy development process relevant national policy, and the local timetable for its adoption in the LDF
- Planning Committee Members should be encouraged to get more involved in the policy development process, drawing on the ideas put forward in The conditions for creative planning (National Planning Forum; see Appendix B)
- Authorities should consider replacing Area Committees with an alternative structure, such as a single committee or district-wide sub-Committees: several authorities reported that their ‘overturn’ rates had fallen significantly following a similar change
- Authorities should work actively with the local community to ensure their involvement in planning decisions, so that all relevant considerations are properly understood

CHAPTER 7

Links between policy and decision-making

7.1 HYPOTHESIS

It is hypothesised that:

“closer linkages between policy and DC result in better (more predictable) planning decisions”

and

“closer management of a site from the policy design stage, through inception and application to permission and development, results in a faster and more certain planning process”

The latter hypothesis does not seem to relate to the question of Member involvement per se: it is the responsibility of officers to liaise with stakeholders on such matters; the involvement of Members (and others) tends to slow down the process. It may be a more certain outcome in the end (i.e. permission may be granted without disagreement between Members and officers at that point), but the overall process is longer. This section therefore focuses on the first hypothesis.

7.2 FINDINGS

Across England, the Planning and Compulsory Purchase Act 2004 completely reformed the planning policy and strategy making function at regional, sub-regional, local and community levels: Regional Planning Guidance Notes are replaced with Regional Spatial Strategies; Sub-Regional Strategies are introduced for the first time; Structure Plans, Local Plans and Unitary Development Plans are replaced with Local Development Frameworks (LDFs), Action Area Plans and Masterplans.

LDFs are also expected to reflect Community Strategies which are prepared and ‘owned’ by local stakeholders.

Member involvement in these different tiers of policy-making is discussed below. Good practice guidance on this subject was published in 2005 by the National Planning Forum (The Conditions for Creative Planning) – see Appendix B for details.

7.2.1 Representation of Cabinet Members on Planning Committee

The statutory guidance (provided for under s38(1) of the Local Government Act 2000), paragraph 5.18) states that “ full exchange of information between the executive and any committee which takes development control decisions is essential... local authorities should consider including a member of the executive, if possible with responsibility for the Development Plan, on one or more committees which take development control decisions although she or he should not normally be the chair.”

Some Committees include the Cabinet Portfolio Holder on Planning, while in other authorities, these functions remain separate. Generally speaking, Cabinet Members are invited to address the Planning Committee when their input would inform the consideration of a particular aspect of an application, such as health or economic development.

7.2.2 Involvement in regional policy development

Some authorities reported that individual Members have been actively involved in the preparation of their Regional Spatial Strategy. This tended to be Portfolio Holders or other very senior Members, with well-established regional political and social networks, who were either in a position to be nominated to sit on RSS steering groups or who had chosen to involve themselves in regional policy development, following an interest in a particular subject (e.g. aggregates). Given the large number of planning authorities in each region, it is not surprising that few opportunities were reported for backbenchers, or Members of the Planning Committee, to get involved to the same extent.

7.2.3 Overlap between authority Committees

Several authorities reported that any overlap between forward planning and development control activity among Members was coincidental. In some authorities, there are a limited number of individuals with the relevant skills and/or interest in the subject to get deeply involved in planning matters, with the effect that the same characters take on several planning-related roles at the same time. In other cases, long-standing council Members have been working their way around the different posts: for example, previous Committee Chairs often move on to be the Portfolio Holder for Planning.

However, in some authorities, there is a deliberate overlap between the Membership of the Planning Committee and the body responsible for forward planning. There is a range of formal arrangements to ensure that a significant proportion of the Planning Committee Members are also involved in the preparation of the next development plan. It is common for the steering group for the local plan/LDF to be consciously drawn from both the Executive or Policy Committee and the Planning Committee. Other examples include bodies such as a Strategic Planning Liaison Group, described in the box overleaf.

Strategic Planning Liaison Group

In one authority, a meeting of senior Members and officers is held every 3 weeks to discuss pre-application activity in the authority. The meeting is attended by the Chair and Vice Chair of the Planning Committee, the Portfolio Holder for planning, the political leaders of the Council and the Head of Regeneration and Planning. The group hears about pre-application discussions which have been conducted by the officers, and reviews any key policy documents. Applicants may present to the group but Members must not comment (except to ask questions) or commit themselves to any viewpoint.

The purpose of the Group is to feed in Members' views at the pre-application stage and identify key issues. Meetings are informal but agents are advised by officers on the outcome.

The Council considers this to be a very successful arrangement.

7.2.4 Statements of Community Involvement

We have observed that there is an important role for Statements of Community Involvement to play in assisting consistent and predictable decision making. The SCI is a positive outreach to get involvement from local interest groups at the plan making and application stages in the planning process. Through its management of expectation about the local planning function and regular involvement with local people, it can help to reduce or eliminate unexpected outcomes. Members and officers will know local views and be able to take them into account in decisions and recommendations. In some authorities, the need to prepare the SCI may have prompted an overhaul of development control community engagement processes, leading for instance to the introduction of public speaking at Planning Committees.

7.2.5 Champions

In recent years, central Government and associated parties have been promoting the role of 'champions' for certain policy areas. These include local Members who are appointed to spearhead initiatives on topics such as design and the historic environment. A few of these roles are discussed below. (In addition, of course, it could also be suggested that each Ward Member is effectively the 'champion' for their own area.)

there are champions in this authority for design, access, old people and young people, but none for development"

– officer

Over 200 LPAs and County Councils have appointed a **Historic Environment Champion**. The majority of Champions are elected Members. Many are cabinet portfolio holders, but there are also a significant number of Champions who are backbench Councillors and several who are senior officers (see Historic Environment Local Management (HELM) conference website⁹). English Heritage has been leading training courses and advising local authorities, and champions in particular, through the 'HELM' programme since 2004.

⁹ <http://www.helm.org.uk/server/show/category.7734>

Among their roles, Historic Environment Champions are advised to “work with officers in the planning service to ensure that new development in historic areas responds creatively and sympathetically to its environment, and ensure quality assurance, compliance and enforcement where necessary” (HELM website).

Many local authorities have also appointed **Design Champions**; CABE recommends that these are elected Members. Over 70% of authorities had a Design Champion by 2005 (CABE website¹⁰). The primary role of a Design Champion is to ensure that design issues are taken into account at each stage of the decision making process within the local authority. There is a clear relationship between the roles of Design and Historic Environment Champions, and as a result many local authorities have decided that the two roles should be combined. English Heritage and CABE provide joint training in this area.

Further recent initiatives include **Planning Aid Community Champions**. These are to be officers or Members who will act as a bridge between local communities and the planning system, helping people to understand how the planning system works and how they can get involved. Among the anticipated benefits is greater community involvement in plan-making¹¹. Any elected Member who takes on this role will need to be very clear how far they can go in advising the local community on planning matters.

In practice, many of the case study authorities reported that they had design and/or historic environment champions in place. These tended to be individuals within the Council who were known to have an interest in the subject area, and the drive to seek out further training as appropriate. One authority reported that it has a champion for affordable housing, and although his remit appeared to have been self-determined, it was reported that in many cases he had been successful in securing a larger provision of affordable housing than the developer had originally intended to supply.

There is scope for these champions to take a greater role and act as a bridge between policy-making and decision-taking in the authority, acting (with support from officers) to encourage a more integrated approach to their particular subject.

7.2.6 Policy training

All the interview authorities reported that they run Member training schemes (described elsewhere in this report). Some of these seek to draw connections between the work of the Planning Committee and the issues to be addressed in forward planning, and consist of topic-based training seminars on a range of subjects. These can include issues which have arisen in Committee debates, emerging central government policy (e.g. on Design and Access Statements). Several authorities have also benefited from lecture tours instigated by other parties (e.g. CABE or RTPi).

Some courses presented by officers as ‘training’ also serve to explore the potential options for LDDs, thereby offering the Members an opportunity to influence policy-making without the need to sit on formal groups. Other authorities have sought to formalise policy development working groups – see box below.

10 <http://www.cabe.org.uk/default.aspx?contentitemid=1231>

11 [http://www.planningaid.rtpi.org.uk/SITE/UPLOAD/DOCUMENT/Community%20Champions/PA_brochure\(150dpi\).pdf](http://www.planningaid.rtpi.org.uk/SITE/UPLOAD/DOCUMENT/Community%20Champions/PA_brochure(150dpi).pdf)

LDF Development Planning Steering Group

In one authority, this group undertakes 'unofficial scrutiny' of policy development work – and all its Members sit on the Development Control Committee as well. They are volunteers, with planning experience. There are 12 Members, Chaired by the Planning Portfolio Holder. He reports that the Steering Group “thoroughly debates the whole policy-making process”, and makes recommendations to the Executive and full Council. However, the Steering Group isn't tasked with actually making decisions on policy.

7.2.7 Ownership of plan policies

As discussed in section 6.2.6, the ownership of plan policies plays a significant role in development control decision-making. Some interviewees, typically long-standing Councillors, explicitly stated that they felt a sense of ownership over plan policies and generally supported officers' recommendations “to uphold our policies”. In other authorities, Planning Committee Members had little involvement in forward planning activity, or chose to take the view that other material considerations outweigh the adopted plan. Some were reported “trying to invent their own interpretation of the adopted plan policies”.

Members of the Planning Committee may view older plans as non-relevant to current circumstances and may believe, in all legitimacy, that they possess the right as community representatives to fill the policy vacuum with their own discretion while the new documents remain to be adopted formally.

There are possibilities here to enact a more efficient process within development control, while remaining flexible and responsive to changing social, environmental and economic needs. One idea is to follow the working arrangements established by the Local Government Act 2000 to separate issues of policy from scrutiny, and to apply the same arrangements to the development control process. Under such a scheme, issues of principle and policy would not be able to be discussed or challenged at Planning Committee generally or in relation to individual planning application; this would only occur at the executive level or involve the whole council. Issues of detail, design, density, and siting on individual applications, however, could be discussed at the Planning Committee.

Such a change does not remove the democratic remit from the Planning Committee; rather, it would amend the discretionary role to one of monitoring and scrutiny in the spirit of local government modernisation. Members would still retain the right to be seen to be making decisions, to reflect constituency interests, and to highlight changes that have occurred since plans and policies were adopted. Over time, the planning system should then 'catch up' with the wider context and reforms that have been underway in local government more generally since 1997. As discussed elsewhere in this report, some authorities already implement a system to either defer decisions on those applications that give rise to issues of policy challenge by the Planning Committee, or refer such matters to the full council for consideration.

7.3 SUMMARY AND RECOMMENDATIONS

It was hypothesised that:

“closer linkages between policy and DC result in better (more predictable) planning decisions”

The research findings would support this hypothesis. It almost goes without saying that Members who are aware of the policy framework within which they make their decisions are more likely to take more account of that policy, with the consequence that their decisions are more likely to be more predictable and more robust.

A good relationship between the Planning Portfolio Holder and the Planning Committee is clearly very important, to facilitate the transfer of information and ideas between them.

We would make the following recommendations:

- the Portfolio Holder for Planning should be closely involved with the work of the Planning Committee; for example, should sit on the Committee (but should not normally be the Chair)
- authorities should consider the scope for Members of the Planning Committee to get more involved in policy-making, subject to their availability (it is acknowledged that Planning Committee Members already have a heavier workload than Members of other Committees in the Council). This could involve participating in visioning workshops and other initiatives run by the forward planning team of the authority, or getting involved in the internal scrutiny of development plan documents before they are issued for consultation. Also, there is also no barrier to Planning Committee Members serving on the steering group for the LDF.
- policy training should be offered to all Members, and should be compulsory for all those on the Planning Committee: as noted elsewhere, this brings many benefits, including a better understanding of the links between policy development and DC functions
- authorities should consider introducing a Strategic Planning Liaison Group or similar body to reinforce the links between policy and decision-making, and in particular to oversee the implementation of development plan policy in practice
- policy topic ‘champions’ should be encouraged to act as more of a link between policy-makers and development control decision-makers, in tandem with their officer counterparts; this could take place through formal (e.g. representation on steering groups) or informal (e.g. networking) mechanisms

PART 3

CHAPTER 8

Conclusions and Recommendations

8.1 INTRODUCTION

This research has sought to better understand the relationship between Planning Committees, officers and Cabinet Members, and whether the current arrangements are leading to the effective governance of planning within local authorities.

This has involved analysis of questionnaire surveys supplied by local authorities and members of the Home Builders Federation, data held by the Planning Inspectorate, discussion with members of the Local Government Association and interviews with senior officers and Members from 17 local planning authorities across England.

8.2 KEY FINDINGS

We have explored a series of hypotheses relating to Member involvement in planning decisions. Our findings are briefly summarised below.

8.2.1 Early member involvement

We have found a wide variety of approaches to Member involvement at the pre-application stage, from 'none at all' to positive encouragement. There is a considerable volume of good practice guidance now available for Members on this subject. Much of this guidance encourages engagement but also advises caution. This message of caution has been heeded to such an extent that some authorities (and their Members) are now reluctant to get involved in discussions prior to the Planning Committee decision.

Where authorities have set out clear lines of engagement, pre-application involvement is considered to be beneficial for applicants and for the authority in reaching a better quality planning decision. The benefits are further augmented where clear guidelines are accompanied by Member training initiatives.

8.2.2 Democratic decision-making

We have found a range of decision-making structures in use across the country, and investigated the differences between these. Party politics were found to be a less significant influence on a planning decision than the individual Committee Members' skills, knowledge and experience. Different authorities' delegation schemes were examined, and mechanisms for dealing with contested decisions were discussed.

Our hypotheses considered whether the application of a democratic decision-making process produces a predictable planning decision, but the research findings do not strongly support these hypotheses. It can be argued that, where decisions are taken by elected Members, or taken by officers based on development plans that were approved by elected Members, the process is a 'democratic' one. However, it is far from clear that the predictability of such decisions is a direct effect of the democratic nature of the processes involved. The definition of 'good' democracy would be a separate study altogether. Furthermore, the fine balance between the relevant planning issues simply makes it difficult to predict the outcome of some applications.

8.2.3 Decisions contrary to officer recommendation

We have not found sufficient evidence to conclude that decisions contrary to officer recommendation are a significant problem in England. They account for a very small proportion of the overall determinations each year. They may occur more frequently in areas with out-of-date development plans or less than optimum communication between Members and officers, but in many cases it may simply be the planning issues are very finely balanced.

We have identified a range of recommendations which could help to reduce the number of decisions contrary to officer recommendation, but we do not conclude that any authority should be aiming to eliminate these entirely; there should always be scope for Members to express a different view from the officers.

8.2.4 Links between policy and decision-making

We have found that while around 45% of elected Members are actively involved in development control decision-making in an average authority, few Members of the Planning Committee are involved in forward planning to any meaningful extent. This has a potentially negative impact on the extent to which Members feel they have 'ownership' of the policies which they are expected to implement through the granting or refusal of planning permission.

Of course, Member decision-making is also influenced by a number of other factors, but the promotion of closer links between policy development and decision-making would help to foster more consistent, plan-led, decision-making and potentially increase the scope for elected Members to get involved in planning.

8.3 RECOMMENDATIONS

In light of the research findings, our recommendations are set out below.

8.3.1 Early member involvement

- Authorities should update their Codes of Conduct to reflect the support for early Member involvement which is now advocated in national guidance
- Codes of Conduct should include advice which relates specifically to the planning process, and clear lines of engagement should be drawn with regard to pre-application involvement in particular
- Detailed Protocols and DC Consultative Forums could be used more widely

- In authorities where this does not already happen, authorities should hold a meeting prior to Planning Committee which is attended by the Chair, Vice Chair and senior officer(s) to discuss the cases which are to be determined and raise the issues which are likely to exercise the Committee Members at the meeting
- Monitoring Officers should be fully informed of the potential benefits of early Member involvement: further training, and consistent guidance, could help

8.3.2 Democratic decision-making

- a high level of trust must be established between Members (especially Planning Committee Members) and officers, in order to maximise the effectiveness of the delegation arrangements
- an appropriate balance must be achieved between the degree of delegation and the continuing involvement of elected Members in planning decision-making: increased delegation would appear to lead to more predictable planning decisions (in line with adopted policy) but some degree of Councillor involvement should remain for the more significant or controversial cases or where the issues are finally balanced
- consider replacing Area Committees (i.e. those with a geographical remit) with a series of Committees that have an authority-wide remit, and meet on a rolling monthly basis
- the optimum number of Area or other sub-Committees should be considered in relation to officer workload in servicing these Committees
- existing good practice guidance should be adhered to
- consideration should be given to the deferral of decisions where the majority of the Committee are minded to make a decision contrary to officer recommendation: this may lead to a minor increase in the average length of the determination process, but should yield considerable benefits in terms of the quality of the planning decision
- authorities should consider removing the option of referral up to full Council with an arrangement to refer the most contested decisions to a Strategic Planning Committee or other sub-Committee made up of Members with planning training

8.3.3 Decisions contrary to officer recommendation

- Decisions contrary to recommendation should not in themselves be considered 'a problem'; where the planning issues are finely balanced, there should always be scope for Members to express a different view from the officers. Accordingly, no authority should aim to eliminate the occurrence of such decisions
- Members and officers should work to build high levels of trust, sharing high quality information on a regular basis
- Members should understand the policy development process relevant national policy, and the local timetable for its adoption in the LDF
- Planning Committee Members should be encouraged to get more involved in the policy development process, drawing on the ideas put forward in The conditions for creative planning (National Planning Forum; see Appendix B)

- Authorities should consider replacing Area Committees with an alternative structure, such as a single committee or district-wide sub-Committees: several authorities reported that their 'overturn' rates had fallen significantly following a similar change
- Authorities should work actively with the local community to ensure their involvement in planning decisions, so that all relevant considerations are properly understood

8.3.4 Links between policy and decision-making

- the Portfolio Holder for Planning should be closely involved with the work of the Planning Committee; for example, should sit on the Committee (but should not normally be the Chair)
- authorities should consider the scope for Members of the Planning Committee to get more involved in policy-making, subject to their availability (it is acknowledged that Planning Committee Members already have a heavier workload than Members of other Committees in the Council). This could involve participating in visioning workshops and other initiatives run by the forward planning team of the authority, or getting involved in the internal scrutiny of development plan documents before they are issued for consultation. Also, there is also no barrier to Planning Committee Members serving on the steering group for the LDF
- authorities should consider introducing a Strategic Planning Liaison Group or similar body to reinforce the links between policy and decision-making, and in particular to oversee the implementation of development plan policy in practice
- policy topic 'champions' should be encouraged to act as more of a link between policy-makers and development control decision-makers, in tandem with their officer counterparts; this could take place through formal (e.g. representation on steering groups) or informal (e.g. networking) mechanisms

8.3.5 Member training

- all Members of the Council should receive training in planning matters, especially where there is a structure in place to allow decisions to be referred up to full Council or any possibility that they will be asked to stand in for a Member on the Planning Committee
- Members should be encouraged to keep their skills and knowledge up to date by attending training sessions on at least an annual basis
- Member training initiatives should include a variety of activities; actual site visits / tours of the authority area seem to be especially informative, if focused on topical issues or locations
- Policy training should be offered to all Members, and should be compulsory for all those on the Planning Committee

APPENDIX A

Notes on the Barker Review of Housing Supply (2004)

A1.1 TERMS OF REFERENCE

The Chancellor and Deputy Prime Minister set out to conduct a review of the issues underlying the lack of supply and responsiveness of housing in the UK.

In particular, the review was to consider:

- the role of competition, capacity, technology and finance of the housebuilding industry; and
- the interaction of these factors with the planning system and the Government's sustainable development objectives.

The background to the Review is that whilst demand for housing is increasing for a number of reasons, the construction of new houses in the UK is falling and is at historically low levels. The Review predominately looked at the issues associated with the provision of large numbers of homes in single planning applications but the lessons apply to housing applications in general.

A1.2 BARKER REVIEW RECOMMENDATIONS WHICH AFFECT MEMBER INVOLVEMENT

Amongst a large number of recommendations that cover all aspects of the supply of housing, some relate to the role of elected Members in the planning system.

A1.2.1 Development Control Process

One of the most relevant recommendations for the present study relates to Members' involvement in the development control process. The Review proposes three alternative routes to gaining planning permission:

- Existing route – applicants seek either outline or detailed planning permission. The application is considered and determined by Councillors (or delegated to officers for determination). If outline permission is granted then applicants re-run the process for detailed permission. This is the route available under the current planning system.
- Outline only route – applicants would put forward an outline proposal with greater detail than currently found in an outline application. If acceptable, permission would be granted by Councillors who would also identify the reserved matters. That would mark the end of the Councillors' involvement in the proposals, as officers would be charged with ensuring that reserved matters were addressed in a satisfactory manner.

- Design code route – under this route, applicants would put forward a proposal which was supported by a design code. (Design codes are detailed guidance which usually comprise a Masterplan for an area and a set of written requirements setting out more detailed issues including materials, landscaping etc. They would be prepared by applicants and the local authority). Councillors would consider this information and satisfy themselves that the code was consistent with planning guidance; if so, a Local Development Order would be adopted to essentially grant permission for that development, subject to compliance with the design code. Officers would then ensure that the development as implemented complied with the design code.

Barker recommends that these alternative routes are introduced and that Councillors should delegate decisions to officers where appropriate. The implications are that having decided some in principle details and some form of framework for the details, Councillors would no longer play a role in the statutory planning of those applications, and that officers would essentially ensure compliance with the Councillor's decision.

It isn't clear at this stage exactly which details would be included in the expanded outline permission which would be determined by Councillors (assuming that this route is used). This will clearly be an important factor in the degree of acceptance of this route, given the importance that is attached to the discharge of conditions and reserved matters in the success of housing schemes.

The practical use of Design Coding is also in its infancy. It will be interesting to see the scale of housing applications which it will be applied to, and how enthusiastic applicants and authorities are with regard to its use. It is not clear yet the degree to which Members will welcome what they might perceive to be a reduced role for them in the detailed consideration of residential scheme applications.

Delegation rates are already around 90%, and those applications which currently go before Members are arguably those which Members should be involved in, to reflect community concerns. It is not clear how Barker's alternatives would actually speed up decisions or make them more certain. Indeed, if Members are only involved at the Outline or Design Code stage, they may seek more specificity at that stage, and therefore to remove flexibility for the applicant in developing their detailed proposals.

A1.2.2 Section 106 Agreements

The Barker Review also made recommendations concerning Section 106 Agreements, namely:

- Section 106 should be scaled back to the aim of direct impact mitigation, and should not allow local planning authorities to extract development gain over and above this except in certain circumstances.
- Section 106 should retain its current affordable and/or social housing requirements, as set out in Circular 6/98 and other specific regional guidance.
- local planning authorities should receive a direct share of the development gain generated by the Planning Gain Supplement in their area, to compensate for a reduced Section 106. Local Authorities should be free to spend this money as they see fit. This share should at least broadly equal estimates of the amount that Local Authorities currently get from Section 106 Agreements.

The implication of this is that elected Members would have less ability than they currently do to secure development gain from the applications they consider. The evidence from the research is that Members already have a limited role in S106 matters. In some authorities they are not involved at all, in others they influence the matters for which funding is provided. They rarely play a significant role in the actual negotiation, although they may seek to influence the quantum of overall funding.

There is a perception that this change could therefore reduce the role and scope of the decisions that Members take, although it should be noted that Member involvement at other stages in the planning process (plan preparation, for example), could be increased to compensate for this.

A1.3 CONCLUSION

In relation to the role of Members, the overall theme of the changes introduced in Barker is to speed up the decision making process by reducing the involvement of elected Members as far as appropriate whilst still involving them at the high level or in principle level. Barker's belief is that by doing this, the duration of the planning process for large scale residential applications will be reduced, thereby speeding up the approvals process, reducing costs and increasing the delivery of new housing. Whilst these may indeed be the outcomes, it could be argued that a cost of these recommendations would be a reduction in Member involvement.

APPENDIX B

Bibliography

B1 Guidance on Member activities

B1.1 STATUTORY INSTRUMENTS AND DIRECTIONS RELATING TO MEMBER ACTIVITY

The following SIs and Directions detail the requirements with regard to Member activity arising from the implementation of new Council constitutions. They are among those presented to local authorities in a Guidance Pack on New Council Constitutions, first published in October 2000 (and subsequently updated).

Statutory Instruments

- Local Authorities (Functions and Responsibilities) (England) Regulations 2000
- Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000
- Local Authorities (Proposals for Alternative Arrangements) (England) Regulations 2000
- Local Authorities (Executive Arrangements) (Access To Information) (England) Regulations 2000
- The Local Authorities (Standing Orders) (England) Regulations 2001
- Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (England) Regulations 2001
- The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001
- Local Authorities (Changing Executive and Alternative Arrangements) (England) Regulations 2001
- Local Authorities (Members' Allowances) (England) Regulations 2001
- Local Authorities (Alternative Arrangements) (England) Regulations 2001
- Local Authorities (Executive Arrangements) (Modification of Enhancements and Further Provisions) (England) Order 2001
- The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001

- The Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001

Directions

- Local Government Act 2000 (Proposals for Executive Arrangements) (England) Direction 2000;
- Local Government Act 2000 (Proposals for Alternative Arrangements) (England) Direction 2000;
- Local Government Act 2000 (Fall-back Proposals) (England) Direction 2000;
- Local Government Act 2000 (Constitutions) (England) Direction 2000
- Local Government Act 2000 (Fall-back Proposals) (England) Direction 2001;
- Local Government Act 2000 (Changing Executive Arrangements and Alternative Arrangements) (England) Direction 2001.

B1.2 SI 2001/3537 THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) (ENGLAND) ORDER 2001

In 2002, every LPA in England was required to adopt a Code of Conduct for its Members. These had to include the mandatory provisions of the model codes presented in the Order. There is one Code of Conduct for authorities which have an Executive structure (Schedule 1 of the Order) and another for authorities which do not (Schedule 2). These are essentially very similar.

Available online: <http://www.opsi.gov.uk/si/si2001/20013575.htm>

B1.3 LGA (2002) PROBITY IN PLANNING (UPDATE)

The LGA's previous advice on probity (1997) was updated to reflect the Model Code of Conduct Order when it was published. It offers advice on the procedures set out by the Order, but also offers broader guidance on probity in the planning system as a whole. In spite of its age, it is still one of the LGA's best-selling publications, suggesting that it continues to be useful to Members, officers and other interested parties.

Available from the LGA.

B1.4 NATIONAL PLANNING FORUM (JANUARY 2005) THE CONDITIONS FOR CREATIVE PLANNING

This report was prepared in response to concerns among members of the NPF that the focus on performance and operational issues was adversely affecting planning authorities' ability to operate strategically and creatively in addressing the future of their areas. It identified a range of circumstances where authorities reported closer links between planning policy and development control work (see box overleaf).

Closer linkages between policy and DC work were reported where:

- the chair of Planning Committee also sits as the cabinet portfolio holder for planning and development;
- there is a substantial overlap between Membership of the cabinet and the Planning Committee;
- planning policy is developed by the Planning Committee before being put forward to cabinet, and/or developed by a scrutiny committee which overlaps substantially with the Planning Committee;
- planning policy is developed by a working party which includes cabinet and Planning Committee Members;
- draft planning policies are reported to the Planning Committee before going to cabinet;
- open sessions are attached to Planning Committee meetings to discuss emerging national and local planning policy and other aspects of planning practice;
- all Members are invited to a programme of workshop sessions as an integral part of plan preparation;
- informal measures are in place for officers and Members to discuss planning practice and aspects of policy; or

Members are encouraged (or required) to participate in training programmes in planning.

Available online:

http://www.planningofficers.org.uk/documents/Finalised_published_report.pdf.

B1.5 LGA (2005) MEMBER ENGAGEMENT IN PLANNING MATTERS

This booklet was prepared by the LGA in collaboration with the Quarry Products Association and the Association of Council Secretaries and Solicitors. It places particular emphasis on pre-application discussions, strongly encouraging these, within clearly defined limits.

Available online: http://www.lga.gov.uk/Documents/Briefing/Our_Work/planning/members%20engagement.3.2.05.pdf

B1.6 PLANNING ADVISORY SERVICE (2005) POSITIVE ENGAGEMENT: A GUIDE FOR PLANNING COUNCILLORS

This is a summary for Councillors, perhaps those who are new to the issues. It is closely based on the pre-existing guidance (as discussed above). Indeed, it advises Councillors to refer to the LGA's Probity in Planning (update) and Member Engagement guidance before setting out a list of 'do's and don'ts'. It also refers Councillors to a number of other sources of information including ODPM, ACSES, the Standards Board for England and the Planning Advisory Service.

Available online: <http://www.idea-knowledge.gov.uk/idk/aio/1203540>

B1.7 PLANNING ADVISORY SERVICE (2006) ELECTED MEMBERS' PLANNING SKILLS FRAMEWORK [CONSULTATION DRAFT]

In the context of the contemporary 'culture change' in planning, this guidance has been issued by the Planning Advisory Service to set out what may be expected of Members who are involved in planning. It does not cover probity – which is expected of every councillor, and discussed in detail in other documents – but sets out a range of “competencies” which each Councillors should develop in order to play a particular planning-related role effectively. A different set of competencies is recommended for each different role: the Executive member responsible for planning; the Chair of the Planning Committee; the Planning Committee member; the scrutiny member who reviews the work of the Planning Committee; and the ward member. The document was issued for consultation in April 2006.

The guidance advises that not all Members of the authority should sit on the Planning Committee at any one time, as this would effectively mean that another important function of the Councillors was lost: they would find it difficult to advocate their own constituents' views while sitting on the committee (p6). Councillors who act as substitutes for Members of the Planning Committee should possess the same competencies as those full-time Members for whom they stand in (p5).

The guidance acknowledges a difference of view between LPAs as to whether or not it is appropriate for Planning Portfolio Holders or Executive Members to sit on the Planning Committee. It advises that this may be valuable, although the portfolio holder should not chair the Planning Committee and should be especially sensitive to situations where they should to remove themselves from the decision-making process for probity reasons. These include cases where the Council is or was the landowner, and proposals where they have been involved in extensive briefings with officers and other Executive Members (p5).

The relationship between Members and officers is also discussed. “Councillors in unitary and metropolitan councils will have greater access to expertise in areas such as transport and education than their district [council] colleagues” (p3) – is this because unitary authorities combine all these functions, while districts don't? “It is not assumed that Councillors engaging with the planning process should become experts in technical, legal and policy matters, indeed to do this would be to usurp their officers' role” – instead, there should be a “partnership of trust” between Councillors and officers (p5).

Available online: <http://www.pas.gov.uk/pas/aio/23982>

Guidance from the Planning Advisory Service (2006) sets out broad 'job descriptions' for Councillors in their different roles:

- "the effective **portfolio holder / executive Member** will be someone who can work at the council's highest level of policy making, able to articulate a vision and to integrate the portfolio into the council's wider set of priorities. They will have a sound understanding of the statutory planning system which particular reference to the policy framework, and possess the skill to ensure that planning is a key player in implementing the council's agenda" (p 11);
- "the effective **committee chair** will easily understand the link between individual planning applications and the council's bigger picture, with an ability to listen and to balance conflicting information, but also to be decisive. They will have a working knowledge of the technical and statutory background to planning, as well as the performance agenda for decision making" (p13);
- "the effective **committee Member** will always balance the local detail against an understanding of policy, and will have a working knowledge of the statutory planning framework and the performance agenda. They will possess sound judgement and where necessary will challenge information received from multiple sources" (p15);
- "the effective **scrutiny Member** will have an excellent understanding of the council's vision and objectives and will be able to understand how individual decisions link into the broader picture. They will be able to challenge information in a rigorous and focussed way and to question information received from many sources. They will carry out their role constructively with the interests of the community in mind" (p17); and
- "the effective **ward Member**, engaging in the planning process, will have sufficient understanding of that process to be able to focus on relevant issues, and will be able to articulate local concerns in a persuasive way whilst recognising the wider policy picture. They will understand that it is important not to raise expectations unduly but have the ability to utilise the planning process and policies for their community's benefit" (p19)

B1.8 PLANNING ADVISORY SERVICE (APRIL 2006) AREA-BASED DECISION MAKING (ABDM) FOR DEVELOPMENT CONTROL: A REVIEW

This report provides a review of area-based decision-making based on interviews with senior planning officers at authorities with area-based decision-making arrangements. It details issues that need to be resolved in order for authorities to meet the requirements of the new planning agenda. The report also includes a number of guidelines that authorities should follow to ensure that ABDM works well for development control.

Some 14% of English planning authorities currently use area-based decision making structures. ABDM is considered to be popular with the community and, with some exceptions, is seen to bolster the role of ward members as community representatives. However, the research findings report that there are "serious concerns" about the system, for the following reasons:

- [it is] frequently cited as a reason why it is difficult for authorities to meet their BVPI 109 targets to reduce the time it takes to process planning applications;

- [it is] associated with inconsistencies in planning decisions and questions about probity in relation to competing pressures on councillors to be both impartial arbiters and community advocates; and
- [it is] more resource intensive than council-wide committees, although it can provide more opportunities for officers to gain committee experience.”

The report makes the following recommendations:

- reduce the committee cycle times, to facilitate applications to be determined within the 8 or 13 week targets;
- amalgamate areas, if necessary, to produce agendas of reasonable length to complement increased frequency of meetings;
- avoid having all ward members sitting on the area committee, in order to allow some members to perform the representative role for local community interests;
- ensure that the scheme of delegation means that decisions are made at the appropriate level given the conformity of the proposal to the council’s policies;
- reduce or eliminate the right of call in or referral upward in order to improve BVPI 109 performance and encourage ownership of and responsibility for the decision made;
- reduce the number of committees to reflect the capacity of the officers to adequately support the meetings;
- provide regular, robust and compulsory training for councillors sitting on planning committees, including reserve members; and
- keep the business of determining planning applications separate from other council business in the area committees, preferably at a separate meeting.

B2 Wider Influences on Planning Practice

B2.1 [FIRST] BARKER REPORT (MARCH 2004) REVIEW OF HOUSING SUPPLY

The basic message is that housing in England is too expensive and prices have been rising too steeply for many years. Supply should be increased in order to introduce more flexibility in the housing market, which would have a number of benefits. Increased housing supply could allow more people to enter the market, lessen the current restrictions on labour mobility which arise through differential house prices in different parts of the country, and stabilise the housing market by lowering the rate of house price inflation.

The quantum of desirable housing growth depends upon the Government’s policy approach to tackling this ‘affordability crisis’ but could be between 70,000-120,000 new homes per annum. This is almost double the 2002-03 completion rate of 125,000 homes

(Exec Summary, paragraph 13). The implications for the planning system are considerable. Barker states that “the process needs greater certainty and speed” but notes that this must not be at the expense of making “bad decisions” (Exec Summary paragraph 21).

Among the recommendations for planning are:

- allocate more land for development, thereby giving housebuilders a greater choice of sites and increasing competition;
- involve infrastructure providers in the development of regional and local plans;
- reform Section 106;
- introduce some form of tax on the windfall gains which accrue to landowners as a result of development decisions: Planning-gain Supplement recommended, which levies a charge based on local land values when planning permission is granted; and
- local authorities should consider the level of competition in the new build market when granting permissions.

Available online: http://www.hm-treasury.gov.uk/consultations_and_legislation/barker/consult_barker_index.cfm.

B2.2 CREATING LOCAL DEVELOPMENT FRAMEWORKS (NOVEMBER 2004)

This is the Companion Guide to PPS12. Among other issues, it advises on the appropriate content of the Statement of Community Involvement which each LPA must prepare. LPAs should “consider how involvement should relate to the different stages of the planning application process i.e. pre-application, application and post-application” (section 7.7).

The SCI should also set out the consultation and other community involvement which will take place after an application is submitted, and what may happen if an application is later revised. LPAs may also take this opportunity to outline the role of Planning Committees and to explain how the public can gain access to committee reports and other documents (section 7.7).

Available online: http://www.communities.gov.uk/pub/863/CreatingLocalDevelopmentFrameworksACompanionguidetoPPS12PDF949Kb_id1143863.pdf .

B2.3 HM TREASURY/ODPM (JULY 2005) HOUSING POLICY: AN OVERVIEW

This was published in response to the first Barker Review, and sets out the Government’s progress towards meeting the recommendations of the Review. It confirms the Government’s support for the Barker finding that “a significant increase in [housing] development over time is needed” (para 4.16).

Part of the Housing Policy report describes the planning reforms that are being developed, including the merger of Regional Housing Boards with Regional Planning Bodies; a new Planning Policy Statement on Housing (PPS3) and the new Circular on planning obligations (Section 106 agreements).

The Housing Policy overview is available at http://www.hm-treasury.gov.uk/media/296/69/housing_policy190705.pdf.

B2.4 GUIDANCE ON CHANGES TO THE DEVELOPMENT CONTROL SYSTEM (COMMUNITIES AND LOCAL GOVERNMENT CIRCULAR 1/2006)

This Circular was issued on 12th June 2006 and relates to England only. It covers a number of changes to the planning system including:

- The introduction of Local Development Orders
- Changes to the outline planning permission process
- The introduction of Design and Access statements to accompany certain types of applications
- Changes to the decision period for major planning applications

Available online: <http://www.communities.gov.uk/index.asp?id=1500620>.

B2.5 FURTHER READING

Consultation Paper on New PPS3: Housing (2005):
<http://www.communities.gov.uk/index.asp?id=1162075>

Guidance on Planning Obligations (ODPM Circular 05/2005):
http://www.communities.gov.uk/pub/320/Circular0505PlanningObligationsPDF149Kb_id1144320.pdf

Cabinet Office (March 2006) Transformational Local Government (discussion paper):
http://www.local-egov.gov.uk/images/Transformational%20local%20government%20280306_447.doc

[Second] Barker Review (interim report, July 2006):
http://www.communities.gov.uk/pub/301/BarkerReviewofLandUsePlanningInterimReportAnalysis_id1501301.pdf – (213 pages)

Executive Summary included in the above- PDF pages 8–24

B3 Commentary

B3.1 KELLY M & GILG A (2000)

The *analysis of development control decision making* in Planning Practice and Research 15(4) pp 335-342

This article, written by an academic and a practising planner, cautions against the ‘over-simplistic analysis of empirical data’ and emphasises a need to monitor the quality of decision-making in day-to-day practice. This is not a luxury which can be afforded to the current study team, but the paper makes some helpful observations:

- appeals data must be backed up by observation or interview/questionnaire work, as insufficient detail is discernible from the data collected by PINS for detailed analytical work (p335)
- only broad trends can be inferred from the assumption that a cause and effect relationship exists between policy and its implementation: there is a danger of over-simplifying the link between them so we must seek to understand why decisions are made, regardless of whether or not they are in accordance with policy (p336)
- essentially descriptive analysis may not adequately address the reasons that have led to decisions in the first instance, and the quality of those decisions is also important (p336)
- much previous research has used the outcome of appeals as a surrogate measure for the extent to which local authorities have acted ‘unreasonably’ in determining planning applications, but this may not necessarily be an appropriate measure because – among other problems – approvals which are contrary to policy will not be tested by the Inspectorate (p336)
- the increasing importance of party politics in local government is not necessarily borne out in the context of the Planning Committee, which may be more influenced by other bonds (e.g. common economic, social or cultural interests) than party political ones (pp338-9)
- fairly obviously, “the planning system still confers a high degree of discretion to decision makers” (p339)
- “the planning system retains a bias towards certain interest groups and.. this influence may be actively capitalised on by Councillors in their role as local decisions makers” (p339)

APPENDIX C

Survey Questionnaire

Research study: Councillor Involvement in Planning Decisions

Arup for the Department for Communities and Local Government

Planning Authority Respondent name
 application name / location applic reference no.
 date of registration date of decision
 adoption date of development plan

description of development (please summarise / continue overleaf if necessary)

application type

residential (C3) ? number of units
 mixed use ? approx floorspace / no. homes
 other use (no residential) ? specify (use class/es)
 approx floorspace

was the proposal a departure from the development plan? yes no
 were there any pre-application discussions? yes, with officers with Members no
 were there any post-application discussions? yes, with officers with Members no
 what was the officer recommendation? approval refusal
 who determined the application? Planning Committee full Council other (specify)
 what was the Members' decision? approval refusal

what were the grounds for this decision? (please continue overleaf if necessary)

if the application was refused, what happened next?

a) appeal to Planning Inspectorate allowed dismissed withdrawn not yet known
 b) amended application submitted yes
 amended application sent to Committee yes no not yet known
 Other recommendation if sent to Cttee approval refusal not yet known
 outcome of amended application approval refusal not yet known
 c) alternative application submitted yes ? **please begin new sheet**
 d) none of the above

e) other (please explain)

would you be willing to discuss councillor involvement in more depth? (in confidence) yes

if so, please provide contact details tel
 email