



Planning Improvement Peer Challenge

Birmingham City Council

20-22 November 2019



1.0 Executive Summary

1.1 The Council's growth plans and aspirations for Birmingham are ambitious and challenging and aim to create a world class city. By 2031 the Council plans to enable the building of 51,000 homes, meeting a quarter of the West Midlands Combined Authority's total housing need. Growth and investment form the backbone of the Council's strategy for its residents, businesses and visitors. To date the planning service has supported the delivery of many excellent schemes to support the overall planning vision that *'By 2031 Birmingham will be renowned as an enterprising, innovative and green City that has delivered inclusive sustainable economic growth enabling its distinctive neighbourhoods, cultural identities and people to thrive'*. Indeed, the quality of many completed schemes are truly inspiring such as Birmingham Central, Paradise Circus, Centenary Square and housing by Birmingham Municipal Housing Trust and redevelopment at Port Loop.

1.2 In order to continue to deliver both the pace of growth and quality of development required, the Council needs a Planning Committee that is modern and strategic in its outlook. As the shop window for the investor and developer community that increasingly relies on foreign direct investment, the Planning Committee has to maintain the respect and confidence of investors, developers/agents, the public and stakeholders. Above all the planning service from development inception through to scheme completion needs to exude credibility, confidence and certainty.

1.3 Currently however the Council's Planning Committee falls far short of meeting these characteristics and the poor quality of much of its decision making is resulting in a serious loss of trust and confidence from major investors and developers. The role of the Committee in enabling delivery of corporate growth objectives and the vision of the Birmingham Development Plan and Big City Plan is poorly understood and delays and refusals are weakening the delivery of homes, jobs and necessary infrastructure for current and future generations. Thus, while the quality of development and investment in the growth and regeneration of the city is very impressive, radical changes are required to the Planning Committee to address serious national and international reputational damage.

1.4 Operationally, the planning service deals with a high workload and possesses highly competent and committed managers and staff with a good skill range. Case officers and consultees clearly add value to development schemes through the planning process. Measured by speed of deciding applications the planning service delivers above the Government's threshold in relation to Major applications but is worryingly close to the designation threshold for Non-Major planning applications. There needs to be a far greater prominence given to managing performance in this area.

1.5 The peer team's recommendations are designed to support the whole service in driving improvement. Success will only be achieved through strengthened joint working and improved trust and confidence. This is not simply a planning member or planning officer problem but demands a united team approach including support from leading politicians, corporate officers and supporting legal and democratic officers. Key recommendations include modernising Planning Committee working arrangements including earlier member engagement, training and learning opportunities, reinstating the head of planning management role and creating a greater focus on managing performance.

1.6 The peer team were encouraged that the Chair of the Planning Committee and senior politicians and managers recognised the need to improve the way the Planning Committee works in order to better ensure that the growth agenda and ambitious vision for Birmingham is realised. This self-awareness is important. The recommendations and detail in the report seek to support Birmingham in raising their Planning Committee to be best in class and for its decision making to match the aspirations of the UK's second most economically important city.

2.0 Recommendations

1. **Modernise the Planning Committee working arrangements.** This needs to ensure that there is a much clearer link to the Birmingham Development Plan and growth agenda so that members can properly discharge their decision-making responsibilities. This must accompany the ongoing role as the democratic oversight for planning applications.
2. **Officers and members must work together to rebuild trust and confidence.** Councillors and Officers must fully understand the challenges presented in each other's roles. In order to do this Birmingham needs to ask itself: does it want to be best in class for how it delivers planning services? (suggestion) The most successful places operate in an atmosphere of collaboration between officers and members. Buy-in to change is required by officers and councillors and trust will be key. The planning service needs to understand that for any change to successfully embed it has to be able to demonstrate a clear benefit to members as well as officers.
3. **Ensure earlier member engagement in a restructured pre application process and at subsequent stages before reports are presented to Planning Committee following a review of best practice.** For example, introducing Planning Committee member briefings on major or controversial applications at concept or pre application stage to address issues at an early stage and avoid protracted discussions at committee meetings. All councillors must be encouraged to monitor the weekly list and proactively engage with residents, applicants and planning officers.
4. **Thoroughly modernise and update the scheme of delegation.** This should aim to examine good practice in order to radically reduce the number of applications being reported to Planning Committee to enable a clear focus on the most strategic and controversial applications.
5. **Re introduce officer presentations** at committee so that the key policy considerations in relation to the development proposals can be focused on.
6. **Urgently review the operation of the Planning Committee site visits and nominate a lead officer to manage this process in order to tighten the current protocol and to reduce the risk of accusations of unfairness and judicial review.** This is vital to reduce the risk to taking strong and defensible decisions and to ensure the process is equitable to applicants, objectors and third parties.
7. **Create a structured programme of training and development for Planning Committee and officers.** While there are some good elements to the current member training programme, officers and the Planning Committee would benefit from a more structured programme of training which should be delivered independently.
8. **Urgently provide more wrap around support for the Chair of Planning Committee to enable her to focus on the key role of chairing the meeting. The Chair of planning needs to be able to focus on her role as Chair and to this needs** more support during the committee meeting from senior planning managers and officers as well as legal and democratic support officers. Specific training that may benefit the Chair of Planning Committee could include Planning Advisory Service (PAS) 'leadership essentials' sessions, coaching and mentoring.
9. **Create a facilitated workshop between Planning Committee members and officers to co-design the modernisation of Planning Committee processes and procedures.** Members and officers need to go on an improvement journey together in order to address the issues the planning service and the Planning Committee currently face.
10. **Reinstate a Head of Development Management role.** It is vital in order to provide continuity of leadership and a focal point for Planning Committee that there is a senior lead manager who has the gravitas to support the Planning Committee, planning officers, applicants and local people.

10. Develop a clear and focused service improvement and performance management plan. This is vital if the service is to improve performance on speed of decision making and avoid Government 'designation'. Review performance reporting arrangements to enable greater ownership by planning officers of the service's overall performance and by committee members of Planning Committee's own performance including agreement on KPIs.

11. Replace the Design Review Panel with an independent external panel. The current arrangement is creating role confusion, is causing delay and bureaucracy and is not providing a truly independent design input into development proposals.

12. Review the approach to the management and monitoring of Section 106 and CIL receipts The Council recognises the need to strengthen its approach to prioritisation of its Section 106 receipts, but also needs to consider issues of transparency in how these are monitored and reported to demonstrate how the Planning Service is delivering tangible benefits for local people.

3.0 Background and Scope of the Peer Challenge

3.1 This report summarises the findings of a planning improvement peer challenge, organised by the Local Government Association (LGA) in cooperation with the Planning Advisory Service (PAS) and carried out by its trained peers. Peer challenges are managed and delivered by the sector for the sector. They are improvement orientated and are tailored to meet the individual council's needs. They are designed to complement and add value to a council's performance and improvement. They help planning services review what they are trying to achieve; how they are going about it; what they are achieving; and what they need to improve.

3.2 The aims of the peer challenge were to review the role of the Planning Committee in decision making and public engagement within the process of decision making and examine the role of development management in delivering growth and regeneration.

3.3 These two areas were examined across four themes covering:

- Vision and Leadership;
- Development Management Decision Making;
- Planning Committee; and
- Community, Partners and Outcomes.

3.4 The Council also asked us to look at some more specific points around certain elements of the planning decision making process such as the level of deferrals and abstentions at Planning Committee and the operation of formal Planning Committee site visits. Focussed observations on these points are given in Appendix 1 at the end of the peer team's report.

3.5 Peers were:

- Paul Barnard – Service Director, Strategic Planning & Infrastructure Plymouth City Council;
- Cllr Bill Stevens, Labour, Chair of Plymouth City Council Planning Committee;
- Cllr Barry Anderson, Conservative, Chair of Env, Housing & Communities Scrutiny Board, Leeds City Council;
- Deirdra Armsby, Director of Place Shaping and Town Planning, Westminster City Council;
- Amanda Reid, Director of Planning and Development, London Borough of Newham;
- Martin Hutchings, Improvement Manager, Planning Advisory Service; and
- Robert Hathaway - Peer Challenge Manager, LGA associate.

3.6 Where possible, PAS and the LGA support councils with the implementation of the recommendations as part of the council's improvement programme. A range of support is available from the LGA at <http://www.local.gov.uk>. It is recommended that Birmingham City Council discuss ongoing PAS support with Martin Hutchings, Improvement Manager, martin.hutchings@local.gov.uk and corporate support with Helen Murray, Principal Adviser, helen.murray@local.gov.uk

3.7 As part of the peer challenge impact assessment and evaluation, PAS and the LGA will contact the council in 6-12 months to see how the recommendations are being implemented and the beneficial impact experienced.

3.8 The team appreciated the welcome and hospitality provided by Birmingham City Council and partners and the openness of their discussions. The team would like to thank everybody they met during the process for their time and contribution.

4.0 Detailed Feedback

Vision and Leadership

4.1 The Council has set a clear corporate vision for its residents, businesses and partners in its 2018-22 Council Plan. Focusing on five key areas including Birmingham being an entrepreneurial city to invest in, an aspirational city to grow up in and a great place to live in, there is significant emphasis on the Council needing to show to the UK and the world that it is 'open for business'.

4.2 This focus on growth set in the Council Plan is heavily supported by the longer-term spatial vision of the Birmingham Development Plan (BDP) that sets stretching housing and jobs targets to 2031. The vision is that *"By 2031 Birmingham will be renowned as an enterprising, innovative and green City that has delivered inclusive sustainable economic growth enabling its distinctive neighbourhoods, cultural identities and people to thrive."*

4.3 The BDP provides a strategy of delivering 51,000 homes and over 100,000 new jobs and is the major plan that needs to be implemented if the City is to maximise its potential and be a great place to live, work and visit. The Council Plan and BDP are supported by other bold and visionary strategies and plans, most notably the Big City Plan (BCP). The Council recognises that for the City to be successful it has to achieve this in partnership with other public sector bodies and especially in enabling the private sector to invest and work efficiently in Birmingham.

4.4 Despite this clarity of vision and growth at the corporate and strategic level of the Council, the peer team considered that there was the lack of a 'golden thread' from corporate objectives and vision of the Council Plan, BDP and Big City Plan through to the role of the Planning Committee in facilitating growth and regeneration. This was evidenced in multiple ways but particularly through the lack of any strategic growth narrative in debate and planning decision making at Planning Committee. There also appeared to be role confusion among Planning Committee members for example, was it to represent their wards, or give their own views on the quality of proposed development, or to determine applications in line with the development plan and other material planning considerations and having that stewardship and City-wide view?

4.5 This has led to a very limited 'strategic' or city-wide approach at Planning Committee when determining especially large-scale applications for housing growth. For example, the peer team heard very little debate or analysis, while watching and listening to a large number of Planning Committees, concerning fulfilment of the Council Plan, BDP, BCP or the wider benefits of growth such as new homes, new infrastructure, new homes bonus, section 106, or Community Infrastructure Levy (CIL). Part of the problem appears to be 'ownership' of those planning and city-wide objectives. For example, some Planning Committee members referred to the BDP and BCP as the 'officer's plans' or the 'Leader's plans'.

4.6 The well-being of existing and future generations in Birmingham relies on this growth for new or refurbished buildings but also for supporting facilities such as public open space, improved access and leisure facilities. The peer team consider that mechanisms need to be found to reinforce the vital links between planning decision making and the vision and objectives of the Council Plan, BDP and BCP.

4.7 Opportunities exist to demonstrate stronger whole city community leadership and long-term civic stewardship through decision making at Planning Committee. Currently there are 15 members on committee, 10 Labour, 4 Conservative and 1 Liberal Democrat. Despite the political balance of the Planning Committee reflecting the strength of political party representation across the whole council, applications in line with planning policy that would facilitate growth are increasingly being delayed or refused. Some of the actual operation and practices adopted at Committee appear to militate against the achievement of the BDP which is a corporately approved land use plan.

4.8 The peer team would encourage the Council to use substitutes to ensure that the Planning Committee actually reflects the political makeup of the Council when it votes. At the Planning Committee on November 21 2019, four apologies of absence were recorded with no substitutes. This is not a one-off occurrence. It appears to be “common practice” for Committee members to abstain when votes are taken on applications - another hindrance to strong and effective decision making. Some recent votes taken at Planning Committee has seen decisions taken on the basis of only three/four votes out of fifteen members.

4.9 Some of those interviewed by the peer team felt that perhaps members often do not take decisions as they are fearful of the backlash from the electorate. Reducing the number of members voting erodes confidence in the decision-making process and places power in the hands of too few decision makers. The peer team consider this to be both an issue of political party discipline and corporate concern and it is hoped that the party group spokespeople working with the Leaders of their respective parties and the Chair review the practice of substitutes and encourage members to vote. The political groups must review their committee appointment procedures. The scheduling of the Planning Committee may need to change if that is the best way to get full attendance.

4.10 There is opportunity to improve joint working between Planning Committee members and planning managers and staff. The peer team were advised that there had been a weakening of confidence and trust between the Chair, Planning Committee members and senior planning managers. The Chair and eight members of the Planning Committee are relatively new to the role while the former Head of Planning Management role has been lost following the previous post holder’s retirement. These factors will have doubtless played some part in the lack of effective joint working. In order to encourage more effective dialogue and joint member/officer conversations there are opportunities to promote earlier member involvement in the pre application and early stages of development proposals. While this report looks at the processes later on, the peer team would encourage far more of a ‘united’ one team approach with the Chair and Planning Committee members being far better sighted on planning applications much earlier in the process. Many other planning authorities do this and the peer team advised the Council while on site of how this is done at Newham, Plymouth and Westminster councils without any concerns about probity or predetermination.

Development Management Decision Making

4.11 The range of skills inside the planning service with a good emphasis on urban design, heritage and the natural environment is impressive. Planning managers and staff are extremely committed and competent and developers and planning agents spoke highly of their passion for providing good outcomes for Birmingham and the community in partnership with the private sector. Indeed, planning officers were widely regarded as commercially aware and solution- orientated. The planning service clearly has a good cohort of permanent managers, and high calibre case officers and support staff to deal with an extremely busy workload of roughly 10,000 planning applications. However, while the culture appeared generally positive, staff did feel undervalued.

4.12 Staff morale is improving after what the peer team were advised had been a particularly testing time in the last 12 -18 months due to a lack of capacity in staffing alongside increasing volumes of work. The planning service lost its Head of Development Management due to budget cuts during this period and with retirements, moves to surrounding planning authorities and the inability to attract planning staff to vacant roles, caseloads became unsustainably high. The planning service also as a result had to 'suspend' its householder planning applications team although now it has been reintroduced. In order to fill more junior vacant posts, the service has worked well to use the Apprenticeship Levy to increase capacity. Clearly however more senior staff and managers are therefore having to invest more time in 'growing their own' but this has clear potential to create a more stable and long-term workforce.

4.13 Planning staff advised the peer team that a clear improvement area for staff recruitment and retention would be a review of the pay freeze. This effectively holds staff on a fixed pay point with no incremental progression. This had resulted in a number of staff moving to nearby West Midlands authorities who pay more, with the consequent loss of expertise and experience and at a time in the jobs market where attracting planning staff is very challenging. It would be inappropriate for the peer team to make recommendations in this area. However, in order to ensure a quality planning service to match its bold aspirations for the quality of its city, it appears that the question of comparability and market forces needs to be asked.

4.14 When measured against Government targets for speed and quality the planning service has generally performed well although the recent negative trend in 'non-major' applications is worrying. Performance on deciding 'major' planning applications at 76 per cent is comfortably above the designation threshold (60 per cent) and is steadily improving over a two-year rolling period from October 2017. However, performance on 'non-majors' is more erratic (74 per cent), and overall is sailing close to the Government's designation threshold (70 per cent). It appears that in order to try and keep pace with deciding 'non -major' applications, the planning service has increased the use of extensions of time fivefold (5 per cent to 25 percent). However, it is concerning that the service misses a significant number of application deadlines on the extension of time cases.

4.15 The peer team did not obtain any sense of managerial urgency in relation to tackling underperformance in terms of reducing determination periods for 'minor' or 'other' applications. No improvement plan is in place. Given that the Council's planning service is now potentially in danger of Government 'designation' it is vital that the service focuses on this issue and agrees a suitable action plan to avoid 'designation' and improve overall performance including tackling the growing backlog. 'Designation' would see the Council lose its automatic right to decide certain applications and would leave decision making in the hands of either other adjoining planning authorities or the Planning Inspectorate. This would cede community leadership power and community engagement to others and would further weaken trust and confidence in the City's planning system. It would also mean lost planning fee income. PAS has a funded programme of support available to support councils in this position.

4.16 In order to provide management capacity and focused leadership on performance the peer team recommend that the Council should re-examine the lost post of the Head of Development Management role. The loss of this role appears to have at least in part removed some of the 'glue' and consistent interface between the Planning Committee Chair and members and officers and also spread management responsibility across the four area team managers. While the peer team were very impressed with the quality and joint working between the area team managers, an overarching Head of Development Management post would provide a single point of responsibility and a figurehead. It would also provide the support to the Chair of Planning Committee which is currently lacking.

4.17 Planning Committee is unaware of the threat of 'designation' and other performance metrics such as a growing back log of undecided cases that has risen from 50 to now over 350 in the last 18 months. The peer team found that there is no strong tradition of performance management either by officers or committee members. The peer team recommend that the Planning Committee

works up and monitors a series of Key Performance Indicators so that it is far better sighted on the performance of the planning service against the key objectives and outcomes in the Inclusive Growth Directorate Service Plan. This is especially important given the absolutely seminal role that the Planning Committee plays by being the heartbeat of the growth agenda decision making process.

4.18 In terms of quality of decision making (appeals overturned as a percentage of all major applications), Birmingham is well below the Government's 10 per cent threshold (0.8 per cent) in the last two years measurement period. However, this tends to mask an increase in planning refusals or deferrals at Planning Committee which with associated rises in the award of appeal costs and renegotiated refusals or deferrals is creating a drag anchor on the planning service and affecting developer confidence and public trust. In the last year, the Planning Committee has refused 18 planning applications against officer advice and has deferred 12 applications for site visits. These include City centre proposals for example House of Fraser, One Eastside and especially applications for Homes in Multiple Occupation (HMOs) and student accommodation, especially in certain wards.

Planning Committee

Public Engagement

4.19 The Council has a good focus on engaging with the public through the operation of its Constitution. It offers public speaking opportunities to objectors and supporters in relevant circumstances and wider opportunities for public engagement are enhanced through the use of web casting. Democratic services support the production of Planning Committee reports and manage the interface with the public who want to attend and speak at Planning Committee, which is held every fortnight at 11.00 in Birmingham Town Hall. The venue is appropriately located in the City centre and highly accessible by walking and public transport. Access for all internally within the building is also good and increases opportunities for wider community engagement.

4.20 Members of the peer team were present at the November 21 2019 Planning Committee and had watched a number of web casts from that Committee held in the recent past. Positive aspects noted were the presence and welcome from Democratic services officers who were able to facilitate access and explain the Committee's procedures. This is particularly important to reassure and orientate members of the public not conversant with planning decision making at Committee. The Chair of the Planning Committee helpfully explained its role and especially the need to take decisions in accord with planning policy and material planning considerations only. The assistant director and area managers and case officers, along with a planning solicitor and highway officers were in attendance to support the Planning Committee in its decisions.

Opportunities to Modernise

4.21 In overall terms the peer team consider that there are significant opportunities to modernise the Planning Committee to make it more fit for purpose in supporting the aspirations for growth and the aims and objectives of the BDP. The peer team were encouraged that the Chair of Planning Committee, some members of Committee and planning managers were self-aware of many of the current shortcomings in current processes, the prevailing culture and the efficiency and efficacy of decision making. The remainder of this section focuses on both strategic and detailed areas where the peer team feel that the Council should review the operation and working of Planning Committee to help it become more efficient, effective and improve its external reputation.

4.22 The re-introduction of short, focused, well-presented officer presentations could help set an important tone and context for the member debate to occur. The peer team has seen good examples, for example at Waverly in Surrey where the officer presentation succinctly brings the significant planning issues together and where both the report and the oral/slide presentation

advises members of the Planning Committee of the material planning issues where they can legitimately attribute different weight. High quality visual images can also aid decision making and avoid the need for time consuming and expensive site visits (see later detail on site visits). This does not mean that every item needs an officer presentation. However, it was quite clear from the review of the Planning Committee meetings that the lack of an officer presentation contributed significantly to the non-strategic nature of many of the subsequent deliberations on some very significant investment proposals and also some controversial smaller-scale developments.

4.23 The peer team found that a culture has clearly grown up where the Planning Committee feel it is acceptable to delay making decisions or refuse decisions that are in line with its own planning policies and against officer advice, often without strong or even well-articulated reasons for refusal. For example, since August 2019, Planning Committee members have taken a number of decisions where they are 'technically deferring a decision but are minded to refuse' without clear and precise policy reasons and often in direct opposition to objectively assessed technical information such as rooms size standards, amenity space, parking and highways. Developers and agents have written to the council complaining about decisions, where for example there was a lack of debate or ability for officers to respond to new issues raised not covered in the written case officer report. There is a lack of officer Input into Committee deliberations. This officer guidance in support of the Chair of the Committee as to what is appropriate to debate is essential.

4.24 Clearly and quite properly, Planning Committee members can give different weight to material planning considerations than officers, but it is not acceptable or defensible to take decisions not in accordance with the development plan or to go against technical advice unless there is clear evidence to support an alternative judgement. Very often phrases like 'we will leave it to officers' or 'officers will go away to develop reasons for refusal' were used at Planning Committee without any significant and detailed debate of policy or material considerations.

4.25 Such decision making creates unreasonable uncertainty into the planning system. This is not credible. Two areas where hopefully decision making will in the future accord more closely to policy advice and officer recommendation are Houses in Multiple Occupation and Student Accommodation where new SPG and better baseline figures are being developed to support member decision making.

4.26 The Planning Advisory Service (PAS) has produced a guide to the 10 characteristics of a "good" Planning Committee (see appendix 2). As part of the process of co-designing the modernisation of its planning and Planning Committee processes, it would perhaps be a useful exercise for members and officers to use these criteria to undertake an early exercise to commence the required journey of improvement.

Scheme of Delegation and Applications Coming before Planning Committee

4.27 The type and size of applications coming before Planning Committee is currently very wide and the number can sometimes be very high. The peer team consider that there are opportunities to sharpen the Committee's focus onto those applications of a generally more strategic nature where enhanced skills of weighing planning balance in decision making and in full view of the community can be exercised. The peer team consider that the most appropriate applications for Committee to focus on are those applications where debate on the merits of the application is required in a quasi-judicial format among Planning Committee members and would be reserved to the most significant or most locally controversial. The applications coming to Planning Committee should be the ones the 'community' want to see decided. These are not necessarily always the big strategic ones.

4.28 While 96 per cent of applications are decided by delegated powers granted to the assistant director, the Council's Constitution and Scheme of Delegation allows for a range of small applications and matters like prior approvals and certificates of lawful development to come before it for a decision. Many councils achieve delegation rates in the 98 -99 percentage categories although the peer team recognise that this is a local area for determination. The current system at Birmingham allows for any member of the Planning Committee to call for a matter to be brought before it and there are examples of small householder applications being called in. The Scheme of

Delegation states that when a development creates 'substantial' local support/opposition and where the officer recommendation would be to go against that view, the application is taken to Committee. However custom and practice has built up where 5 letters or more amounts to 'substantial' which appears to the peer team to be a low threshold.

4.29 An unusually high number of prior approvals or certificates of lawful development come in front of Planning Committee. These are decisions based on legal considerations rather than requiring consideration involving a planning balance and open debate. The peer review team were concerned at the nature of some of the debates on these and the lack of legal input into those discussions.

4.30 The peer team strongly consider that the Constitution and Scheme of Delegation should be reviewed to ensure that only the most appropriate applications are determined by Planning Committee. With this knowledge, members will be better placed to determine the appropriateness of the type and scale of applications to be determined by the Planning Committee and be able to make a fully informed view of any proposed changes to the constitution and scheme of delegation. The configuration of the Committee could remain as determining a mix of scale of applications as long as such decisions are taken in a business-like way. Members may also wish to consider other Committee structures such as minor and major committees or area committees.

4.31 Within the current system there is also a clear role for the Chair in working with the assistant director to 'triage' applications that are considered a match the current skills of the Committee and need the public scrutiny of Committee. An urgent issue is the delivery of the Commonwealth Games. The Council is advised to consider whether other Committee arrangements for example a 'Games subcommittee', should be formed to ensure efficient decision making given the pressing deadlines. This model was successfully introduced at Newham Council to enable the Olympic Games planning applications to be determined, so there is a strong and successful precedent for this. Reducing the number of applications (there were over 20 at the August 1 2019 meeting) would allow for other recommendations to be introduced at Planning Committee such as reintroducing officer presentation, more rigorous debate on policy and material planning grounds, ownership of Committee's own performance and stronger learning from appeal decisions (especially when members have overturned officer advice). Large strategic applications being decided by delegated authority is not something to fear.

Support for Chair and wider Leadership and Training

4.32 The Chair and some of the members of the Planning Committee recognised the clear need for continuous improvement and stronger and more focused training and development opportunities. The operation of the Committee in a business-like way gives it civic importance and positively reinforces the reputation of the Council at home and abroad. The peer team see a clear role for more consistent support to the Chair from planning managers and the planning solicitor. This demands stronger working relationships and improved trust and confidence to work and operate as unified 'top table'. It will be important for the Chair to have the confidence to perhaps more frequently bring in supporting officers for advice and clarity and for officers to show strong political acumen and foresight when speaking. To achieve this, stronger joint working is required and improved trust and confidence needs to be built up over time. The peer team did not have time to explore the extent to which officers had good appreciation of the challenges and opportunities of being a councillor and the service needs to assure itself that relevant officers have appropriate training and exposure to the 'member' dimension.

4.33 Being relatively new to the role, the Chair would benefit from mentoring and other external support learning and development opportunities. One such example that other Planning Committee Chairs have found useful is the LGA's/PAS 'Leadership Essentials' programme which focuses on supporting Chairs and Vice-Chairs of Planning Committee in their ever-demanding roles. It will also be important for the Chair to be supported in her role by the political group leaders and executive member (the Leader) with responsibility for the planning service.

4.34 Opportunities exist to provide an independent structured training and development programme delivered from external providers and to develop better coaching and learning opportunities for Planning Committee members. Members do have annual mandatory training that is supplemented by additional learning in areas that include viability, design and parking. These sessions are delivered by appropriate internal staff. However, despite the sound content of the training materials, the peer team's observations having watched a large number of Planning Committees is that the value of the training is limited. Attendance at the discretionary training is also patchy and often consists of only a third of members of the Committee. Delivery by external providers along with improved attendance provides potential for a higher value to be placed on the learning and development opportunities and in reality, allows for more 'bite' and 'challenge' to be introduced. In terms of a focus on training opportunities the peer team suggestions include:

- reviewing opportunities for joint officer/member training on agreed themes (for example design, amenity standards car parking, BDP, affordable housing and student accommodation);
- stronger training in taking robust and defensible decisions especially in relation to situations where clear technical advice is given on objectively assessed standards;
- looking for opportunities for familiarisation of roles (for example walk a day (or half!) in my shoes) so that officers and councillors can better appreciate each other's roles and the tension and challenges they face;
- discuss with LGA opportunities for officer's political awareness training;
- creating opportunities to celebrate success jointly; and
- examining opportunities for task and finish type groups that encourage councillors and officers to work together.

Site Visits

4.35 The current practice of deferring applications at Planning Committee to undertake site visits is inefficient and frustrating for planning customers and stakeholders. The Committee have deferred taking decisions and agreeing to a site visit 12 times in the last year. Also, the actual operation and protocols of site visits raises issues of fairness and transparency and needlessly exposes planning decision making to risk through potential legal challenge. The peer team consider that the way the Planning Committee uses site visits needs to be urgently reviewed.

4.36 Currently Committee members can call for site visits at the actual Committee where the application is to be decided and where often members of the public and applicants /agents have gathered to speak or listen to the debate. While the Chair of Planning seeks to ensure that there are valid reasons to defer a decision and agree to a member request for a site visit, some members, staff and applicants told us that there was a strong perception that this was more of a delaying tactic than there being an absolute necessity to visit the site. This procedure needs tightening and the peer team recommends that the Committee members have to request a site visit during the 21-day public consultation period meaning that site visits take place in advance of the due date at Committee. The Chair should advise officers which sites she considers would merit a site visit and get those scheduled before the Planning Committee meets to discuss the application. Such an approach will remove some of the substantial delays, which are currently occurring due to the number of deferrals.

4.37 The present protocol effectively allows the site visit to be an extension of the debate at Planning Committee and specifically allows for third party speaking rights needs to be stopped. This is necessary to remove the potential for legal challenge to the planning decision making process given that normal site visit protocols do not allow for third party comments and interaction between Planning Committee members and attendees. In most councils, site visits are handled more like Planning Appeal site visits which are tightly controlled and no debate is allowed – only the establishing of site constraints and facts. Invitations should be limited and not include residents. Protocols on site visits are available from other Local Planning authorities. The peer review team were very concerned to hear that legal officers were completely unaware of these issues and how the site visits were being conducted.

Webcasting, Seating and Informative Notes

4.38 The peer team consider that opportunities exist to improve the way the Planning Committee is webcast that would improve the user experience for the public and developers, agents and other stakeholders. Improvements would support the earlier message concerning the role of the Planning Committee as a shop window into the style and credibility of the Council.

4.39 Improvements that the planning service and Planning Committee should consider include:

- audibility and clarity on voting numbers with the Chair clearly articulating the vote and the decision;
- clarity on the nature of the development proposed by the application, that is, the site address is shown on the screen and mentioned orally but the development proposed is not shown or articulated;
- showing the public speaker on the webcast when they speak. Currently the public speaker is not shown speaking on the webcast but the camera is fixed on the screen. The service explained that this was due to General Data Protection Regulation (GDPR) issues. The peer team had not encountered this interpretation of the GDPR guidance previously and would encourage the Council to review this decision, possibly in co-operation with PAS who are developing guidance on this matter; and
- better use of images on the screen to help better engage the viewer on items being discussed at Committee.

4.40 In addition consideration needs to be given to the seating layout which needs to be completely reviewed. Why, for example, is the Vice-Chair not next to the Chair, some Planning Committee members are sat with officers, some of whom are centrally located on the table directly facing the public as to give the impression that they may be the Chair of the Committee or who may be officers?

4.41 In terms of the advisory notes available at Planning Committee these should be reviewed to more accurately reflect that all reports to Planning Committee would have a recommendation and that all decisions would be based on the development plan unless material planning considerations determined otherwise. The term Chairman should be changed to Chair and for the current Chair 'she' to replace 'he'.

Community, Partners & Outcomes

4.42 In relation to outcomes, applicants and residents report that planning officers are committed, professional, commercially aware and solutions focussed. Some community and residents' groups report greater recent engagement in the pre-application process and there is a desire for this to be taken further to engage local people early in development proposals.

4.43 The quality of completed schemes is truly inspiring; not just in the city centre but across Birmingham. City Centre developments such as Birmingham Central, Paradise and a number of private rented schemes are achieving a quality that stands up well against other cities because of the attention to design details. A number of public realm schemes such as Centenary Square have also been completed which is helping to humanise the city centre environment. Elsewhere a number of schemes by the Birmingham Municipal Housing Trust are delivering high quality affordable and social housing to high design standards. Innovations such as the use of modular housing techniques have not only been brought forward by the Trust on difficult brownfield sites but in partnership with investors such as Urban Splash and Places for People such as at Port Loop where 207 homes with communal gardens and access to the canal have recently been erected.

Planners have played a crucial role in delivering these sustainable developments through proactive engagement at various stages of the process.

4.44 In addition to the significant amount of recent development across Birmingham, the department is actively involved in a series of master planning projects such as the Smithfield development opportunity area which will help lay the foundations for the future pipeline of schemes.

4.45 The planning service receives an increasingly significant income through planning application fees and pre application fees. Income in the last six months alone is over £3.5 Million. and has increased annually in line with planning application numbers and particularly bearing in mind the larger scale, strategic Major applications.

4.46 Developers and agents told us that the pre application service was currently not providing good value for money. This is due to issues with registration, the length of time waiting for replies (due to a lack of planning officer capacity), and lack of consistency on changeover of officers between pre application advice and the resultant applications. Developers also advised that the cost of pre application advice could vary significantly between officers due to what appears to be a wide degree of latitude given within the charging schedule. The peer team consider that there are opportunities to increase income and thereby increase dedicated resources to major city centre and growth projects. Developers and agents told the peer team that they were willing to pay substantially more in pre application fees for a more consistent, efficient, effective and professional service. A clear recommendation is for the service to learn from the best authorities in this area and professionalise then modernise the pre application offer and then resource up to deliver to time and budget.

4.47 Since 2017, delivery and approvals through the planning system has enabled the collection of over £6 Million in Community Infrastructure Levy (CIL) funds. This is to be utilised for a single strategic transportation project at Perry Barr. The railway station will form an important part of transport movement as part of the Commonwealth games in 2022 and will provide a legacy for improved public transport in the city post the Games.

4.48 In the last three years an average of over £3 Million is collected each year through the use of section 106 legal agreements to mitigate the impact of development on the local areas near the approved development sites. Presently the majority of section 106 receipts go towards improved affordable housing rates and enhanced public open spaces. The Council recognises that it needs to strengthen its approach to prioritisation of its section 106 receipts and is producing a Supplementary Planning Document in this area. Members of the Planning Committee also told the peer team that they did not understand how CIL and section 106 monies are allocated and distributed and this needs attention.

4.49 Developers and agents are increasingly concerned about the uncertainty created for development activity and investment through the increasing number of member overturns, deferrals and requests for additional site visits (discussed also in the previous section). The peer team were advised of a number of planning applications where after significant discussions with officers at pre application stage and amended schemes over many months and even years, members of the Planning Committee were refusing or deferring schemes against officer advice. For example, the review team heard about a significant investment scheme for housing had been worked up over 4 years, through numerous pre applications and after significant design input through the Design Review Panel (DRP), was deferred by committee for no clear reason. These decisions at committee are broadcast to an international audience who will be asking themselves if Birmingham is an investible city. The peer team were also advised that foreign direct investment could be seriously in jeopardy if significantly more certainty was not introduced into the city's planning system. This application was in fact approved by the Council in December 2019 but the process of decision making made a very negative impression

4.50 Failure to grant major housing planning consents efficiently as part of the enabling role of councils would impact not only on meeting local need but would also impact negatively on the

inclusive economic growth objectives of the West Midlands Combined Authority (WMCA). Birmingham accounts for a quarter of the new homes (51,000) out of the 215,000 homes required in the region by 2031. The WMCA annual plan specifically pulls out the importance of the strategic enabling role of foreign direct investment to increase the supply of such housing numbers. The importance of a high functioning Planning Committee to overall regional prosperity is therefore also a critical consideration going forward.

4.51 The ambition for the Council should be to create a high performing Planning Committee of the status and calibre required to lead the decision-making process for the UK's second biggest city. Some of the characteristics of such a Committee would be a strongly chaired, streamlined and strategically focused Committee with highly trained and highly competent members. The need to improve quickly is important given current large-scale investment and growth plans for the City and the consequent higher volume of 'major major' applications that the Committee will have to assess. Operation of the Planning Committee is the 'shop window' for major developers and investors and needs to project a professional and modern image.

Earlier Member Engagement

4.52 The peer team see major opportunities to introduce earlier engagement between ward councillors, Planning Committee members, planning officers and developers/agents in the development process. This would provide far greater potential for conversations to take place earlier on in the genesis of a scheme and create a 'no surprises' approach to the determination of planning applications. This is especially the case given the major growth applications connected with the scale of development envisaged in the BDP, BCP and corporate plan.

4.53 The Council may wish to consider establishing informal pre planning briefings for members of the Planning Committee and relevant ward councillors. Ideally these could take place before planning applications are submitted allowing all members of the committee and relevant ward councillors to engage with planning and other technical officers in a timely manner. Such a pre planning briefing has the clear potential to encourage councillors and officers to discuss issues and likely recommendations in a more informal setting. This will aid members' understanding prior to any formal Committee debate later on in the process. It will also aid case officers in understanding what issues they may need to provide more information on. Councils such as Plymouth, Camden and Westminster have developed clear officer/member/developer protocols on this issue and it is recommended that the service takes advantage of the learning and experience of other areas.

4.54 There is also the need for both ward councillors and Planning Committee members working with senior managers within the Development Management service to feel welcome and able to pick up the phone, or e mail or meet case officers or managers. The peer team were told that this rarely occurs and appropriate mechanisms, respecting the needs of both sides, need to be found to better encourage enhanced joint working. This could hopefully avoid at least some of the 'surprises' that appear to surface only at Planning Committee when there should have been time to get involved in the progression of an application earlier on in the process.

Design Review Panel

4.55 Given the significant scale of development in the city the peer team see potential for more effective use of external design advice in order to match the Council's vision for a world class city. Major projects that include significant design proposals are currently placed before a Design Review Panel (DRP) for comment as part of the planning application process. Currently the Chair of Planning Committee sits on the DRP along with volunteers from the built environment profession.

4.56 Developers and agents and some planning managers felt that the current DRP process should be overhauled including revamping its terms of reference and membership. The peer team agree and consider that it is important that any new design advice body is seen as professional, experienced and totally independent and its composition needs to reflect this. Any wholesale

review should indeed review the terms of reference and the peer team would encourage including design input as part of a charged for, robust pre application process. The peer team are aware of the advice provided in some areas (for example the south west) through Creating Excellence and its design review work and there will be lessons from that and other approaches in London and other major cities that could be drawn on.

Appendix One

Specific Matters Raised by the Council in the Scope of the Planning Peer Review.

Q. Deferrals – why and how can this be reduced?

A. Stronger earlier member engagement, take decisions in line with your policies, take decisions at the meeting, avoids delays, waste in the system and reduces costs. Encourage councillors to feel empowered and proud of their votes/decisions. Understanding that deferrals should be exceptional as they erode the gravitas, credibility and civic status of the Committee.

Q. Appeals and costs – how to avoid and reduce risk?

A. Take strong defensible decisions in line with policy and planning material considerations. Decisions against technical advice where not justified increase risks. Always report appeal losses and cost decisions publicly. Performance reports, quarterly, should be a feature of the Planning Committee agenda.

Q. Does PC support Council's regeneration and growth objectives?

A. Understanding and ownership of corporate and local plan policies was wholly absent and is a major impediment to the effective operation of the committee. Planning Committee need to own the policies. They are the Council's policies and not just the Leader's, Cabinet or officer's policies.

Q. Committee reports – can these be improved?

A. The previous streamlining that appears to have taken place has been ad hoc and led to omissions such as issues on the Equality Act and Human Rights issues. It has also resulted in the inappropriate removal of policy analysis. Therefore, the committee reports need a thorough overhaul and need to be more policy focussed to allow for more effective strategic debates at the Planning Committee about how the development proposal under consideration meets the overall vision and planning strategy for Birmingham. The overhaul of the report template should be member-led but co created with officers, drawing upon best practice from other Local Planning Authorities. PAS can assist in this process of benchmarking.

Q. Committee Site Visits – should the rules for these be reviewed?

A. Yes, urgently as there are serious potential probity issues. Arrange site visits in advance, and have a published protocol that you stick to.

Q. Are the processes and steps leading up to PC effective?

A. As a process it works but to secure wider buy in to the growth agenda it is vital that there is much earlier engagement with ward members and Planning Committee members. Some steps are missing, e.g. for example the triage of agendas. This highlights the need for a Head of Development Management post.

Q. Does Planning Service have appropriate capacity and structure to support corporate priorities?

A The team has not had the time to review this in detail but we have a general sense of a lack of capacity given the number and scale of development proposals in Birmingham and the lack of a Head of Development Management is a fundamental flaw. Given also the training burden highlighted in this report, there may also be a case for a bespoke, independently facilitated programme with a specific resource attached to carry out this task in the next 6 months.

Q What's the best way to deal with 'updates' leading up to the Planning Committee?

Information arriving up to time of Committee late has to be considered but report by exception only and summarise. Certainly, do not read out letters that have arrived late at the Planning Committee.

Q What are your views on abstaining from voting at PCs?

A. Planning Committee members are there to take decisions on behalf of the whole city and the high level of abstentions is seriously compromising the reputation of Birmingham as a place to invest. It should be an exception and reported on in the annual/quarterly performance reports.

Q What are your thoughts on members voting against recommendations without speaking?

A. This is not in and of itself the issue but the bigger concern is the number of PC members who effectively lead the debate and given non-attendance, no substitutions and limited discussions of planning issues, the direction and tone of debate is effectively set by relatively few members. If members intend going against officer recommendations, they must give their evidenced reasons for that, citing relevant BDP policies, and state that at the Planning Committee itself, not deferring this to officers to come up with reasons at a subsequent meeting.

Q Your views on the raising of non-material issues at PC e.g. building regs, fire, land ownership?

A. As Planning Committee members should know from their training non-planning issues are immaterial in the planning decision making process and have the potential to distract and confuse the quality and focus of debate. This is a leadership role for the Chair and officers. This again highlights the need for a Head of Development Management post.

Q Is there potential for more use of earlier engagement with members on development building perhaps on what we do as 'issues reports'.

A. No this is not necessary as earlier pre-app engagement and proper policy-based reports will enable better decision-making. The peer review team were not convinced about the approach taken by officers or members to the production of issues reports. The more fundamental issue is much earlier engagement with ward members and Planning Committee with the policy issues that arise from development proposals before they are formally reported and considered at a subsequent Planning Committee.

Q. Is there scope to reduce workload at PC eg householders?

A. Yes, the Scheme of delegation needs to be thoroughly modernised. Again, this should be a councillor-led process, but co-designed with officers. In order to do this effectively, members must first understand their role better and then will be best placed to adjudicate on the nature of agendas.

Q Best practice for developers contacting members?

A. The Council should undertake a structured benchmarking approach to review this, based around the principle of earlier Member and community engagement. Many Councils have clear guidance on this. It can be easily systemised to guard against pre determination or conflicts of interest.

Appendix 2

PAS Characteristics of a good planning committee

1. Trust, confidence and respect between officers and members of committee
2. Knowledgeable and regularly trained committee members
3. Relatively low number of committee members (say 9-11 maximum) to allow focused training and clear and focused debate.
4. Scheme of delegation focused on key strategic applications
5. Committee members separate themselves from their ward member role
6. Good chairing skills: allowing engagement but avoiding heavy repetition and any inappropriate comments and heavy questioning of witnesses.
7. Good accessibility, welcome, audibility, visibility, webcasting with it being clear to the public who the members and officers are
8. Quality of officer reports: Clear, concise, plain English reports that identify material planning considerations.
9. Members involved early in major and controversial applications through non-decision-making briefings
10. Committee owning its own performance

Further Support

5.1 A range of support from the LGA and PAS is available at <http://www.local.gov.uk> and via the [PAS website https://www.local.gov.uk/pas](https://www.local.gov.uk/pas). Costs may vary.

5.2 Planning Advisory Service (PAS) & LGA Support Offers:

PAS Planning Committee Training & Materials

PAS will work with the authority to deliver to deliver specific training requirements for the new planning committee.

PAS has general materials available on available from the PAS website:

- Development Management - Decision making, committees and probity
- Making Defensible Planning Decisions
- Developer Payments - Community Infrastructure Levy, s106 agreements and Viability
- Getting engaged in pre-application discussions
- Design training for councillors

<https://www.local.gov.uk/pas/pas-support/pas-subscribers/councillor-briefings/councillor-briefing-planning-committees>

PAS worked with Association of Democratic Services Officers (ADSO) to produce some materials for committee clerks. This covers an introduction to planning, decision making, motions and amendments, dealing with the public, interests and probity matters.

<https://www.local.gov.uk/pas/pas-topics/planning-committee/materials-committee-clerks>

Other Local Authority Planning Committee Information

Plymouth planning committee webcasts

<https://plymouth.public-i.tv/core/portal/webcasts>

<https://plymouth.public-i.tv/core/portal/webcasts/enctag/Planning>

Plymouth planning committee public information

<https://www.plymouth.gov.uk/planninganddevelopment/planningapplications/whathappensafteryoumakeplanningapplication>

<https://www.plymouth.gov.uk/planningcommittee>

Oldham planning application process information

http://www.oldham.gov.uk/info/200399/apply_for_planning_permission/748/about_the_application_process

Havant developer consultation forums

<http://www.havant.gov.uk/development-consultation-forums>

Camden pre application information

<https://www.camden.gov.uk/pre-planning-application-advice>

Westminster pre application information

<https://www.westminster.gov.uk/request-planning-pre-application-advice>

Newham pre application information

www.newham.gov.uk/Pages/Services/Planning-Pre-application-service.aspx

5.3 For more information about planning advice and support, please contact Martin Hutchings, martin.hutchings@local.gov.uk

5.4 The LGA has a range of practical support available. The range of tools and support available have been shaped by what councils have told LGA that they need and would be most helpful to them. This includes support of a corporate nature such as political leadership programmes, peer challenge, LG Inform (our benchmarking service) and more tailored bespoke programmes.

5.5 Helen Murray, Principal Adviser is the LGA's focal point for discussion about your improvement needs and ongoing support and can be contacted at helen.murray@local.gov.uk

5.6 PAS and the LGA will follow up about the support that they can provide to the council to help address the recommendations highlighted in this report. A further 'light touch' visit will be made in 6-12 months to see how the recommendations are being implemented and the beneficial impact experienced.

Local Government Association 18 Smith Square, London SW1P 3HZ

Telephone 0207 664 3000 Fax 0207 664 3030

Email info@local.gov.uk

www.local.gov.uk