

POS Enterprises

FINAL REPORT

**Charnwood Borough Council
Review of democratic interface**

April 2023

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1. Introduction and summary of findings and recommendations

- 1.1 POS Enterprises, the operational arm of the Planning Officers Society, was appointed by Charnwood Borough Council to undertake a review of its Planning Democratic Interface. Throughout the process the staff have been helpful, open and constructive in their comments. The consultants wish to highlight this and thank all involved for their positive attitude to the entire review process.
- 1.2 During the course of the review both positive and negative factors came to light. Both have been highlighted, and recommendations provided throughout the report where there is scope for improvement. It is inevitable, that in a review of this type, that it concentrates on areas where improvement is necessary to meet the issues identified. This does not detract, in any way, from the many positives in the service's operation. In some cases the recommendations are specific; others the authority will want to explore in more detail. All the recommendations are made with the aim of improving the service and tackling historic and current difficulties which have been identified.
- 1.3 The Council is faced with significant challenges (forthcoming Government changes to the planning system, Local Plan/5-year land supply, reliance on Extensions of Time, insufficient awareness and ownership of performance issues)
- 1.4 The review identified a number of areas which, in the opinion of the Review Team, should be the focus for the authority, and recommendations are included for consideration. This summary covers the main findings and recommendations which should be the primary focus for the action plan and highlighted as such. There are further recommendations in the report where there is room for improvement, but these are not considered to be of the same priority. It is our experience that improvement plans fail where there are too many actions and top priorities, so the Action Plan should be carefully drafted to emphasise the key actions with resources (and timescales) to implement them clearly identified. This should be prepared following consideration of the report, in consultation with the staff. It is recommended that:
- An Improvement Action Plan is prepared, in consultation with staff and members, which identifies the key priorities for improvement, with responsibilities identified and a programme for their implementation. This should be regularly reported to the Senior Leadership Team which should have overall responsibility for its delivery.***
- 1.5 The Review Team found a Service working towards improvement, and many well motivated and competent officers committed to providing a good service to the public. The staff and members generally enjoyed good working relationships but there were improvements which could be made which would improve the service to the customer without impinging on the democratic involvement. Indeed, there were areas where the members could become more involved at appropriate stages in significant development proposals which would enhance their strategic role.
- 1.6 However, there were also areas where procedures such as member call-ins of both applications and enforcement cases involved overly protracted and bureaucratic

procedures which the Review Team recommend could be revised to improve both efficiency and effectiveness without losing member involvement. Development Management performance against the Government's key criteria for the timeliness of applications is above average but very heavily reliant on Extensions of Time (EoTs), an issue that the Government is actively seeking to address. Neither staff nor members were sufficiently aware of comparative performance levels and the monitoring and management of performance should have a higher priority.

- 1.7 The position with the Local Plan and the challenges the Council faces in not having a 5 year land supply have had significant repercussions with unsolicited permissions being granted either by the Council or at appeal. This is likely to change later this year with the adoption of the Local Plan which will place the Council in a more secure position in dealing with such applications,
- 1.8 The Council is aware of the prospect of additional planning fee income but that this is likely to be dependent on improved levels of performance. The critical criteria for Charnwood are likely to be achieving application deadlines without the use of Extensions of Time and ensuring that losses at appeal on major applications do not reach a critical level. Assuming that the additional fee income from national increases in charges will go back into the service it will provide some leeway to improve recruitment and retention.
- 1.9 The authority has experienced problems of attracting permanent staff. The Review team was told that salaries were not competitive, particularly as it is in competition with larger city and metropolitan authorities in the immediate area. Unfortunately, recruitment of planning staff is a national problem and most authorities throughout the country are having to rely on some temporary and agency staff to a greater or lesser extent, but Charnwood is more reliant than most. As well as salaries, reputation, location and the type of work can all be factors in recruitment. The Council needs to understand what factors are relevant for Charnwood and how they can be addressed.

Priorities for Development Management

- 1.10 There are two main areas which the Review Team considers should be priorities for Development Management. Firstly, it should review its performance management process to establish a clear set of prioritised performance criteria. It should be monitoring performance against both DLUHC current and likely future criteria for designating poorly performing authorities. It should then be setting its own local targets aimed at improving rather than meeting the basic criteria. These targets should be set at levels which relate to external comparisons – nationally set criteria, comparator group average or upper quartile performance. Targets should be set to 'manage down' the reliance on Extensions of Time. Statistical information should be supplemented by added value and customer satisfaction evidence to support any local objectives around service quality. The selected criteria and the associated performance reporting should be tailored for the appropriate audience dependant on whether they are delivering against corporate, departmental, service, team or individual objectives. The specific recommendations relating to this are:

Review the performance monitoring process to ensure that corporate, department and service priorities are regularly monitored at the appropriate level and to the right timescales

Quarterly monitoring of DLUHC current and likely future “designation” criteria

Establish targets for reducing the reliance on Extensions of Time and the average length of time taken to determine applications.

Regular reporting of the key performance indicators to members including the Plans Committee.

- 1.11 Secondly, there is a need to clarify the management responsibilities in Development Management. The Team Leader carries a significant caseload and in this respect acts as ‘senior professional’ as well as manager. This creates a conflict and competing priorities between dealing with major applications, managing team and personal workload and performance and managing staff which are difficult to reconcile. The authority needs to be much clearer that the key priority for this post is to manage the DM section and seek to actively manage down the caseload held by this post.

Review the roles of the Team Leader to ensure the management and professional roles are clarified.

The member interface

- 1.12 Member officer relationships were generally found to be good. There were two particular areas where the Review Team saw opportunities for improvement. These were the member call-in procedures for both planning applications and enforcement cases, and member involvement at pre-application stage. The call-in processes involved an unnecessary amount of officer time which could be more productively used without impacting on the member role. At pre-application stage there is considered to be a real opportunity for members to have a greater input on major schemes much earlier in the process. Recommendations in this respect are

Review the member call-in procedures for both planning applications and enforcement cases

Revise the pre-application process to provide for the Council to initiate early engagement on major proposals including members

Plans Committee

- 1.13 The Committee meeting observed by the Review Team was well run but was perhaps not typical in terms of the three items being considered as there was very little discussion and only one public speaker. However, the Review Team did consider that elements of the meetings could be streamlined with the major recommendations being:

Officer presentations should concentrate on the key material issues, especially those that are finely balanced or the subject of significant objection

Changing the rules around public speaking, limiting slots for applicants, objectors and ward members to 3 minutes.

If a ward member calls in an application they should attend in person to explain the reasons for the call in, or if unable to attend they produce a written explanation to be read out at the meeting

Administrative and Procedural Issues

- 1.14 Whilst reviewing administrative and procedural issues was not wholly within the Review Team's brief, nevertheless several issues were brought to the Team's attention which if dealt with might produce efficiencies to the current planning processes. Recommendations here include:

Review the validation and registration process so that allocation takes place ahead of validation

Seek to remove the current unnecessary double checking of applications at both validation and registration stages.

Staffing

- 1.15 Charnwood has experienced more difficulties than most LPAs in recruiting permanent staff. The heavy reliance on interim and temporary staff has been essential to maintain the service but brings with it problems of stability, consistency and not least expense. Whilst this is a common situation across the country, the Council should be developing its own response. Some progress has been made, not least the initiative with Loughborough University, and the potential increase in planning fee income should allow for additional funding for the service.

Develop a recruitment and retention strategy with corporate and HR support to reduce the reliance on temporary staff.

2. Background

- 2.1 An independent review of the development management process in 2015, conducted by a team from POS Enterprises, considered improvements to processes, following concerns relating to officers reporting to both committee and ward members. A series of recommendations were made around:
- Changing the ward referral process at the end of the application process to a “call in” system operating throughout the application process;
 - Greater involvement of councillors in pre-application discussions;
 - Reviewing the site visit process;
 - Reviewing the level of information in Extras Reports;
 - Working with applicants, objectors and consultees to avoid late submissions;
 - Reducing the time taken to finalise reports from the officer deadline to close the gap between the deadline and the actual meeting;
 - Scrapping the committee pre-meeting;
 - Allowing the lead member to be a member of plans committee;
 - Providing training on presentation skills for officers;
 - Allowing officers to respond to issues raised by speakers;
 - Training members on protocols around lobbying and declarations;
 - Reviewing practice of having two votes for overturned applications.
- 2.2 The recommendations were taken forward through an internal 2016 Action Plan, with many being put into place whilst other proposals proved more difficult to move forward.
- 2.3 In 2021 a further review of the development management service was undertaken by the Council’s Customer Experience Team. This was triggered by a desire to remove potential inefficiencies in application processes before the implementation of a new back office system and to assist work flow to the Development Management Team at a time of high work volume. The review was unable to identify any tangible improvements in the current planning application processes that would generate net savings and furthermore, without the new back office system being implemented, it was difficult to understand the implications that changes might have to the in-built processes of the new system, which is now scheduled for implementation during the latter part of 2023.
- 2.4 The Customer Experience Team did, however, identify the potential for business efficiencies in the interface between development management processes, councillors and the Plans Committee. It was agreed that this should be considered by an independent review team who would examine the way in which elected members are currently engaged in the decision-making process and to consider this in the light of national best practice and the Council’s desire to find efficiencies.

3. Terms of Reference

- 3.1 The review has been undertaken at a high level focussing on what changes are necessary or desirable to make the service fully fit for purpose over the next three to five years.
- 3.2 Through documentary and other research, including interviews and workshops, with elected members, senior officers and planning staff, this report seeks to address the following issues in the light of national best practice and the desire to make business efficiencies:
- The Scheme of Delegation (and sub delegation)
 - Delegation processes where members need to be consulted, to ensure consistency of approach
 - The member “call in” process and its effectiveness, including wards where there is a single member with a conflict of interest, and the requirement for members to explain “call in” at committee
 - Public speaking at committee, including process and clarity of the rules in relation to speaking on deferred items
 - The site visit process and its utility
 - The plans committee process including:
 - Management of reports
 - Extras report
 - Chair’s briefing
 - Chair’s post meeting de-brief
 - Clerking and minute taking
 - Plans committee meetings, including:
 - Reports (content, structure and length, etc)
 - Presentations to committee
 - Decision-making
 - The planning enforcement process and committee referral arrangements
 - Plans Committee and wider member training/updates on planning issues
 - The “Presentations to Councillors” section of the Constitution and its relationship to the arrangements set out in the informal pre-application service
 - The “Lobbying” section of the Constitution and its efficacy
- 3.3 The Review Team has remained mindful of the financial pressures upon local authorities, and the need for staff structure and numbers to be economical and efficient as well as the current difficulties in recruitment of good quality planning staff, and the need for pragmatism in any recommended solutions.
- 3.4 The report was informed by a range of discussions with staff and elected members. The functions of the interviews varied but broadly they provided the means for the Review Team to:
- Hear perceptions of how the service has performed over the past couple of years;
 - Elicit the participants’ own ideas of improvements that could be made; and

- Explore possible ideas for enhancements and highlight any practical implications they might have.

4. Methodology

4.1 Two POS Enterprises consultants (the Review Team) conducted two days of virtual interviews with staff and senior elected members ahead of spending three days on site, conducting further interviews and group workshops with officers and elected members as well as undertaking documentary research and reviewing performance statistics and data.

4.2 The review was undertaken using four main techniques:

Interviews and workshops

4.3 A series of interviews were held remotely on a one-to-one basis and further interviews and workshops were held with small groups of people with related responsibilities. A further workshop was held with a group of elected members, including some members of the plans committee.

4.4 A full list of those interviewed is contained at Annex A.

4.5 Throughout the process all interviewees were completely open and frank about their experience, on the basis that no comments or information used within the report would be attributed.

4.6 Discussions covered the following areas:

- Performance against Government and local targets, together with monitoring and statistical analysis challenges;
- Perceptions of the issues which have arisen around the reporting on planning applications over the past couple of years;
- Communications - both internal and external
- Committee and member relationships;
- Customer satisfaction;
- Identification of areas of difficulty or concern and their perceived causes, including the impact of national policy;
- Exploration of ideas for possible enhancements and any practical implications they might have.

Documentation and processes

4.7 The Review Team undertook a detailed examination of documentation, reference material, systems and processes currently being used, including:

- Public information material from Charnwood's website;
- The current Constitution including protocols and local codes of conduct;
- Planning committee and delegation arrangements;
- Monitoring reports;
- Examples of planning application reports not only items being considered by the Plans Committee but also delegated reports.

Statistical analysis

4.8 The Review Team interrogated the DLUHC planning statistics which are used to assess performance against Government criteria. These are derived from the PS1 and PS2 returns supplied to DLUHC by the authority and therefore should be

consistent with the authority's own monitoring information for the same period. The Review Team used the latest available statistics at the time of the Review.

Observation

4.9 The Review Team observed the following:

- The Plans Committee site visit on 12 April 2023
- The Chair's briefing ahead of Committee meeting on 12 April 2023
- The Plans Committee meeting held on 12 April 2023

5. Context

(NOTE: the tables referred to in this section can be found at Annex B to the report)

- 5.1 This review focusses on the interface between members and officers but to fully appreciate the current situation and the potential implications of current practices and future changes it is essential that there is an understanding of the changing pace of planning and likely changes at a national and local level. The Government has recently produced a consultation paper 'Stronger performance of local planning authorities supported through an increase in planning fees'. In the consultation document the Government acknowledges the need for local authorities to have the resources to drive improvement in the quality and timeliness of their planning services. An increase in planning fees is seen as the primary means to increase resources, although the Government acknowledges that this will not have an immediate impact on the lack of skilled and experienced planning and technical staff and the struggle to recruit and retain them. It was clear to the Review Team that the performance at Charnwood had been hindered by the rapid turnover of staff, particularly at more senior grades, and the heavy reliance on interim and temporary appointments.
- 5.2 The Government's promise of increased fees (35% for major applications, 25% for other categories) doesn't come without strings attached. They are only prepared to introduce fee increases if performance also improves, and they are also proposing a new approach to measuring performance across a broader set of both quantitative and qualitative measures. Some of these changes will be challenging for Charnwood, the most significant being a much more rigorous approach to the use of Extensions of Time (EoTs).
- 5.3 The potential increased revenue from fees and consequent ability to supplement the planning resources will be dependent upon the Council being able to meet the anticipated performance criteria, which will in turn require a much more rigorous and targeted approach to monitoring and managing performance. Failure would prejudice the additional fee income and increase the likelihood of penalties and/or government intervention in how the service operates.
- 5.4 This report points up how the authority can provide a more efficient and effective planning service while taking full account of the need to improve the democratic interface.
- Implications of proposed Government changes to performance for Charnwood**
- 5.5 The Government has become increasingly concerned that extensions of time have masked the performance of LPAs in determining applications within the statutory determination period. They intend to introduce new metrics which hold LPAs to account for the number of applications determined within the statutory period rather than through the use of EoTs to extend deadlines. This is a particular problem for Charnwood as its notionally good performance is heavily dependent on the use of EoTs.

Use of extensions of time

- 5.6 Table 1 below shows Charnwood's performance in determining major applications in comparison with the national position and the other Leicestershire authorities. The DLUHC designation criteria for government intervention is 60% of applications determined within the statutory period of 13 weeks or such agreed extended period, and Charnwood at 90% appears to be well above the threshold, ranking 169th out of 340 planning authorities nationally. However, closer examination shows that only 3 out of 60 major applications were determined within 13 weeks, and 54 or 90% were the subject of extensions of time.
- 5.7 Table 3 gives even more cause for concern. This is for non-major applications and the designation criteria is 70% determined within 8 weeks. Charnwood's performance at 90.8% (rank 120 nationally) looks reasonable but relies on 74% of applications having EoTs. This compares with a national average of 40%. Bearing in mind that these are the more straightforward applications, rarely subject to legal agreements, this shows an unhealthy reliance on EoTs to achieve only average performance levels.
- 5.8 The Government is very concerned that the existing metrics and use of EoTs do not adequately reflect performance or the experience of customers and the real position at Charnwood is that there is a consistent and excessive over reliance on EoTs to achieve unexceptional performance levels. While it is clearly apparent that all LPAs are using EoTs to some extent, Charnwood's use is well above average and very much towards the top end nationally (see Tables 1 and 3). Among the broader range of performance measures the government is consulting on introducing are:
- the average time taken to determine applications, and
 - the total number of EoTs as a percentage of all decisions.
- There will be performance targets set for these measures although what they might be has yet to be decided. At the present time information on the average length of time for determination at Charnwood is not readily available from the Council's IT system.
- 5.9 The authority should be introducing a performance monitoring framework which includes the likely new metrics as a priority and prepare action plans to reduce both the use of EoTs and the average time taken to determine applications. The timescale for the introduction of these new metrics has yet to be set by the Government, which will give the authority some breathing space to get measures in place, but there is no room for delay or complacency. The planning managers were aware of the over-reliance on EoTs and the Review Team were told that work to improve the position was in progress.
- 5.10 The penalties for authorities failing to meet any new thresholds have not been identified, but it is probably safe to assume that they will be similar to the current sanctions which include the possibility of applicants being able to submit applications direct to the Planning Inspectorate, by-passing the local authority completely, and the possible imposition of special measures. There is also an implication in the consultation document that authorities not performing adequately will not be able to benefit from the increase in application fees, although how this will work in practice has not been clarified.

- 5.11 Currently requests to applicants to agree to extensions of time are at the discretion of the case officer. There is no record of the reason for such requests. In the circumstances the information made available to the Review Team has been partial and anecdotal, but it is clear that there is a culture of the use of EoTs as a first resort rather than working towards determination within the 8 or 13 week deadline. This is reinforced because the case officer does not need to justify requests and there is no record or monitoring. In the short term a procedure should be introduced where case officers need the agreement of a senior officer for any such requests.
- 5.12 While EoTs offer an easy option to maintain performance figures there has been no impetus to manage down their use. Targets need to be introduced at team and individual level with regular monitoring, and where necessary a more robust approach is needed to avoid applicants using the application process to negotiate or revise unacceptable schemes. There is certainly a suspicion that applicants will submit poor schemes and use officer advice during negotiation to arrive at an acceptable scheme rather than make more effort to submit acceptable proposals or engage in a pre-application discussion.

Quality of decision making

- 5.13 The current Government criteria for quality of decision making relates to the number of decisions overturned at appeal against the total number of decisions made. There is no indication in the current consultation that these criteria are likely to change. The latest qualifying period is from March 2020 to June 2021. The apparent time lag is to allow appeals against decisions made during the period to go through the appeal process. The assessments are split into 2, major and non-major decisions with different thresholds. The latest available information is set out in Tables 2 and 4.
- 5.14 For major applications the designation threshold is 10% of decisions overturned at appeal as a percentage of total decisions made. Charnwood's record of 3 decisions overturned out of the total of 73 decisions may not at first sight seem a cause for concern, but the authority's national ranking at 275 out of 340 LPAs is a warning sign. With the small numbers involved further appeal losses can have significant impact on the headline figure. What is of concern is that the indicator works on a rolling quarterly basis over a 2-year period, with the latest quarter replacing the earliest. For Charnwood there were no appeal overturns during the earliest 3 quarters of the 2-year qualifying period, which means any overturns over the next 3 quarters will lead to a worsening of the position. The Review Team is aware of at least one overturn during this period and the prospect of more appeals which indicate that the situation needs to be carefully monitored. The likely adoption of the Local Plan later in the year and the ability to demonstrate a 5 year land supply should assist decision-making in the future. The penalty for designation is that applicants can bypass the LPA completely and apply directly to PINS and one authority, which has been designated for special measures, has had 12 major applications submitted to PINS in the current year. This is clearly a situation that Charnwood should seek to avoid.
- 5.15 The situation with the non-major appeals is much more comfortable (Table 4) with a percentage of 0.4 overturns (8 out of 2109) and this gives no cause for concern, although it should still be included in the regular monitoring reports.

Percentage of Delegated Decisions

- 5.16 The government has indicated that it intends to include the percentage of decisions delegated/made at committee as a new metric in its performance assessment criteria. Table 5 includes the delegated levels for the year to the end of December 2022, the latest figures available nationally. This shows Charnwood at 97%, just above the national average and broadly consistent with the other Leicestershire authorities. The current scheme of delegation is generally consistent with good practice nationally in that it works on an exceptions basis, but the Review Team consider that the details of the 'call-in' process could be revised to make it more streamlined and efficient without reducing the role of members. This is examined in Section 6.

Percentage of committee decisions to refuse against officer recommendation subsequently allowed at appeal

- 5.17 This is a proposed addition to the Government performance criteria. It would measure the percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal. There is no indication of the likely threshold that might be set. Here again, at this stage, the Review Team would strongly recommend that this indicator is included in the Council's performance monitoring and reporting framework, not only in preparation for future government target setting but also it is important for the authority to understand and appreciate how it is performing in this respect. Further comments on overturns are included in Section 9.

Customer satisfaction surveys

- 5.18 The Government is also considering introducing some measure of customer experience possibly based on customer satisfaction surveys. The intention is that it would focus on the overall quality and timeliness of both pre-application and decision-making services and could be used as a measure of community engagement in planning. Customer satisfaction is always a difficult concept in planning as 'customers' may well want to see diametrically opposed outcomes and divorcing these from the quality and efficiency of the process is not straightforward. There is little more in the current consultation and it may well be some time before details emerge.

Summary

- 5.19 There has been strong pressure from both Local Government and the development industry for some time to increase application fees to a more realistic level and use the income to better resource planning services. The government's response is that any increase must also bring about improvements in the levels of service and is intent on broadening the measures of performance to ensure that this happens. For Charnwood the immediate issue is to have a much more rigorous performance monitoring and management process in place which will enable both officers and members to better understand how the service performs and what steps are in place to meet current and future targets. It is essential that members, at Cabinet, Plans Committee and ward level are involved in this process to fully appreciate the pressures on the service and the importance of ensuring that they play their part efficiently and effectively while not imposing additional burdens on the service. A better performing service promotes more respect from users and pride amongst officers and members. It can also have a positive effect on the authority's ability to recruit and retain staff.

SECTION 5 RECOMMENDATIONS

Para 5.9

Introduce a robust performance monitoring framework to include current and future govt criteria, with regular reporting to Service and Departmental Management Teams and members.

Para 5.11

Introduce a process where EoTs need the agreement of a senior officer

Para 5.12

Establish targets for the reduction of EoTs

Para 5.12

Introduce a protocol for officer/applicant post submission negotiations which sets both time limits for negotiating and deadlines for revision, with the intention of enabling decisions within the current government targets without the use of EoTs

6 Delegation and referrals

General

6.1 An effective delegation system is at the heart of an efficient and effective local planning service. Table 5 in Annex B shows that, for the year to the end of December 2022, 96% of all applications nationally were delegated to officers and Charnwood's 97% was slightly above average but by no means exceptional.

6.2 Effective delegation:

- enables the planning system to operate more quickly and customers to have decisions much more speedily;
- avoids the need for reporting to Committee with all of the officer and member time, administration and bureaucracy involved (unpublished research by the Planning Advisory Service (PAS) revealed that processing applications via Committee rather than through delegation increased the costs tenfold); and
- allows members to concentrate on the most significant, complex and publicly sensitive applications

6.3 The Review Team found that the scheme of delegation for planning applications which works on an 'exceptions' basis is sound and follows national best practice. There were, however, two issues of concern which were identified where the process could be streamlined without compromising the robustness of decision-making or the input of elected members. These were the style and content of reports and the detail of the member call-in process

Delegated reports

6.4 The Review Team examined a number of delegated reports and the report template currently in use. They found reports to vary in length and content. While all applications will differ there is enough common ground for the use of templates which provide a consistency of approach and ensure that the relevant issues are addressed (and extraneous material is reduced to a minimum). A template for delegated cases could be set up along the following lines:

Description	Address, reference and description of proposal as per registration
Recommendation	Grant with conditions as set out or refuse with reasons
Details of proposal and site	Description of proposal and site
Issues to be addressed	As identified by case officer
Assessment	Planning assessment of identified issues
Conditions	If recommended for approval
Appendix	Relevant policies Planning history Consultations and responses

6.5 Such a template should avoid repetition, highlight the relevant issues and concentrate on those matters which are significant in coming to a conclusion and recommendation. For the case officer and the decision maker it allows them to focus

on the key issues without getting 'bogged down' in extraneous detail. This should make both report preparation and the signing off process more effective, while at the same time ensuring that decisions are properly made with a clear audit trail.

Member Call-Ins

- 6.6 The member call-in process was changed as a result of the previous review by POS Enterprises in 2015. This has resulted in some improvements but it still gives rise to potential additional work and delay.
- 6.7 The Review Team acknowledge that the ability of councillors to call-in applications to have them considered by members at Committee is an important part of the democratic process. However, some changes could be made which would reduce the burden on officers and be more straightforward for members. The present process requires:
- Officers to write to ward members to advise them of applications in or immediately adjacent to their wards.
 - Ward Members must advise officers of a call-in request in writing within 21 days of receiving notice of the application or of the expiry of the public consultation period
 - Applications called-in will be added to the agenda of the next reasonably available committee
 - Members may withdraw their request at any time prior to the publication of the Plans Committee agenda
 - Where a call-in request has not been withdrawn and officers consider that the matters raised have been addressed officers will submit a recommendation report for the called-in application to the member concerned which will enable members to review their call-in request.
- 6.8 The Review Team were made aware that, in practice, the overwhelming majority of call-in requests are withdrawn, although there are no records of either call-in requests or their withdrawal, so only anecdotal evidence is available. What is apparent is that a considerable amount of both officer and member time is spent on managing call-in requests which are not pursued. Apart from the abortive time involved, it also leaves the question of how a called-in application is to be determined unresolved until very late in the process and until it is withdrawn there must be a presumption that the application will be going to Plans Committee.
- 6.9 For members it is understandable that they should call-in applications that they have any concerns over at an early stage so that they do not fall foul of the 21 day time limit. This means that at the time they have to make a decision to call an application in they are unlikely to be aware of the detail of the application, the response to consultations, and any potential amendments. As these matters become clearer members then withdraw their call-ins in the majority of cases, but only after officers have spent time preparing and submitting a ward councillor report explaining the issues. This procedure is very wasteful of resources in a service that is already under pressure.
- 6.10 The Review Team recommend that this process is reviewed with the objective of pushing back the deadline for member call-ins until later in the process when consultation responses are available, where possible amendments may have been

identified which may resolve concerns or where there is a clear intention to refuse what might otherwise have been a contentious application. This process could be managed by members flagging up with officers that they have an interest in an application (and this would be logged on the system), and the case officer then subsequently informing the member when the relevant information is available and what decision is likely and when. Here again this response would need to be flagged on the file but could take the form of a straightforward email. At that stage when they are fully aware of all of the issues the member would have the opportunity to call an application in.

- 6.11 Such a procedure would move from a position where there is an assumption that called-in cases will go to committee unless withdrawn to the position that applications will be determined under delegated powers unless they are called-in. Members will still have the opportunity to call-applications in but would be in a better position to make an informed decision. This would reduce the number of call-in requests significantly although it may not reduce the number of applications decided at Committee. It would certainly reduce abortive work and free up resources for more productive uses.

Single member wards

- 6.12 An issue which was raised with the Review Team was the concern about representation in single member wards. There are currently two wards which have only a single councillor but there will be more following the May 2022 local elections. The particular concerns were with 'call-ins' and speaking at Plans Committee.
- 6.13 The Council constitution provides for ward councillors to call-in planning applications. The process for call-ins and recommendations for its improvement are dealt with in paras 6.6-6.11. Any ward member can call-in a planning application for determination at Plans Committee. The concerns expressed were where a member in a single councillor ward wished to do so. The identified problem was where the ward member was also a member (or a potential substitute) at Plans Committee. Where a member in a single councillor ward has called-in an application the member should declare an interest, absent themselves from the Committee for the specific item and thus not engage in the debate or vote on the decision. They can speak as a ward member in accordance with the protocol for speaking at committee.
- 6.14 What is apparently absent from the protocols is the option of having another member to stand in at the call-in stage. In a two member ward this would not generally be an issue as non-plans committee ward members would be able to call-in and speak at committee to represent their constituents.
- 6.15 The protocol provides for the situation where a member calling-in an application is unable to attend the Committee. In these circumstances the ward councillor can nominate another councillor to speak on their behalf. The wording of the protocol ('unable to attend the committee') implies that this provision does not extend to single ward members who wish to attend the committee as a committee member but have called-in an application. They cannot speak as a ward member. There is no specific wording in the constitution or the member planning code of conduct which covers this situation. The Review Team recommend that the position is clarified in the wording of the relevant protocols and procedures.

- 6.16 There are two possible options, not mutually exclusive:
- Single ward members who are also Plans Committee members have to make a decision whether they (i) wish to call-in and speak on an application in their ward, acting in their role as the representative of their constituents, or (ii) to maintain their role as a member of the Local Planning Authority, sitting at the Plans Committee as a representative of the Council as a whole in exercising their planning judgement. Such a decision would have to be recorded and acknowledge that the two roles are mutually exclusive.
 - The Council introduces new provisions in its planning protocols which allow members in single wards who are also members of the Plans Committee to nominate another councillor to exercise the call-in and public speaking functions on their behalf.
- 6.17 The Review Team's view is that this is a decision for the Council as the issue of democratic representation is a general matter outside the scope of this review, but they do feel that it should be explicitly clarified, particularly with the prospect of more single member wards.

SECTION 6 RECOMMENDATIONS

Para 6.4

Adopt a template for delegated reports on the lines set out

Paras 6.10-6.11

Revise process for member call-ins

Paras 6.15-6.16

Clarify the position regarding member call-ins in single member wards

7 Pre application processes

- 7.1 If the authority is to shape development to meet the policies and objectives set out in the local plan engagement with developers before applications are submitted will be much more effective than waiting for applications to arrive and then attempting to negotiate improvements. The Planning Advisory Service identified the benefits in 2014 and their words as equally relevant today:

'Pre application engagement should lead to high quality and appropriate development schemes being granted planning permission more quickly. Early collaborative discussions between developers, public sector agencies and communities can help shape better quality, more accepted schemes. These developments can be brought forward more quickly and deliver improved outcomes for the community. These discussions also avoid wasted effort and costs.'

- 7.2 The situation in Charnwood, without a 5-year land supply and vulnerable to aggressive applications has perhaps not been the ideal position for pre-application engagement but this should improve with the forthcoming adoption of the Local Plan. A workable pre-application process will also improve the timeliness of processing applications and assist in meeting performance targets and provide a useful source of income. Following the POSe review of 2015 Charnwood introduced a formal pre-application process in 2017 with a comprehensive guidance note and introduced performance targets. These targets have not been met on a regular basis at a time when more priority has been given to processing applications.

- 7.3 The introduction of a formal process in 2017 was a significant step forward but the Review Team consider that it falls short in not pro-actively engaging members at the pre-application stage. Paragraphs 8.2 and 8.3 of the Members Planning Code of Good Conduct and Chapter 25 of the Council's Constitution relating to presentations to members provide the existing framework for how members should *respond* to applicants, objectors or developers who approach them requesting meetings or to make presentations. Currently they do not provide for the situation where there are positive benefits from the Council actively seeking to engage at the pre-application stage. The Code of Conduct, Constitution and Pre-application guidance are not consistent in their provisions and following a decision on what revisions are necessary to the pre-application process these documents need to be brought in line.

- 7.4 The importance of member involvement was outlined by the PAS and the LGA, again in 2014:

'LPAS should ensure that their pre-application offer provides an opportunity for councillors to be actively involved in pre-application discussions as part of a transparent process'

- 7.5 Any pre-application process, particularly where it involves members must be open and transparent and follow clearly established guidelines. It should allow members to have presentations so that they can fully appreciate potential proposals at an early stage and feedback comments through a properly managed procedure. Members may understandably be cautious about involving themselves and the possibility of pre-determination, but since the Localism Act 2011 Councillors are freer to speak

about planning applications and express a view provided that they have an open mind when the matter comes to them for decision. In any event, being familiar with proposals and being able to seek clarification must put them in a better position to make an informed decision. Better information at an early stage could also reduce the number of member referrals.

SECTION 7 RECOMMENDATIONS

Para 7.3

Revise the Pre-application process guidance to allow and encourage the Council to actively seek pre-application engagement with developers on significant schemes

Para 7.5

Introduce processes which would provide for both Plans Committee and ward members to be actively involved at the pre-application stage.

Paras 7.3-7.5

Revise the Members Planning Code of Conduct and the Protocol for Presentations to Members to facilitate Councillor involvement in pre-application engagement.

8 Enforcement

- 8.1 As with the overwhelming majority of local authorities across the country, the enforcement service at Charnwood is essentially a reactive process in that it responds to complaints rather than actively monitoring potential breaches. The Planning Enforcement Plan 2018 clearly sets out the enforcement process and the principles and priorities for the Council. There are three performance measures for enforcement relating to the acknowledgement of complaints, site visits and responses to complainants and performance is generally good although recent staff vacancies may have an impact.
- 8.2 The context for the current review is the democratic interface and members will often be involved in enforcement issues particularly where their constituents raise complaints. This can be a difficult area for councillors (and the public), particularly those not familiar with planning, as local disputes, including those between neighbours, are often not planning related or involve issues where it would not be expedient to take action. Misunderstandings can and do arise over such matters as, it not being an offence to not build in accordance with a permission, or, what may or may not be permitted development. Planning training for all councillors may help in this regard, but it is often the role of the enforcement officer to explain to members and the public what can and can't be resolved through planning.

The ward member referral system

- 8.3 What was of concern to the Review Team was the ward councillor referral system. The current Scheme of Delegation delegates decisions to (i) take enforcement action, and (ii) to determine cases where such action is not expedient, to the Head of Planning and Growth, except where a ward councillor wishes such decisions to be considered by Plans Committee. For both these options the process involves preparing a detailed report for ward councillors setting out the background and detail to the case, the planning issues involved, and the reasons for the recommendation. The ward councillor(s) then have 2 working days to respond, and if not in agreement with the recommendation the case is then referred to Plans Committee for determination. This involves a significant amount of work, including legal and senior officer time in signing off the report. The Review Team has seen ward member referral reports of 15+ pages. From the information made available to the Review Team relating to the last three years, no decisions have subsequently been made contrary to the officer recommendation.
- 8.4 There were 17 cases over the three years 2020/21/22 where serving an enforcement notice was recommended. In only one instance, following the ward member referral was a case reported to Committee which agreed the officer recommendation. In the other 16 cases the ward members accepted the officer recommendation and action proceeded through delegated powers.
- 8.5 Over the same period there were 71 cases referred to ward members where the officers recommended that it would not be expedient to take action. Again, over those three years only one case was subsequently referred to Plans Committee for decision and the Committee decided no action as recommended.

- 8.6 One consequence of this burdensome process is officers will look at what other avenues are available to resolve the matter rather than the prospect of preparing a report for ward councillors and a second, subsequent report for Committee. This is particularly tempting where no action is considered expedient, but this can result in many such cases remaining on file while officers move on to more immediate priorities.
- 8.7 There are significant problems with the referral process:
- The additional workload for staff who already have workload pressures.
 - The timescales involved in the process of preparing reports, getting them signed off, consulting members and then where necessary reporting to Committee are lengthy in a context where enforcement action is legally time limited.
 - It can result in 'non expedient' cases not being closed in a timely manner.
 - It involves members often with no training or experience in planning matters and no planning responsibilities making decisions about technical and legal planning issues.
- 8.8 The Review Team are not aware of any other English local authority with a similar process of ward member referral.
- 8.9 For the reasons set out the Review Team are recommending that the referral process for enforcement action is discontinued and all enforcement matters are delegated to the Head of Planning and Growth. To keep members informed regarding enforcement it is also recommended that a quarterly report on enforcement, including Planning Contravention Notices, Enforcement Notices, Breach of Condition Notices, Stop Notices, Section 215 notices and any appeals arising is circulated to members of the Plans Committee for information.

SECTION 8 RECOMMENDATIONS

Para 8.9

The procedure of referring both recommendations for enforcement notices and decisions not to pursue formal enforcement action to ward members is discontinued

Para 8.9

Officers circulate a quarterly report on enforcement matters to the Plans Committee

9 The Plans Committee

Composition of committee

- 9.1 The Plans Committee consists of 13 members, many of whom have been members of the committee for over five years. The Constitution allows for substitute members to sit on the committee in a committee member's absence, as long as they have undertaken the mandatory planning training.

Public access to Plans Committee meetings

- 9.2 Plans Committee meetings are currently held in the Preston Room of Woodgate Chambers, Loughborough. At the meeting which the Review Team observed, it was clear that the public seating area is not easily accessible to those with mobility issues and that although new screens have recently been installed for viewing officer presentations, they are not particularly easy to view from the public gallery. In discussions it was acknowledged that the room is not particularly appropriate for the Committee meetings and the Review Team understand that the venue may change in the long term.
- 9.3 For some years meetings of the Committee have been recorded and these audio recordings are then available from the Council's website. During the pandemic when meetings were held on a virtual basis the MS Teams recording were uploaded to the website allowing better access to information provided in the officers' presentations and a better understanding of the discussions taking place during the deliberation process.
- 9.4 Unfortunately the current committee room does not allow for video recordings to be made at a reasonable expense to the authority. It is highly recommended that, in the longer term and to facilitate public access to meetings, consideration should be given to finding an alternative venue for the Plans Committee that does allow for live streaming of meetings and suitable audio-visual recordings to be made for uploading to the website.

Length of Committee meetings

- 9.5 The Review Team have considered the agendas for Plans Committee over the previous 12-month period, commencing 26 May 2022 (see Table A below)

<i>Date</i>	<i>No of items</i>	<i>Comments</i>
26.05.22.	1	Appeal lodged because of non-determination. Indicated that they would have agreed application in line with officer recommendation
23.06.22.	3	1 item agreed as per officer recommendation 2 items returned to committee for agreement of amended conditions
21.07.22.	3	3 items agreed as per officer recommendation
18.08.22.	3	1 item agreed as per officer recommendation 1 enforcement case agreed as per officer recommendation to take action 1 item refused against officer recommendation
22.09.22.	3	1 item deferred 2 items agreed as per officer recommendation

20.10.22.	5	5 items agreed as per officer recommendation
24.11.22.	3	2 items agreed as per officer recommendation 1 item refused against officer recommendation
22.12.22.	4	4 items agreed as per officer recommendation
19.01.23.	1	1 item agreed as per officer recommendation
16.02.23.	0	Meeting cancelled
16.03.23.	1	1 item
12.04.23.	3	3 items agreed as per officer recommendation

- 9.6 Meetings of the Plans Committee are timed to commence at 17.00. The Review Team had been told that some meetings have continued until well after 23.00, partly because of the number of applications but also because of the number of public speakers (see paras 9.26-9.31 below) and the length of committee discussion. However, this does not seem to have been the case over the previous 12 months.
- 9.7 At the moment most of the authority's committees vote after 2.5 hours for a 3-hour cut off but this is not the case currently for meetings of the Plans Committee. Despite a lack of evidence that longer meetings are the "norm", the Review Team is of the view that there should be an opportunity to vote for a cut off after three hours, particularly because meetings are being held during the evening. It is widely acknowledged that applications considered after 22.00 are unlikely to receive the same level of engagement and scrutiny as those considered earlier in the evening. In addition, applicants and objectors may be kept waiting several hours for their item to be considered.
- 9.8 The Review Team also recommend that the number of items on a Plans Committee agenda should be kept to a level that is able to be handled within a 3-hour meeting, if at all possible. While there is an overriding impetus to get applications determined at the earliest opportunity there is scope for improvement in managing agendas through a more robust case management approach with a clear target for decision making, identified early on in the process and with workload prioritised accordingly. Such an approach can assist considerably in managing agendas and informing officers and key members of the likely timescales for determining major applications. Timescales can and will change but having a programme focusses and prioritises workloads.

Site visits

- 9.9 Currently, the Plans Committee visit sites on the afternoon of the Committee meeting. The visits are arranged by the case officers and Democratic Services with a coach/large minibus being hired each month. There are 2 concerns with regard to site visits. Firstly, they represent a significant cost to the authority. Secondly, a number of members do not attend mainly because of work commitments. All of the Committee members interviewed considered that visiting the sites of applications was extremely helpful, particularly as the case officer attends and will explain exactly where the development would be within the site. Not all applications benefit from a site visit and many sites can be viewed from the highway or public spaces. Decisions as to which sites need to be visited, so that members can fully appreciate the issues, should be taken by the Group Leader Development Management, where necessary in consultation with the Chair of the Plans Committee.

- 9.10 The Review Team observed the site visit undertaken on 12 April 2023. The protocol for site visits was adhered to throughout and an objector representative was dealt with fairly and discreetly by the officers who were present.
- 9.11 However, all Councillors expressed their frustration that only around half the committee are able to participate because of when the visits are held (on the site visit observed by the Review Team only 5 out of 13 members attended). It is difficult to suggest an alternative which would provide members with the same experience which would not involve changing the timing to an alternative when more members might be available. During the summer months this could be early evening, or alternatively at the weekend. If the time remains during the working day it is inevitable that some members will not be available. The Review Team is aware that some councils are now experimenting with drone fly throughs which are viewed at the Committee meeting with a commentary from the case officer when an item is introduced. In the longer term this may be an option that is worth exploring.
- 9.12 The Review Team's experience is that site visits for some proposals can be very helpful, particularly where issues of height, levels and terrain are involved. They can also forewarn officers of issues/concerns that members are likely to raise during the Panel meeting and this allows them time to seek further information if necessary. However, given the pressures on committee members time the Review Team has concluded that introducing any change to increase participation in site visits would be difficult, but that it would be helpful if it was emphasised to newly elected members that if they are unable to attend the formal site visits, they should independently seek to familiarise themselves with the sites being discussed. The 'dos and donts' of visiting sites independently would need to be stressed.

Chair's briefings

- 9.13 The Chair and Vice Chair attend a briefing meeting on the day of Plans Committee with the officers presenting in attendance as well as a member of the Democratic Services team. The Review Team observed the Chair's briefing on the afternoon of Wed 12 April. The meeting was efficiently run with each item being considered in turn and allowed the Chair to rehearse where any queries might arise and discuss the best way of dealing with potential issues that might arise, whilst at no time causing a potential predetermination by those councillors present. By this stage the Chair and Vice Chair have also received a script for the meeting which includes the finalised list of public speakers including the order for speaking and any other announcements that the Chair needs to make during the meeting.
- 9.14 It was clear that officers also found this meeting really helpful as it provided a good steer on political nuances that they may not have been aware of and allows them an opportunity to provide further information that the Chair/Vice Chair feel might be helpful at the Committee meeting. The Review Team's experience is that meetings such as this are always helpful and can also be enhanced if the Legal Officer is able to be present.

Officer reports to Committee

- 9.15 There was concern across the board about the length and detail entered into in the officer reports for Committee and the Review Team is aware that a new template for officer reports is currently in preparation.

- 9.16 The Review Team would suggest that the relevant policies should not be set out in detail but rather links to the policies should be provided, particularly where policies are again being quoted in full during the balancing of material considerations later in the report text. Details of consultation responses should be set out in an appendix rather than in the body of the report. Where responses have resulted in changes to a scheme or resulted in conditions being included or have been addressed through S106 requirements this can be pointed out in the report and be referenced to the specific consultation without going into extensive detail.
- 9.17 The Review Team would also recommend that adding an Executive summary at the front of the report would be helpful, although there was some concern amongst those interviewed that this would tempt committee members to only read the summary rather than the full report which would be counter-productive. On balance it is suggested that this is tried to aid the Committee to concentrate on the key material matters relevant in each case avoiding non-material matter.
- 9.18 It would also be helpful to review how internal consultations are dealt with in reports. These are dealt with in the body of the report under appropriate headings. The rationale behind this is that the report, as the report of the Head of Planning & Growth, takes account of the internal views of the service in coming to an appropriate balance. Other authorities include internal consultees' responses in their reports and then deal with what may be conflicting views in their appraisal. This can be interpreted as being more open and transparent, demonstrating that the views of specialists have been taken into account in coming to a balanced conclusion and recommendation.
- 9.19 All Committee reports are now uploaded into a relatively new Modern Gov system. This system has the advantage of ensuring that only one version of the report is available for amending, checking and publishing. It also enables elected members to then download their papers through an app which provides a facility for them to annotate their set of papers with their own comments for review during the meetings.
- 9.20 The Review Team understand that at the time of the Review there were four separate review checks on all Committee applications ahead of publication
- The appropriate line manager/team leader
 - Group Leader, DM
 - Head of Planning & Growth
 - Legal Officer.
- This level of oversight seems excessive, particularly as they are undertaken sequentially and within a very limited timescale. It demonstrates an exceptionally "risk averse" approach as well as impacting significantly on the lead in times for agenda publication and on the workloads of the officers concerned. It was estimated that these checks can take upwards of half a day for each officer, if there are an average of 4 applications on each agenda. The Review Team recommend that a single officer, either the appropriate Team Leader or the Group Leader Development Management, should have responsibility for signing-off committee reports and that the other officers currently involved should all be consulted concurrently and feed their comments back to the responsible officer.

Dialogue ahead of plans committee

- 9.21 The Review Team would strongly encourage contact should be made between members and case officers once the committee papers have been published, where clarification or further information was required. In addition, such contact can, on occasion, warn case officers about possible omissions in the report. In the Review Team's view this would not be seen as them pre-determining the application, and in authorities where members are pro-active in this way (within strict guidelines) it can significantly lessen the level of unnecessary questions raised at the committee meeting, allows Members to spend time productively on key material matters and is generally considered good practice.

Extras report

- 9.22 In 2015 the Review Team's report stated that

" ... the length and complexity of some of the 'extras reports' provided are wholly exceptional."

The report recommendation was:

Review the level of information that is provided in the Extras Report and consider the introduction of a publicised "cut off time" for late submission to be accepted.

- 9.23 It is clear that this recommendation has been implemented in full with the extras report now consisting of a simple update sheet.

Officer presentations to committee

- 9.24 The Review Team only saw officer presentations at one committee meeting. This limited observation showed variable standards of Committee presentation skills, which may benefit from some bespoke presentations skills training, but more importantly highlighted that presentations were, in the main, overly long and descriptive. It is understood that a template has now been produced for all Committee presentations to standardise style and assist officers in their preparation.

- 9.25 However, given that most applications have been subject to a site visit earlier in the day the Review Team would recommend that officer presentations should concentrate on the key material issues, especially those which are finely balanced or the subject of significant objection, rather than describing the scheme in detail. It is important to have key plans and photographs available, but these can be shown where necessary to answer questions or illustrate points of discussion. It is not necessary to describe every slide in detail. The Review Team have observed other authorities where the key issues for members to consider are usefully summarised and highlighted on a presentation slide. This may also have implications for the structure of officer reports.

Public speaking

- 9.26 Guidance for public speaking is currently held on the website and provides a clear and concise description of the process and warns about the length of time available to speakers and the cut off procedure if speakers overrun.
- 9.27 However, this guidance note is dated 2011 and the Review Team would recommend that the list of material and non material considerations should be reviewed against the lists attached at Annex C for update purposes.

- 9.28 Currently, requests to speak must be received 7 working days ahead of the meeting which is almost as soon as the agenda is published. At this stage, potential speakers will not have had the benefit of seeing the reports and whether their concerns have been addressed either through the recommendations or the conditions/S106, in which case they may decide not to speak. From reviewing the minutes of Plans Committee over the last year, it does not seem that there is a significant problem with late speakers being given permission to speak at the meeting but in the Review Team's opinion it would be better customer service to both objectors and applicants if the time limit on requests to speak were made more lenient. Many authorities say requests must be received at least 3 days before the meeting and this does not seem to cause significant issues in managing the meetings.
- 9.29 The Review Team has also been told that, at Charnwood there are sometimes occasions when, particularly objectors, notify that they wish to speak to the Committee at the same time as they lodge their formal objections to the application. This has apparently caused issues where such requests have not been picked up by staff ahead of the meeting. A clarification that requests to speak must be formally lodged with development management, after publication of the committee papers should be included in the public speaking guidance and in the letters forwarded to objectors to resolve this issue. It is also good practice that those applications with speakers should be brought forward to the beginning of the agenda.
- 9.30 The current guidance states that speakers are allowed a maximum of five minutes and that this time period may be shared between objectors if they are unable to agree on a single spokesperson for them. This also applies where both applicant and agent wish to speak. However, ward councillors are also offered the opportunity of a five minute speaking slot as are the appropriate parish council. This means, in reality, that there may be up to 20 minutes of public speaking on a single application which is rather higher than is recommended good practice. During discussions the Review Team heard concerns that any reduction in this time allowance would be considered unfair when there was no time limit on the length of time allowed for officers to make their presentations. This is not in any form a reasonable comparison as it assumes that the role of the council's expert professional advisors should be put on equal footing to objectors or applicants. However, there is a valid point that officer presentations can be excessively long.
- 9.31 It is recommended that the authority consider a change to the rules which would limit public speaking slots to 3 minutes. At the same time separate guidance on time for officer presentations should also be introduced as a discipline for officers. This is becoming more commonplace in other local authorities and which has improved the conciseness and focus of reports as outlined in para 9.25 above. Charnwood may also want to consider whether applicants should only be afforded the right of reply where there are objectors speaking against an application. Where an application is recommended for grant and there are no objectors wishing to speak it may seem unnecessary to allow an applicant the opportunity to speak in support of the recommendation. This situation occurred at the meeting attended by the Review Team and only served to prolong the meeting.
- 9.32 If a ward member calls in an application for any reason it is imperative that they should attend the Committee meeting to explain their reasons for doing so during the

public speaking period. Members of the Plans Committee were concerned and expressed frustration that this was not always the case. It is inevitable that on some occasions a ward member will justifiably not be able to attend, for either personal or professional reasons, but in that case they should be required to produce a written explanation for the call in of any application which can be read out by one of the attending officers or the Chair of the Committee.

- 9.34 The Review Team is aware of councils where if the ward councillor is not represented in this way at the Committee meeting then the item will be removed from the agenda at the beginning of the meeting and then subject to a delegated decision by the case officer. This is a hardline approach but has had the effect of ensuring that applications are now only called in when the ward member is able to justify such call in. The Review Team would suggest that Charnwood should consider such an approach.

Overturms of officer recommendations

- 9.35 In general terms it is essential that when members reach a contrary view to the officer recommendation they articulate a clear view of the reasons for doing so at that time and that these are minuted, Officers may be asked for advice during the meeting, thereafter it is considered acceptable for the final minor detailed finessing of the wording of reasons to be left to officers without further reference to the Committee. The minute should be clear on what the Committee has concluded and the reasons why. On the other hand, it is not, in the Review Team's view, acceptable for officers to be instructed to review the case and come back to Committee with reasons for the overturn for members to ratify.

- 9.36 The Review Team had heard that there have been some difficulties in getting Plans Committee members to clearly formulate material reasons for overturning an application. The Review Team were not able to observe an overturn to take a clear view on this but having reviewed minutes from the Committee over the last year there was at least one case where the Committee provided general grounds for their decision but then requested the officers to prepare the final wording of the reasons. This is not good practice and could lead to legal challenge on occasions. Where necessary a short adjournment or deferral to clarify the members' reasons may be a better approach.

Committee minutes

- 9.37 At Charnwood the Plans Committee minutes are a means of formally recording the decisions made by the committee rather than a verbatim description of the discussion and points raised. The Review Team notes that the grounds for overturn are provided in the minutes with the officers being given delegated authority to confirm the wording for the refusal.

- 9.38 The Review Team considers that this is the best way to provide a record of the meeting particularly when recordings are available online for checking discussion points.

Member training

- 9.39 The Review Team was surprised to hear one of the elected members remark that it would be "much better if officers did not make recommendations on their reports to committee as this inhibits the decision-making role of the Plans Committee". This,

and other similar remarks, illustrated to the Review Team that there is a wide level of misunderstanding amongst elected members, about the operation of the planning system and the external legal requirements that are placed on both officers and Plans Committee members as part of that process.

- 9.40 It is understood that there are quarterly training sessions held with the dates set well in advance. These sessions are mandatory for Plans Committee members and any substitute members, but are also open to all Council members although the Review Team heard that few outside of the Plans Committee members attend.
- 9.41 The Review Team would recommend proactively encouraging all members of the Council to undertake basic planning training in respect of how the current planning system works, both on a national and local level to provide context.
- 9.42 It is also considered that there would be a great deal to be gained by providing separate bespoke planning training for parish councillors who often request ward councillors' assistance to call in applications without a clear understanding of material considerations.

SECTION 9 RECOMMENDATIONS

Para 9.4

To facilitate public access to meetings, consideration should be given to finding an alternative venue for the Plans Committee that allows for live streaming of meetings and suitable audio-visual recordings to be made for uploading to the website.

Para 9.8

The number of items on a Plans Committee agenda should be kept to a level that is able to be handled within a 3-hour meeting, if at all possible, and that the arrangements for a vote, to continue or adjourn, after 2.5 hours should be introduced for the Plans Committee on the same basis as other committees of the authority.

Para 9.8

Introduce agenda planning and case management processes to provide early notice of committee cases and to manage numbers of applications on agendas

Para 9.9

Decisions as to which sites should be visited should be taken by the Group Leader, Development Management, where necessary in consultation with the Chair of the Plans Committee.

Para 9.11

In the longer term consider consider the timing of site visits or the use of drone fly throughs, to be viewed at the Committee meeting with a commentary from the case officer.

Para 9.12

Emphasise to newly elected members if they are unable to attend the formal site visits, they should independently seek to familiarise themselves with the sites being discussed.

Para 9.16

Consider providing links to planning policies in the text of officer reports rather than including the full text to avoid duplication with the quoting of policies again during the balancing of material considerations later in the report.

Para 9.16

Details of consultation responses should be set out in an appendix rather than in the body of the text.

Para 9.17

Add an executive summary at the front of the reports

Para 9.18

Review the way that internal consultations are dealt with in reports, to demonstrate that the views of specialists have been taken into account when coming to a balanced conclusion and recommendation.

Para 9.20

Either the appropriate Team Leader or the Group Leader Development Management should have responsibility for signing-off committee reports and that the other officers currently involved should all be consulted concurrently and feed their comments back to the responsible officer.

Para 9.21

Encourage dialogue ahead of the committee meeting between members and case officers to ensure clarification or further information can be provided and to warn of any possible omissions in reports.

Para 9.24

Consider providing bespoke Committee presentation skills training for officers

Para 9.25

Officer presentations should concentrate on the key material issues, especially those that are finely balanced or the subject of significant objection, rather than describing the scheme in detail.

Para 9.27

Review and update the list of material and non material considerations

Para 9.28

Shorten the deadline for receipt of requests to speak from 7 to 3 working days

Para 9.29

Clarify when and how objectors should request the right to speak to avoid requests being made within their formal written objections which can be easily missed once the committee papers are published.

Para 9.31

Consider a change to the rules which would limit public speaking slots to 3 minutes.

Para 9.31

Consider introducing guidance to limit the length of officer presentations.

Para 9.32

Ensure that if a ward member calls in an application to be heard at Committee that they attend in person to explain the reasons for the call in, or if unable to attend they produce a written explanation to be read out by one of the attending officers or the Chair of the Committee.

Paras 9.41

Proactively encourage all members of the Council to undertake basic planning training in respect of how the current planning system works, both on a national and local level to provide context.

Para 9.42

Provide separate bespoke planning training for parish councillors to promote a better understanding of material considerations.

10 Administrative and procedural issues

The validation, registration and allocation process

- 10.1 In Charnwood, the process of “validation” refers to the initial checking that all documents have been received and that the appropriate fees have been paid. This is undertaken by members of the team of technicians.
- 10.2 Once validated, cases are passed to Team Leaders for allocation to a case officer. The Review Team heard that this takes place twice a week but this delay can add several days to the process and cause a significant hold up in getting an application to the case officer. The Review Team would recommend that this process be frontloaded so that allocation takes place ahead of “validation”.
- 10.3 Once the case officer has received the file they are responsible for double checking all work undertaken by the technician and if everything is current then they “register” the application. The information provided to the Review Team would seem to indicate that this process takes case officers on average around 4 hours a week and for major applications this time estimate could be significantly higher.
- 10.4 In the Review Team’s experience this double checking of documents and fragmented process inevitably delays applications being considered and is an unnecessary duplication of work.

Documentation

- 10.5 The Review Team understands that the Group Leader Development Management is currently producing a much needed DM process manual but there is also an urgent need for both a local validation list and a completely revised list of standard conditions. It is understood that additional capacity may be made available to allow work to be completed on these urgent projects and the Review Team would endorse such an approach.

Tree preservation orders

- 10.6 Currently the Review Team understands that any objections to the issuing of Tree Preservation Orders (TPOs) are dealt with by the Appeals and Reviews Committee. However, the current Constitution states that The Plans Committee’s functions include:
“8. To carry out functions relating to the formal preservation of trees and protection of important hedgerows where the Head of Planning and Growth considers the exercise of delegated powers to be inappropriate.”
- The Constitution also says that the Appeals and Reviews Committee’s functions include:
“3. To determine objections to tree preservation orders”
- 10.7 There seems to be no logical reason for this split between functions, particularly as the members of the Appeals and Reviews Committee are not involved in the work of the Plans Committee..
- 10.8 In the Review Team’s experience elsewhere it is normally the case that all TPO are delegated with the Plans Committee only being involved if there is an objection to a new TPO or where a TPO may be in danger from new development, and it is

recommended that this current separation of functions is reviewed to bring Charnwood's procedures into line with best practice.

S106s and the emerging local plan

- 10.9 It is understood that work begins on S106s immediately after the Committee decision although the Heads of Terms have normally been agreed previously by the agent/applicant and the case officer. The authority should ensure that sufficient work on S106 obligations is undertaken prior to Committee to ensure that the legal test is satisfied that decisions should only be taken if the obligations overcome any potential reasons for refusal. Preparing them is mainly outsourced to a specialist firm of solicitors because of limited capacity in the authority's legal services. With a view to speeding up the process a S106 agreement template is currently under preparation and the Review Team would endorse this approach to standardising agreements as being current best practice.
- 10.10 In the course of the Review Team's research, however, two concerns have arisen relating to processes in respect of S106 agreements and the emerging local plan.
- 10.12 The first relates to the current policy situation at Charnwood. The Review Team saw an example of a decision on an application being referred back to the Plans Committee on the basis that the situation with regard to the emerging local plan had moved from 'limited' to 'moderate' weight, which the Review team felt was unnecessarily risk averse. This appears to have been a 'one off' and other similar applications are dealt with under delegated powers.
- 10.13 Secondly, the Review Team has heard that all signed S106 agreements are reported to the Senior Leadership Team for agreement. It appears that this is a corporate requirement before the authority's seal can be used and that this SLT review has not previously caused any issues. However, this seems unnecessarily bureaucratic and time-consuming for a service which is time critical to meet government targets. The Review Team would recommend that this process should be reviewed with the intention of exempting S106 agreements from this corporate process.

SECTION 10 RECOMMENDATIONS

Paras 10.2-10.4

Review the validation and registration process so that allocation takes place ahead of validation and seek to remove the current unnecessary double checking of applications at both validation and registration.

Para 10.8

The current separation of functions relating to objections to Tree Preservation Orders should be reviewed.

Para 10.13

The issue around signed S106 agreements having to seek approval from the SLT, should be reviewed at an early date to avoid unnecessary work being undertaken.

11 Staffing

Staff numbers and workload

- 11.1 There is no official indicator of an appropriate caseload for development management staff and the only benchmark widely quoted is the Planning Advisory Service's figure of 150 applications per officer per year which was published over 15 years ago. This takes no account of the mix of applications, what other duties are expected of case officers (pre-applications, appeals, prior notifications, general inquiries etc) and what IT systems the authority has in place and it therefore has only ever provided a very rough guide. More recent unpublished benchmarking undertaken by PAS suggests a more realistic figure might now be 80-90 cases per year, but this includes both case officers and support staff (but not managers).
- 11.2 The number of applications determined by Charnwood has averaged 1192 per year for the last 4 calendar years to December 2022. The number has remained fairly stable between 1110 in 2020 and 1263 in 2021 (All figures from DLUHC statistics tables 134). The number of case officers on the establishment is currently 10.6 although there were two vacancies at the time of the Review. This figure does not include the Strategic Development Team. Excluding the Team Leaders and support staff this works out to 112 cases per year on average. If support staff are included the figure would be nearer to the PAS figure of 80-90. This level of work is within the range of cases per officer that the Review Team has found in reviews undertaken across the country. This a comparative rather than an absolute assessment and does not imply that staffing levels are generous. Staffing levels across planning authorities have been under pressure across the country while expectations on the service have increased. Local factors such as the mix of applications are also relevant.
- 11.3 What these figures do imply is that the authority needs to look elsewhere to understand the underlying reasons for the comparatively poor performance if EoTs are excluded, and the pressures that staff feel. These reasons include:
- Delays and procedural 'bottlenecks' at registration, validation, and sign off
 - Delegation arrangements for call-in cases
 - Reliance on EoTs
 - Risk averse culture
 - Lack of emphasis or understanding of performance issues

Management and structure

- 11.4 Issues of the risk averse consultation and sign off process for committee reports have already been covered in para 9.20. The brief for the current review excluded structural and management issues except where they impinged on the democratic interface and business efficiencies. This report does not explore these matters in any detail but the Review would wish to highlight areas which the authority could usefully examine in the future.
- 11.5 **Role of managers:** Managers in Development Management are very often the most experienced staff with a strong history of dealing with complex cases, and there is always the temptation for them to deal with some of the more involved applications. The DM Team Leader at Charnwood was carrying a personal caseload of 16 applications at the time of the review. If managers are to fulfil their primary function of

managing the workload of their team effectively and efficiently they should not have a personal caseload.

- 11.6 **Managing Major Applications:** There needs to be a robust system in place to manage major applications through from pre-application to determination. Managing these applications is a pro-active rather than reactive function with a regular review meeting of all cases led by a senior manager.
- 11.7 **Performance management:** this has already been explored in some detail. Performance management needs to be embedded at all levels in the organisation. This is not about meeting what some might consider 'arbitrary' targets – although this can be very important if the authority is risking failure against national criteria. Performance management is about providing a good and timely service to its users and the community and which is efficient and cost effective.
- 11.8 **Resilience:** There were clear indications that the admin and support functions in application processing did not have the back up and resilience necessary. This applied to validation and registration, allocation, managing consultations as well as signing off applications. All of these processes will need to be incorporated in the new IT system to be introduced later in the year. This will be a resource hungry process and the authority should not underestimate the staffing and training implications which will be needed for a successful transition.

Use of Interim Staff

- 11.9 Recruiting and retaining planning staff in the public sector is an acknowledged problem nationally and as seen in the current consultation on fees and performance is acknowledged by Government. Charnwood has experienced continuing difficulties in recruiting staff over recent years and has been reliant on contract planners to cover vacancies. Many if not most local authorities are employing interim staff at most levels although, as at Charnwood, the position is most acute for senior/principal planner posts. At the time of the Review Team's visit 6 of the 9 posts currently occupied in the development management team at senior/principal level were temporary contract staff (see organisation chart at Annex D). Employing interim staff has been essential to maintaining the service and at the moment remains the most likely solution to filling posts. The interim staff employed at Charnwood provide a valuable asset to the authority (this isn't always the case in other authorities). However, there are disadvantages in the reliance on temporary staff:

- Potential for rapid turnover
- Lack of familiarity and commitment to the area and cases
- Doesn't provide for staff career progression or training/mentoring responsibilities
- Less opportunity to develop working relationships at officer and member level
- Costs are higher than permanent staff

Realistically Charnwood will need to rely on a level of interim staff in the short/medium term while recruitment measures nationally and locally are progressed.

Recruitment and Retention issues

- 11.10 There is no 'magic bullet' to solve the problems Charnwood and most other local authorities are facing. Salaries are a factor in both recruitment and retention, and there was a feeling that Charnwood wasn't competitive in this respect, but many other factors can also have an impact. Training opportunities, career progression,

variety of work, levels of responsibility, working in a well performing authority can all play a major part professionally, while flexibility of working arrangements, working environment and the quality of the area are also relevant. Charnwood is restricted in the levels of salaries it can afford when compared with the larger city authorities in the area. Establishing Charnwood as a 'good place to work' with an interesting variety of development and a growth agenda is probably going to be a more effective and practical option in the future than financial incentives. This does not rule out individual hard to fill posts which may need higher grading or market supplements and the Review Team is aware that these options are being explored. Initiatives to 'grow your own planners' by taking on entry level candidates and the potential to work with the newly established planning school at Loughborough University are to be encouraged, although these must be seen as medium to long term solutions.

Relationships with members

- 11.11 The Review Team heard from both officers and members that their day to day working relationship was generally good. Members did have concerns about lack of response to emails and requests for meetings and this needs to be addressed. An acknowledgement may be all that is needed. It is understood that this should become easier when the new back office software is fully operational.

SECTION 11 RECOMMENDATIONS

Para 11.11

Ensure that all emails from elected members are at least acknowledged.

Interviews and workshops held

Rob Mitchell, Chief Executive
Karey Summers, Director of Customer Experience
Richard Bennett, Head of Planning & Growth
Carolyn Tait, Group Leader, Development Management
Susan Garbutt, Interim Team Leader, Development Management
Sarah Hallam, Acting Team Leader, Planning Enforcement
Steve Holmes, Senior Technical Officer
Kathryn Harrison, Legal Officer
Karen Widdowson, Democratic Services Manager
Karen Barton & Sharon King, Development Management Support Officers (together)

Cllr Jonathan Morgan, Leader of the Council
Cllr Richard Bailey, Cabinet Lead Member for Planning
Cllr Hilary Fryer, Chair of Plans Committee

Workshop with group of Development Management planners attended by:

Linda Walker, Interim Principal Planning Officer
Akram Mohammed, Interim Principal Planning Officer
Debbie Liggins, Senior Planning Officer
Harry White, Planning Officer
Paul Oxborough, Planning Assistant
Lydia Bailey, Planning Assistant

Focus workshop for elected members attended by:

Cllr Sue Gerrard, Plans Committee
Cllr Sandy Forrest, Plans Committee
Cllr Colin Hamilton, Plans Committee
Cllr Mark Charles, Plans Committee
Cllr Paul Ransom, Plans Committee
Cllr Anne Gray, Plans Committee
Cllr David Snartt, ward member viewpoint
Cllr Mary Draycott, ward member viewpoint
Cllr Margaret Smidowicz, ward member viewpoint
Cllr Jenny Bokor, ward member viewpoint

Charnwood Planning Performance Tables

TABLE 1 Speed of decision-making - Major Applications

Rank		Decisions	Within 13 weeks	PPA/EoT	Within PPA/EoT time	Within 13 weeks or agreed time
	National	23,444	4,729 (20.2%)	17,053 (72.7%)	15,548	86.5%
169	Charnwood	60	3 (5%)	54 (90%)	51	90%
106	Blaby	33	10 (30.3%)	22 (66.7%)	21	93.9%
323	Harborough	82	15 (18.3%)	44 (53.7%)	41	68.3%
328	Hinckley & Bosworth	90	12 (13.3%)	57 (63.3%)	46	64.4%
207	Melton	62	3 (4.8%)	55 (88.7%)	50	85.5%
144	NW Leics	110	44 (40%)	60 (54.5%)	56	90.9%
288	Oadby & Wigston	12	2 (16.7%)	9 (75%)	7	75%

Designation threshold: 60% determined within 13 weeks or agreed extended period

Source: DLUHC live planning table 151A Jan 2021 – Dec 2022

TABLE 2 - Quality of decision making – Major Applications

Rank		Major Decisions	Not determined	Total	Appeal decisions	overturned	%
	National	25,053	184	25,237	1,442	547	2.2
275	Charnwood	73	1	74	4	3	4.1
207	Blaby	45	0	45	1	1	2.2
217	Harborough	85	0	85	2	2	2.4
267	Hinckley & Bosworth	91	0	91	10	3	3.3
161	Melton	61	1	62	2	1	1.6
1=	NW Leics	128	0	128	2	0	0.0
1=	Oadby & Wigston	17	0	17	0	0	0.0

Designation threshold 10% appeal decision overturned at appeal as percentage of decisions made (excluding appeals relating only to conditions)

Source DLUHC Live planning table 152: 24 March 2020 – June 2021

TABLE 3 - Speed of decision making - Non-Major Applications

Rank		Decisions	Within 8 weeks	No with PPA/EoT	Within PPA/EoT time	% within 8 weeks or extended time
	National	709,797	346,812 (48.8%)	286,919 (40%)	25,662	85.2%
120	Charnwood	2,173	421 (19%)	1614 (74%)	1553	90.8%
64	Blaby	1,300	357 (27.5%)	897 (69%)	881	95.2%
285	Harborough	1,772	934 (52.7%)	450 (25.4%)	424	76.6%
339	Hinckley and Bosworth	1,348	337 (25%)	425 (31.5%)	289	46.4%
190	Melton	854	222 (26%)	550 (64.4%)	505	85.1%
179	NW Leics	1,405	652 (46.4%)	619 (44%)	566	86.7%
216	Oadby and Wigston	744	239 (32.1%)	430 (57.8%)	386	84.0%

Designation threshold: 70% of applications determined within 8 weeks or agreed extended period

Source; DLUHC Live planning table 153: Jan 2021 – December 2023

TABLE 4 - Quality of decision making - Non-Major Applications

Rank		Total Decisions	Not determined	Total cases	Appeal decisions	Overturns	%
	National	666,407	969	667,376	24,023		1.0
54=	Charnwood	2,109	2	2,111	50	8	0.4
13	Blaby	1,202	0	1,202	25	2	0.2
76	Harborough	1,751	1	1,752	44	10	0.6
280=	Hinckley and Bosworth	1,352	3	1,355	57	18	1.3
170=	Melton	791	1	792	27	7	0.9
21	NW Leics	1,366	1	1,367	24	4	0.3
35=	Oadby and Wigston	653	0	653	7	2	0.3

Designation threshold: 10% of total decisions overturned at appeal (excluding appeals related only to conditions)

Source: DLUHC Live planning table 154 Quality of non-major decisions: March 2020 – June 2021

TABLE 5 - Applications received, decided, granted and delegated and environmental statements received to year to end of December 2022

Authority	Application received	With ES	Subject to PPA	EoT (% of decisions)	Total decisions	% delegated	granted	% granted
National	409,459	349	2,044	165,564 (42.9%)	385,758	96	336,538	87
Charnwood	1,286	1	0	928 (80.3%)	1,155	97	1,073	93
Blaby	624	0	0	378 (60.1%)	629	97	577	92
Harborough	1,128	0	1	250 (26.3%)	951	95	868	91
Hinckley and Bosworth	724	1	10	292 (35%)	834	94	779	93
Melton	486	0	0	323 (64.9%)	498	97	474	95
NW Leics	817	0	0	382 (49.6%)	770	99	707	92
Oadby and Wigston	310	0	0	275 (77.2%)	356	98	319	90

Source: DLUHC Live planning tables; Table P134: 1 Jan-31 Dec 2022

Material Planning Considerations

All applications must be treated on their planning merits. However, the law requires that any decision shall be in accordance with the statutory development plan and the National Planning Policy Framework, unless material considerations indicate otherwise.

- 'Up to datedness' of the development plan
- Government policy and the NPPF
- Statutory consultation responses
- Supplementary Planning Documents
- Prematurity
- History
- Layout, density, design/appearance, character (Design & Access Statement)
- Amenity: daylight, sunlight, privacy
- Noise, smell or other disturbance (eg. A nightclub in a residential area)
- Access/traffic (parking and road safety issues)
- Conservation/listed building impact (ie. Harm to their character, appearance or setting)
- The provision of affordable housing
- Fear of crime
- Local economy and employment generation
- Cumulative impact
- Previous similar decisions
- Rarely, personal circumstances
- Intention to undertake unauthorised development (when determining retrospective applications)

These other material considerations may in fact be covered by general policies in the development plan. The list above is by no means exhaustive.

Draft development plans can also influence the Council's decision, although they normally carry less weight as they have yet to be formally adopted. Nevertheless, the planning authority may use them to help decide applications if, say, the statutory plan is out of date.

Non-Material Considerations

There are a number of matters often raised by objectors which are not material planning considerations.

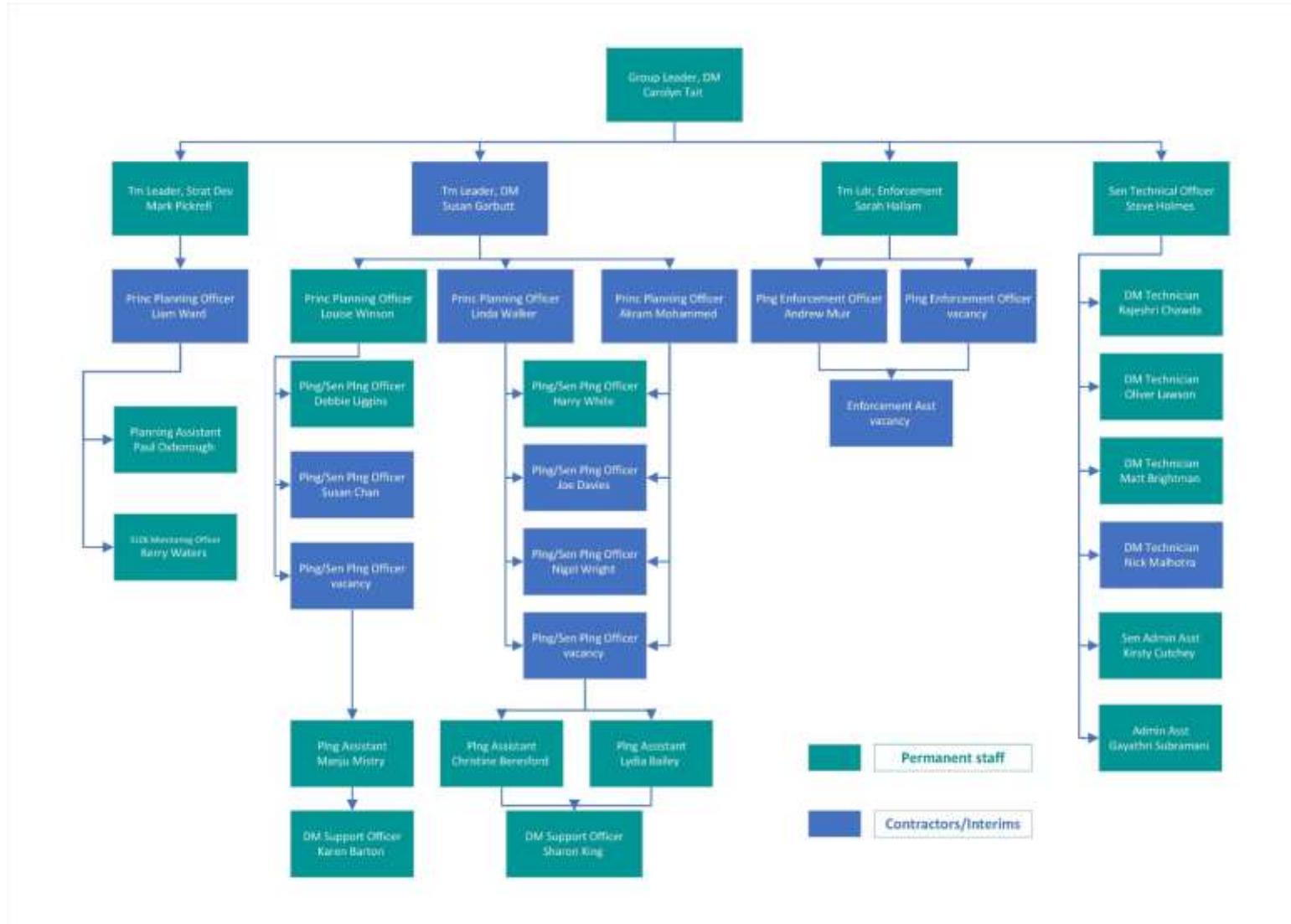
These include:

- Impact on property values
- Profit
- Ownership of land/right of access
- Work has already been carried out
- Commercial competition
- Moral objections to development like public houses or betting shops
- Loss of private views
- Restrictive covenants
- History of the applicant
- Change from previous scheme
- Matters covered by other legislation

The local planning authority should not take these issues into account when making its decision, which must be based on the planning merits of the application.

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ANNEX D



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