

PLACE SELECT COMMITTEE

SCRUTINY REVIEW OF PLANNING (DEVELOPMENT MANAGEMENT) AND ADOPTION OF OPEN SPACE

1.0 Executive Summary

1.1 This report presents the outcomes of the Scrutiny Review of Planning (Development Management) and Adoption of Open Space.

1.2 The overall aim of the review was to examine the work of Stockton-on-Tees Borough Council's (SBC) Planning Service, namely pre-application advice, the effectiveness of the Council's planning support service (resources / performance) and planning enforcement. In addition, the review focussed on the issues surrounding the maintenance and adoption of open space land on new residential developments.

1.3 The Committee examined the following key lines of enquiry:

- How effective is the current planning support function (national performance indicators, responding to demand (applications / complaints))?
- How does the service compare with other Local Authorities in terms of income generation and resources available within the team? How has this changed over time, and how has COVID-19 impacted the service?
- Is officer practice consistent and transparent in the process elements of providing pre-application advice, making planning decisions and planning enforcement (e.g. how the Council considers pre-application queries, report content, and approach to enforcement (unauthorised developments / breaches of approved applications))?
- What themes are emerging from planning complaints regarding how a decision is made (rather than the merits of the decision) – how is this being reflected in future planning consideration / support (if valid)?
- How many open space areas on new developments could feasibly be adopted by SBC or other public body – what are the barriers to this?
- How are developers being held to account regarding maintenance of such open spaces? How are fee-paying residents' concerns heard and acted upon?
- What realistic options exist to ensure open land on new developments is maintained in an appropriate way to support a positive image of the Borough? What can be learnt from approaches outside Stockton-on-Tees?

1.4 The Select Committee's key findings were as follows:

- The planning system should be viewed as an assessment, rather than a set of 'rules', based on the individual merits of each case.
- Funding for Stockton-on-Tees Borough Council's (SBC) planning system is mainly obtained through 'major' (large scale commercial schemes) applications; however, a higher proportion of officer time is spent on householder applications.
- In the Tees Valley region, SBC receive the second highest amount of planning applications, with Darlington Borough Council being the highest. Most applications are submitted online. From 2017/18 to 2021/22, 77% of applications received by SBC were from householders. 4% of applications were for 'major'

schemes. On average, SBC receive 1350 pre-applications per year, again these are mainly from householders (53%).

- The level of planning applications fell during the first half of 2020-21, due to the COVID-19 pandemic, but returned to pre-COVID levels by Christmas 2020, and rose in the year 2021-2022.
- On average, SBC receive 450-500 enforcement cases a year. Cases have increased year on year between 2017-2022. Generally, there is 4-year enforcement period for operational development and 10-year period for use of land and breaches of condition. These timeframes may change within the Levelling up and Regeneration Bill.
- SBC is achieving governments set targets for speed (decision made within target or within an agreed extension of time) and quality (percentage of the total number of decisions made that are then overturned at appeal). It is not yet known what the implications of the Government's Levelling-Up and Regeneration Bill will be for the service.
- SBC has a corporate complaints procedure. In general, complaints are based on disgruntlement about the outcome of an application. In the last 15 years, the Council has not been found of causing injustice by the Local Government and Social Care Ombudsman (LGO).
- Since 2017/18, SBC has won 96 planning appeals, which was more than double the number of cases lost (47).
- SBC has a comparative number of planning services staff to the five Tees Valley Local Authority areas. Between 2016 and 2022, the number of planning service staff has reduced from 21 to 16. As part of a planning services review in 2019, Senior Enforcement Officer and Enforcement Officer posts were deleted. Within the service, the number of Planning Officers has increased from four to six. Planning enforcement is now dealt with by Planning Officers who have always been involved in the enforcement process.
- The current SBC planning service structure is the minimum the service could operate on and there would be a risk to service delivery with fewer staff. The option to recruit a dedicated enforcement officer, if required, could be explored.
- There is a shortage of qualified Planning Officers across the North-East of England and an issue of qualified staff being recruited into the private sector or recruitment agencies. Some other local authorities are recruiting more senior planning officers and offering higher salaries to attract and retain more experienced planning officers.
- SBC provide a discretionary 'One Stop Shop' online pre-application advice service. The service's target response time is 15 working days. SBC is one of two councils in the Tees Valley, along with Redcar & Cleveland Council, who do not currently charge for their pre-application service.
- Based on figures from benchmark authorities, it is expected that the number of pre-application enquiries would reduce significantly if SBC charged for the service.

- The methods for identifying the type and size of open space required on a new development, as part of the planning application process, were explained as part of this review. The Council only have the power to inform developers on the size of open spaces and how they should be maintained. Lower maintenance options for open space areas, including grassed areas, bulbs and trees were raised. It should also be noted that the Crime and Disorder Select Committee have concurrently undertaken a Scrutiny Review of Tree Asset Management.
- A commuted lump sum (for the equivalent of 25 years maintenance) is required to adopt open space. Consequently, developers are hiring external management companies to maintain their open spaces. Budget and resource constraints prevent SBC from adopting more open spaces without the financial contribution and there are resource pressures with maintaining already adopted open spaces.
- It was highlighted that it would be useful for residents and Members to be able to access a list or database which would include the locations of open space across the borough and the contact details for the management companies responsible for each space.
- The review included site visits to five residential developments across the Borough to view the differences and similarities between privately maintained and SBC maintained open spaces. The visits provided Members with the opportunity to express some of their concerns (and residents' concerns) over the variances in maintenance levels.
- Responses on the effectiveness of SBC's Planning function was requested from developers and agents. Feedback was generally positive, and SBC was highly regarded within the Tees Valley region for its approach and assistance with planning applications.

Conclusion

This review has provided an opportunity to present an overview of Stockton-on-Tees Borough Council's (SBC's) planning service and its good performance measured against national targets as well as regionally. The merits of the planning pre-application advice service have also been outlined along with the positives and negatives of charging for pre-application advice.

Through this review, the Committee have acknowledged that, due to financial issues, the preference for developers to contract private companies to maintain open space on new developments is likely to continue. Therefore, it is necessary that there is a greater degree of transparency and accountability regarding the maintenance of open spaces and any changes to charges passed on to residents for this service.

Consequently, our recommendations focus on the need to review current planning enforcement powers and planning conditions for the maintenance of open space. It has also been recognised that the current pre-application process should be re-evaluated and options for charging for pre-application advice should be explored.

Recommendations

1. That options for introducing a charge for pre-application advice for larger developments, but not for households/individuals, are investigated.
2. That the current response time of 15 working days for pre-application enquiries is re-evaluated to determine if it should be extended.
3. That current planning enforcement powers are reviewed and the opportunity of employing an enforcement officer is explored.
4. That *Maps @Stockton* is enhanced to provide information on those responsible for the maintenance of individual open spaces across the borough.
5. That Stockton-on-Tees Borough Council (SBC) provide guidance to town or parish councils, where approached, and continue to liaise with developers on adoption of open space.
6. That planning conditions for maintenance of open space be reviewed and options for SBC to obtain a copy of the maintenance agreement for each new residential development is investigated.