

**Subject:** Audit Commission report  
 Probity in Planning  
 Including Ethical governance  
 arrangements

**Status:** For Publication

**Report to:** Audit Committee  
 Standards Committee  
 Full Council  
 Development Control

**Date:** 4<sup>th</sup> December 2008  
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 16<sup>th</sup> February 2009

**Report of:** Executive Director - Business

**Portfolio Holder:** Regeneration and Leisure - and Finance and Resources

## 1. PURPOSE OF REPORT

- 1.1 To inform Members of the content of the recently received Audit Commission report Planning and Probity.

## 2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective.

- Delivering Quality Services to Customers (Customers, Improvement)
- Well Managed Council (Improvement, Community Network)

## 3. RISK ASSESSMENT IMPLICATIONS

- 3.1 Failure to implement the Action Plan will mean we are at risk of not meeting the ethical standards and governance which Central Government is driving through.

## 4. Probity in Planning Review

- 4.1 The objectives of this review were as follows:

- To review the progress made by the Authority in addressing the issues raised in our previous audit of Probity in Planning, and any that have arisen subsequently the previous review took place at the time the Council was rated poor by the Audit Commission and the Council had received adverse publicity as the worst planning department in the Country .

- To review current performance in relation to the handling of planning applications, including action taken to resolve complaints
- To review current initiatives designed to secure improvements

## **5 Findings by the Audit Commission**

- 5.1 The Authority has made very good progress in improving its arrangements for ensuring probity in the planning process since our previous audit review in 2002-03. The majority of actions set out in the action plan that was produced on that occasion have been addressed, and action is in hand to deal with the remainder.
- 5.2 There is a new sense of leadership in the Planning function that is engendering significant cultural change. This has brought about improved performance in processing planning applications and securing Section 106 ("s.106") agreements to ensure that the local community benefits from major development schemes.
- 5.3 Working relationships between Members, officers and external stakeholders are much improved. Members on the Development Control Committee (DCC) in particular are now more willing to undertake training to enable them to fulfil their responsibilities more effectively. All this has led to a greater success rate for the Authority in defending planning decisions on appeal, and to a significant reduction in the level of complaints to the Planning Ombudsman, from 15 in 2006 to 1 for the first three months of 2007.

## **6 Progress since 2002/03**

- 6.1 A new Head of Legal and Democratic Services (now Director of Business) was appointed in January 2006, and took over responsibility for the planning function as Head of Legal and Planning in October 2006. Since then the structure and function of the Planning Service has been reviewed and an Improvement Plan has been produced and implemented.
- 6.2 The Council adopted a new Democratic Renewal Constitution in March 2005, which includes a Planning Code of Good Practice and a Scheme of Delegation (SoD). Member training has taken place on the new constitutional arrangements, the Planning Code and the SoD, but both the latter documents are being revised at present. The Planning Code of Good Practice is to be replaced by a Planning Code of Conduct, to reinforce the importance of adherence to appropriate standards when dealing with planning applications. This needs to include guidance for those Members who may occasionally attend DCC as substitutes for regular Planning Members.
- 6.3 Following poor performance on planning PIs in 2006, the SoD was revised to improve levels of delegation and working relationships between Members and officers. The revised version was considered by a Constitutional Working Group in October 2007 but has yet to go to Cabinet. This needs to be expedited in order to help optimise performance on planning PIs and hence the Council's entitlement to Planning Delivery Grant.

- 6.4 The new management arrangements in the Planning Service, coupled with changes in the membership of the DCC, have resulted in a major cultural shift from the secretive and opaque atmosphere that prevailed at the time of our previous audit review to a much more open and transparent approach. The Head of Legal and Planning and the Chair of the DCC provide dynamic leadership that has led to much better working relationships between Members and officers. This in turn has acted as a catalyst for significant improvements in policy, procedure and performance. For example, the Improvement Plan included a review of the arrangements for securing s. 106 agreements. This has, among other things, resulted in retrospective agreements being put in place for twelve long-standing major planning applications where no such agreements had originally existed.
- 6.5 Relationships between the Council's Planning Service and external stakeholders such as the Rossendale Civic Trust have also improved dramatically in recent years. The Trust considers that this improved relationship could usefully be extended to include such bodies as the Council for the Protection of Rural England (CPRE). The CPRE has a local branch in the area, and the Trust feels that they would make a positive contribution to the further development of the planning process in Rossendale. Improved dialogue with the media is also occurring.
- 6.6 A new corporate performance management system (COVALENT) and planning management system (Northgate M3) were introduced during 2007, together with better systems for monitoring planning performance and file control.
- 6.7 All Council Members have basic training on planning issues as part of their Induction training, in case they have to act as "substitutes" on the DCC. A good range of technical training is provided for regular DCC Members, and with one or two exceptions they are now much more willing to participate in this. All Members receive an annual review of their training and development needs through a process known as Personal Performance Planning (PPP), although it is not clear whether this extends to formal appraisal of their performance. The Council might usefully consider introducing a performance appraisal scheme for Members, although this may evolve anyway as part of future legislative developments.
- 6.8 The Council's Standards Committee has no significant governance or probity concerns at present. However, the Chair of the Committee highlighted a general need for Members to become more commercially aware, and to have a better appreciation of the needs of the local business community while observing the need for statutory compliance. Also, some Members may need additional help in understanding and extracting relevant issues from Government papers, audit reports and Standards Board publications, etc.
- 6.9 The Council is achieving a generally better success rate in defending appeals against planning decisions. The Head of Legal and Planning provides the DCC with regular feedback on issues arising from appeals, and this acts as a useful form of training for DCC Members.

6.10 Members are now giving their reasons for overturning officer recommendations, and these are recorded in the minutes of DCC meetings. The use of site visiting to help assess planning applications is also better controlled. Although these are the norm for applications decided by the DCC, alternative methods such as pictures and montages are used as well. Members travel to site visits in an officially-provided bus, and unofficial site visits by individual Members are discouraged. Officers record proceedings at site visits, and ensure that any lobbyists attending are not allowed to exercise undue pressure on Members.

## **7 Planning performance**

7.1 The Council's performance in processing planning applications has improved to the point where it is no longer subject to "special measures". Government targets for the percentage of "minor" applications processed within 8 weeks of receipt have gradually increased from 55% in 2003-04 to 65% in 2006-07, while the percentage targets for "other" applications have increased from 70% to 80% over the same period. However, the Council's actual performance has comfortably exceeded these targets throughout this period.

7.2 In 2007-08, performance in processing major planning applications exceeded the Government target for the first time in four years. For that year, the target was 60% of applications processed within 13 weeks of receipt. The Council's actual performance was 62%.

**8 Complaints** -73 complaints were received in 2006-7, but this went down to 47 in the first ten months of 2007-8. Complaints made against planning decisions is reducing. The quality of Rossendale's Planning decisions is good and there are little grounds for justified complaints

8.1 No major probity issues were identified in the complaints received. The majority of complaints concerned administrative delays or failure to respond to correspondence, telephone calls, etc. The complaints register has been analysed to identify any learning points, mainly concerning communications with clients and validation of development descriptors, and these have been disseminated to the staff concerned.

8.2 Ombudsman complaints - The Ombudsman has acknowledged Rossendale's good work to put new complaints-handling procedures in place, and has praised the Council's openness and willingness to take action to resolve problems – complaints are down from 15 in 2006 to 1 for the first 3 months in 2007.

## **9 Recommendation Action required**

9.1 The Audit Commission conclude that the following recommendations are agreed to be actioned by the Council

*R1 Revise the Member Code of Good Practice into a Member Code of Planning Conduct (to include the use of "substitutes") and develop an Officer Code of Conduct*

*R2 Agree and implement the revised Scheme of Delegation*

*R3 Establish an effective working relationship with the Council for the Protection of Rural England (CPRE)*

- R4 Draw up an engagement strategy aimed at improving relations with the local media*
- R5 Monitor and appraise Member effectiveness and related training needs, including those of "substitute" DCC Members*
- R6 Provide training to Members to help them develop their business knowledge and awareness*
- R7 Complete the Core Development Strategy and the Local Development Plan by 2008 and 2010 respectively - link to development of s.106 policy framework.*
- R8 Ensure that regular progress reports and closing statements are produced for Members, officers and developers in respect of all s.106 agreements*
- R9 Complete the remaining actions of the 2003 "Probity in Planning" Action Plan relating to production of guidance on information disclosure, inclusion of social services provision in the s.106 policy framework, and the development of costing mechanisms to support and inform this framework.*
- R10 Monitor the operation of the revised arrangements for public "call-in" of planning applications*

**COMMENTS FROM STATUTORY OFFICERS:**

**10. SECTION 151 OFFICER**

10.1 There are no financial implications arising from this report.

**11. MONITORING OFFICER**

11.1 Its important to recognise the work of the Planning team in the achievements we have made to date. It's also important to recognise the role that members have played in raising the profile of Planning and ensuring we have robust systems in place to ensure we make transparent decisions and the Members Code of Conduct is followed.

**12. HEAD OF PEOPLE AND ORGANISATIONAL DEVELOPMENT (ON BEHALF OF THE HEAD OF PAID SERVICE)**

12.1 There are no Human Resources implications.

**13. CONCLUSION**

13.1 The Audit Commission inspection report is really positive about how things within the Planning Department have improved and changed. This is a reflection of the hard work of Members and Officers at the Council.

**14. RECOMMENDATION(S)**

14.1 That the area for Development and recommendations outlined in paragraph 9.1 are agreed and implemented as part of the Planning Unit Improvement Plan.

14.2 Progress on such matters to be reported to a future Audit Committee.

**15. CONSULTATION CARRIED OUT**

15.1 None.

**16. EQUALITY IMPACT ASSESSMENT**

Is an Equality Impact Assessment required No

**17. BIODIVERSITY IMPACT ASSESSMENT**

Is a Biodiversity Impact Assessment required No

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Appendices	
Appendix A	Audit Commission report