



Title of Report:	Review of Planning Service
Committee Report Submitted To:	Corporate Policy and Resources
Date of Meeting:	28th September 2021
For Decision or For Information	For decision (In Committee)

Linkage to Council Strategy (2021-25)	
Strategic Theme	Improvement and innovation
Outcome	Council maintains its performance as the most efficient of NI's local authorities
Lead Officer	Chief Executive

Budgetary Considerations	
Cost of Proposal	£20,000
Included in Current Year Estimates	NO
Capital/Revenue	0 / £20,000
Code	
Staffing Costs	£20,000

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	No	Date:
	EQIA Required and Completed:	No	Date:
Rural Needs Assessment (RNA)	Screening Completed	No	Date:
	RNA Required and Completed:	No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	No	Date:
	DPIA Required and Completed:	No	Date:

1.0 Purpose of Report

The purpose of this report is to deliver the findings of the independent review of Planning.

2.0 Background

2.1 Council at its meeting on 1st September ratified the recommendation of Corporate Policy and Resources held on 25th August 2020 as follows:

“Given the strategic significance of planning to Causeway Coast and Glens Borough Council – this Council calls for a full Independent review of Planning processes by an appropriate qualified Body or Group, to include Services Users, Agents and Applicants; and for this to be carried out within a 6 months’ timescale”

2.2 Council subsequently approved (1st December 2020) a direct award contract to Mr Jim Mackinnon to provide a full independent review of the Council’s planning functions and processes, to include service users, agents and applicants.

2.3 A copy of the full report is included in **Appendix 1**.

3.0 Recommendation

It is recommended that the Corporate Policy and Resources Committee considers the report recommends to Council the adoption of the recommendations contained therein.

Review of Planning Service – Appendix 1	28 September 2021
Corporate Policy and Resources Committee For Decision (In Committee)	

1.0 Background

1.1 The Review was carried out by Mr Jim Mackinnon CBE following a decision by the Corporate Policy and Resources Committee of Causeway Coast and Glens Borough Council (CCGBC). The focus is on the Development Management Service where there are concerns over performance, in particular the scope for greater efficiency in handling planning applications. The Review also considered significant issues raised, for example on customer service, enforcement, and the Local Development Plan (LDP).

1.2. The Review was conducted in stages, leading to conclusions and recommendations. First an overview of decision-making times and other indicators was carried out to establish the extent to which the perceptions of an underperforming service were justified. Second, current processes and the issues arising were assessed, particularly in development management. Third, views were sought from staff in the Planning Department and a range of internal stakeholders, for example elected members and the Chief Executive, and external bodies, including business interests and agents.

1.3. There are 4 points about the Review that should be clarified. Firstly, it is not seeking to focus on complaints or grievances with individual applications except to the extent that they identify generic issues (positive or negative) with the efficiency and quality of the Planning Service. Secondly, based on past experience in Scotland and Northern Ireland (NI), some of the concerns, particularly around performance, are not solely matters for the Planning Service, for example delays as a result of poor-quality applications and late or unhelpful consultee responses. Thirdly, a very prescriptive legislative framework and guidance from the Department of Infrastructure (DfI), along with an outmoded IT system, are also regarded as barriers to the efficient operation of the planning system in NI. Fourthly, the Review has not analysed the performance of the Planning Service under the exceptional circumstances prevailing over the past year.

1.4. A Review of the Planning Act (Northern Ireland) 2011 by the DfI is now underway. The Northern Ireland Audit Office (NIAO) is also carrying out a broader assessment of the planning system and an informative discussion was held with the relevant NIAO officials. Attention was also drawn to a report on the consultation processes in planning commissioned by the DfI in 2020; some of the findings/recommendations are being taken forward by the Planning Forum which includes representatives of Planning Services from councils across NI.

2.0 Causeway Coast and Glens: Profile

The Borough lies on the North Coast of Northern Ireland and has a population of just over 143,000. The main towns are Coleraine, Limavady, Ballymoney and Ballycastle. There are good road and rail connections to other parts of Northern Ireland. The economy is strongly reliant on the service sector and there is general acceptance that there is scope and capacity to improve economic performance; the Planning Service is seen as having an important role to play in that. The Borough has a coastline of 240 kilometres which includes a World Heritage site, the Giant's Causeway and Royal Portrush golf course, which hosted the British Open Golf Championship in 2019 and is widely regarded as one of the finest courses in the world. Parts of the Council area served as locations for the hugely successful Game of Thrones series has attracted many visitors. There are a wide range of environmental designations which seek to protect species, habitats and landscapes, including 4 Areas of Outstanding Natural Beauty, 2 of which lie entirely within the Borough. In addition, there is a rich built heritage including 5 conservation areas, 900 listed buildings and 280 monuments.

3.0 The Planning Service

3.1. The Service is led by the Head of Planning who, on an interim basis, reports directly to the Director of Corporate Services. In addition to the Business Support Manager and her team, there are 2 Principal Planner posts, one responsible for development management and enforcement, the other leading the team preparing the LDP. There are 5 sections in development management each headed by a Senior Planner: 3 area teams, one handling minor applications and another covering enforcement.

3.2. The Planning Committee comprises 16 members. In line with other Councils in NI the positions of Chair and Vice Chair of the Committee rotate annually. The Committee meets monthly, except in July. There is a Protocol for the conduct of the Planning Committee while a Scheme of Delegation provides for applications to be determined by authorised officers - Head of Planning, Principal and Senior Planners.

3.3. Where an application is defined as “contentious” it falls to be decided by the Committee rather than being delegated to authorised officers. A referral by any Member of the Planning Committee must be based on clearly specified planning grounds. Referral requests are considered by an authorised officer and the Chair and/or Vice-Chair of the Planning Committee following the deadline for receipt of requests. Only those referral requests that are considered to be based on sound planning reasons are referred to the Planning Committee for determination. This procedure is not available to members of the public.

3.4. The process of development management in CCGBC is similar to Councils across NI and the UK more generally. Pre-application discussion, validation and registration of applications; neighbour notification; carrying out consultations where necessary; the preparation of a report which provide reasons for a decision to approve, generally with conditions, or refuse planning permission; the issue of a decision notice and the use of Planning Agreements where it is perceived that they would strengthen control or to secure a financial contribution from a developer.

3.5. The enforcement team investigates breaches of planning control which in some cases can result in prosecution. The team also deals with applications for mineral extraction, waste and wind farms as well as Certificates of Lawful Use Development. Decisions on the handling of potential or actual enforcement notices are delegated to officials although, where the intention is to serve a Stop Notice, approval would be sought from the Planning Committee because of potential compensation implications. The Committee receives quarterly reports on enforcement activity.

3.6. The current Development Plan for CCGBC is the Northern Area Plan (NAP) which was drawn up by the former Department of the Environment and adopted in 2015. All Councils are required to publish a timetable for drawing up a LDP which should provide a 15-year framework to meet the social and economic needs of their area. The latest timetable agreed by the Planning Committee envisages adoption of the LDP in Winter 2024. After the LDP is adopted a Draft Local Policies Plan (LPP) is published. The forecast date for adoption of the LLP is Autumn/Winter 2028, some 12 years from the commencement of the process.

4.0 Performance: Key Facts on Planning Decisions

4.1. A Report to the Planning Committee in December 2020 indicated that just under 1300 applications were decided in 2018/19; in 2019/20 the figure was just under 1200; and in the first 2 quarters of 2020/21, which coincided with the the introduction of the pandemic restrictions, the number was just under 350. The Minor Applications Team dealt with 44% of applications decided in 2018/19 and just less than half in 2019/20. The Bann, Ballymoney and The Glens team dealt with a further quarter of applications.

4.2 The report to the Committee's meeting in January 2021 summarised the Planning Services' performance of councils across Northern Ireland in 2019/20 on a range of indicators. This information, based on validated figures, is published by the DfI. Headline figures on planning decisions include:-

- average time to determine major (excluding withdrawn) applications in CCGBC was 75 weeks against a NI average of 52 weeks - 8th fastest according to the Committee report, equivalent to 4th slowest
- average time to process local (excluding withdrawn) applications was 19 weeks - 10th fastest according to the Committee report, 2nd slowest in NI.

4.3. Over the last 3 full years for which validated data is available the average processing time for local applications was over 20 weeks with between 32% and 40% processed within the statutory target which, for this category of application, should be determined/withdrawn within an average of 15 weeks. There was a slight improvement in the first quarter of 2020/21 with decisions taking on average just under 19 weeks, equivalent to 41% decided within the statutory target. The approval rate for these applications exceeded 92% with over 97% approved in more recent figures.

4.4. Over the same period the average processing time for major applications has gone from under 60 weeks to over 70 weeks. While 30% were decided within the statutory target in the first quarter of 2020/21, none were decided against this target in Q1 of 2020/21. The statutory target is for decisions on major applications to be made within an average of 30 weeks. The approval rate has gone from under 70% in 2017/18 to 100% in the last 2 periods for which data is available.

4.5. In 2019/20 CCGBC decided the second highest number of major applications of Councils in NI and the fifth highest number of local applications. There were 150 applications in the system for over 12 months - just over a fifth of all live applications; a number of councils have a higher percentage of applications in the system for more than a year.

5.0 Planning Portal

The Planning Portal is the website through which the public access information and comment on planning applications. It is used by councils across NI and the DfI to process planning applications. It is widely accepted that the Portal is not fit for purpose, contributes to inefficiencies and lags behind commercial off-the shelf systems. The system is regarded as inflexible, antiquated and does not have the necessary functionality, for example it is not possible to submit planning applications online. There is an ongoing project to replace the Portal. In June 2020, the DfI and 10 councils (only Mid Ulster Council will be buying their own standalone system) signed a contract to procure a replacement IT system which aims to address these technology shortfalls. The new IT system is being designed and the first wave implementation across NI should “go live” in December 2021. CCGBC have opted to introduce the system at a slightly later date – February 2022 – in the expectation that early glitches with the new system can be identified and addressed before going live in CCGBC.

6.0 Performance: Other Key Facts

6.1. 92% of applications were delegated to the Head of Planning for decision. 93 applications were decided by the Planning Committee in 2018/19 and 90 the following year. 16% of applications were decided against the recommendation of officials in 2019/20 a significant reduction from 30% the previous year; the majority of these decisions relate to applications for development, particularly housing, in the countryside where officials have recommended refusal. The NI average was 11.6% in 2019/20, making CCGBC the 4th highest in NI.

6.2. The most recent data on **Enforcement** shows that just under 90% of enforcement cases were progressed to target conclusion compared with a NI average of just over 81%, making CCGBC the 5th highest performing Council.

6.3. The process of preparing an LDP and LPP, along with supporting appraisals, is set out in Annex A; this is extremely challenging.

6.4. Until such time as the LDP for CCGBC is adopted the policy framework for planning decisions is provided by Strategic Planning Policy Statement (SPPS) and retained Planning Policy Statements (PPSs). These will be referred to as central government planning policies.

7.0 Performance: Conclusions

7.1. The performance figures are disappointing, particularly in respect of **Local Applications** which should generally be straightforward to process with limited involvement from outside parties such as consultees and with less likelihood of objections although levels of representation on planning applications varies across the Council area. These applications are generally non contentious and determined without reference to the Planning Committee.

7.2. While there is scope for speeding up decisions on **Major Applications** these proposals are, by definition, likely to require additional supporting information, involve extensive consultation as and generate significant levels of representation. Where proposals might have a potential impact on a protected habitat, species or sensitive landscape a request for further information or analysis invariably follows. Equally applications where approval of a development could increase the risk of flooding require careful handling. Most applicants recognised that decisions on complex applications take time but they should expect as much certainty as possible on when a decision will be reached.

7.3. Maintaining staffing levels is a concern of planning officers across NI and CCGBC is no different. Short term vacancies, for example as a result of illness are unlikely to result in a post being back filled while the recruitment of agency staff is not regarded as a sustainable solution. Looking at caseloads in relation to staff numbers is a very inexact science, for example as a result of the role of different grades in the process as well as other duties staff might undertake, such as dealing with listed building consents, discharge of conditions, complaints, etc. However, in comparison with other parts of the UK, workload per planner in development management in CCGBC does not look excessive.

7.4. While there are definitional issues, some comparisons with Scotland help put performance of CCGBC in context. For local development applications the average decision time is 9 weeks (target in NI is 15 weeks) and 7 weeks for householder applications. For major applications the average time taken to reach a decision in Scotland was 33 weeks. In NI the target is 30 weeks, but the average time taken to determine major applications (excluding withdrawn applications) across the 11 Councils in 2019/20 was 52 weeks, an improvement of 7 weeks from the previous year.

However, planning authorities in Scotland do have powers to “stop the clock” where significant delays can be laid at the door of consultees or the applicant/agent.

7.5. The preparation and adoption of the LDP and the LPP are major tasks but the scope for accelerating the process is limited with so many requirements prescribed in legislation or set out in Dfl guidance. It is understood that the Dfl has indicated that all stages of the process can be completed in 40 months; this timescale is not credible.

8.0 Development Management: The Process

8.1. The Review's understanding of the processes at work in CCGBC was arrived at following discussions, mainly with the Head of Planning but also with Principal and Senior Planners, Planner and Planning Assistants all of whom responded timeously to requests for telephone discussions and explained clearly how the system operated and the challenges the service faced.

8.2. A **pre-application service** is available at the request of potential applicants. For minor applications this generally involves an informal discussion with the duty planning officer. For major applications the statutory Pre-Application Process (PAD) can be used. There is no requirement for consultees to attend although some may do so. The PAD process concludes with the issue of a PAD Closure letter which sets out the information requirements which should accompany the forthcoming application. In Scotland Processing Agreements are regularly used to give greater certainty on the timescale for decisions on major applications; this project management tool is not used in CCGBC. In Scotland in 2019/20 there were over 2,400 applications subject to a processing agreement. This was 7.1% of all applications and almost 80% of were processed within agreed timescales. Both the formal PAD process and the provision of informal advice are provided free of charge.

8.3. For major applications a statutory process of community consultation must be undertaken prior to an application being submitted.

8.4. Prior to the introduction of COVID restrictions applications were submitted to Council offices either in person or by conventional mail. However, it is now possible to submit applications by email. The basic requirements for an application to be registered are, by common consent among planning departments across NI, minimal but where forms are incomplete/not signed, plans are missing or there is an incorrect fee applicant are asked to rectify these deficiencies.

8.5. For the most common or straightforward cases validation is carried out by a member of the business support team; for the more complex cases, a professional planner undertakes the validation, for example to check if the fee calculation based on the floorspace of the proposed development is accurate or if important supporting information and analysis has been provided. Details of the application are put on the Portal by a member of the BSU.

8.6. Senior Planners are responsible for the allocation of applications to members of their team who identify neighbours to be notified and initiate consultations via the Portal.

Consultations may be internal, for example, with the Environmental Health Department but most are external, for example with DfI Roads, Northern Ireland Water, and the Northern Ireland Environment Agency (NIEA). Where the NIEA advise that a Habitats Assessment is required, this is carried out by the Shared Environmental Services Team based in Mid and East Antrim Council.

8.7. Councils in the UK have a considerably wider range of powers than Councils in NI. For example, consultations on transport issues are dealt with by the local authority itself; only applications taking direct access to or are likely to affect the trunk road or motorway network are referred to a central government department or agency. As a result, DfI Roads have a very substantial workload dealing with statutory consultations on proposals which take access to or affect very minor local roads and/or raise local transport issues such as parking.

8.8. In the case of applications related to the built heritage, for example listed buildings or development in conservation areas, consultation with the Historic Environment Division (HED) of the Department of Communities is required. In the UK the relevant Government agency delegates much of the responsibility to local councils, generally having a role only in cases affecting the highest category of listed buildings.

8.9. Many applications attract representations from individuals or groups (there is no equivalent to Community or Parish Councils in NI) and these require to be factored into consideration of an application. In the urban areas covered by the Coleraine team a survey carried out by a Senior Planner at the request of the Review indicated that around 40% of proposals resulted in representations, half that percentage in rural areas. Issues raised by objectors can be addressed by specific conditions, but this may not be sufficient to satisfy individuals or groups opposed to a development.

8.10. Following a site visit(s) the case officer prepares a report with a recommendation either to approve the proposal (always with conditions) or refuse permission. Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan, so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The NAP contains relatively few policies relevant to the current caseload. As a result, central government planning policies are the first port of call in assessing applications, but other material considerations must also feature in the assessment of planning applications.

8.11. Reports can be very lengthy not just for the Planning Committee but even for minor, non-contentious proposals. The template for reports on delegated applications is derived from the Portal. A different template is used for Committee Reports and is easier to follow the officers' reasoning and justification. All reports have to be scrutinised and signed off by 2 senior officers.

8.12. The use of planning conditions does not appear excessive (although it was surprising to observe a condition – removed at appeal - requiring a window to be fixed shut) and generally look enforceable should the need arise.

A feature of the planning system in NI is the widespread use of informatives; these are not statutory and in some NI Councils can be more extensive than the conditions imposed. The Planning Service in CCGBC operates a more proportionate approach, for example by drawing applicants' attention to the comments from consultees which can be viewed on the Portal rather than setting these out at length in a decision letter.

8.13. The Planning Committee has a number of functions, but the main business relates to decision making on non-delegated applications. The Committee also receives monthly reports on performance and quarterly reports on enforcement activity. The operation of the Committee is governed by a Protocol which contains much good practice. Committee agendas and reports from officials must be submitted 2 weeks in advance of meetings. All other documentation must be submitted to the Planning Department by mid Friday morning prior to the Committee meeting. This is to ensure that the information is considered by officers in making a recommendation to the Committee. A recent amendment to the Protocol requires valid representations to be circulated to Committee members on receipt. In addition, submissions right up to the day of Planning Committee generates a significant amount of work for planners and BSU staff.

8.14. The Head of Planning attends the Committee with cases presented by the Principal or Senior Planners who take questions from members. Reports to Committee are very comprehensive and from the Committee Meetings observed in February and March, presentations are generally to the point although a slide(s) could be introduced to identify the key issues raised by applications as an aid to structuring discussion at Committee. Decisions made by Planning Committee are fully delegated with no requirement for referral to the full Council; they are generally issued within a few days of the Committee meeting. It has always been the case and always will be the case that politicians at whatever level disagree with recommendations from officials. This is democracy. In the case of the CCGBC Planning Committee the majority of overturned recommendations relate to development in the countryside.

8.15. Legal agreements by CCGBC are rarely used and the Council does not seek developer contributions. As a result, the formal decision notices can issue within a few days after an appointed officer or the Planning Committee has reached a view on a recommendation.

8.16. There are a number of grounds which require Councils to notify the DfI of applications they are minded approving, for example if granting planning permission would depart from the advice of a Government Department. In some Councils, delays associated with this process are a source of concern, but this is not an issue in CCGBC.

9.0 Enforcement

9.1. Enforcement activity is driven almost exclusively by individuals/groups contacting the Planning Service. There is little in the way of proactive enforcement, for example following up on compliance with planning conditions.

However those with an interest in a development, possibly an application on which representations were made, may well draw attention to a development which is being or has been implemented where, for example conditions are not being complied with or where activities or uses are being carried out which go beyond the terms of the planning permission.

9.2. Where the terms of an enforcement notice are not complied with the Council can take the matter to the local magistrate's court. To do this Legal Services from another local authority are commissioned [REDACTED]

Where an enforcement notice is appealed, the case is determined by the PAC. It is understood there can be difficulties in getting consultees involved in enforcement activity. In part the problem appears to lie with the Portal not being set up to deal with enforcement cases, so issues are dealt with by letter or email to consultees which appears to be given a lower priority by consultees. It is understood that the revised Portal is being designed to make suitable provision for enforcement cases.

9.3. Where a retrospective planning application is running alongside an enforcement notice, concern was expressed about the lack of priority being given to the former and delays which could result in planning permission being granted for a development that was deemed to be unauthorised.

9.4. Unlike Scotland there is no requirement for Councils to prepare an Enforcement Charter which sets out the process and the local authority's approach to dealing with potential/actual breaches of planning control.

10.0 Staffing

10.1 There has been a significant increase in the number of planners since the transfer of powers and approval has been given for additional staff to focus on planning applications for new housing in rural areas. Delays in recruitment, the use of agency staff and limited experience of some staff can work against efficient decision making. The Development Management Teams see themselves carrying a heavy workload not just as a result of the number of planning applications but through the challenges presented by the high number of environmental designations and assessing what can be a significant volume of representations on planning applications in some parts of the Borough. Moreover, complaints also generate a significant workload, some of which may see issues pursued through the enforcement processes or the Council's complaints handling procedures, possibly resulting in referral to the Ombudsman.

10.2. Comparisons with other parts of the UK need to be handled with care but it does not appear that the Planning Service in CCGBC is less generously resourced than local authority equivalents in Scotland but as para 25 demonstrates decisions on minor planning applications are made much more quickly. The level of representations on planning applications and complaints is high in parts of CCGBC but other Councils in NI and Scotland experience similar pressures. Enforcement Teams generally in NI are generally well resourced compared with Scottish equivalents and CCGBC is no exception although the team handles applications for renewable energy, waste, and minerals; these proposals might be few in number but are generally controversial.

10.3. The previous paragraph mentioned workload to support the Planning Committee. The main concerns relate to dealing with objections or representations received on the Friday before the date of the Committee meeting or later, even between the date of the Committee meeting and the issue of the decision notice.

While this is not uncommon in CCGBC, it appears to be exceptional in Scotland. Below is the response from the Highland Council on this issue:

Under the regulations we are only required to consider representations made within the statutory time period for consultations i.e. during the neighbour notification or advertisement period.

After that it is at the discretion of the Planning Authority to consider whether they wish to have regard to any further representation made.

Whilst we are not statutorily bound to consider any representations made out with this time period, historically Highland has considered all representations up to the point of consideration i.e. going to committee. Anything received before the papers are published will be summarised and presented to members in the report of handling. If further representations are received after the papers are published, they will be reported verbally.

We would not consider anything received after the application was considered by the committee and before a legal agreement etc. was concluded unless it raised new and material planning considerations not considered. I can't recall such an instance.

11.0 Complaints

Complaints handling generates a significant amount of work and the Chief Executive thought that perhaps over 50% of the complaints received by the Council related to the Planning Service; the majority of these came from objectors where a planning application or a Certificate of Lawful Use was granted consent in the face of individual objections. Some complainants generate a significant amount of work for the Planning Service by persisting with allegations of wrongdoing and in most cases, it is concluded that these are unfounded. Figures from the Ombudsman show that over the last 3 years, two thirds of the complaints about CCGBC related to planning. It has been very clear in the conduct of the Review that the Planning Service takes complaints very seriously not just because of their substantive content but also because an issue might result in referral to the Ombudsman. The prospect of referral to the Ombudsman is among the reasons for driving a very cautious approach in the work of the Planning Service.

12.0 Views on the Planning Services

12.1. **Planning Service.** Many of the planners acknowledged that it can be difficult to deal with what they felt was a heavy workload as well as satisfying a range of stakeholders within the context of high number of environmental designations, responding to complaints, coping with the pressures of supporting the Planning Committee, in particular dealing with late representations and concerned less they make mistakes which could result in a decision being overturned at appeal or a case being referred to the Ombudsman or pursued in the courts. Most recognised the criticisms levelled at the service, some (but not all) of which they felt were justified, for example seeking late changes to applications. Planning staff highlighted delays not within their control such as the variable quality of applications and endemic issues associated with external consultation. It was hoped that the Review would bring changes for the better.

12.2. **Elected Representatives** Online meetings/telephone discussions were held with the Chair/Vice Chair of the Planning Committee, members of the Planning Committee, Party Group Leaders, Democratic Unionist and Ulster Unionist Councillors and elected representatives from Westminster and Stormont. With the exception of the Ulster Unionist Group who spoke well of the Planning Service in terms of their knowledge and approachability, there was considerable dissatisfaction with the Development Management Service. Concerns were not just around the slow pace of decision making, although a former Chair of the Planning Committee pointed to more recent efficiency improvements. Across the political spectrum there were concerns around what was perceived as an inflexible interpretation and application of policy on housing in the countryside and a plea for more "common sense" to be applied which it might be interpreted as giving more recognition to economic and community benefits. Other concerns centered around the perception that the Service was unresponsive to wider Council priorities and unsympathetic to issues raised by members on behalf of their constituents. The feedback politicians received from agents was that planners in CCGBC adopted an overly bureaucratic approach to issues and were not regarded as helpful in finding solutions to overcome potential problems. Elected representatives whose interests covered more than one council, contrasted the positive experience with adjacent councils compared with the negative accounts of dealings with planners in CCGBC.

12.2. **Agents** Contacts were made with the Royal Institute of Ulster Architects (RIUA) the Society of Architectural Technicians (SAT) and the Royal Town Planning Institute. An online meeting with RIUA members was held on 25 March. **It is a matter of considerable regret that an individual(s) involved in that meeting chose to go to the press on that discussion; that is not something that promotes trust and respect.** Telephone discussions were held with planning consultants and developers active across a number of councils across NI. The SAT got in touch by phone and email seeking further information about the Review; this was supplied along with a list of questions for members to consider but this did not result in a further response. The RTPI also responded and convened an online meeting which was held on 29 April. Telephone discussions were held with two planning consultants who were unable to attend the online meeting and wished to relay their experiences of dealing with the CCGBC Planning Service; this reinforced and added to the views expressed by consultants at the 29 April meeting.

12.4. Strong concerns were expressed by RIUA members on both of the pace of decision making and the quality of customer service. It was alleged that PADs could take up to 6 months to arrange and planners were reluctant to discuss development options; instead they were narrowly focused on the initial draft proposals from the agents. They felt that CCGBC planners adopted a more bureaucratic and less flexible approach to other councils in NI for example on interpretation of permitted development rights or requesting amended plans resulting in a further round of neighbour notification, etc when a condition would have achieved the desired regulatory objective. It was claimed that the default position of the Planning Service was to seek amendments and it was not uncommon to get agreement for proposals only for a more senior planner to seek further changes late in the process resulting in additional delays and potential embarrassment with clients.

The consensus among the agents was that surrounding councils are more likely to enter in to open discussion on development options, are less rigid in their interpretation of legislation and central government planning policy as well as being more willing to take a broader view of applications, taking in to account other material considerations. As a result of perceived and actual difficulties with the Planning Service in CCGBC it was claimed that some developers were reluctant to invest in the area and took projects elsewhere in NI.

12.5. A particular of concern of architects was planners pressing their personal views when they had little in the way of formal training on design and a limited understanding of the consequences of design changes. One local architect was less exercised on this matter although he lamented the quality of communication. Moreover, discussions with the senior staff has moderated the Review's concerns on planners' engagement on design issues. It also came across that some of the younger planners were more flexible and pragmatic only to have their advice revised and/or overruled at a higher grade. There were claims from some agents/developers that some higher grades could be high handed at meetings. Agents were also critical of elements of the operation of the Planning Committee; meetings lasted too long, and some questions raised by Members were felt to be unnecessary, particularly on technical issues such as flooding where expert professional advice had been provided.

12.6. The views expressed by planning consultants replicated the views of the RIUA architects. These included difficulties in arranging PAD discussions with little/no added value in these discussions; generally negative attitude of planners to development, particularly at more senior levels; presumption in favour of seeking amendments to proposals; and requests for late revisions to applications which did not just result in delays but could lead to a loss of clients' trust. Experience was generally more positive with other authorities who it was felt were more welcoming of development and the consultants had experience of advising clients to invest elsewhere in NI rather than go through what was likely to be a challenging and lengthy process in CCGBC. Consultants put a great deal of work in to preparing applications which was not acknowledged while concerns were expressed about interpretation of policy together with the lack of commercial realism and recognition of economic benefits. There was also a feeling that considering representations on planning applications was given a higher priority than recognising the justification for a development.

12.7. **Chamber of Commerce** An online meeting was held with members of the Chamber on 15 April. Concerns were very similar to those of the architects and planning consultants, in particular the difficulties in arranging and limited added value of PAD discussions, unwillingness to challenge the views of consultees, the lack of urgency in reaching decisions, seeking changes to proposals without clear justification, late changes requiring a further round of neighbour notification/consultation/etc., insufficient consideration of economic and employment benefits, not recognising the significance of deadlines in relation to applications for grants and loans, etc. The Chamber members recognised that the lack of powers available to councils across NI created endemic problems with some consultees and the wider context within which planning decisions were made could be problematic. It was claimed that the challenges of securing planning permission in CCGBC meant that agents are likely to require more in the way of professional fees as the process was likely to take longer with more scheme revisions compared with other councils in

NI. Moreover, where investment opportunities are not location specific investment is likely to go a different local authority area.

12.8. **Communities** Three emails were received expressing concerns about the Planning Service based on their experiences, but these were more appropriate for the Council's Complaints Handling processes. Contact was made with a non-profit organisation specialising in community engagement who it was hoped might facilitate a discussion with/feedback from local groups. Despite a reminder, no response was received. It may be that while applicants/agents/business interests argue that planning policy was applied in a rigid manner to the exclusion of wider considerations, disaffected individuals and community groups might feel that planning policy was not being applied rigorously or consistently. Objectors might argue that their views were not sufficiently addressed or too lightly cast aside; on the contrary the Review was firmly of the view that staff were very assiduous in considering representations on planning applications while many enforcement cases were pursued as a result of individual complaints.

13.0 Discussion

13.1. The Review was commissioned because of concerns over the pace of decision making on planning applications and the validated performance figures demonstrate that these concerns are justified. Given the high percentage of minor applications and level of delegation to officials a quicker turnaround of applications should be expected. One planning consultant expressed the view that dealing with CCGBC planners was akin to "firefighting" your way through the process. In addition, there is general concern within CCGBC – at elected member and senior official level – that the Service is not sufficiently responsive to and enabling of wider Council policies and objectives. It is understood that the Council's Capital Projects Team, because of frustration with the Planning Service, considered employing private planning consultants to progress developments while it was suggested that there was a disconnect between planners and politicians in CCGBC.

13.2. Architects and planning consultants were also critical arguing that the development management process was overly bureaucratic with a presumption in favour of seeking amendments to applications for the sake of it without clear justification and without any discernible improvements to the quality of development. Changes required after agreement had been reached with more junior members of staff were particularly frustrating as they resulted in additional costs and delays. Although over 90% of applications are granted planning permission, the perception was that obtaining planning approval could be an unnecessarily tortuous process. Stakeholders with experience of other councils felt that the service in CCGBC, in terms of pace, officer attitudes and support, did not compare well. The Head of Planning in one council saw his job as enabling members to make sensible decisions and this pragmatic approach appears to have earned that planning service a good reputation among politicians and agents/consultants. It is a useful maxim to bear in mind.

13.3. The concerns about the service were raised with the Head of Planning who felt that the stakeholders who had sought to get involved with the Review were not representative and many applicants/agents had a positive experience of the Service. Others have suggested privately that this may be the case. She also pointed to good relationships with a number of Council Departments and provided a list of meetings with Departments in support. She did not accept that planners were unresponsive to deadlines for grants/loans which were normally offered subject to planning permission being granted. She defended robustly the Service's involvement in design issues. She emphasised that design was a material planning consideration and provided a number of appeal decisions where refusal of planning permission on design grounds was upheld by the PAC. She had every confidence in CCGBC planners' abilities to make informed judgements on design issues. The RTPI pointed out that the principles and processes for design in creating high quality place is a requirement of all courses accredited by the Institute and is a core area for planners' CPD.

13.4. The legislative framework for the operation of the planning system in NI can be very prescriptive. An example is the 3-page letter notifying neighbours of planning applications. In contrast, neighbours in Scotland are notified of planning applications by a post card, giving them the option of viewing applications online or visiting the Council offices in person (Annex B). The expectation is that the new Planning Portal will facilitate improved procedures, not acting as a barrier to efficient decision making and should make engagement with the planning process easier for stakeholders; hopefully that will prove to be the case.

13.5. The legislation and guidance from the DfI for drawing up the LDP and LLP are not fit for purpose; the underlying theory is fine but in terms of practical application the requirements are excessively onerous, work against effective stakeholder engagement, nullify creativity and result in documents containing policies which it was suggested are more reflective of central government's stance on issues than what local councils wish to achieve for their area. The comment from one planning official that the plans were no more than "expensive regurgitation of regional planning policy" sums it up well. The principle of a draft strategy followed by local policies is sound, but the emerging strategies are policy encyclopedias with, it appears, limited room for local interpretation.

13.6. A strategy should be a short, succinct statement with an accompanying plan showing the direction of growth, regeneration and conservation. Instead what is being produced are lengthy policy compendiums – accompanied by detailed reports and appraisals - with maps. The length of time to draw up the strategies, their form and content not only make them difficult documents with which to engage with elected members, communities and other key stakeholders but also render them less useful in promoting efficient development management given the volume of policy that will have to be considered.

13.7. It would be quite unusual in the other UK jurisdictions to see so much weight attached to central government planning policy in making decisions on minor/local planning applications although it is recognised that the particular circumstances of NI are different. The DfI guidance stresses the role of central government planning policy in making planning decisions before an LDP/LPP is adopted but, from reports

considered in the course of the Review, other material considerations such as other relevant, albeit non planning specific policies, are not sufficiently factored in to decisions.

13.8. Paragraph 2.0 noted that there was general acceptance of the scope to improve CCGBC's economic performance. The Planning Service must demonstrably embrace this aspiration particularly as economies seek to recover from the effects of the pandemic. This does not mean development anywhere in the council area regardless of quality but it does mean adopting approaches which enable investment in infrastructure and jobs. While the LDP and LPP processes are supported by social and environmental information and analysis, specific consideration of economic aspects is less likely to feature. In Edinburgh a Concordat exists between the Council and the Business Community which recognises the role that investment in development and regeneration plays and how the planning system can contribute to a successful, vibrant city.

13.9. The Council receives a relatively small number of major applications and these proposals will take longer to determine. That is generally understood by those promoting major investment, but they should expect clarity on the issues to be addressed, the challenges this might involve and a time scale for a decision. Where a proposal is contrary to policy it does not follow that permission will be refused; this is where other material considerations come in to play, for example where a proposal would contribute to local and national policies to support economic, tourism or community development.

13.10. A major concern of development management planners in NI is the variable quality of planning applications and the low bar for validating applications. While there are some agents who submit high quality proposals, there are others who submit the bare minimum of information and resist requests to provide this. A specific source of concern mentioned by a number of agents are requests for bat surveys. The frustrations on this are well understood but, to comply with the current law, planners have no option but to ask for these before an application can be determined.

13.11. The checklist of information to be included in planning applications, approved by the Planning Committee in March, is helpful and the arrangements being made to explain and promote the checklist with agents is welcome. Planners must not be overzealous in their information requests. Hopefully the revisions to the 2011 Planning Act will give Councils stronger powers to address issues as a result of incomplete or defective applications.

13.12. Consultation is a source of ongoing frustration; this issue is raised consistently by Councils across NI. Consultation arrangements appear to work most effectively where personal relations are good, but this is no substitute for sustainable, long term structural solutions to support more efficient procedures. Secondary legislation provides for the provision of standing advice from consultees on planning applications and it is understood that discussions are progressing with NI Water and NI Roads to bring this in to effect thus reducing the volume of consultations on matters that can be readily dealt with by standing guidance.

A growing area of complexity and frustration (to planners and agents) which increases uncertainty and delays is consultation with the NIEA and requests for Assessments under the Habitats Regulations which can seem disproportionate.

13.13. Reports on delegated applications seem unnecessarily long and detailed which were not merited by the complexity of the proposal. With over 40% of applications dealt with by the Minors Team there is scope for increasing the speed of decision making by a more proportionate approach to assessment and report writing. Long reports which set out the policy position in great detail should not be necessary where it is clear that an application is broadly in line with policy and has attracted no adverse comments from consultees or neighbours. Reports must of course contain an overall assessment of the application and the justification for arriving at a recommendation/decision but that can be done more concisely which should bring efficiency improvements. A number of appeal decision letters from the PAC were shown to the Review; these were admirably clear and succinct as to the reasons for arriving at a decision. Perhaps the new Portal will assist supported by training in report writing might reduce the supervisory role of Senior Planners.

13.14. There are deep rooted concerns among planners about cases going to the PAC, Ombudsman and the Courts, potentially resulting in decisions which create personal or professional embarrassment and a reputational risk for the Council. Appeal numbers vary from year to year but the data from the last 4 years does not raise concerns about the soundness of decisions by CCGBC. According to report to the Planning Committee, less than 5 complaints per annum have been made to the Ombudsman in the last 3 years (less than 0.5% of applications) with one judicial review in 2017/18 and 2018/19, with 2 cases in 2018/19 (less than 0.2% of applications). Unfortunately, the Ombudsman ruled that it would cost too much to extract data on the number of complaints on planning in CGBC compared with other Councils in NI. **Be that as it may the numbers of Ombudsman complaints and cases resulting in Judicial Review do not justify the level of caution that appears to be exercised in making decisions on planning applications.**

13.15. An area where planning policy and member aspirations diverge is proposals for new development, especially housing in the countryside; this is reflected in the high percentage of applications where officers' recommendations are overturned. The impression from observing Committee meetings is that recommendations to refuse planning permission are being made but in the expectation that permission will be granted by the Planning Committee. While many members are dissatisfied with the current approach and wish to see an approach which is more responsive to their aspirations and those of their constituents they are not seeking to encourage a rash of ill sited and badly designed development that is evident in some parts of the island of Ireland.

13.16. More staff have been/are being recruited to deal with the rise in applications for housing in the countryside. According to the Head of Planning although the team is not yet at full complement the new arrivals are already having a positive impact on the speed of decision making on these proposals. However, it is not clear how this will resolve the current impasse between officials' interpretation of planning policy and members' aspirations, aspirations which are shared across the political spectrum.

13.17. Widespread concerns were expressed on the culture of the Planning Service in CCGBC and the need for this to change. It is more difficult to explain what this means in practice. The Planning Service in the former DoE did not have a good reputation; in fact it was against that background that the author of this Review was asked to act as a Critical Friend to the Management Board of the former DoE's Planning Service. However, some stakeholders expressed the view that the service, when it was under central government control, was less bureaucratic and more responsive prior to the transfer of planning powers to CCGBC.

13.18. The perception is that Stormont Ministers were generally less engaged with operational planning issues. The argument goes that, except where sensitive or controversial cases were involved, planners had less engagement with the political process and there was limited scrutiny or accountability of planning policy and decision making than is the case following the transfer of powers. Some councillors feel that not all planners have adapted well to engagement with local politicians. The new local authorities had high expectations of the Planning Service, one of the few functions under their control compared with councils in the UK. These expectations do not appear to have been met in CCGBC, resulting in a degree of frustration with the Planning Service.

13.19. Some criticisms of the Planning Service are overstated, even unfair but others are not without substance, in particular those giving rise to a perception that facilitating development and securing planning permission, despite over 90% of planning applications being approved, should not be as adversarial and lengthy as is too often the case. Underlying that perception is the evidence of a slow pace of decision making and a Planning Service that is not sufficiently regarded as flexible and responsive. To assist the process of post pandemic economic recovery, the Service must be – and must seem to be - more pragmatic and fleet of foot. This should mean that potential investors will regard the Planning Service in a new light, as an enabler not a barrier to development.

13.20. Relationships have therefore to be reset. This must start with open and frank discussions with key stakeholders, accepting that customer service needs to be improved. Regular meetings – say every 6 months - should therefore be held with stakeholders to explore the scope for changing relationships to encourage mutual trust and respect. These sessions should not just be about complaints (from the service and the stakeholders) they should also identify specific actions to improve the quality of the service.

13.21. Design issues are a particular fault line with architects who allege that some planners are making judgements based on personal taste or preference. It was also suggested that while planners might challenge proposals on design grounds, they were much less likely to challenge the views of statutory consultees. The view of planners was that architects are more focused on the design of individual buildings without sufficient recognition of their wider landscape and townscape setting. This is not accepted by architects who argue that the design process starts with understanding context. It is in everyone's interest to resolve this impasse.

13.22. While some perceptions of the Planning Service are widely shared and have to be addressed, in some cases they need to be challenged. The individual who must take on this task in the first instance is the Head of Planning. As the journalist, Andrew Rawnsley wrote recently "the personality of organisations is hugely influenced by the example set by the person at the top." This involves a different role for her and one she herself recognises.

13.23. It would be inappropriate to judge the operation of Planning Committee on the basis of observing parts of 2 virtual meetings. A number of councillors expressed the view that meetings were over long and energy sapping. The meetings can indeed be lengthy affairs with detailed and often impassioned discussion over planning applications. As a result, when papers on performance come later on in the agenda energy levels have flagged and the appetite for discussion has dulled considerably. That is not a criticism of planners or members, it's perfectly natural. Monthly reports on performance do not appear to achieve very much, if anything, while quarterly reports based on accredited statistics appear to lack an assessment of actions that might be undertaken.

13.24. There is understandable criticism of the variable quality of agents and applications. Equally it may be that not everyone in the Planning Service performs to potential or expectations, the reasons for which are many and varied, for example relating to personality, personal circumstances, work ethic, volume, and type of caseload, etc. However, there is no forum within the Service – or indeed the Council – for giving feedback on quality of individual performance. Staff appraisal systems are not there to pressurise or undermine staff, they are there to provide an honest assessment of how individuals are performing and if there are demonstrable failings or concerns how can the organisation help address these, for example by training or changing the allocation of duties so that there is a better fit with individual knowledge and skills, etc. It is understood that the Council is minded introducing a system of staff appraisal which is very welcome.

14.0 Conclusions

14.1. The Review was commissioned against concerns over the pace of decision making on planning applications and a perception that customer service needed to be much more responsive to stakeholder expectations. The conclusions and recommendations have been informed by analysis of validated data, online meetings, and telephone discussions with well in excess of 60 individuals and over 10 written submissions. Based on the most recent annual figures from the DfI it is clear that CCGBC is amongst the slowest performing Councils in NI. The issue of customer service is more difficult in that it is not possible to point to statistics that demonstrate the quality of relations but there is sufficient consensus to conclude that there is scope for significant improvements in the way the service is delivered. A number of the negative perceptions and criticisms may be wide of the mark or unfair/inaccurate, but they have to be addressed rather than being allowed to linger and fester.

14.2. Some concerns stem from the way the planning system in NI has been set up, particularly around the LDP process; others relate to endemic problems with the application of central government planning policy; unwieldy consultation processes; while problems can arise as a result of the way some stakeholders choose to relate to and engage with the planning service. Planners in the public sector do however need to be more aware of commercial realities such as the costs of submitting significant amounts of information, and the effect of design amendments on delays through to additional construction costs.

14.3. Planners argue that decisions often take longer as so many proposals are poorly formulated and need substantial revisions to improve the quality of outcome. This is not the easiest matter to demonstrate without real examples and, even then, identifying the value added by amendments and revisions to applications can be challenged; indeed some agents, particularly architects, argue that the quality of outcome has suffered by interventions during the development management process. Planners also point out that the high number of environmental designations compared with other councils in NI make for additional challenges and complications. Some of these may be non-negotiable but others, particularly local designations, may not be necessary and this is an issue the LDP might consider. The Head of Planning is clear that better outcomes have been achieved and the Chief Executive also commented positively on some recent developments. The recent visit to CCGBC demonstrated the high-quality outcomes that had been achieved but an example was also provided of a high-quality development that had been in the system for an excessive length of time.

14.4. An early step in revitalising the Planning Service is for planners to recognise more explicitly the wider context in which it operates. It is strongly recommended that a Concordat is drawn up between the Council and the Chamber of Commerce to demonstrate how the Planning Service will support business and how business will seek to interact with the Planning Service. This would include identifying various strategies which support economic development which could be important material considerations in a planning assessment.

Economic considerations may not always hold sway but they need to be acknowledged and given due weight. A link to the Edinburgh Development Concordat is attached. <https://planningedinburgh.com/2021/02/12/ed-dev-concordat/> HYPERLINK "https://planningedinburgh.com/2021/02/12/ed-dev-concordat/" HYPERLINK "https://planningedinburgh.com/2021/02/12/ed-dev-concordat/" HYPERLINK "https://planningedinburgh.com/2021/02/12/ed-dev-concordat/" HYPERLINK "https://planningedinburgh.com/2021/02/12/ed-dev-concordat/"anningedinburgh.com/2021/02/12/ed-dev-concordat/

14.5. Secondly there need to be a fresh start in the way that the Planning Service engages and is seen to engage with those seeking to invest in CCGBC. This is not about issuing quick approvals but about being proportionate in requests for information and/or only seeking amendments to proposals where there is a demonstrable need to do so, rather than what might be regarded as a personal opinion on a design issue. While there is a justifiable expectation that applications will be front loaded, it is also the case the planning response should be front loaded with late revisions by more senior staff only requested with very clear justification.

14.6. This change must be led by the Head of Planning. The Review was struck by the pressures on her, the depth of her professional knowledge and the diligence she applies to her role. She can only develop in her post if the major pressures on her are reduced so that time and space are created for her to exercise a genuine leadership role. Inaccurate and unfair perceptions and misconceptions must be challenged robustly but valid concerns and criticisms must be acknowledged and acted on. However, where actions and changes in behavior are required stakeholders must also take responsibility. Key changes in her role should include greater outward focus, for example by holding regular two-way stakeholder meetings with recorded actions and ensuring closer alignment between the work of the Planning Service and wider Council policies and priorities. In short relationships have to be managed more effectively than at present and discussions with the Chief Executive have identified a number of ways to assist with her personal development and leadership role.

14.7. While the need to improve the pace of decision making is important, significant concerns were raised about the quality of customer service, including difficulties in contacting planners, problems in getting clear advice, requests for late changes to applications requiring further information/amendments leading to additional delays and incurring further costs. It is therefore important that Planning Services staff are clear about what is expected of them as public servants employed by CCGBC and that those interacting with the service know what they are reasonably entitled to expect. In the first instance CCGBC should commission a survey of users' experience to establish a more objective understanding of positive and negative experiences with the Planning Service.

14.8. An interim Customer Service Charter should be drawn up to cover:-

- timescale for responding to PAD requests
- clarification of the objective of PAD discussions and how issues around development options will be addressed
- timescale for validation or request for additional information to validate application
- timescale for issuing neighbour notification letters/forms
- commitments to update agents on progress of application
- timescale for returning phone calls
- commitment to front load processing of applications with late amendments only in exceptional circumstances

These points are only indicative but benchmarks to clarify expectations and standards of customer service would undoubtedly be useful. A final version of the Charter could be drawn up after results from the users' surveys are available and experience with the interim Charter.

14.9. Processing or Timetabling Agreements offer greater predictability on when a decision might be reached and should be introduced not just for major applications but other proposals where for example a funding deadline is involved. These agreements are essentially project management tools to assist with the efficient handling of planning applications.

They need early and clear input from the applicant/agent, consultees, and the Council. Information requirements need to be clarified at the outset along with timescales for responses; requests for additional information should only occur in exceptional circumstances.

14.10. As part of the drive to improve customer service and move the perception of the Planning as a "can do" service, a commitment should be made to decide 80% of householder applications within 8 weeks of validation where no representations have been received. There must be a clear explanation and justification for a decision, but it is perfectly possible to do this in a more succinct manner than at present.

Development Management

14.11. The Council has responded formally to the call for evidence on the operation of the 2011 Planning Act. It is anticipated that most of the issues fed back to the DfI will be similar to the submissions from other Councils. From the conduct of this Review the following are regarded as particularly important:-

- raising the bar for what constitutes a valid application
- pressing for a simpler neighbour notification form
- ensuring councils make greater use of the flexibility that is available to streamline consultations
- establishing a much stricter time limit for making representations on planning applications
- clarifying the basis on which planning decisions should be made

14.12. The Checklist approved by the Planning Committee should be help raise the standard of applications. However the volume of material contained in the document on the Council web site looks daunting and the action being taken by the Head of Planning to explain and promote the Checklist is very welcome. At the same time agents who regularly submit poor quality applications should be challenged, for example by participating in a workshop(s) to help raise the standard of their submissions. If agents persist in submitting poor quality applications these, along with the fee, should be returned and not processed; perhaps an analogy is with yellow and red cards in football. Before such action is taken against an agent it should be agreed by the Chair and Vice Chair of the Planning Committee.

14.13. Information requirements should not be excessive. If the efforts to raise the standard of applications is to prove successful, then it is incumbent on the Planning Service to process these applications much more efficiently. This will require empowering and trusting lower grades of professional planners to process applications with less involvement of higher-grade officers unless there is an overwhelming case to intervene.

14.14. So much of the way the planning system operates in NI is prescribed by legislation and some of the requirements are excessive. The example of neighbour notification letters is mentioned in para 61 and the DfI should be pressed in to making the necessary legislative changes to achieve a more streamlined and more accessible system. What more do neighbours need to know than an application has been lodged that may affect their property; where the application and plans can be inspected, how to lodge comments and the timescale for so doing.

14.15. Secondary legislation allows Councils to draw up what are effectively schemes of delegation to reduce the volume of cases referred to statutory consultees. There should be a programme - with provisional timescales - for agreeing with key consultees where standing advice will be relied on to reduce the volume of cases being sent to other sections of the Council, central government departments and agencies, very much on the lines in the process of being agreed with NI Water. These protocols should also cover attendance at PADs and support where necessary on enforcement cases. Planners must also reflect on which non statutory consultations are necessary, consider whether they add value and be prepared to challenge advice with which they disagree or where they feel that other considerations lead them to the conclusion that a consultee's advice should be modified or even set aside.

14.16. Late submission of representations for or against an application about to be considered by Planning Committee generate significant amounts of work and it is hoped that the review of the 2011 Act will result in stricter time limits in lodging representations whether these are in support of an application or objecting to the proposal. It is also hoped that if planners **are seen to be** less focused on policy compliance and more flexible perhaps fewer late representations would be made for Committee consideration.

14.17. Elected members, agents and the Chamber were of the view that insufficient account was taken of other material considerations in making a recommendation or taking a decision on a planning application. The focus in the sample of reports considered in the Review is very much on policy - and concerns were expressed on planners' interpretation of policy.

Reports must identify other material considerations and weigh them against the inherited planning policy statements from central government. Policy may still be the determining or overriding reason for a recommendation/decision, but other material considerations must feature in the analysis of proposals.

14.18. A House of Lords judgement clarified the basis on which planning decisions should be made: -

- identify any provisions of the development plan which are relevant to the decision
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policy
- consider whether or not the proposal accords with the development plan
- identify relevant material considerations, for and against the proposal
- assess whether these considerations merit a departure from the development plan

It is acknowledged that the NAP is unlikely to contain many relevant policies and the DFI has indicated the importance of central government planning policy in making determinations under the Planning Acts. However, considerations other than central government planning policy must be factored in to a decision and while decisions may be returned which do not make reference to other material considerations the Court does not enter into the realms of making planning judgements.

14.19. Much was made of the "fear factor" which means the risk of processes or decisions being challenged or reversed by the PAC, Ombudsman or the Courts and how this drives the very cautious approach to decision making. While the Review is not suggesting, far less proposing, a less than professional approach to determinations under the Planning Act the likelihood of cases being pursued through the Ombudsman or the Courts is fairly slight. Of course, mistakes can be made, for example on failure to neighbour notify accurately, but quite often a decision can go against the Council not because of carelessness but just on a different interpretation of the facts or the procedures. **Fundamentally this is about planners having confidence in their ability to make soundly based recommendations and decisions.**

14.20. An enduring area of concern is the impasse between architects/architectural technicians and planners on the quality of design. Is design a material planning consideration - no question that it is and there is clear policy to support this and there are appeals upholding CCGBC decisions to refuse planning permission on design grounds. Do architects always submit good designs that are sympathetic to context - not always. Are chartered planners qualified to make informed judgements on design? The Head of Planning has absolute confidence in her teams' abilities in this area and this was reinforced at the meeting with senior staff. Where there is common accord is that seeking amendments to designs should not be a matter of personal preference or individual taste. A way forward on this issue needs to be found as the current level of distrust and dissatisfaction cannot be allowed to continue.

14.21. It is therefore proposed that consideration be given, on a trial basis, to appointing an individual with a recognised design qualification (possibly a retired Commissioner) to offer a view on cases where there is a dispute between an agent and development management staff. In outline, where planners were dissatisfied with a design they should advise the agent within say 5 working days from receipt of the application of their concerns and the reasons why; no reason why this should be more than a couple of sentences/paragraphs, one page maximum. The agent would have a similar time to respond either to agree to modify/revise the design or not in which the application would be referred to an independent arbiter to get a respected but impartial view on whether there is a sound case for seeking a design amendment or whether the application could proceed to be determined as originally submitted. This is not intended to be an architectural critique but an attempt to understand the extent to which proposals are being submitted with a sound understanding of context and whether planners' concerns in requesting a redesign are justified and proportionate. Of course, design amendments might be required at a later stage to address objectors' or consultees' concerns. Improving design skills may also be a subject for Continuing Professional Development.

14.22. The current divergence between the way central government planning policy and members' aspirations in relation to development in the countryside needs to be resolved. A starting point would be to consider cases where planning officials' recommendations were not accepted and the reasons why. Issues raised by some elected members in relation to farm payments and housing for young farmers should, where relevant, be considered. Some members also pointed that new patterns of post Covid working could create opportunities for living and working in rural areas. So, with the adoption of the LDP an LLP several years away, there is a strong case for setting out local interpretation/interim guidance, possibly supported by guidance on siting and design, to allow a more nuanced approach, for example to what might be regarded as infill development or a replacement house. **For this approach to work it requires a more responsive and pragmatic approach from planners and greater consistency of decision making from members of the Planning Committee.** This should lead to a lower proportion of recommendations on planning applications being reversed by the Planning Committee.

14.22. The remit of the Review did not extend to consider staffing levels although recruiting more planners is not the answer to improving performance or the quality of customer service. There is, however, a need for more efficient management of filling vacancies to establish a more stable workforce. It would, however, be of great value if specialist advice was on hand to reduce the volume of consultation with NIEA and ensuring a more pragmatic interpretation of the interaction between HRAs and the planning process. While it is out with the scope of this Review, there may well be scope for a more elegant and streamlined approach to integrating natural heritage issues with the planning process without a detrimental effect on the protection of species and habitats.

14.23. The clear impression from the Review - and expressed strongly by a number of agents and consultants - was that insufficient trust is being placed in the professionalism and attitudes of the less senior staff, a number of whom came across very positively in the course of the Review. There are concerns, shared by the Review, that what might be termed micromanagement would dilute the positive attitude these staff brought to the job, the long-term implications of which are worrying. This suggests a need for greater empowerment of Planners and Planning Assistant than appears to be the case at present, certainly reducing the amount of doubling up at meetings. This should reduce the pressures on more senior staff, allowing them to manage more of their own case load and take the lead in implementing some of the actions which should flow from consideration of this Review.

14.24. The Review was initiated by a motion at the Corporate, Policy and Resources Committee (CPR) of the Council. While there is an argument for the Planning Committee to be charged with overseeing the implementation of the recommendations of the Review, there is a powerful case for the CPRC to have the oversight role. Indeed this would send out an important message, in respect of leadership and commitment, about the importance the Council attaches to an efficient and responsive Planning Service. The CPRC should meet quarterly to monitor progress with the implementation of the Review, including any staffing implications, based on an Action Plan drawn up by the Head of Planning with input as required from an independent advisor.

The Action Plan should set out ambitious but achievable targets for implementation in the short, medium and long term.

14.25. Moreover with CPR assuming this role it would help reduce pressures on the Planning Committee where there are concerns over its excessive length which do need to be addressed, including the issue of comfort breaks when considering complex and controversial planning applications. This does not appear to be a major task, in fact it might just involve minor amendments to the Protocol; Planning Service and Democratic Services, jointly, should advise accordingly.

Enforcement

14.26. Enforcement is essentially reactive and with the prospect of an enforcement notice ending up in the magistrate's court, the level of detail and specificity in terms of defining an alleged breach and action to remedy require careful drafting. Only 2 comments were received on enforcement, one from a planning consultant who had experienced "aggressive" behaviour from some individuals in the enforcement team, the other from an individual who felt the approach to enforcement was insufficiently robust. Against that background, the following should be considered: -

- ensuring priority handling of related retrospective applications
- appointing an in house (part time) lawyer - underway
- publishing an Enforcement Charter

A link to an example is attached. These documents are statutory requirements in Scotland and provide an easy read guide to the stages in the enforcement process and how the Council will proceed in the case of potential breaches of planning control.

https://www.eastlothian.gov.uk/downloads/download/12865/planning_enforcement_charter

Local Development Plan

14.27. No participant in this Review - which included individuals from outside CCGBC - had anything positive, even vaguely supportive, to say about the legislation and guidance in drawing up and adopting the LDP and LLP. In fact, comments were damning on the processes and costs involved, the level of scrutiny from the DfI and the likelihood that these plans and policies would reflect the views of central government at the expense of satisfying local aspirations.

14.28. While some time savings could possibly be achieved in respect of the timescale for drawing up the LDP and LLP it is not clear that this would bring the adoption of these plans much closer. The legislation and guidance are not conducive to efficient plan preparation and so much of the programme depends on the actions of others, notably the DfI and the PAC. Minor tweaks and alterations are not what is required here; instead a fundamental rethink is needed of what a plan is for and how it can draw up through processes that are both inclusive and efficient.

Communication and Image

14.29. The Planning Service is invariably on the back foot with the media more likely to run with stories featuring disaffected applicants or objectors. There is an inevitability about this. To balance this coverage CCGBC needs to develop a positive narrative about planning, starting with the outcome of this Review. Media briefings around improved performance or efficient handling of applications or improved arrangements for consultation should be considered, provided of course that can be achieved.

14.20. The general image of the Planning Service is far from positive, but it is recoverable. However, there are clear examples of successes and achievements in the form of high-quality development that are worth highlighting and celebrating. It is therefore recommended that system of local awards be introduced, for example covering best practice in community consultation, best infill development, best contemporary and traditional house design, etc. This could be run in say 2022 and every 2 years thereafter.

15.0 Recommendations

15.1. The main recommendations of the Review can be summarised as follows: -

- CPRC should take the lead role to oversee progress with the implementation of the Review
- CPRC should meet no less than twice and no more than 4 times over a 12 month period to monitor progress on an Action Plan prepared by the Head of Planning with advice from an independent advisor

15.2. The Action Plan should include the following commitments:-

- Drawing up a Concordat with local business
- Holding regular meetings with development, conservation and community interests to identify areas for improvement by Planning Service and
- Introducing regular surveys of customers' experience .
- Preparing a Customer Charter to clarify standards of behaviour and service
- Establishing Target(s) for decisions on householder and minor applications
- Pressing for reforms to the 2011 Planning Act in relation to validation of applications/simpler neighbour notification form/stricter time limits for making representations
- Setting out a programme for agreeing protocols with key consultees for streamlining the process
- Reviewing the reasons for officials' recommendations on rural housing development
- Introducing interim guidance on rural development which is more responsive to members' aspirations
- Developing, through a series of worked examples of real cases, models for more succinct reports on non-contentious applications
- Ensuring that planning reports balance central government policy with other material considerations
- Promoting the use of the checklist for the content of planning applications

- Ensure that greater front loading of applications is mirrored by greater front loading of assessment
- Empowering planning staff, for example by ensuring that requests for late changes to proposals arise only in clearly defined circumstances and with the express approval of the Head of Planning
- Introducing a process for impartial advice on design issues
- Supporting, through a Personal Development Programme, including mentoring, the Head of Planning in developing a stronger leadership role
- Maximising efforts to establish a stable complement of professional planners
- Appointing a specialist to deal with HRA assessments
- Preparing an Enforcement Strategy and recruiting a dedicated lawyer (part time) to support court actions
- Pressurising Dfl for a fundamental rethink on the form and content of LDPs and the processes for their preparation and adoption
- Adopting a more proactive approach to media communication
- Promoting an Awards Scheme to promote good planning and development.

16.0 Concluding Comments and Next Steps

16.1. This has not been an easy Review to conduct for a number of reasons. Online meetings are no substitute for personal contact while meeting a wider range of stakeholders might have led to a more fully informed and possibly more sympathetic perspective on the Planning Service. A number of concerns that underpinned the reasons for the Review, can be demonstrated, particularly in terms of pace of decision making some of the issues raised on customer service may be overstated, even unfair. However widely shared critical perceptions cannot be lightly set aside or summarily dismissed; they need to be addressed.

16.2. The majority of the recommendations relate to what could be done by planners to improve the performance and perception of the service in CCGBC but others need to examine their role, for example in relation to the quality of applications and endemic inefficiencies in the consultation process. Some of the bigger issues relate to the legislative framework and central government planning guidance, particularly but not exclusively in relation to the LDP/LPP process which will necessitate some fresh thinking on the purpose of these plans and how they can be prepared and adopted much more efficiently to reflect local aims and aspirations.

16.3. The recommendations in the Review can be accepted in whole or in part or they can be rejected. Nor should they be regarded as exhaustive rather they should be seen as an independent documentation of the concerns on the pace and quality of the Planning Service with an outline of measures to set in motion a process of improvement. Additional measures to revitalise the Planning Service in CCGBC may well be added but continuation on the present trajectory is not an option.

16.4. There are no short-term fixes for improving the reputation of the Planning Service in CCGBC but recognising that problems exist and accepting that there are issues to be addressed is a start. A process of change must be embarked on and sustained if the Planning Service is to fulfil its undoubted potential in shaping CCGBC as a great place for living, working and simply enjoying for its wonderful qualities.

The stages of the LDP/LLP process are set out below: -

- **Statement of Community Involvement in Planning (SCI)** - This document sets out how the Council intends to engage with the local community, stakeholders and Government Departments during the preparation of its LDP.
- **Preferred Options Paper (POP)** - This is a public consultation document which will indicate the key plan issues for the Borough and the Council's preferred options to address them.
- **Draft Plan Strategy** - The Draft Plan Strategy is a public consultation document which will set out the Council's strategic intentions regarding the future development of the Borough.
- **Independent Examination (IE) of Draft Plan Strategy** - This will be held to determine the 'soundness' of the Draft Plan Strategy, taking into account any representations or counter representations received.
- **Advisory Report** of the findings arising from the IE issued to Dfl.
- **Binding Report on Draft Plan Strategy** - Following consideration of the Advisory Report, Dfl will issue a Binding Report to the Council.
- **Adoption of Plan Strategy** - The Plan Strategy will be formally adopted by the Council.
- **Draft Local Policies Plan** - The Draft Local Policies Plan is a public consultation document which will contain the Council's detailed land use policies and proposals regarding the future development of the Borough.
- **Independent Examination (IE) of Draft Local Policies Plan** - This will be held to determine the 'soundness' of the Draft Local Policies Plan, taking into account any representations or counter representations received.
- **Advisory Report** of the findings arising from the IE will be issued to Dfl
- **Binding Report on Draft Local Policies Plan** - Following consideration of the Advisory Report, Dfl will issue a Binding Report to the Council
- **Monitoring & Review of LDP** - The LDP will be monitored annually and reviewed every 5 years.

Assessments

The Council is required to carry out a number of assessments alongside the preparation of its LDP.

- **Sustainability Appraisal (SA)** This is undertaken to help the Council assess the sustainability of the LDP policies and how the Plan will contribute to the achievement of sustainable development, with regard to social, environmental and economic factors. The Council's Strategic Environmental Assessment (SEA) will be incorporated into its overall SA document.
- **Habitats Regulation Assessment (HRA).** This considers the potential impact of the Plan's policies and proposals on designated nature conservation sites
- **Equality Impact Assessment (EQIA)** - this assesses if the Plan is likely to impact adversely different sections of the community and if so, the mitigating measures required.
- **Rural Impact Assessment.** This is to help the Council assess the impact a new policy might have on the people in the rural area.