

Economy and Environment Overview and Scrutiny Panel Friday, 15 September 2017, County Hall, Worcester - 10.00 am

| | | Minutes |
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| Present: | | Mr A A J Adams (Chairman), Mr P Denham (Vice Chairman), Mr G R Brookes, Mr M E Jenkins, Mr A D Kent, Mr J A D O'Donnell and Ms R Vale |
| Also attended: | | Mr A T Amos, Cabinet Member with responsibility for Highways Mrs E B Tucker, Group Leader 2017 Group Nigel Hudson (Head of Strategy and Infrastructure), Karen Hanchett (Development Management Manager), Adrian Tuck (S38/S278 Development Control Manager), Sheena Jones (Democratic Governance and Scrutiny Manager) and Emma James (Overview and Scrutiny Officer) |
| Available Papers | | The members had before them: A. The Agenda papers (previously circulated); B. Presentation handouts for item 5 (circulated at the Meeting) C. The Minutes of the Meeting held on 20 January 2017 (previously circulated). (Copies of documents A and B will be attached to the signed Minutes). |
| 266 | Apologies and Welcome | The Chair welcomed everyone to the meeting. Apologies had been received from Cllr Ceri Stalker, Panel member and from Cllr Ken Pollock, Cabinet Member with Responsibility for Economy and Infrastructure. |
| 267 | Declarations of Interest and of any Party Whip | None. |
| 268 | Public Participation | None. |
| 269 | Confirmation of the Minutes of | The Minutes of the meeting on 20 January 2017 were agreed as a correct record and signed by the Chairman. |

the previous meeting

270 Highways Development Management Processes - Section 278 and 106

The Head of Strategic Infrastructure and Economy, Development Control Manager and Section 38/Section 278 Development Control Manager were in attendance to provide an update on improvements to the Development Control Process related to developer funded infrastructure.

Also present was Cllr Alan Amos, Cabinet Member with Responsibility for Highways.

The Panel Chair set out the main aims of the discussion, which were to understand:-

- How to get developer-funded Highways Infrastructure built quicker for the benefit of residents and road users?
- How can Network Control help ensure the planning conditions imposed on developers to build certain highways infrastructure by certain key times (ie before the houses are occupied) are met?
- How will Highway Liaison Engineers help councillors be informed and involved with major developer-funded highways infrastructure in their division at planning stage, and once planning has been approved?

The Worcestershire County Council (WCC) officers present gave a presentation with further information on the processes, requirements and issues involved and improvements to the Development Control Process (the 10 Point Plan). A flow chart to show the stages of the development management process was also circulated.

The development management process was split into two distinct areas:

- Planning application stage - Development Management Team (Karen Hanchett)
- Delivery (post planning) – S278 and S38 Development Control Team (Adrian Tuck)

Planning Application

Resources for the planning application stage involved a team of 9 staff including the Team Leader. Two very experienced Principal Officers dealt with major applications, five Senior Officers dealt with householder and minor applications and there was also a dedicated Travel Plan Officer.

There was a robust system in place to deal with refusals of applications so that such decisions could be defended. Refusal was something which officers could only *recommend* to planning committees. Sometimes applications were recommended for refusal, and after revision, subsequently recommended for approval. This was confusing for residents and councillors and there were plans to change the wording on the website to make this clearer.

The presentation included numbers of planning applications responded to during 2015 and 2017 and the average number of responses per month had risen 22% from 168 in 2015 to 205 this year. 2015's April to December summary list showed 1509 responses, of which 805 (53.3%) passed with no objections and 33 (2.2%) were refused. In comparison, between 1 January and 31 August this year, 1637 applications were responded to, with 951 (58.1% with no objections) and 45 (2.7%) were refused.

In spite of increasing numbers of applications, the number of late responses was decreasing (20.4% in 2015, to 5.7% in 2017) and the average response time had fallen from 16 to 9 days. This was partly due to a new system introduced to monitor response time, and an expanded team.

Applicants consulted with WCC where they envisaged an impact on highways. The Development Control Manager welcomed and encouraged liaison between WCC, developers, highways and the Planning Authority.

To communicate with councillors, every week the team passed information to Rachel Benson, the Directorate's Member Support and Customer Relationship Officer, for circulation. Information was selected based on whether it would be of interest to councillors, and it would be helpful to know if this was at the right level?

Panel members stated that they did not think this was happening as none had been approached about planning applications in their Division by their Highways Liaison Engineer to discuss proposed highways infrastructure. However this was considered a good idea and should be implemented fully. Members currently received a generic email, signposting to their District Council's planning portal. This generic email had been raised on several occasions by this Panel as being ineffective. It was suggested it would be better to ask the relevant District Council to add the relevant County Councillor to the

Planning Notice which they already emailed to the District Councillor, on every new application received. The Panel considered that this should be investigated.

Delivery

Once planning permission had been granted, the processes involved in delivery of the scheme would commence. Resources for this stage were a team of 13 (the Team Leader, four Development Control Managers, four Development Control Engineers (one vacant post), three Site Inspectors and one Technician.

The team was kept fully engaged, and also used two consultancies to deal with the large, complex and controversial schemes and elements of schemes which fell outside of WCC staff expertise; CH2M and Jacobs, the latter of which had recently been appointed due to the volume of work. Use of external consultants as a third party worked well for such schemes. Staff skilled in areas such as traffic signal engineering was in short supply and would be difficult to retain in-house. Modelling was also a very sophisticated, expensive area and to employ someone to do this fulltime would be hugely expensive.

Where a development was required to undertake works on the public highway, the developer was required to enter into a legal agreement with the WCC, in its role as Local Highway Authority, to deliver these works. As part of this agreement, the developer through its consultants, would submit detailed designs of their proposed highways works, to be checked by the Council to ensure the proposals were safe, durable, with minimal impact on the operation of the existing highway network.

The two legal agreements most commonly associated with the delivery of developments were Section 38 of the Highways Act 1980 and Section 278 of the Highways Act 1980.

Sec. 38 allowed WCC to adopt new highways for future maintenance at public expense, provided they were considered to be of sufficient public utility and constructed to WCC's approved conditions and specifications. Sec. 278 allowed WCC to delegate its powers to undertake works on the highway to developers and their agents. The agreements needed to be sealed prior to works commencing.

The Sec. 278 process was a nil cost to the Council, since all costs were met by the developer.

The Sec. 278 process:

1. Submit detailed design of proposed highways works – accompanied by non-refundable payment of £1000 to cover initial costs of design check
2. Design checked against National and Local design standards – this stage is repeated until all issues are resolved
3. Technical approval of the detailed scheme issues
4. Drafting and completion of the legal agreement, including payment of surety and fees - this ensures adequate provision to allow the Sec. 278 works to be completed if the developer defaults on their obligations, which may include unfinished or defective works
5. Secure Streetworks Permit
6. Works commence on-site and are supervised by WCC officers
7. Provision of Certificate of Completion – issued once any defective work is corrected to WCC satisfaction
8. 12 month maintenance period, during which the developer is responsible for maintenance of all works covered by Sec. 278 agreement
9. Final certificate of Completion (works adopted) – following final inspection.

A great deal of time was spent checking whether information submitted had addressed previous requests and the registration process had been introduced to reduce delays further on in the process. It was confirmed that while the technical submission stage was allocated 10 days, this could be repeated several times if issues remained; if 10 submissions were required, then this stage would total 100 days.

Submissions were assessed against standards from the Design Manual for Roads and Bridges and the Manual for Streets and against the local design standards contained in the WCC Highway Design Guide and Highway Specification. To depart from these standards would need justification and require suitable design criteria.

Once the Final Certificate of Completion had been issued, the scheme was adopted and formed part of the public highway and was the responsibility of WCC to maintain.

The Panel was advised of numbers of Sec. 278 and Sec.38 applications, associated technical submissions and numbers technically approved. Within a three year

period from 2014, WCC received 48 new Sec.278 applications, of which 37 were technically approved.

The average number of technical submissions for all Sec. 278s (WCC/CH2M/Jacobs) was just over 4 and for Sec. 38s, was 4. The highest number of technical submissions for Sec.38 was 10 (The Brown, Broadwas, Speller Metcalfe). During this period, the most number of technical submissions for Sec. 278s was 9 (land off Marlbank Road, Welland, DB Homes Welland).

Issues affecting Sec.278 schemes included quality of engineering input from developers' preferred consultants, additional land requirements, legal agreements with third parties, consistent approach to schemes, consistent design approach and national guidance.

The proposed improvements to the Highways Development Management Process had started to be implemented over the past 10 months. These aimed to run processes in parallel with Development Control more involved at the planning stage, more early engagement with developers to encourage more submissions to be right the first time. A copy of the checklist issued to developers was circulated.

Revisions to the highways design guide would be circulated to councillors and the district councils in a few weeks, once approved by the Cabinet Member for Highways.

Main discussion points:

- A lot of time was spent analysing the flow chart for the Section 278 team which showed the stages to obtain technical approval. Although in theory progression from the technical submission stage to the technical approval stage should only take 50 days, in reality this took much longer. The graphs provided showed one took over 710 days and many were taking well over 100 days.
- One of the reasons flagged by officers was the information supplied by the developers was inadequate. Previously, the team had tried to process the submission and then realised part way through that more information was needed from the developer.
- A stricter registration system had been developed, where the information supplied by the developer was compared against a check list. A new form had been produced to help this.
- Even so, some developers had to submit several

times before the registration step had been completed.

- Once the registration step had been achieved, members expressed concern why WCC was finding errors in the technical design, assuming that developers were using reputable consultants for their designs? Was the WCC process too pedantic?
- Officers suggested that some developers were not using the appropriate highways engineers but planning consultants to design their schemes. Even when developers were using appropriate highways engineers, there were still issues.
- Issues often arose because planning permission did not necessarily look at the vertical alignment of the road and the transition from two to three dimensional plans.
- Panel members suggested that there was a risk that processes were delayed unnecessarily when a series of queries were raised with and dealt with by developers in a sequential manner, when potentially these could be dealt with in one batch i.e. around the table meeting to agree the various points. To go through the technical audit step several times added a lot of extra days to the process of getting technical approval.
- It was also noted that each time a technical audit took place, the developer had to pay for the cost of the audit and if it was sub-contracted to CH2M, then the costs to the developer could escalate. A member quoted an example where developers had paid £9000 for the first technical audit that was outsourced to CH2M. CH2M found fault with the designs and requested some changes. The developer then had to re-submit new plans and a further £9000 before CH2M could look at these new drawings.
- Each time a developer had to re-submit, another full set of paper drawings had to be supplied. Officers responded that a number of technical drawings were often involved in a design. On occasion, a change in one area would have implications for another aspect that designers would not always recognise. Better use of technology could help speed this process up.
- Where the technical audit was carried out in-house, often the process was quicker than if outsourced to CH2M. However, there were not enough in-house resources to deal with all technical approvals. A brief discussion took place on the amount paid to CH2M, and whether these

monies were paid to WCC rather than CH2M, could additional staff be recruited.

- The Development Control Manager agreed that a better outcome was achieved where the promoter of a scheme was also the end builder, generally reducing the number of submissions made.
- A speculative developer that had no intention of building, but to sell the land once planning approval had been obtained, had less incentive in getting the designs of highways infrastructure right at the planning stage.
- The Council had a duty to ensure the durability of any highways infrastructure built if it was going to be adopted by the Council. Also the safety of the public was paramount. The technical approval process clearly set out what was required and did not ask for anything that would not be applied to WCC's own work. A key problem was that applicants had not incorporated engineering expertise into design.
- The Head of Service stated that there was a new system of arranging a meeting with a developer where two submissions had occurred to try and resolve outstanding issues. This meeting needed to take place before subsequent submissions would be registered. Although it was not for the Council to design a developer's scheme, this approach could encourage getting it right first time.
- Where work was sub-contracted to CH2M, a response time of four weeks was specified, which the consultancy was good at meeting, and would advise if the deadline could not be met. Delays in payment would add to the four week time frame.
- WCC spent approximately £2million a year with CH2M overall, which included modelling and detailed design.
- Sometimes the developer used the same consultant as WCC, i.e. CH2M, and this often helped speed up the process.
- The flow chart was very useful to the Panel and it would be helpful to also include more statistics such as a spreadsheet listing all applications by developer, showing the actual working days taken by each application for each stage of the process. The Panel would like to use such a tool to monitor improvements in Section 278 processes.
- The Panel could see a real case for a commercial option where WCC could offer developers the option to complete the designs, which would effectively 'fast track' applications – officers

confirmed this was being looked at and a report was due to be made to cabinet in October which addressed this.

- The planning permission stage was crucial – was there scope to incorporate highways requirements and expertise, to prevent schemes being approved where the highways element had not been thought through? This would also incentivise applicants to consider the technical highways requirements earlier on, and reduce the number of repeat design submissions? Officers advised that they were indeed trying to 'front load' the process by inviting developers to supply additional information which may help pre-empt problems, however to request detailed designs for the Sec. 278 element of the scheme at the early planning stage, would be unrealistic within the timescale.
- Developers did not always take responsibility for delays getting technical approval and may proceed to build, which led to difficult problems further down the line and planning enforcement, although WCC officers tried to be constructive in tackling these situations. It was a reality that people buying homes on new developments may unknowingly buy a home that was in breach of planning regulations.
- Greater use of electronic systems was being looked at, for efficiency, however paper drawings were also used because of practicality.
- Officers advised that the issues experienced were similar to elsewhere in the country. The Panel requested some bench marking of WCC's performance against other councils.
- The standards required were applicable nationally and reflected the Manual for Streets and the Council's street design guide. Officers advised that the Development Management and Resources teams worked closely together to try to ensure consistency of interpretation. The Design Guide was currently being reviewed and updated and officers would liaise with District Council colleagues to try and ensure consistency across authorities across the County in consideration of planning applications. The Panel suggested it could review the implementation of this at an appropriate stage.
- It was true that some aspects of the Manual for Street and the Design Guide could be interpreted differently, and a member suggested this could be a training need for district council planning committees. WCC Development Management

Officers had worked to ensure consistency between its own teams.

- The Government was pushing for a big increase in housing development, and officers advised that while building capacity was there, this would have an impact on infrastructure.
- Panel members queried the expertise required for modern traffic light configuration, but were advised that although technology continued to move on, there was a difference between managing traffic systems and introducing a new set of lights, which required specific work.

In summing up, the Chair could see that the Directorate of Economy and Infrastructure had clearly taken on board the Panel members' aspirations to speed up highways development management processes related to developer funded infrastructure. He acknowledged the work in hand and thanked the officers present for the information provided.

Nonetheless, the Panel requested the following information, in order to build up a more complete picture of the facts:

- further updates on progress with the 10 Point Plan – several outcomes were targeted for the coming financial year and the Panel hoped timescales could be brought forward
- number of schemes where developments proceed to breach planning clauses (names of developers)
- statistics to accompany the Development Management process flowchart
- information about how other Local Authorities worked and best practice

271 Work Plan

The Panel considered the current work programme.

The next meeting on 3 October would look at footways and cycle paths.

The proposed scrutiny of budgets relating to the Economy and Infrastructure Directorate was awaiting clarification on the overall budget scrutiny approach from the Chair of the Overview and Scrutiny Performance Board. Panel members Bob Brookes, James O'Donnell, Brandon Clayton had put their names forward.

It was suggested that bus provision, in particular the performance of companies on certain routes, be looked

| at as part of the future work programme.

The meeting ended at 12.40 pm

Chairman