



Executive : 4 December 2008

Task and Finish Review into the Planning Department's Role in Delivering Large Housing Schemes

Report of the Democratic Services Manager

(This matter is the responsibility of Councillor Simon Coles)

Executive Summary

This Task and Finish review has now been concluded. The final report has been submitted to the Overview and Scrutiny Board and was approved subject to some amendments (detailed below) being recommended.

This cover sheet provides directions on how the Executive should deal with the Task and Finish report into large housing schemes, particularly its 7 recommendations.

The final report of the Task and Finish review follows this cover report.

1. Recommended Changes to the Task and Finish Report suggested by the Overview and Scrutiny Board

1.1 The final report of the Task and Finish Group was considered by the Overview and Scrutiny Board at its meeting on 13 October 2008. During the discussion of this item, a number of suggested changes to the report were made. These were:-

- In Recommendation 2, the word appropriate be removed from the final sentence;
- In the same sentence of Recommendation 2, "at an early stage" be replaced with the words "at the pre-application stage";
- In Recommendation 3, the words "or another consultant" be added after the word "Sector"; and
- A further recommendation be added to recognise the fact that the Planning Department needed to be adequately resourced to deliver large planning schemes more quickly.

2. The Executive is asked to do the following:-

- 2.1 Consider the above recommended changes of the Overview and Scrutiny Board and agree whether or not these should be included in the report.
- 2.2 Then consider the report and its recommendations, and decide which, if any, of the recommendations it wishes to adopt.
- 2.3 If the Executive agrees to adopt any of the recommendations of the review, it should state who will be responsible for delivering each of the adopted recommendations. The Corporate Management Team (CMT) has had prior sight of the report and has identified a CMT member to take responsibility for each recommendation, if adopted.
- 2.4 If the Executive decides **not** to adopt any of the recommendations, it must specifically state why, as prescribed by the Local Government Act 2007.

3. Contact Details

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Overview and Scrutiny

Task and Finish Review

A Review into The Planning Department's Role in Delivering Large Housing Schemes

October 2008



**“A house is a home when it shelters the body and comforts
the soul”**

- Phillip Moffitt

Founder of the Life Balance Institute

Taunton Deane Borough Council: Overview & Scrutiny

A Task and Finish Review into the Planning Department's Role in Delivering Large Housing Schemes

Introduction by Councillor Cliff Bishop
Chair of the Planning Delivery Task and Finish Review



“Since we started this review we have seen a significant downturn in the housing market, with sites being moth-balled or delayed, and it is evident that developers are, or will be seeking ways of improving the viability of schemes.

PPS3 advises that testing viability should enable councils to “reflect an assessment of the likely economic viability of land for housing in the area, taking account of risks to delivery and drawing on informed assessments of the likely levels of finance available for affordable housing, including public subsidy and the level of developer contribution that can reasonably be secured”. At a recent Local Development Framework inquiry the inspector varied the details in a draft Development Plan Document to give more weight to viability in line with the requirements of PPS3 and he also stated that “viability should be of paramount importance”.

It is therefore essential that the Council should prepare a Large Application Charter which could also include particularly complex applications. The project management structure must be able to cope with any dispute and be adequately resourced and led.

I also feel strongly that a protocol should be agreed regarding the involvement of Members in pre-application discussions on major applications – the Arup Report, prepared for DCLG on “Councillors Involvement in Planning Decisions” and recent documents issued by ATLAS suggest that Members have a vital role to play.

”

Councillor Cliff Bishop

Chair

Planning Delivery Task and Finish Review

Acknowledgements

Jim Claydon - Past-President of the Royal Town Planning Institute

Jeff Copp – Somerset County Council Highways

Paul Brockway - ATLAS

Phil Lowndes - Somerset County Council Highways

Ian White - ATLAS

Michael Sudlow - Cushman and Wakefield property consultants

Ken MacNeill - Sector

Michael Griffin - South West Home Builders Federation

Definitions and Abbreviations

ATLAS – “Advisory Team for Large Applications.” ATLAS is funded by Central Government and offers direct support to individual local authorities to deliver key Government objectives such as large scale housing developments

RTPI - Royal Town Planning Institute

Section 106 – A section of the Town and Country Planning Act 1990 that allows for Local Planning authorities and persons interested in land to agree contributions, arrangements and restrictions as Planning Agreements or Planning Obligations

Sector - Sector is the leading provider of treasury management, risk and capital financial advisory services to UK public service organisations.

Contents

Acknowledgements	4
Definitions and Abbreviations	4
Contents	5
Background to the Review	6
Membership of the Review	7
Terms of Reference.....	7
Evidence Taken, Key Findings and Recommendations	8
Conclusion	13
Contact Details	13
Appendix A – Full List of Recommendations	14

Background to the Review

This review was set up in response to calls from several Councillors to investigate the role of the Council's Planning Department in realising large housing developments, and what if anything could be done to improve or speed up the process.

Councillors identified three perceived or real problems

- More affordable housing is needed but is not being delivered
- Large housing schemes are perceived to be taking too long to complete
- There is a general belief that the planning / Planning Obligations process is part of the problem

This review was set up to verify these assumptions, and if they are true, to recommend ways to deal with them

Three aims were identified as a starting point for this review

- To understand what the difficulties actually are, as recognised by those involved in the process: the planning department, developers, architects etc
- To recommend ways to deliver planning decisions more quickly on major housing and affordable housing sites. "Major" is used in this sense as a general term distinct from "major planning applications" defined by planning targets.
- To find ways to speed up Planning Obligations negotiations so schemes are not unnecessarily delayed.

Why do a review on this subject?

There are several obstacles that prevent the Council from achieving Planning Obligations agreements within what might commonly be termed a "reasonable" timescale. But how could the Council overcome those obstacles?

Councillors named three principle objectives that are foremost in their minds:

1. To deliver more affordable housing
2. To complete housing schemes within a reasonable timescale, regardless of tenure
3. To establish a climate between developers and the Council that encourages quicker delivery of housing schemes.

Clearly there is much debate to be had on what "reasonable" means.

There was also a desire by Councillors to focus on what had caused some of the more high-profile large housing schemes to be held up, or perceived to be held up, because for one reason or another, agreement on the Planning Obligations is not easily reached.

Affordable housing delivery is also one of the Council's corporate priorities. Councillors also reported a feeling amongst communities that something is not being done that

should be, which is wrapped up in a general desire to “get it sorted” and “get the houses built.”

Membership of the Review

Councillor Bishop – elected to Chair the review
Councillor Brockwell
Councillor Mrs Court-Stenning
Councillor Farbahi
Councillor Mrs Hill
Councillor House
Councillor Smith

Terms of Reference

It was agreed that the Task and Finish Group’s Terms of Reference should be to:

- Define “large” housing schemes;
- Consider the difficulties being experienced under current practice;
- Identify practicable ways of improving the current system of operating;
- Make recommendations to the Executive for consideration.

The review chose to focus on the following difficulties:

- 1) We can’t choose the developers on sites we don’t control
- 2) We can’t force a developer to build, even after planning consent.
- 3) The credit crunch has reduced developer’s ability and / or desire to build large numbers of homes.

But we **can** influence developers through;

- Planning obligations
- Stricter rules for developers. But is flexibility more productive?
- Our culture as an authority.

Members discussed the type of information that they would require at future meetings and this included:

- Inviting a representative from ATLAS (the Advisory Team for Large Applications)) to attend a future meeting
- Inviting “Sector” to attend a future meeting
- Inviting a developer to talk about their experiences of working with a local authority in connection with large residential housing schemes.

Evidence Taken, Key Findings and Recommendations

What is “Large”?

Ralph Willoughby-Foster, the Forward Plan and Regeneration Manager informed the review group that in a strategic sense, for a village 100 homes is large. The regional spatial strategy talks of c.18000 new dwellings in Taunton alone, including 4000 in Monkton Heathfield.

Nevertheless, there is no need to pin down the term too much. More than 500 homes in a Taunton context is clearly large physically and socially, regardless of the terms used in a strategic planning context.

There is the issue of complexity on a site. “Large” doesn’t mean that Planning Obligations will automatically be difficult to negotiate and achieve. There are other roles of planning in this – employment, mixed-use developments, and community sustainability. The thrust of government policy is to stop bolting-on estates to the side of communities, but instead to build sustainable communities. This means building-in employment, community uses, recreation, health and education. This is done using a range of critical thresholds, e.g. 700 or more houses might require a new primary school. Thresholds include provision of highways. This creates complexity.

Ralph Willoughby-Foster and Tim Burton (Development Manager) agreed that it can take 7 to 8 years to get from a plan proposal to physical appearance of buildings. This is clearly not a speedy process. Outline and full planning consents last for several years so developers may not necessarily begin construction as soon as they are granted permission.

Councillor Bishop stated that the majority of policy issues will have been looked at before plans are submitted. He suggested that the objective of this review should be to pursue better implementation.

ATLAS

Paul Brockway and Ian White gave Members a presentation on the role of the Advisory Team for Large Applications (ATLAS).

ATLAS is an independent advisory service. An experienced and dedicated team, ATLAS works with local authorities and the private sector to deliver quality, large-scale development. In particular, the team offers advice to local authorities that are experiencing the pressures of increased development activity in their area.

It currently operates across the South East, South West, East of England, East Midlands, West Midlands and London Government Office regions. The team is sponsored by the Department of Communities & Local Government. ATLAS acts in response to one of the Planning Advisory Service key objectives, namely to offer direct

support to individual Local Authorities to deliver key Government objectives such as large scale housing developments or regeneration projects.

The ATLAS team are experienced town planners who have been advising and assisting Local Planning Authorities across a wide variety of projects all of which contain a significant number of residential units. The team has rapidly expanded to offer guidance and assistance across a wide range of planning and technical development issues. ATLAS only engages where requested by the local authority on a case by case basis, at any stage of the development process. Generally the team becomes involved in large-scale or complex residential development projects which have some form of emerging or established planning status. Given the importance and extent of work required pre-application, the team is often involved well in advance of any formal planning application.

The advice they provide is based upon background knowledge, experience from project work and other good practice together with the specific circumstances of each individual case. Whilst the team work primarily on behalf of the Local Planning Authority, their advice reflects what the team feels is reasonable and good practice, and as such may be supportive of the position of any stakeholder involved in the process. It is important to stress that ATLAS provides independent (and where necessary confidential) advice.

The ATLAS team has expanded considerably over the last year, bringing in a range of new specialisms including transport and engineering, social infrastructure planning and delivery, Environmental Impact Assessments, urban design, and master-planning. In light of recommendations in the Barker Report and Planning White Paper, the ATLAS team will expand further to broaden its scope of work and geographic coverage.

ATLAS has had a central role in the development of the Planning Performance Agreement concept from the initial pilot onwards and in conjunction with the Government has produced a guidance note entitled "Implementing Planning Performance Agreements", which provides further details of how these agreements can be established and how they will work for the benefit not only of local planning authorities and the applicant, but for other interested parties.

Details of Planning Performance Agreements and the guidance ATLAS could provide were presented to the review group. ATLAS seeks successful outcomes by bringing the various parties together to agree in advance how a development proposal could be taken through the planning process.

The Large Application Charter suggested by ATLAS would:-

- State the local planning authority's commitment to a collaborative process, good project management and achieving high quality sustainable development (agreed among parties therein);
- State the pre-agreed commitment of local planning authority departments, statutory agencies and service providers to the Planning Performance Agreement (PPA) process;

- Set out the key requirements for the statutory application process and expected content of a PPA;
- Set out the approach and actions that applicants were expected to commit to;
- Set out how the local planning authority would engage with members;
- State the local planning authority's expectations for community involvement;
- Set out the local planning authority's approach to resources and, if relevant, their expectations of support to deliver the PPA process from the private sector; and
- Set out any pre-application fee charges.
- Involvement of Councillors at an early stage of development is also encouraged

Members discussed the presentation made by ATLAS to the meeting and decided to make the following recommendations to the Executive:

Recommendation 1

The Council should seek advice from, and work with, ATLAS on major housing or mixed use developments.

Recommendation 2

The Council should enact the Large Application Charter suggested by ATLAS. The Charter should also be developed in consultation with the Overview and Scrutiny Board for later inclusion in the Statement of Community Involvement. A protocol should be developed to facilitate appropriate Member involvement in major planning applications at an early stage.

Sector

Ken MacNeill from "Sector" and Michael Sudlow from Cushman and Wakefield gave the review group a presentation on the role of Planning Obligations in bringing forward major schemes.

Sector is the leading provider of treasury management, risk and capital financial advisory services to UK public service organisations. Cushman and Wakefield are a leading property consultancy.

The principle behind Planning Obligation agreements is that developers should contribute towards the cost of the additional strain on public services generated by the development. They should be relevant to planning, necessary to make the proposed development acceptable in planning terms, directly related to the present development, fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects.

The overall situation is that the major growth in Taunton Deane would create cumulative demand for infrastructure investment. Costed infrastructure planning is essential, with spatial planning at the heart of the process. Pre-application discussions and a corporate approach is the best way to consider schemes, in their entirety.

Members discussed the presentation made by Sector at a later meeting and decided to make the following recommendations to the Executive:-

Recommendation 3

Sector should be used to support the needs of Taunton Deane Borough Council on viability issues.

Recommendation 4

Wherever possible, “Heads of Terms” for Planning Obligations should be agreed with the developer before a planning application is submitted.

Recommendation 5

The “clawback” process should be used in appropriate cases to protect Council interests where necessary. If such arrangements were made benefits should accrue on the actual rather than the forecast returns.

Recommendation 6

The Overview and Scrutiny Board should be consulted on the suggested Planning Obligations procedure to be incorporated in the Local Development Framework.

Recommendation 7

The “open book” procedure will be mandatory as part of the guidelines.

The Home Builder’s Federation

Michael Griffin, Chairman of the Homebuilders Federation South West Planning Forum gave the presentation to the review group on the role of the developer in delivering major schemes.

Mr Griffin explained the role of the developer from the identification of potential sites through to the after-sales service. He also gave details as to how a development was funded including how a potential site’s land value was appraised. He further detailed a typical distribution of funds and gave examples of distribution in cash terms and after both a 20% and 30% per cent drop in revenue.

It was felt that for all stakeholders to benefit from the delivery of new homes there would need to be managed systems in place. It was also agreed that partnership working between all parties involved would be the best way forward.

Large developers look for a net profit of 15-18%. The notion of “thirds” is out of date because costs have changed. Nowadays it’s 20% gross profit for developers, about 15-18% net.

Issues for the industry and for planning are the same now as they have been for many years.

Mr Griffin outlined some issues with the planning process as it currently stands:

- We accept that the system can't be changed, except Supplementary Planning Guidance.
- Regulations and Planning Obligations are pretty standardised across the country but often interpreted in different ways by different councils. This can be a real frustration for developers.
- Everybody involved in the planning process knows their part of it but not necessarily all the other parts. Nobody has read and understands the entire 'manual.' We need to start sharing experiences with each other. It's not about procedures; it's about talking to each other and working together.
- Without land value, no houses will be built. Too high a demand on developers for affordable housing could mean zero new homes of any kind. The system must be flexible – land owners simply will not sell if they don't think the price is right. This requires consistency of officers. High staff turnover is a pain for everyone.
- Clawback would have to work both ways because the developer also takes a massive risk.

Jim Claydon

Jim Claydon is a consultant for Terence O'Rourke, a town planning consultancy. He is also a past-President of the Royal Town Planning Institute (RTPI). He was invited to speak to the review group because of his vast experience in the planning field. Mr Claydon made several comments on the findings that the review group had so far made:

- ATLAS are an extremely useful service when it comes to out-of-the-ordinary planning applications.
- Planning Performance Agreements are good for the private sector because there is a degree of certainty. Delivery is measured against milestones so everyone knows where they are.
- The RTPI view is that there is a need for this level of housing but the private sector can't meet it. Local authorities, housing associations, government funding agencies all have a big role to play.
- In hard times, housebuilders might not build, but they do tend to – and are advised to – submit planning applications in advance of better times.
- House prices are set by the market which is mostly dominated by the second hand market. New build is unlikely to bring down costs or keep homes affordable. Plus, a reduction in house prices means less money for the landowner.
- Developers don't like paying for pre-application advice. They do like planning delivery agreements but are not so happy about paying for pre-application advice.
- There must be liaison between all the groups and organisations involved in planning issues and planning consents.
- Progress your Core Strategy as rapidly as possible. It will make it more difficult for developers to "get in quick" before it is firmed up.
- Look at the pre-application advice charging structure to ensure no time is lost on large developments.

Conclusion

Since this review began, the economy has been subjected to the effects of the credit crunch. This has had a major impact on housebuilders, who have significantly reduced construction of new homes, or stopped entirely.

The impact and lasting damage to the housebuilding sector is still to be determined but levels of construction will almost certainly pick up again as the market stabilizes and recovers. Hopefully the recommendations of this report will help the Council and its partners prepare for this so that we can obtain the kinds of developments that Taunton needs.

Chair of the Review

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Appendix A – Full List of Recommendations

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