



Report of the Chief Planning Officer

Meeting: Scrutiny Board (City Development)

Date: 9 February 2010

Subject: Inquiry to Review the Method by which Planning Applications are Publicised and Community Involvement takes place

Electoral Wards Affected:

All

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

- 1.1 The Scrutiny Board (City Development) at its meeting in June 2009 agreed to carry out an inquiry to review the method by which planning applications are publicised and community involvement takes place.
- 1.2 As part of the Scrutiny process, three sessions have been scheduled for formal evidence gathering between January and March 2010. The first session held in January 2010 provided background information about the planning system, legal and statutory requirements, current arrangements for publicising applications and the proposed changes made by the Killian Pretty review.
- 1.3 The purpose of the second session is to:
- Consider examples of good practice in other local planning authorities
 - Consider evidence from invited witnesses
 - Identify the strengths and weaknesses of the current arrangements and opportunities and barriers for improvement
 - Identify how this fits with the current corporate consultation policy to facilitate more effective community consultation, with regard to the statutory obligations in terms of timescale, resources and legal parameters under which the planning process operates.
 - Consider any emerging recommendations from the Inquiry to date

2.0 Background

- 2.1 In session one, the Board heard the background information on how the planning system works and in particular about the time and legal parameters in which the service operates. These constraints have an effect on the type and scope of the notification and consultation that can normally be carried out. A balance is always needed between consideration of the cost and speed of decision making and providing a reasonable opportunity for the public to comment and influence the scheme.

2.2 Currently, there are changes and reforms at a Leeds City Council level and nationally with regard to consultation and notification. At a local service level many positive changes have been implemented such as adoption of a pre-application protocol, increase in numbers of the Community Planners, Public Access the online planning system and the Town and Parish Council Charter. At a national level the Government's planning reform agenda and the Communities in Control White Paper, mean that changes to improve involvement methods and to engage more effectively with local communities are underway.

2.3 These changes present opportunities to improve the service, but there will also be challenges in matching expectations of stakeholders with the timescale and finite resources that are available and in terms of the influence of what can be altered through the engagement process.

3.0 Practice from other Authorities

3.1 Members may recall from session one that information was provided about the Statement of Community Involvement (SCI). The SCI explains how Local Planning Authorities (LPA) will engage with the public through the planning process, including in the determination of planning applications. The SCI describes the way Planning Services publicises planning applications through the methods available to them- site notices, newspaper advertising, notification letters, online lists and so on. The SCI also describes community involvement at pre-application stage. All LPA's are required to have an SCI.

3.2 The requirements for publicity and consultation are laid down in the GDPO. Desk research has shown that, like Leeds, the majority of local planning authorities go beyond the statutory minimum.

3.3 All LPAs employ the same basic methods for notification: neighbour notification letters, site notices and press notices.

3.4 Neighbour Notification Letters

The variation in practice occurs in the scope of where notification letters are sent and in the type of application subject to a notification letter.

3.5 The table below describes practices in some of the Core Cities:

| LPA | Distribution of letters |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sheffield | <ul style="list-style-type: none"> • For all schemes, the letters are selected in preference to Statutory Site Notices where there is a choice. • All properties adjoining the proposed development and directly affected plus those who are adjoining the site who may not be directly affected but who could reasonably expect to be informed of the proposal, with a presumption in favour of notification. • It is not necessary to notify unaffected neighbours, even if their properties adjoin the development site, eg rear extension does not require notification of neighbours to the front. • Land within 4 meters of the land on which the development is proposed will be regarded as adjoining. • A road or similar intervening obstacle up to 20 meters wide shall be disregarded, and properties beyond shall be regarded as 'adjoining'. If an adjoining property is a multi-storey block of flats or similar, a practical judgment has to be made as to whether it is most appropriate to use a site notice in the lobby or nearby, and notify any known tenants group. • Any directly adjoining flats, such as the top floor flats where rooftop telecom |

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| | apparatus is proposed, will be individually notified. |
| Bristol | <ul style="list-style-type: none"> • On all application types a judgement is made by Officers to determine which properties should receive a letter. Letter sent to all adjoining properties and such other properties as are felt to be significantly affected by the proposal. If there are blocks of flats a letter to the Management Company (if known) will be more efficient than individual letters to all occupiers, though electoral register and property database is useful. • Householder applications- letters to all properties who might be affected by the extension. The basic principle is if the extension is within 25 metres and can be seen from a nearby property then they should get a letter. The minimum requirement is, all adjoining properties and any which are affected by the proposal eg opposite the site. • Where an application is for planning and listed building consent, neighbour notification need not be duplicated. |
| Liverpool | <ul style="list-style-type: none"> • Letters to all properties adjoining the application site, properties abutting to the rear should be notified if extensions have a visual or direct impact from position of windows/bulk; properties opposite the application site should be notified of front/side extensions which have a visual or direct impact. • Infill Housing/Redevelopment: wider notification should take place, properties either side or facing any proposed access should be notified as well as all properties abutting the application site. • The larger the redevelopment the greater the consultation exercise that should be initiated. If the site consists of the loss of open space, tree loss, or a greenspace, wider notification should take place. • Changes of use: wider consultation should take place where a large conversion scheme is proposed, and take account of the access and car parking arrangements, or if the proposal would represent a significant change in the character of the area. • Non Residential Developments- depends on the scale and whether it is anticipated that access/amenity issues arise. Within a wholly industrial or commercial area, adjoining occupiers only may be appropriate. Wider consultation should take place within predominantly residential or mixed use areas, if major land use changes are proposed, if significant or controversial changes of use are proposed, or where it is anticipated that issues of traffic flow, on street parking, noise and disturbance or scale of development are likely to be experienced at some distance from the site. In commercial parades, residential properties above are notified. |
| Birmingham | <ul style="list-style-type: none"> • Letters to all neighbours who are effected by a development. Additional site notices and statutory notices which appropriate to the type and scale of development. Apart from householder and advertisement applications, councillors, MPs and local community groups are also informed. • For commercial developments a radial search from the edge of the development site of the proposed development, dependant on the size of the proposed development is carried out and letters for Minors a 50m buffer from edge of development site, Minor/Major a 100m buffer from edge of development site, and Major/Major a 200m buffer from edge of development site. • For residential developments radial search from the edge of the development site of the proposed development as below dependant on the size of the proposed development is carried out and letters to Minor (1 to 9 dwellings) a 50m buffer from edge of the development site, Minor/Major (10 to 199 dwellings) a 100m buffer from edge of the development site and Major/Major (200 + dwellings) - 200m buffer from edge of the development site. |

3.6 Sheffield Council has guidelines for where there is the need for wider neighbour notification and community consultation for applications that are likely to generate wider interest. These include telecommunications and masts, development of food and drink outlets, large traffic generators, especially if they will be through residential streets and potential polluters, such as incinerators. Judgement is used to decide who might be affected or believe themselves to be effected and a combination of

letters and extra site notices is used. However, this wider notification is not opened and is limited to a maximum of six properties either side.

3.7 Birmingham are currently considering reducing or stopping the neighbour consultation letters on planning applications, and carrying out the 'statutory minimum', i.e. site notices and, where relevant, press notices. They are currently collecting information from other LPA's to help them make their decision.

3.8 Newspaper Advertising

3.9 Leeds advertises in five local newspapers on a fortnightly basis. There are a number of practices LPAs employ to meet their statutory obligation for advertising in a newspaper for certain types of applications:

- Calderdale Planning Services uses the local daily newspaper but took a decision recently to only advertise fortnightly rather than weekly. There have not been any adverse comments made by the public, but it delays the publicity period up to 5-6 weeks on some applications.
- Hammersmith and Fulham are investigating the use of their Council newspaper to advertise applications. However, this is being met with a great deal of local resistance, due to the perceived political bias of the publication¹.
- Public objections in Cornwall, Grimsby and other parts of the country following the removal of council planning notices and other advertisements from local newspapers had forced those councils to reinstate them².

3.10 Following the recent consultation by CLG on newspaper advertising and the decision to maintain the current practices, there maybe some emerging ideas from other LPA's who are also looking for ways to reduce the financial burden of this method of notification.

3.11 Online Planning Systems

3.12 A number of LPA's are further along with the development of their online planning application system than is the case in Leeds. Many authorities already have a system for automatically alerting the public of when new applications are made in their pre-defined area of interest. In West Yorkshire, Kirklees and Wakefield have such a system. Additionally in Kirklees, an SMS text message is sent out to the public who have signed up to the planning alerts. The weekly text message tells the member of the public that applications in their chosen area of interest have come in and where they can go to find further information about the applications. This is an automated process, but there are time and cost implications. However, with 79%³ of the UK population owning a mobile phone, there is potential for communicating planning application information to a huge number of people.

3.13 Code of Practice for Publicity

3.14 A number of authorities describe their processes for publicity and consultation in a Code of Practice for Publicity. The Codes set out practical guidance for Officers organising publicity and consultations on planning applications. These Codes are in the public domain and are usually available on the Council's website.

¹http://hflibdems.org.uk/news/000181/hf_news_is_council_propaganda_masquerading_as_an_independent_newspaper.html

² <http://www.newspapersoc.org.uk/blog/index.php/2009/10/>

³ <http://www.statistics.gov.uk/cci/nugget.asp?id=868> Consumer Durables, Consumer durables ownership increases

4.0 Witnesses

4.1 In line with the terms of reference of this inquiry, a number of witnesses have been invited to attend today's meeting to respond to questions posed by the Board. Witnesses represent various stakeholder groups involved in planning and include local residents, developers and Parish Councillors.

5.0 Strengths and weaknesses of current arrangements and opportunities for improvement

5.1 There are inevitable tensions in the consultation and notification process between the wish to engage and notify as widely as possible and the timescales and resource constraints within which the service operates. This can be a difficult balance to maintain and the process is not infallible.

5.2 Members heard in session one about the range of methods for informing people about applications such as, lists on the Council website, lists and applications in libraries, arrangements through the Parish and Town Council Charter and so on. In this section an analysis will be made of the strengths and weakness of the current arrangements, highlighting where there are opportunities for improvement and where there are barriers which may inhibit improvement.

5.3 Pre-application process

5.4 The Government is currently providing a clear national policy framework for development management, moving LPAs from development control to a development management approach. CLGs definition of development management is:

*a positive and proactive approach to shaping, considering, determining and delivering development proposals. It is led by the LPA, working closely with those proposing developers and other stakeholders. It is undertaken in the spirit of partnership and inclusiveness and supports the delivery of key priorities and outcomes*⁴.

5.5 A key part of this approach is pre-application engagement. A draft pre-application engagement policy annex has been produced by CLG. CLG states that development management is delivered on the ground using positive, transparent, inclusive and responsive processes built on strong and effective partnership working and effective engagement with the local community⁵. It is reassuring to see that much of the work already undertaken by Leeds Planning Services is in accord with the government's proposals, through the adoption of the pre-application protocol and the protocol for pre-application discussions with local communities and Ward Members.

5.6 The protocols mean there is a more structured and robust approach to pre-application discussions and importantly recognises the critical role of engagement with Ward Members and local communities in help shaping proposals at an early stage.

5.7 However, in reality not all developers and their advisors are as effective in community engagement as others and community involvement is not mandatory. Whilst some developers engage with a wide range of people and organisations over the life of an application, for example in the case of Kirkstall Forge, other developers do the minimum. Whilst the responsibility for pre-application engagement lies with

⁴ CLG Development Management: Proactive planning from pre-application to delivery December 2009

⁵ Ibid

the developer, there is still a resource implication for Planning Services in terms of Officer time and input. The developers' role in positive engagement is crucial to the success of the pre-application phase, but some need more support and direction than others. Our aim is to develop the role of Planning Officers in helping developers to form their approach to public engagement and the involvement of Members and local communities.

5.8 Leeds is not unique in this regard; CLG recognises that the level of pre-application engagement will be dependent on a range of considerations including the resources available to the local planning authority and the willingness of the developer to engage.

5.9 The challenge is to develop an approach, which is proportionate to the scale of the application and getting developers to take ownership of community involvement. The Town and Parish Council Charter and Community Consultation database will provide new mechanisms to assist in this. Nevertheless, there will need to be a shift in emphasis to the "front loading" of the planning process at the pre-application stage, in order to improve the quality of applications and to avoid problems and delays at later stages.

5.10 Role of Community Planners

5.11 Members heard in session one about the two Community Planners operating in the north of the city and how these roles are a real strength of the current arrangements. Their role is key in the liaison between local communities and planning services. Community Planners advise the Area Committee, Ward Members, Parish and Town Councils and other groups on the implications of planning proposals, applications and appeals submitted within the area and/or affecting the locality.

5.12 A weakness is that there are only two Community Planners. It is the wish of the service that such roles were employed in each of the Area Committee areas, however, this would be subject to appropriate funding opportunities.

5.13 Online Planning Applications

5.14 Members also heard in the first session about the online Public Access system where people will be able to sign up and receive automatic alerts of applications in their area of interest. This new service is fundamental to the direction of the service in allowing people to "self serve" and access the information they want, when they want it. The public will not have to solely rely on letters or a site notice to learn about new applications.

5.15 However, in order to realise the full benefits of the service for the wider community, there needs to be effective promotion to publicise signing up to the planning alerts.

5.16 There is also the need to be mindful of the need to involve and consult with the public and users on any future developments of ICT processes to ensure that the system is fit for their needs and is easy to use and navigate. This is particularly key for people for whom English is not their first language or for disabled people.

5.17 Planning Services is very mindful of the issue of digital exclusion of those people without access to the Internet. Online planning and automatic alerts whilst providing an excellent channel of information, will not be a substitute for notification letters and site notices. Additionally, work is underway with Leeds Library Services to train library staff in the use of Public Access so that they can help members of the public find the information they need.

5.18 Notification letters

5.19 In Leeds, letters are often used as the preferred method for notifying neighbours of developments that may effect them, particularly for householder applications. Letters are sent for household applications and residential new builds up to nine houses. Members may recall from session one that for these types of applications, an average of six letters are sent per application, ensuring that neighbours who are adjacent and who adjoin the property are alerted to the proposals. The GDPO states that letters should be sent to adjoining properties, in Leeds the statutory minimum is exceeded.

5.20 However, there are instances where neighbours have complained about not receiving a notification letter when they felt they should have received one. In 2009, four complaints were received from the public but none of the complaints were upheld. It is impossible to notify everyone about everything by letter, but, determining which properties are notified is done on a case by case basis and sometimes can appear arbitrary.

5.21 The posted notification process is costly, approximately £58,000, and needs to be cost effective in reaching people who will be affected. From the previous table, Members will see that some other authorities do less than Leeds Planning Services, for example, not notifying unaffected neighbours, even if their properties adjoin the development site, for developments such as rear extensions where notification of neighbours to the front is not required. In this scenario, Leeds Planning would normally notify those neighbours to the front, that is, the so-called unaffected neighbours. In Leeds we tend to use site notices for developments near blocks of flats, whereas some other authorities would send out notification letters to tenants groups or by contacting individuals after using the electoral roll to identify those living in the flats.

5.22 It is understood that elected Members also send out their own letters to neighbours notifying them of developments in their locality. Member letters often have a wider distribution area than those sent out by Planning Services.

5.23 Site Notices

5.24 Site notices are used extensively in Leeds and are effective for developments where there are no immediate neighbours. The notices have been designed with equality issues in mind. Legally there are categories of applications that need to be advertised by site notice, eg listed building. Often in such cases a planning consent notice would be posted as well as a separate listing building consent site notice, for the same property, which may cause confusion, but nevertheless it is a statutory requirement.

5.25 Site notices have the potential to alert a wide range of people to the proposed development due to their prominent positioning. However, they can also be removed or damaged easily. Site notices are also used on major developments in favour of notification letters. However, it is the wish to move towards the use notification letters wherever possible.

5.26 Newspaper advertising

5.27 The CLG made an announcement on its consultation on use of newspaper advertising for applications in December 2009. There are no changes to the current arrangements, despite evidence to show that in one authority the percentage of people who made comments on a planning application as a result of it being

displayed in a press notice was only 2.1%⁶. Major applications, listed building consent (except those where alterations are internal only) and all planning applications for development that affects the character or appearance of a conservation area or the setting of a listed building need to be advertised in the press.

- 5.28 In Leeds, advertising in five local and free newspapers costs almost £59,000, against a budget of £38,000. Anecdotally, it appears that the free newspapers do not always reach every household. With staff costs, the process totals almost £63,000 and so it is important to consider if this is an effective distribution channel and whether it represents value for money, given the use of ICT systems and the community database.
- 5.29 Some authorities use their Council newspaper, but *About Leeds* is a quarterly publication and would not fit in with the statutory notification timescales, unless the frequency of the newspaper was changed to a fortnightly basis.
- 5.30 With the status quo maintained on newspaper advertising but pressure still on LPAs budget, it is perhaps timely to review how this part of the notification process works.
- 6.0 Corporate Consultation**
- 6.1 The Council has an adopted a Community Engagement Policy, which responds to the requirements placed upon the Council by Central Government. The Statement of Community Involvement forms part of the Corporate Engagement Policy.
- 6.2 The Vision for Leeds 2004-2020 makes a commitment to develop a more strategic approach to community engagement. As a partner of the Leeds Initiative, the Council shares that aspiration and through its approach to community engagement aims to:
- Ensure that community engagement is carried out to the highest possible standards
 - Increase the number and range of people active in their community and participating in democratic decision making processes
 - Increase the number of opportunities for everyone to be fully engaged particularly those who are described as *not yet reached*
 - Ensure that community engagement activity impacts on decision making
- 6.3 In the context of this Inquiry the type of engagement activity in which Planning Services is involved is perhaps different to those of other Council Services. Planning Services itself does not undertake the community engagement, that is the role of the developer.
- 6.4 However, there is an important role for Planning Services in meeting the aims of the Council's Community Engagement Policy by:
- encouraging developers to engage, communicate and involve effectively and to the highest possible standard;
 - by providing advice and information about community groups, including those hard to reach and those who traditionally are not engaged yet with the planning process;
 - by signposting developers to Ward Members and Parish Councils,
 - by ensuring that developers agree a Statement of Community Consultation which sets out the type, scope and breadth of engagement and

⁶ CLG Publicity for Planning Applications Consultation July 2009

- by asking developers to submit with the planning application a summary of consultation responses and how these have been taken into account in amending the proposal.

6.5 This can be evidenced through the pre-application protocols, where developer and City Councils responsibilities are clearly defined.

6.6 Within the remit of Planning Services through the notification and publicity processes, meaningful community engagement can still be achieved through providing high quality communication to communities through letters, notices, adverts and web based information and through the feedback system whereby people find out about decisions in a timely way.

7.0 Conclusions and recommended service improvements

7.1 Although the statutory requirements for notification and involvement of individuals and communities is laid out in statute, there is some flexibility for LPAs to adapt it to local needs, taking the GDPO regulations as the statutory minimum. Leeds exceeds the statutory minimum in its notification process through the sending of letters and often putting up site notices too. It is crucial to be consistent, as the level of publicity given to applications is often under scrutiny by the local community and Members. Adopting different criteria in some applications may create an expectation that similar levels are applied in other applications, and should therefore be avoided. There is the potential for improving the process using letters in favour of site notices for some developments to reach the people who may be effected most and in creating a consistency of approach, whilst still employing judgment on individual applications.

7.2 Public Access will improve communications with a large proportion of the community who will be able to see applications online. However, there will always be some people, for a variety of reasons, for whom this is not the preferred method communication. The service is mindful of the need to forge links with those who are at risk of becoming excluded further from the planning system. The Internet is a powerful tool, but its effectiveness as a tool can only be if realised if the information is clear, in plain English and easy to navigate.

7.3 Newspaper advertising costs the authority a great deal with little evidence to suggest its impact or value for money. Other authorities have investigated alternative methods and publications and while there is still the statutory need to advertise in the press, there is the need to consider the most cost-effective way of achieving this.

7.4 The good practices employed in the Council's pre-application protocols will go a long way in facilitating community engagement with developers. However, there is sometimes an inconsistency of approach at Officer level and by developers and steps should be taken to improve the critically important pre-application stage to ensure procedures are inclusive and clearly set out for all participants to understand.

7.5 Clearly, the service has made great positive changes in recent times, but there is always room for further improvement and review. In reality we do not know which forms of notification are the most effective and where people find out about new planning applications. The following areas are possible recommended improvements:

- Review of current neighbour notification process,
- Promotion for Public Access to encourage sign up to the automatic alerting system

- Build in public engagement for future developments of Public Access
- Review newspaper advertising
- Pre-application process, encouraging developers to engage with communities before submitting their proposals
- Review pre-application involvement with Ward Members to ensure Members are receiving early alerts of pre-application discussions on schemes within their Ward
- Develop Planning Officer skills and responsibilities for pre-application engagement
- Investigate further funding opportunities for Community Planners with Area Committees
- Improve the design of web content, providing clear information how to comment and what information can be considered
- Review methods to engage with the hard to reach groups
- Member training on planning for all Ward Members and offered to Town and Parish Councillors, with special reference to *rules of engagement* at the pre-application stage and community champion role

8.0 Recommendations

8.1 Members are recommended to:

- i. Note the contents of this report
- ii. Identify any further information the Board requires in respect to the evidence presented to date for consideration at Session 3 of this inquiry.
- iii. Consider the possible recommendations for improvements
- iv. Consider whether the Board has sufficient evidence to begin to identify recommendations for inclusion in its final report

Background Documents

CLG Development Management: Proactive planning from pre-application to delivery December 2009

CLG Publicity for planning applications- summary of responses December 2009

CLG Communities in Control Real People, Real Power, July 2008 Report. November 2008,

HMSO Town and Country Planning (General Development Procedure) Order 1995 (GDPO)

HMSO Planning and Compulsory Purchase Act 2004

Leeds City Council Planning Services Protocol for Pre-application discussions with local communities and Ward Members, 2008

Leeds City Council Planning Services Pre-application Protocol, 2008

Leeds City Council Statement of Community Involvement February 2007

Leeds City Council Community Engagement Policy October 2006

Websites

http://hflibdems.org.uk/news/000181/hf_news_is_council_propaganda_masquerading_as_an_independent_newspaper.html

www.newspapersoc.org.uk/blog/index.php/2009/10/

<http://www.statistics.gov.uk/cci/nugget.asp?id=868> Consumer Durables, Consumer durables ownership increases