

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2013-2014**

**CORPORATE SERVICES  
SCRUTINY COMMITTEE**

**29<sup>TH</sup> APRIL 2014**

**REPORT OF THE DIRECTOR OF  
LEGAL & DEMOCRATIC SERVICES**

**Agenda Item No. 2**

**REPORT OF THE PLANNING SCRUTINY  
WORKING GROUP**

**1. PURPOSE OF THE REPORT**

The purpose of this report is to inform Members of the findings and recommendations of the Committee's Planning Scrutiny Working Group

**2. RECOMMENDATIONS**

It is recommended that Members:-

- (i) Endorse the report and recommendations of the Planning Scrutiny Working Group;
- (ii) Agree that the report be sent to the Cabinet Member with responsibility for planning;
- (iii) Agree that this report be included as part of the information presented to Members at the Council's AGM in May in consideration of the Council's committee arrangements.

**3. BACKGROUND**

3.1 At the Corporate Services Scrutiny Committee held on 10 December 2013, Members received a report on Council Performance (Exception Report) for 2013 – Quarter 2 and resolved to receive a report from the Director of Regeneration and Planning at the next scheduled meeting of the Committee to consider the trends in relation to decisions taken against officer recommendation.

3.2 As a result, at the meeting of the Committee held on 30<sup>th</sup> January 2013, Members considered the report of the Service Director Regeneration & Planning which explored the relationship between the outcome of appeals and whether or not the planning decision had been contrary to the recommendation of officers.

3.3 It was agreed by the Committee that a Working Group should be formed to consider the issues in more depth and also consider the implications of the Welsh Government's new draft Planning (Wales) Bill.

- 3.4 The report of the Planning Scrutiny Working Group is attached as an appendix for Members' consideration.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

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**CORPORATE SERVICES SCRUTINY COMMITTEE**

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**Background Papers**

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**RHONDDA CYNON TAF COUNTY  
BOROUGH COUNCIL**

**CORPORATE SERVICES SCRUTINY  
COMMITTEE**

**REPORT OF THE  
PLANNING SCRUTINY WORKING GROUP**

## **1. METHODOLOGY**

1.1 At the meeting of the Corporate Services Scrutiny Committee held on 30<sup>th</sup> January 2014, Members considered the report of the Service Director Regeneration & Planning which explored the relationship between the outcome of appeals and whether or not the planning decision had been contrary to the recommendation of officers. The report highlighted that

- In a national context the Council makes more decisions contrary to officer recommendation than other Councils in Wales;
- Statistically, there is a far greater probability that a refusal contrary to recommendation will end up at appeal;
- A study of householder appeal decisions reveals that the Planning Inspectorate appears to be becoming more relaxed about what can be developed at the rear of properties. They would appear to be aligning with the new Householder Permitted Development Rights introduced 30<sup>th</sup> May 2013.
- The majority of appeals lost following refusals contrary to officer recommendation involved highways reasons for refusals.

1.2 As a result, it was agreed that a working group should be formed to consider the issues in more depth and at the same time consider the implications of the Welsh Government's new draft Planning (Wales) Bill which was launched for consultation on 4<sup>th</sup> December 2013.

1.3 The Working Group consisted of County Borough Councillors: S Carter, P Griffiths, S Lloyd, (Mrs) J S Ward, P Wasley, D Weeks, E Webster and R Yeo and the Group met on two occasions, 11<sup>th</sup> March 2014 and 23<sup>rd</sup> April 2014.

1.4 The Terms of Reference for the Group was:

- (i) To seek to improve the effectiveness of the Council's Development Control Committee as a decision making body thereby reducing the number of refusals that result in a successful appeal.
- (ii) Upon completion of the review, to provide a report setting out the findings and recommendations of the Working Group to be presented to the Executive for consideration.

1.5 During the review the Working Group received evidence from the Service Director of Planning and the Director of Legal and Democratic Service. The Working Group also considered the report prepared for Cabinet on 19<sup>th</sup> February 2014 "Welsh Government Consultation on Proposals to Reform the Planning System in Wales and the executive summary of the report prepared by Fortismere Associates with Arup, outlining their recommendations arising from their research which was commissioned by the RTPI.

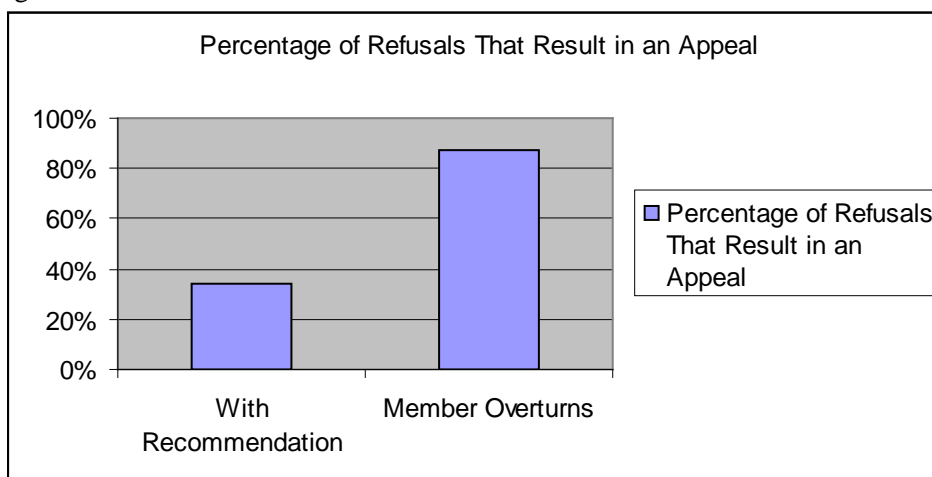
## 2. FINDINGS

2.1 The Council makes more decisions contrary to officer recommendation than other Councils in Wales.

2.2 In recent years statistics show that the Planning Inspectorate in Wales has been gradually allowing more appeals and the Council's own appeals performance has followed a similar trend as national figures with the amount of appeals being allowed rising year on year from 20% in 2010/11 to 52% for the current financial year. However, the 52% of appeals that were allowed (i.e. the Council lost the appeal) in 2013 is worse than the national average of 44%.

2.3 Analysis of the appeals show that statistically there is a far greater probability that a refusal contrary to officer recommendation will end up at appeal.

Fig 1



2.4. Rhondda Cynon Taf has the lowest scheme of delegation across Wales.

2.5 The Ove Arup research had identified some good practice within the Authority such as the 'cooling off' period when a decision is taken against officer recommendation and also the 5 minutes allowed to each public speaker as the majority of councils only allow 3 minutes.

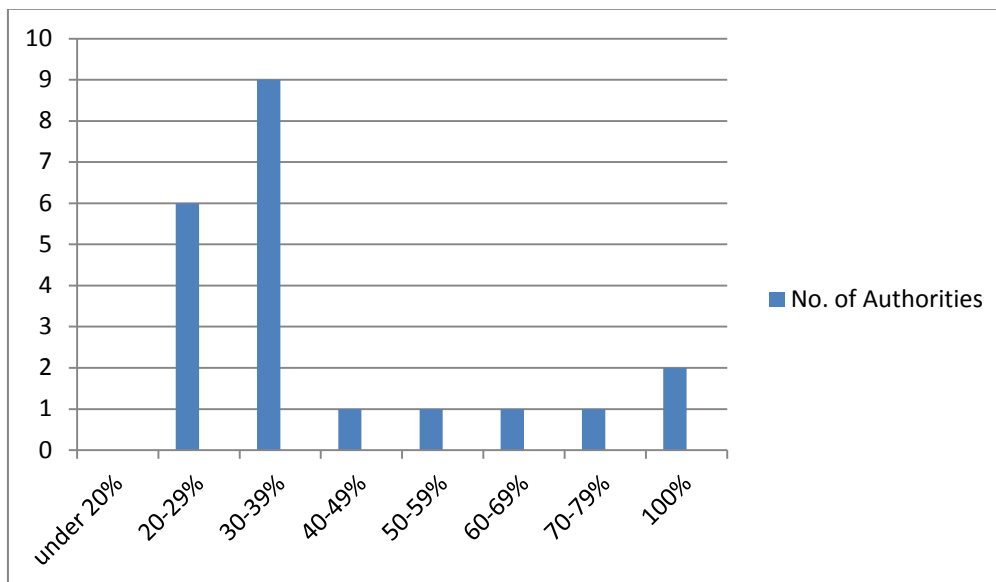
2.6. Analysis of the local authority planning committees across Wales identified that:

- Only Swansea operated an area committee process
- The majority of Councils had Planning Committees with a total membership of less than 40% of their total number of Council Members.

Fig 2

Authority	Full Council Membership	Planning Committee	%
Blaenau Gwent	42	16	38%
Bridgend	54	18	33%
Caerphilly	73	20	27%
Cardiff	75	12	16%
Carmarthenshire	74	19	26%
Ceredigion	42	23	55%
Conwy	59	19	32%
Denbighshire	47	29	62%
Gwynedd	75	15	20%
Flintshire	68	21	31%
Merthyr Tydfil	33	11	33%
Monmouthshire	43	16	37%
Neath Port Talbot	64	45	70%
Newport	50	11	22%
Pembrokeshire	60	15	25%
Powys	73	21	29%
Rhondda Cynon Taf	75	75	100%
Swansea	72	2 area committees plus full Management & Control Ctte	
Torfaen	44	16	36%
Vale of Glamorgan	47	21	45%
Wrexham	52	20	38%
Ynys Mon	30	11	37%

Figure 3. Size of Planning Committees as % of Full Council Members





2.7. The Working Group considered the issue of area planning committees but determined that there were a number of factors which needed to be taken into account;

- Regulatory Committees have to be politically balanced but area committees cannot – the only requirement is that you are in that area. To operate this system has always required the unanimous support of members which for the last few years there has not been. However, there are now amended regulations in place which will allow the Council to introduce area committees at the next AGM if it so wishes;
- The Planning (Wales) Bill is likely to be in force by the summer of 2015;
- It has been some time since the Council last operated area committees and they require:
  - Venues
  - Microphones
  - Caretaking
  - Public Access/signposting/advertising
  - Presentation equipment;
  - Associated costs
- Issue of Chairing
  - 3 committees needing chairs
  - There is only an allowance for one chair - no allowance for vice chairs
  - Chair can only vote if in own area so no casting vote in 2 areas
  - Still need for full development control committee to deal with large applications that affect the whole of the County Borough and those that have not been determined by local area committee because of the lack of chair's casting vote.
- The introduction of the Planning (Wales) Bill is likely to regulate the size of planning committees as it would appear that it is the Welsh Government's intention to move toward smaller dedicated planning committees.
- The Bill also places greater emphasis on customer care and members of the public will need to have a clear view of proceedings which includes being able to view the slides/photographs of application sites which may not be achievable in area venues.

2.8. The Working Group considered the role of the Local Member and the Service Director of Planning provided detailed information in relation to how those authorities who have moved toward small dedicated planning committees operate in relation local members. Whilst each authority tends to have its own individual protocol the majority make provision for local members to address the Committee on applications within their electoral division should they so wish but are unable to vote on such matters. The main difference with the schemes would appear to be that whilst some authorities allow members who sit on the planning committee to vote on applications within their electoral division (subject to no prejudicial interest); other authorities do not allow the committee Members to vote on applications in their area, they can only speak.

- 2.9 The Working Group also learnt that the current full membership system made it difficult for planning officers to engage with Members in the pre- application process of developments. If this were not the case it would in most cases be easier to obtain Members' views on the design of projects in their area.
- 2.10. The Working Group identified that the current 'site visit' system is not helpful to those members of the public who may travel some distance to attend a committee meeting only for the matter to be adjourned for a site visit.

#### **4. CONCLUSIONS**

- 4.1. The Working Group would conclude that a significant reason for the Council's poor performance in relation to planning overturns and appeals is the 75 Member Development Control Committee. There is clearly a case to be made for change. Whilst, the old Rhondda, Cynon and Taff area committee system would be one option, there are clearly several logistical and financial issues which would need to be overcome to return to such a system. More importantly perhaps would be that any such return to this system would be short lived with once the Planning (Wales) Bill is introduced in 2015. It would therefore make sense to change to a small dedicated Development Control Committee for the 2014/15 year which will allow time for the system to 'bed in' before the introduction of any prescriptive guidance from the Welsh Government in 2015.
- 4.2. The majority of appeals lost following refusals contrary to officer recommendation involved highways reasons for refusals (often parking issues) and there is a need to further investigate this issue and provide Members of the Development Control Committee with the necessary guidance in undertaking their role. Other areas which have been identified as needing more clarity include 'applications where the Council is landowner' and the link between local planning policy and the criteria for appeals.
- 4.3. A smaller Development Control Committee will make it easier to provide specialist training to deal with those issues identified above. However, the Working Group also feel that it is important that those Members who do not sit on the Development Control Committee to have an understanding of the planning processes to be able to appreciate the context of the decisions taken by the Committee.
- 4.4. The introduction of a small dedicated committee should not diminish the role of the local member. By freeing the majority of members from their planning constraints they will be able to represent their community more freely and it will allow planning officers to consult with them on new projects. However, there is a need to develop a protocol which sets out the role of the local member in relation to addressing the Development Control Committee and the role of the local member if they are member of the Development Control Committee. The Working Group debated at length whether a Member of the Development Control Committee should be able to vote on applications within their electoral division. On balance, the Working Group feels that the

Committee Member should be allowed to carry out his or her planning role provided there is no prejudicial interest.

- 4.5 There is a need to further consider the 'site visit process'. Should the Council move to a very small Development Control Committee it could be argued that the whole of the Committee should be invited to attend along with local members. However, if this would be deemed too unwieldy, a site visit sub group could be formed. There does not appear to be one set approach when investigating other local authorities. Some pre-set the date for the site visits so that everyone is aware of the date in advance of a site visit request. However, so that the planning process is not unduly delayed and to prevent members of the public having wasted journeys to committee, it would be preferable if the site visits could take place in advance of the Committee if at all possible. This would obviously entail a process being developed requiring site visit requests to be made well in advance of the committee date. However, the Working Group feels that any new system should retain a degree of flexibility as no two applications are the same.

## **5. RECOMMENDATIONS**

1. It is recommended that the Council introduces a small dedicated Development Control Committee for the 2014/15 municipal year. (Based on the recommendation put forward to the Welsh Government by Ove Arup this would entail a committee with a minimum of 11 and a maximum of 21 Members.)
2. It is recommended that local members be allowed to address the Committee on applications within their electoral division. It is also recommended that Members of the Development Control Committee should have the right to vote on applications within their electoral division subject to there being no prejudicial interest. The Working Group would further recommend that a protocol be developed in relation to these issues.
3. It is recommended that Council gives consideration to the operation of site visits with a view to developing a flexible system that will facilitate prompt decision making and also have due regard to Members of the public who wish to speak at the Development Control Committee. It is likely that the Planning (Wales) Bill will include guidance on the operation of site visits.
4. It is recommended that a programme of training be developed for the Members appointed to the Committee which should also include the areas of concern identified by the Working Group, namely,
  - Parking guidance in the planning process;
  - Applications where the Council is the landowner
  - The link between local planning policy and the criteria for appeals.

The Working Group would also recommend that appropriate training be given to those Members who are not on the Development Control Committee to facilitate their understanding of the planning process.

5. It is recommended that Planning Officers continue to monitor the progress of the Planning (Wales) Bill and that a report be presented to the Corporate Services Scrutiny Committee when the final contents are known; or subject to (6) below, fed through to the Planning Scrutiny Working Group.
6. Should the Council introduce a small dedicated Development Control Committee for 2014/15 it is recommended that a progress in relation to its first year of operation be tracked through the continuation of the Planning Scrutiny Working Group and a report on the first year be presented to the Corporate Services Scrutiny Committee at the end of 2014/15.