



**MINUTES of  
PERFORMANCE, GOVERNANCE AND AUDIT COMMITTEE  
18 SEPTEMBER 2025**

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**PRESENT**

Chairperson	Councillor W Stamp, CC
Vice-Chairperson	Councillor N D Spenceley
Councillors	M G Bassenger, D O Bown, M G Neall, R G Pratt, U G C Siddall-Norman, M E Thompson, N J Swindle (Substitute for S J Burwood) and A Fittock (Substitute for J C Hughes)

**1. CHAIRPERSON'S NOTICES**

The Chairperson welcomed everyone to the meeting and went through some general housekeeping arrangements for the meeting.

**2. APOLOGIES FOR ABSENCE AND SUBSTITUTION NOTICES**

Apologies for absence were received from Councillors S J Burwood and J C Hughes. In accordance with notice duly given Councillor N J Swindle was attending as a substitute for Councillor Burwood and Councillor A Fittock as a substitute for Councillor Hughes.

**3. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 17 July 2025 be approved and confirmed.

**4. MATTERS ARISING**

Update on Members completing General Data Protection Regulations (GDPR)

The Chairperson provided an update from the Assistant Director - Resources advising that 12 Members had completed training, and this would be evidenced on the Balance Scorecard for this month. The GDPR Boxphish course completions would be reported to the next meeting of the Committee. In response to a question from the Chairperson, the Chief Executive suggested that an email from the Chairperson of this Committee and himself be sent to all Members as a gentle reminder to complete outstanding GDPR training.

Infrastructure Funding Statement

The Chairperson requested a further update on this matter arising from the meeting on 16 June 2024. In response Officers agreed to provide an update to the next meeting of the Committee.

## Plan for the Audit of the Accounts for the Financial Year 2024 / 25

The Chairperson asked the Chief Finance Officer to provide an update on the Leisure Contract to a future meeting of the Committee as it was important for the Committee to scrutinise this contract which she described as high risk to the Council.

### **5. DISCLOSURE OF INTEREST**

There were none.

### **6. PUBLIC PARTICIPATION**

No requests had been received.

### **7. CORPORATE PERFORMANCE - QUARTER 1**

The Committee considered the report of the Chief Executive which set out how the Corporate Performance Framework required the Committee to undertake a quarterly review of the Thematic Strategies performance, as assurance that performance was being managed effectively to achieve the corporate priorities as set out in the Council's Corporate Plan 2025 - 2028. Appendix 1 to the report provided an overview of the Corporate Plan as at the end of Quarter One (Q1) (April - June 2025).

It was reported that work was progressing positively with the performance delivery of the corporate plan on-track and although there were some conditional elements these were not currently of concern.

Following presentation of the report by the Chief Executive, Members discussed the report in dept and in response to questions raised, the following information was provided:

- Total number of subscribers to business communication channels – In response to a question regarding newsletters being read, the Assistant Director: Strategy, Partnerships and Communication advised that the Council encouraged people to sign up at every opportunity but was unable to influence whether a person read a newsletter or not. She explained that through marketing methods the target could be met, although additional funding would allow use of push campaigns, algorithms and other options to guarantee a higher response.

In response, the Chairperson proposed that the Assistant Director and her team met with the Chief Finance Officer and Chief Executive to discuss increasing budget levels. This proposal was duly seconded and agreed.

- The majority of physical and mental health activities took place in winter months, through the Council's partnerships. It was confirmed that funding had been received from Essex County Council.
- Support progress of Electric Vehicle (EV) charging – In response to a request regarding tracking this, the Assistant Director - Place and Community confirmed that there was a roadmap for the charging infrastructure, some of which was left by the Council and some by Essex County Council (ECC). The Assistant Director advised she would check this information and advise Members accordingly. The Chairperson advised that she would also speak to Councillor Stilts as she had been dealing with ECC as well. The Chief Executive suggested that Officers produced a short briefing, detailing the timescales, and funding.

- Affordable Housing units secured through planning policy – Members were advised that there were individual Key Performance Indicators regarding this, and the Council was working with third parties and registered providers, through the Council's Working Groups, with regards to securing affordable housing.

In response to a question regarding the missing data, Members were advised that although monitored this was reported on a six-monthly basis. It was agreed that Officers would discuss this with the performance team to look at presenting future reports differently to make this clearer. A Member requested additional details in future reports to identify the extent supply of houses against the number on the waiting list, the Chairperson advised that this would be noted.

The Assistant Director: Planning and Implementation confirmed that reference to 2014 was correct as the Local Development Plan ran from 2014 to 2029.

It was noted that there wasn't a separate Key Performance Indicator for empty homes, but Members were advised that the Council's Accommodation Officer would be working to bring these back onto the market. The Chairperson requested that it would be helpful to report this information to the Committee.

- Shellfish sampling – The Assistant Director - Place and Community confirmed that the Council was carrying out water testing as part of its statutory function and this information would be reported back to the Committee. In response to a comment regarding costs, the Assistant Director advised that she had spoken to the Chief Finance Officer regarding a potential growth for the next financial year to reflect the increase in sampling costs. The Chairperson requested that in addition to the normal quarterly reporting, a short report / update be brought back to the next meeting of the Committee regarding the samplings that had taken place.
- Community Safety Partnership engagements and activities – It was confirmed that this related to districtwide engagements and activities and was being delivered by the Community Safety Partnership Manager. Officers advised that they would engage with Members, if there was a need and provided further details regarding the 'Make Space for Girls programme' and the work being done as part of this programme. The Assistant Director - Customer Services and Operations advised that there was a plan supported by the Council along with a programme of events and activities. She agreed to request that a presentation on this be given to the next meeting of the Committee.

In response to comments regarding cutting the top off knives, the Chairperson advised that this comment would be noted and would be reviewed alongside into any initiatives that have / could have happened in the District in respect of knives and knife crime.

In response to the discussion, the Chief Executive advised how quarter one information can be limited however, he would ensure that for future reporting Officers would provide an update to highlight if delivery was expected later within a year.

The Chairperson then put the recommendations which were duly agreed.

## **RESOLVED**

- (i) that the Assistant Director - Customer Services and Operations and her team meet with the Chief Finance Officer and Chief Executive to discuss increasing budget levels in respect of marketing methods relating to business communication;

- (ii) That Members reviewed the information as set out in the Quarter One 2025 / 26 Corporate Performance report and Appendix 1 to the report, with priority focus given to the Strategic Priority level performance;
- (iii) That Members confirmed they are assured through this review that corporate performance is being managed effectively.

## 8. REVIEW OF CORPORATE RISK - QUARTER 1

The Committee considered the report of the Chief Executive which set out the requirement for it to undertake a quarterly review of the Corporate Risk Register as assurance that corporate risks were being managed effectively. A table of the Corporate Risk Register latest ratings and Officer commentary was attached as Appendix 1 to the report.

It was reported that the risk rating for Risk 4 – Damage caused to the Council's reputation associated with delays to planned infrastructure delivery in the District by third parties which was due to mitigate approved development, had been decreased based on risk policy grading guidance. Closure of Risk 11 – Uncertainty of the cost of living crisis impacts was recommended due to there now being more national economical certainty and the continuation of any impact being managed within the services.

During the discussion that ensued, the following risks were discussed and information provided by Officers:

- Risk 4 – Damage caused to the Council's reputation associated with delays to planned infrastructure delivery in the District by third parties which was due to mitigate approved development: A number of Members expressed concern regarding this risk being reduced, acknowledging that although the Council didn't have direct responsibility for infrastructure the public's perception would directly impact on the Council. In response, the Assistant Director – Planning and Implementation noted the comments and agreed that future commentary of this risk would include any communications to identify where the Council was lobbying other organisations such as chasing delivery of the Heybridge health centre. Officers would also ensure that the Council's communications team were aware of these.

Members were advised that decreasing this risk was a result of the recently approved updated Risk Management Policy and the method contained within it. In response to a suggestion from the Assistant Director, the Chairperson requested that Officers discuss with the Assistant Director – Programmes, Performance and Governance whether the outcome of this risk changing may need reflecting in the Policy and its method, rather than the risk itself.

- Risk 6 – Failure to meet the affordable housing need: The figures relating to this risk were queried as the Council's housing register supply appeared to be good, when comparing with other Essex councils. The Assistant Director – Place and Community explained that this risk related to the volume of people on the housing register verses the amount of available property. The Assistant Director agreed to discuss the comments raised with the Housing Team to see if there was a more accurate way of reflecting this Risk.

There was some discussion about the need to have Key Performance Indicators relating to this risk in order to promote how well the Council was performing against it. It was commented that the risk itself would always be a

high level risk due to its potential impact to residents and the key was having a performance indicator to show how the Council was meeting its targets. Further to the discussion, the Chairperson advised that Officers would review this risk and consider whether it should be split.

The Chairperson referred to the proposed closure of Risk 11 and it was agreed that this would be closed. She then put the recommendations set out in the report and these were duly agreed.

## **RESOLVED**

- (i) That Members confirmed review of the Corporate Risk Register (at Appendix 1 to the report);
- (ii) That Members confirmed review of the progress of Corporate Risk Mitigating actions set out in Appendix 2 to the report;
- (iii) That Members are assured through this review that corporate risk and is being managed effectively;
- (iv) That Members challenged risk where the Committee felt that the Council's corporate goals may not be achieved.

## **9. ANNUAL GOVERNANCE STATEMENT ACTIONS UPDATE**

The Committee considered the report of the Chief Executive updating Members on the actions identified in the Annual Governance Statement (AGS).

Members were reminded that this Committee had approved the AGS in its current format on 10 June 2021. The Chief Executive presented the report which provided a progress update against key actions defined in the AGS along with Officer comments for Members' consideration.

In response to a request from the Chairperson, Councillor N D Spenceley provided the Committee with a verbal update following the last meeting of the Parish / Town Council Forum which he had attended. This had included a presentation from the Assistant Director - Strategy, Partnerships and Communications regarding Devolution and Local Government Reorganisation, along with external presentations, including an update on transport. In response to a question he confirmed that Connects were in attendance and he would share their contact details.

In response to a question regarding the Decision-Making Accountability methodology work and the commentary provided in the report, Members were advised that the commentary provided didn't wholly relate to this work. The Assistant Director – Planning and Implementation advised that the Planning and infrastructure Bill was still progressing through Parliament and the Council was awaiting the regulations. He noted that the Council had responded to the consultation and were waiting feedback and the outcome of that.

The Chairperson then put the recommendation which was duly agreed by assent.

**RESOLVED** that the Committee reviewed the Annual Governance Statements table and updates set out in the report.

## **10. BALANCE SCORECARD EXEMPTIONS REPORT**

The Committee considered the report of the Chief Executive reporting any exceptions to operational service reporting for the Committee to review and discuss. This report sought to meet the Corporate Performance and Governance Framework requirement for this Committee to be provided with details of any identified Balance Scorecard Key Performance Indicators (KPIs) that had met their threshold, supported by an action plan to ensure targets were met. This would then give assurance that operational performance was being managed proactively and effectively.

The Chief Executive drew Members' attention to the areas of operational performance where exceptions were evident, which included both under and overperformance. The report identified two KPIs where closer monitoring was taking place and gave explanation for this, and further performance data was set out in appendix 1 to the report.

In response to a question regarding the Sickness Levels KPIs the Assistant Director - Customer Services and Operations advised that although the Council had a number of absences, including some long term it was very proactive in the way it worked to support staff and applied early intervention along with additional support, referral to occupational health, adjustments etc. where needed.

The Assistant Director – Planning and Implementation provided an update in respect of Planning Performance, reporting that general performance in a number of areas had increased. It was noted that current staffing levels and changes in staff had resulted in a reduction in some performance measures. The Assistant Director advised that ongoing investment in the Planning Service would be required for levels to be improved or maintained.

In response to a comment regarding non-determination of Planning Applications, the Assistant Director advised that this was always a risk, however the Council sought to mitigate this and there were a number of factors which influenced the determination of planning applications within the Governments' required target, such as timely responses from statutory consultees. The Council managed this through a number of methods, but the Assistant Director highlighted that the Council could only mitigate the elements within its control.

The Chairperson moved the recommendations set out in the report which were duly agreed.

### **RESOLVED**

- (i) That the Committee reviewed and commented on exceptions to service reporting provided in the report;
- (ii) That Members noted the additional performance detailed in Appendix 1 to the report;
- (iii) That Members confirmed they were assured through this review, that operational performance was being managed effectively.

## **11. S106 OBLIGATIONS AND INFRASTRUCTURE FUNDING STATEMENT 2024 / 25**

The Committee considered the report of the Assistant Director – Planning and Implementation providing Members with an update on the monitoring of Section 106 (S106) planning obligations. The report also sought approval of the Maldon District

Infrastructure Funding Statement for the financial year 2024 / 25 (attached as Appendix 1 to the report) in accordance with the Council's legal duties to publish an Infrastructure Funding Statement (IFS) by December each year.

The report detailed the addition funding the Council was expecting to be paid by developers for specific infrastructure requirements across the District and how the specific triggers to collect the funding associated with the S106 agreements were being monitored along with the process followed once they were met. A table within the report set out the present position regarding all funding. It was noted that S106 contributions could only be spent on new facilities or improvements to facilities where new development had, at least in part, contributed to the need for that facility or will have an impact on existing facilities.

In response to the debate and comments raised Members were advised that of the £1.8m S106 monies to be spent the majority of this was health money. The NHS were aware of what had to be spent and by when, but Officers were unable to make them spend the money and if the NHS went over the claw back period the monies would have to be returned to the respective developers. The Head of Service – Planning Policy and Implementation advised that the Council had a tracker for all potential projects and met with the NHS every six weeks during which these were reviewed to try and ensure that claw back periods were not exceeded.

The Assistant Director highlighted how Officers had been taking part in Maldon summits, which were a collaboration between Essex County Council, the NHS and Maldon District Council. At these meetings, the spend of S106 monies was always on the agenda. He highlighted that although the Council's role was more of a custodian in respect of the monies, Officers did collaborate with other colleagues to ensure monies were spent. The Head of Service highlighted that the remaining monies related to two main areas; youth facilities (being managed by the Council) and health (managed by the NHS) and agreed that any pressure to ensure spending of those health monies would be beneficial.

In response to further comments from Members, the Chief Executive advised that he met regularly with Tom Abell, Chief Executive of the Mid and South Essex Integrated Care Board and would ensure this matter was added to the agenda for their next meeting. He also agreed that a letter would be sent from the Council to the NHS to encourage spending of the S106 monies relating to health.

The Chairperson then put the recommendations set out in the report. This was duly seconded and upon a vote being taken agreed.

## **RESOLVED**

- (i) That the Committee considered the update on Section 106 planning obligations;
- (ii) That the Maldon District Council Infrastructure Funding Statement for the financial year 2024 / 25 (as set out in Appendix 1 to the report) be approved for publication.

## **12. UK SHARED AND RURAL ENGLAND PROSPERITY FUNDS**

The Committee considered the report of the Chief Executive updating Members on the progress of the UK Shared and Rural England Prosperity Funds (UKSPF) for the allocation period 2025 / 26.

Members were reminded that the Chancellor had confirmed the continuation of UKSPF for a further year, allowing local authorities to invest in local growth, in advance of wider funding reforms. The Council on 3 April 2025 had approved the proposed projects to be delivered and granted delegated authority to the Chief Executive, in consultation with the Leader of the Council, Chairperson of the Strategy and Resources Committee and Ward Members to identify projects for delivery.

The Council had submitted its forecast spend, outputs and outcomes for 2025 / 26 to the Ministry of Housing, Communities and Local Government (MHCLG) who had confirmed acceptance of the submission. It was noted that of the £738,369 funding £98,408.37 actual spend had been incurred and Appendix 1 to the report provided a progress update on the individual projects.

Members were advised that Officers would continue to deliver the projects over the funding period, submitting the required MHCLG returns, as required. Further progress updates would be reported to the Performance, Governance and Audit Committee throughout the municipal year.

The Chairperson put the recommendation set out in the report. This was duly seconded and agreed.

**RESOLVED** that the Committee acknowledged the update provided on Maldon District's UK Shared and Rural England Prosperity fund allocations for 25 / 26 and continues to monitor the delivery.

### **13. HEALTH AND SAFETY UPDATE - QUARTER ONE 2025 / 26**

The Committee considered the report of the Deputy Chief Executive that provided an update on Health and Safety statistics and activity during Quarter One (Q1) 1 April to 31 June 2025.

The report provided details of accident, near miss, hazard and unacceptable behaviour reporting and actions as a result of these. Additional health and safety improvements were continuing and the improvements made within Q1 were detailed. Updates in respect of system resources, training, fire risk assessment, policies and procedures and health and safety inspections were set out in the report. The priorities for the next quarter were also detailed and noted by Members.

The Assistant Director - Place and Community presented the report, highlighting events reported by the Council's first aiders and shown in grey within the table set out in the report. The Assistant Director thanked Officers for being proactive and providing medical assistance to members of public.

In response to a question raised regarding the layout of the council chamber, the Assistant Director reported that this was being actively looked at along with other plans for the chamber.

The Chairperson put the recommendations to the Committee, and these were duly agreed.

#### **RESOLVED**

- (i) That Members considered the accident and incident statistics and incidences of unacceptable behaviour reported;

- (ii) That Members considered progress of key health and safety themes (as per Section 3.2 – Health and Safety Actions of the report).

#### 14. COUNCIL CONSTITUTION - PLANNING APPEALS PROTOCOL

The Committee considered the report of the Chief Executive presenting a reference and recommendation from the Overview and Scrutiny Committee (O&S) to this Committee.

The Corporate Governance Project Officer presented the report, advising how at its meeting on 4 September 2025 the O&S had considered reports from its Working Group on two scrutiny reviews of a planning nature. In conclusion of both reviews the Working Group recommended that a revised and strengthened Planning Appeals Protocol be adopted and included in the Council's Constitution. These recommendations were accepted by the O&S for reference to this Committee.

The report set out the amendments that had been made to the Planning Appeals Protocol and a revised version was attached at Appendix A to the report.

A lengthy debate ensued, during which Members commented and asked questions of the Officers present, and in response the following information was provided:

- There would be training for all Members. The Member Training Working Group were recommending that a planning appeals training skills workshop be held for all Members. Part of the training would include carrying out this updated Protocol. Training and upskilling for Planning Committee Chairpersons was also being planned.
- The Chairperson and Vice-Chairperson of Planning Committees had, along with Officers, received training on the Constitutional Brake. The Assistant Director – Planning and Implementation invited any Planning Committee Chairperson or Vice Chairpersons to contact him should they feel they require further training.

In response to a query regarding the process and recommendation coming forward, the Corporate Governance Project Officer provided further background information regarding the two scrutiny requests, review of them and the recommendation coming forward. He explained that as this was a potential Constitutional change it required approval by this Committee.

The Chairperson put the recommendation set out the report. This was duly seconded and agreed. Councillor U G C Siddall-Norman requested that her vote against the recommendations be recorded. At this point, the Chairperson confirmed that this would be a recommendation to the Council.

**RECOMMENDED** that the Council endorses the revised and strengthened version of the Planning Appeals Protocol (attached as **APPENDIX 1** to these Minutes), and adopts it for inclusion in the Council's Constitution.

#### 15. RECOMMENDATION FROM THE OVERVIEW AND SCRUTINY COMMITTEE - PLANNING ENFORCEMENT

The Chairperson referred to the agenda and a recommendation coming forward from the Overview and Scrutiny Committee (O&S), following its meeting on 4 September 2025, that this Committee consider reviewing Planning Enforcement as part of its performance monitoring.

The Corporate Governance Project Officer advised the Committee that Planning Enforcement had been on the O&S workplan as a watching brief for a while. When reviewed at the last meeting, it was felt more appropriate for performance of this to be monitored by this Committee which is why the request was coming forward.

In response to further comment, the Chief Executive suggested that Officers take this request away and report back to the next meeting of this Committee as to whether Planning Enforcement could be added as a Key Performance Indicator. He clarified that the agenda item was seeking the Committee's agreement that they would be prepared to have this as a measurement within the performance monitoring report.

The Chairperson then proposed that this matter be deferred to allow further consideration and reported back to the next meeting of this Committee for decision. This was duly agreed.

There being no other items of business the Chairperson closed the meeting at 9.42 pm.

W STAMP, CC  
CHAIRPERSON

## **MALDON DISTRICT COUNCIL PLANNING APPEALS PROTOCOL**

### **1. ROLE OF MEMBERS IN COMMITTEE PLANNING APPEALS**

#### **1.1 Householder Appeal**

- 1.1.1 The Member role is a collective Committee responsibility given that the critical factor with householder appeals, which do not involve providing any additional supplementary statements, is to ensure that the Committee's reasons for overturning Officer report recommendations are clear and based on sound planning reasons.

#### **1.2 Member Involvement in Written Representation, Informal Hearing and Public Inquiry Appeals**

- 1.2.1 Where the Committee overturns an Officer recommendation, including where the Constitutional Brake has been invoked, in addition to agreeing the reasons for refusal the Committee will be asked to identify which Member(s) should be involved with any subsequent appeal to help strengthen the defence of the Council's case, and even appear at an inquiry as part of the Council's team. The Member(s) nominated by Committee to engage with any subsequent appeal may include the Chairperson or Vice-Chairperson, or another Member having proposed or supported the decision. Members will need to be aware that officers may or may not support the reason(s) for refusal depending on whether they consider that there will be conflict between the reason(s) and Officers' professional opinion having regard to the local plan and any other material considerations as set out in the Officers report. In this respect, Officers will need to be aware that the services of an external consultant would be sought in a timely manner and in accordance with procurement rules.
- 1.2.2 Where Members are nominated it is important that they understand the nature of the specific role as set out below, and that their appearance at a hearing or inquiry will be wholly as a representative of the Council, as a whole, to support the case made around the Committee's decision. In cases where an external consultant is procured, they would work with that consultant, with the support of Officers.

#### **1.3 Written Representation Appeal**

- 1.3.1 Written representation appeals are the quickest and simplest appeals requiring Member involvement. They require a Statement of Case to be prepared and a site visit with the Planning Inspector but these appeals are usually for smaller scale development such as a single dwelling or change of use.
- 1.3.2 Where the Committee overturns the Officer recommendation the Nominated Member(s) will be engaged with the following:
- A letter will be sent to advise the nominated Member(s) about the appeal, the name of the case officer and/ or planning consultant and the date the Statement of Case is due;
  - The Nominated Member(s) should liaise with the Case Officer/ consultant, as required, to discuss the policies used to refuse the application, the content to provide the outline for the Council's Statement and cost claim (if relevant). Members' comments need to be made in writing to the Case Officer/consultant in order to ensure there is a clear audit trail of the input provided by the Nominated Member(s).
  - A written draft Statement of Case, with any necessary appendices will then be prepared by the Case Officer/consultant.

- The Nominated Member(s) will review the Council's draft Statement and make amendments where required and send back to the Officer/consultant.
- A final check by the Case Officer/consultant and/or Senior Management of any Nominated Member(s) amendments will be made to ensure the contents are focused on the reasons for refusal given at Committee and do not inadvertently, in the quest to defend the Council's decision, imply new reasons for refusal. In the event of any concerns of this nature, the Senior Manager will speak to the Nominated Member(s) and confirm in writing any subsequent changes that would be necessary to ensure the Statement of Case stays within its remit.
- The Nominated Member(s) will be advised of the date of the site visit in order to accompany the Case Officer/consultant and Planning Inspector.
- The Nominated Member(s) will be notified of any internal consultation involving the Chair of the relevant Planning Committee undertaken prior to any Emergency Action decision being taken under the Scheme of Delegation (General Powers), e.g. response to a time-limited request from the Planning Inspectorate.

#### **1.4 Informal Hearing Appeal**

##### **1.4.1 Where the Committee overturns the recommendation the Nominated Member(s) will be engaged with the following:**

- A letter will be sent to advise the Nominated Member(s) about the appeal, the name of the case officer and/or planning consultant and the date the Statement of Case is due;
- The Nominated Member(s) should liaise with the Case Officer/ consultant if required, to discuss the policies used to refuse the application, the content to provide the outline for the Council's Statement of Case and cost claim (if relevant). Member comments, where required will need to be made in writing and forwarded to the Case Officer/ consultant in order to ensure there is a clear audit trail of the input provided by the Nominated Member(s).
- A written draft Statement of Case, with any necessary appendices will then be prepared by the Case Officer or consultant.
- The Nominated Member(s) will review the Council's draft Statement and make amendments where required and send back to the Officer/consultant.
- A final check by the Case Officer/consultant and/or Senior Management of any Nominated Member(s) amendments will be made to ensure the contents are focused on the reasons for refusal given at Committee and do not inadvertently, in the quest to defend the Council's decision, imply new reasons for refusal. In the event of any concerns of this nature, the Senior Manager will speak to the Nominated Member(s) and confirm in writing any subsequent changes that would be necessary to ensure the Statement of Case stays within its remit.
- Prior to the hearing, a meeting will be held between the Member(s) and Case Officer/consultant, alongside any external witnesses and solicitor (where necessary) to consider the issues/ tactics and the appellant's case.
- The Nominated Member(s) will attend the Informal Hearing either in an observer capacity, or as part of the Council team.
- The Nominated Member(s) will be advised of the date of the site visit in order to accompany the Case Officer/ consultant and Planning Inspector.

- The Nominated Member(s) will be notified of any internal consultation involving the Chair of the relevant Planning Committee undertaken prior to any Emergency Action decision being taken under the Scheme of Delegation (General Powers), e.g. response to a time-limited request from the Planning Inspectorate.

## **1.5 Public Inquiry**

1.5.1 Where the Committee overturns the recommendation the nominated Member(s) will be engaged with the following:

- A letter will be sent to advise the Nominated Member(s) about the appeal, the name of the Case Officer and/or planning consultant and the date the Statement of Case is due.
- The Nominated Member(s) should liaise with the Case Officer/ consultant, to discuss the policies used to refuse the application, the content to provide the outline for the Council's Statement of Case and cost claim (if relevant). Member comments, where required, will need to be made in writing and forwarded to the Case Officer/ consultant to ensure there is a clear audit trail of the input provided by the Nominated Member(s).
- A written Statement of Case, with any necessary appendices will then be prepared by the Case Officer or consultant.
- The Nominated Member(s) will review the Council's draft Statement and make amendments where required and send back to the Officer/consultant.
- A final check by the Case Officer/consultant and/or Senior Management of any Nominated Member(s) amendments will be made to ensure the contents are focused on the reasons for refusal given at Committee and do not inadvertently, in the quest to defend the Council's decision, imply new reasons for refusal. In the event of any concerns of this nature, the Senior Manager will speak to the Nominated Member(s) and confirm in writing any subsequent changes that would be necessary to ensure the Statement of Case stays within its remit.
- Prior to the Public Inquiry, a meeting will be convened by the Council's legal representative between the Nominated Member(s), the Case Officer/consultant and any external witnesses / experts (where necessary) to consider the issues / tactics and the appellant's case.
- The Nominated Member(s) will attend the Public Inquiry either in an observer capacity, or as part of the Council team in presenting the case.
- The Nominated Member(s) will be advised of the date of the site visit in order to accompany the Case Officer/consultant and Planning Inspector.
- The Nominated Member(s) will be notified of any internal consultation involving the Chair of the relevant Planning Committee undertaken prior to any Emergency Action decision being taken under the Scheme of Delegation (General Powers), e.g. response to a time-limited request from the Planning Inspectorate.

## **2 MANAGEMENT OF THE PLANNING APPEAL PROCESS**

2.1 In managing the Planning Appeal process in the Council's control the Assistant Director: Planning and Implementation will:

- determine on a case-by-case basis, as early as possible where it would be necessary to either seek the Nominated Member(s) and/or an external

planning consultant to represent the Council at either an Informal Hearing or Public Inquiry.

- Where unreasonable behaviour by the appellant is considered to have taken place, wherever practical, seek to recover the Council's defence costs from appellants in preparing for and undertaking an appeal.
- Where Nominated Member(s) have not been selected, reserve the right to request Ward Member assistance in circumstances where local knowledge is paramount and invaluable to the appeal, including appeals that may arise from planning enforcement action or a refusal of a Certificate of Lawfulness.

### **3 THE ROLE OF OFFICERS**

- 3.1 In advance of hearings and inquiries, the Development Management Technical Support Team directly support the Planning Inspectorate to secure a suitable venue, including a secure office for the Inspector (if requested) and/or the appellant. On the day of hearings and inquiries, the team support the Inspector to ensure hearings and inquiries are held safely in accordance with any risk assessments and registration requirements, including assisting the public to observe either in the hearing or inquiry location or via any spillover space where capacity has otherwise been exceeded.
- 3.2 Planning Officers would normally appear as witnesses at planning appeals and other proceedings on behalf of the Council. The only exception would be in those instances where officers feel professionally conflicted having regard to the standards of their profession due to the reasons for refusal on an officer recommendation overturn. In some circumstances (such as where specialist evidence is required) it may also be necessary for other professional officers (such as Environmental Health) to attend, or for the Council to appoint specialist consultants to appear and give evidence for the Council's case.
- 3.3 In giving evidence, Planning Officers will present the best possible case on behalf of the Council, while complying with the Royal Town Planning Institute ("RTPI") Code of Professional Conduct. This Code requires that Planning Officers who are members of the Institute to not make statements purporting to be their own, but which are contrary to their bona fide professional opinion.
- 3.4 Planning and Legal Officers will support Members whether involved with the presentation of the Council's case or not, including those otherwise attending or wishing to make representations at appeals, and advise them in advance on how to prepare for speaking and/or delivering evidence.

### **4 THE ROLE OF MEMBERS AS PRIVATE INDIVIDUALS AND PARISH / TOWN COUNCILLORS**

- 4.1 In situations where Members have clearly demonstrated a 'closed mind' on a planning application prior to consideration by Committee, they will not be permitted to be involved in the determination of that application or the subsequent appeal statement or process. In this case, or where a Member does not support the Council decision irrespective of the type of appeal, a Member may decide to make their submissions to an appeal which will be in either a personal capacity only or in their role as a Town / Parish Councillor.
- 4.2 It may be that on occasions electors may expect that their Ward Member(s) will attend a hearing or inquiry to further represent their interests and view. This can be

seen as part of the democratic process, and a Ward Member wishing to do so should take the opportunity of first being fully briefed by Planning Officers on all the issues the subject of the appeal.

## **5 REVIEW OF REASONS FOR REFUSAL**

- 5.1 On occasions during the course of an appeal, the Council may formally be requested by or on behalf of the appellant to reconsider its reasons for refusal. Any review shall be undertaken at the level the original decision was made and on report of the Assistant Director: Planning and Implementation only.
- 5.2 Where a Committee has not formally reconsidered its reasons for refusal, and there is insufficient time to do so, then in order to ensure the Council minimises its exposure to unreasonable behaviour cost awards against it, the Assistant Director: Planning and Implementation, in managing the appeal process, will act in consultation with the Leader of the Council, the Chairperson of the relevant Planning Committee and any Nominated Member(s).