

Planning Review

Pendle Borough Council

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1. EXECUTIVE SUMMARY – RECOMMENDATIONS

- 1.1 Further to our review, our recommendations are (further detail can be found at paragraph 10):
- 1.1.1 **Recommendation 1:** Implementation of mandatory training for elected members who sit on planning committees;
 - 1.1.2 **Recommendation 2:** Attendance by a legal advisor at all committee meetings;
 - 1.1.3 **Recommendation 3:** Revision of the ‘call in’ criteria for planning applications;
 - 1.1.4 **Recommendation 4:** Greater clarification criteria for referrals to DMC;
 - 1.1.5 **Recommendation 5:** Review the resourcing requirements for the planning/development management team;
 - 1.1.6 **Recommendation 6:** Consider implementing regular joint training for planning officers and committee coordinators to ensure consistency of approach and the sharing of experience and expertise; and
 - 1.1.7 **Recommendation 7:** Consider reviewing the planning policy around dormer extension applications particularly in the Nelson area.
- 1.2 We have not made any recommendations for the restructure of planning committees given the impending changes likely to be introduced as a result of the Planning and Infrastructure Bill. The Council should continue to monitor the passage of the Bill and related Government announcements, before formulating an approach to comply with the new requirements.

2. BACKGROUND

- 2.1 We are instructed by Pendle Borough Council (the **Council**).
- 2.2 In an interim auditor’s annual report published in May 2024 relating to the 2021/22 and 2022/23 audit years, the Council’s external auditor, Grant Thornton, made a recommendation relating to the Council’s planning function as follows:

“The Council should commission a focussed independent legal report on the consistency, costs and efficiency of its planning process and the potential future impacts of continuing with the current arrangements.

...

A consistent, timely and equitable planning process is essential and planning decisions should be made within the Council’s planning policies. Bodies such as Area Committees are usually accorded advisory rather than decision making roles. Consistency is difficult with many different decision-making Committees.

...

The current arrangements for determining planning applications are inconsistent. Area Committees have granted planning permission against the Council's policies. This has resulted in appeals and has generated avoidable costs and delays on development.

...

The roles of Area Committees within the Council's decision-making structures give rise to a significant weakness because of inconsistent and sometimes poor decision making resulting in the Council incurring additional costs, as well as damage to its reputation."

- 2.3 The Council has instructed Anthony Collins Solicitors LLP to undertake a legal review of the planning function and to produce the report recommended by the external auditors.

3. AIM AND OBJECTIVES OF THE REVIEW

- 3.1 The aim of the review is to review the consistency, risks and efficiency of the planning process and potential future impacts of continuing with the current arrangements in light of the Planning Reform Working Paper and the Planning and Infrastructure Bill.
- 3.2 The objectives of the review are to address the following key questions to identify recommendations.
- 3.2.1 How does the Council discharge its planning function?
 - 3.2.2 What is the performance relating to planning approvals in the last two years relating to officer approvals, call ins, committee approvals and appeals and is this working effectively and leading to sound decision making?
 - 3.2.3 Are there any weaknesses in the current model of service delivery?
 - 3.2.4 What opportunities are there to improve the consistency, risks and efficiency?
 - 3.2.5 What if any further recommendations should be made for the future generally and with a view to the changing legislative framework?

4. METHODOLOGY

- 4.1 Claire Ward, Partner, has led the review independently of the Council. She has been supported by Legal Directors Alex Lawrence (governance) and Max Howarth (planning).
- 4.2 The review has been undertaken as follows:
- 4.2.1 A desktop review of key documents (including the Constitution) and data (as outlined at Appendix 1) concerning the performance of the planning function during the twenty-four months to the end of January 2025;
 - 4.2.2 Interviews with officers involved in the discharge of the planning function and the elected members (the chairs of the area committees);
 - 4.2.3 Preparation of a draft report and engagement with the Council to obtain the Council's feedback; and
 - 4.2.4 Preparation of a final report.

- 4.3 We are grateful to officers and elected members for their time and input into the review.
- 4.4 As agreed, we have not attributed comments made during the review to any particular individual.

5. THE COUNCIL'S PLANNING FUNCTION

How does the Council discharge its planning function?

- 5.1 The Council's planning function is discharged through a mix of officer and elected member decision making. In terms of member decision making this is undertaken at either an **Area Committee** or the Council's **Development Management Committee/DMC**.

Officers

- 5.2 The officer planning function comprises:
- 5.2.1 the Assistant Director – Planning, Building Control and Regulatory Services (the **AD Planning**);
 - 5.2.2 four development management officers (3.8 FTE) including a principal planning officer (**PPO**);
 - 5.2.3 a dedicated validation officer;
 - 5.2.4 three support officers (shared with building control); and
 - 5.2.5 one enforcement officer who is a student apprentice.
- 5.3 The PPO works with the AD Planning to manage the team. The AD Planning has a wider role beyond the planning function as well as having responsibility for planning strategy (as opposed to day to day case work).
- 5.4 New matters are first validated and then are allocated by the validation officer – having regard to case loads and complexity - under the supervision of the AD Planning or PPO. The team uses a case management system (IDOX) but also uses spreadsheets to record case management and progress information. We understand that the team has a weekly meeting to check on case loads as well as sharing issues and policy updates. Major applications are handled by a Royal Town Planning Institute (**RTPI**) Chartered officer. The Council has, since March 2023, resumed a pre-application service having suspended it through the Covid pandemic.
- 5.5 The dedicated validation officer was recruited further to a previous review and we understand that having this resource in place has enabled the Council to reduce validation timescales substantially.
- 5.6 We understand that the team members are required to undertake continuing professional development and are able to attend RTPI training. Training is provided for new starters, but the team also receives training on issues if and when they arise. In terms of engagement with elected members/the committees, planning officers are prepared for

this by attending with and shadowing a more experienced officer before then further learning “on the job”.

- 5.7 As outlined in Appendix 2, the Constitution gives the AD Planning fairly broad authority to determine planning applications in consultation with the chair of the Area Committee in which the application is situated. The situations where officers are not permitted to make the decision on an application include:
- 5.7.1 where an elected member requests that an application is determined by the relevant Area Committee – this request must be made within 21 days of notification of the submission of the application via a published weekly list; or
 - 5.7.2 where the chair of the relevant Area Committee calls in the application.
- 5.8 In practice, our understanding is that most referrals to Area Committee are made by the chair. A referral by the chair could be prompted by a request from Area Committee members. Referral in either scenario does not require a reason for the referral to be given.
- 5.9 With regard to the other exceptions to the AD Planning’s delegated authority, these appear to be fairly standard.
- 5.10 Aside from publication of the weekly list, officers notify the relevant Area Committee chair via email of the proposed decision giving a time period (usually 48 hours) for comment. This enables the chair to be consulted on the decision and to call it in if necessary.
- 5.11 The Council’s Development Management Guide states, *“Generally, only controversial applications go to the Area Committees and minor less controversial ones such as house extensions or reserved matters applications are delegated to the Assistant Director of Planning Building Control & Regulatory Services to determine. The Government expects 90% of applications to be determined by the delegated route.”*

Area Committees

- 5.12 As noted above, elected member involvement in the planning function is via either an Area Committee or the DMC.
- 5.13 There are four Area Committees:
- 5.13.1 Barrowford and Western Parishes Area Committee;
 - 5.13.2 Colne and District Area Committee;
 - 5.13.3 Nelson, Brierfield and Reedley Area Committee; and
 - 5.13.4 West Craven Area Committee.
- 5.14 The composition of the Area Committees is set out at Appendix 3, but includes all ward elected members within the area of the Area Committee. Each Area Committee has several non-voting co-optee members who in most (but not all cases) are parish councillors. Our understanding is that the co-optee members put forward their

community's views on an application and are able to move and second matters. From our discussions there was general support for the co-optees being on Area Committees.

- 5.15 The Area Committee system has been in place at the Council for over 30 years. There was previously an attempt to remove the Area Committees after the Council implemented the executive (leader and cabinet) governance model. However, this did not ultimately find political favour and so the Area Committee system was retained.
- 5.16 The rationale for having the Area Committees is to *"give local citizens a greater say"*¹ and improve *"service delivery in the context of best value and more efficient, transparent and accountable decision making"*.²
- 5.17 Area Committees are not just planning committees although we understand that determining planning applications can in certain cases comprise a substantial portion of the agenda of each meeting. Area Committees undertake a mix of non-executive (e.g. planning) and executive functions as outlined in Part 3 of the Constitution (and extracted at Appendix 2). We also heard that the Area Committees allow for the consideration of all issues affecting the particular area.
- 5.18 The discharge of non-executive functions is subject to the following caveat, *"Within the overall policy set, and resources allocated by the Council, and subject to the notes below, to deal with the following non-Executive matters within the area covered by the Area Committee..."* (**emphasis added**).
- 5.19 Area Committees meet monthly. The planning team prepares reports for the meetings in liaison with a committee administrator (from democratic services). Each Area Committee is serviced by:
- 5.19.1 a committee administrator – as noted above this is a democratic services officer. Responsibilities include minute taking and ensuring that speakers sign in;
 - 5.19.2 a committee coordinator – a senior officer of the Council who effectively undertakes a clerking role assisting the chair, including ensuring that standing orders are being followed; and
 - 5.19.3 a planning officer – who will provide advice on planning matters as well as working closely with the committee administrator and the committee coordinator to ensure the proper running of the committee and answer elected member queries.
- 5.20 The AD Planning attends two Area Committees, the PPO attends a third and the fourth is staffed by a further planning officer. The AD Planning acts as both the planning officer and the committee coordinator.
- 5.21 Area Committees do not, as a matter of routine, have a legal advisor present. A legal advisor usually attends the committee briefings and is able to determine from a review of the Committee papers whether it is necessary to attend the Area Committee meeting.

¹ See Part 1 of the Constitution

² See Article 11.01 of the Constitution

Development Management Committee

- 5.22 The DMC is a politically balanced committee of the Council currently comprising 12 elected members. In accordance with the Constitution, it has responsibility to determine any planning application:
- 5.22.1 comprising 60 or more housing units; or
 - 5.22.2 where the application straddles Area Committee boundaries; or
 - 5.22.3 is referred from an Area Committee due to the AD Planning advising that a decision the Area Committee is minded to take would represent a significant departure from policy or a significant risk of costs. The Head of Legal and Democratic Services must agree with that view (having contacted the relevant Area Committee chair) within 2 working days of the Area Committee meeting.
- 5.23 In the case of that final category of planning applications, the DMC acts as a “safety net” allowing a different combination of elected members to consider the matter. We understand that the referral process is led by the planning officer. There may be questions from Area Committee members, but elected members ultimately accept the AD Planning’s advice on this point. There is then a secondary check and challenge from the Head of Legal and Democratic Services.
- 5.24 Since January 2023, thirty-five applications have been referred to DMC with seventeen being refused. Two appeals were lodged against those DMC decisions with both appeals being allowed with costs awards against the Council.

Member/Officer Relationships

- 5.25 The officers and elected members that we have spoken to all referred to good, respectful and professional member/officer relationships. Elected members clearly appreciate the professional advice they receive from officers and their expertise. Elected members are open to providing robust, but respectful, challenge to that advice. Notwithstanding those good relationships, it is clear that officers can still feel undermined when their advice and recommendations are not followed – in particular where this repeatedly occurs.

Reputation

- 5.26 It is in the nature of the discharge of local authority planning functions that some matters will be contentious. As a result an approval or refusal is likely to be unpopular with somebody. We were not directed to particular examples of reputational damage caused by the process itself as opposed to the outcome of an application. Generally, officers and elected members stated that they thought the planning function had a good reputation overall.
- 5.27 We understand that there have been no adverse Ombudsman reports in the last two years relating to maladministration linked to the planning process.

6. PERFORMANCE

What is the performance relating to planning approvals in the last two years relating to officer approvals, call ins, committee approvals and appeals and is this working effectively and leading to sound decision making?

- 6.1 We have been provided with statistical information regarding the performance of each of the Area Committees and the DMC for the period of two years ending in January 2025. The information includes the number of applications which have been determined by each committee, the number of applications which have been determined in accordance with and contrary to the officer's recommendation and the number of appeals and costs awards made against the Council in respect of the appeals.
- 6.2 We have also been provided with the statistical information relating to the applications which have been determined under delegated powers.
- 6.3 We have not been provided with statistical information relating to the number of applications which have been called in for determination by the Area Committees or the number of matters which have been referred to the DMC. We have also not been provided with statistical information regarding outcome of the determination of these applications.
- 6.4 We have considered data received concerning the determination of applications contrary to recommendation and the high level figures are as follows:

Committee	Percentage of determinations contrary to recommendation
Barrowford	21.87%
Colne	16.98%
DMC	22.72%
Nelson	52.42%
West Craven	26.66%

- 6.5 At first glance Nelson does appear to be an outlier, however we are aware that a proportion of these determinations relate to the approval of dormer extensions. There is a valid question about whether the Council's policy (in particular around design) on this issue requires review in the light of the situation on the ground.
- 6.6 With regard to the number of appeals and costs awards relating to applications determined by each of the committees, the figures show:

Committee	Number of appeals	Number of appeals allowed	Number of appeals dismissed	Number of appeals in progress	% of determined appeals dismissed
Barrowford	5	0	2	3	100
Colne	6	3	3	0	50
DMC	2	2	0	0	0
Nelson	6	1	2	3	67
West Craven	2	2	0	0	0

- 6.7 Two awards of costs have been made against the Council in July 2025. Both applications fell within West Craven Area Committee and both were referred to the DMC for determination. Colne had six appeals three of which were allowed which equates to 50%. Barrowford had five appeals two of which were dismissed and three are in progress. This equates to 100% of decided appeals dismissed. Nelson had six appeals two of which were dismissed, and one was allowed. The other three are in progress. This equates to 33.33% of decided appeals allowed. West Craven have two appeals both of have been allowed. This equates to 0% of decided appeals being dismissed.
- 6.8 We can see from the statistical information that all of the appeals, except one, which have been allowed relate to non-major applications. The only committee which has not exceeded the maximum threshold (see paragraph 6.9) for decisions overturned on appeal is Barrowford. Colne, Nelson and West Craven have exceeded the maximum threshold. This is largely due to the low overall number of appeals.
- 6.9 The government currently measures development management performance in terms of speed and quality of decision-making. The minimum threshold for speed of determining major applications is 60% of decisions in time (13 weeks) and for non-major applications it is 70% of decisions in time (8 weeks). For quality of decision-making it is a maximum of 10% of decisions overturned at appeal with major and non-major applications being assessed separately.
- 6.10 We are unable to comment on the respective committees speed of decision making as we have not seen this information.
- 6.11 We have been provided with the reports to the Council's Executive dated:
- 6.11.1 30 May 2024 which details the performance monitoring information for the period 1 April 2023 – 31 March 2024. The report notes that:
- (a) 100% of major planning applications were determined on time over the previous six quarters;

- (b) the number of minor/other planning applications (which we take to be non-major) determined on time met the Council's KPI in the final quarter; and
 - (c) the Council was not meeting its internal KPI for planning appeals being determined in accordance with officer recommendation, however this is stated to be due to the overall low number of appeals. 25 appeals are stated to have been received with 18 being determined in line with officer recommendation (72% against a target of 80%). In the final quarter this was 71.43%.
- 6.11.2 29 May 2025 which details performance between 1 April 2024 and 31 March 2025. The report notes that:
- (a) The number of major planning applications determined on time during the previous two years was 95%;
 - (b) the number of minor/other planning applications (which we take to be non-major) determined on time met the Council's KPI in the final quarter; and
 - (c) the Council was not meeting its internal KPI for planning appeals being determined in accordance with officer recommendation, however this is stated to be due to the overall low number of appeals. Performance was 60.87% against the target of 80% in the final quarter (7 appeals of which 2 were not in accordance with the officer recommendation).

7. THE GOVERNMENT WORKING PAPER AND THE PLANNING AND INFRASTRUCTURE BILL

- 7.1 The Government published its **Working Paper** on modernising planning committees in December of last year³ which floated the possible options for a national scheme of delegation, including delegating to officers responsibility for decision-making for all applications deemed to comply with the local development plan.
- 7.2 Other options in the Working Paper included the delegation of all applications by default, excepting those that were "departures from the development plan" or submitted by the authority itself or that delegation would be the default position, with committees only determining applications on a prescribed "list of exceptions". The Working Paper also considered delegating all reserved matters applications and introducing a size threshold under which all residential development applications would be delegated.
- 7.3 Since the publication of the Working Paper the Planning and Infrastructure Bill has been approved by Parliament which provides the Secretary of State with the power to set out in regulations which planning functions should be delegated to officers and which should be determined by planning committees or subcommittees.

³

<https://www.gov.uk/government/publications/planning-reform-working-paper-planning-committees/planning-reform-working-paper-planning-committees>

- 7.4 Following the introduction of the Planning and Infrastructure Bill the Government set out a possible format for the proposed national scheme of delegation in a consultation launched on the 28th May 2025.⁴ Under the proposals:
- 7.4.1 “Tier A” applications would be delegated to officers in all cases. Tier A would apply to prescribed application types including those for householder and minor commercial or residential development and for reserved matters.
 - 7.4.2 “Tier B” applications would be delegated to officers unless both the council’s chief planner or an “equivalent officer” and the chair of the planning committee agree that the scheme should be determined by members. This could occur if the application “raises an economic, social or environmental issue of significance to the local area” or where it “raises a significant planning matter having regard to the development plan”, according to the consultation. Tier B applications could include applications not in Tier A, those where the applicant is the “local authority, a councillor or officer”, and section 73 applications to vary conditions.
- 7.5 The Planning and Infrastructure Bill also provides the Secretary of State with the power to make regulations:
- 7.5.1 on the size and composition of planning committees; and
 - 7.5.2 requiring committee members to undertake mandatory training before they can take planning decisions. Regulations would provide for completion of training “to be evidenced by a [certificate of completion]”. Members who do not have a certificate of training would be barred from any involvement in planning committees.
- 7.6 The Planning and Infrastructure Bill has now passed through Parliament and will shortly receive Royal Assent. As noted above, the majority of the changes will require regulations to be made and so we do not have a definite date for when any change will take effect from.

8. WEAKNESSES

Are there any weaknesses in the current model of service delivery?

Committee model

- 8.1 The committee model adopted by the Council results in effectively 5 planning committees. That is unusual, especially for a modestly sized borough council.
- 8.2 Local knowledge and representations are an important part of the planning process with consultation – of communities, local elected members and parish councils – a standard approach.

⁴ <https://www.gov.uk/government/consultations/reform-of-planning-committees-technical-consultation>

- 8.3 We appreciate the Area Committees are a key aspect of the way in which the Council operates. Transparency; giving a voice to the distinct communities and populations within the Borough so that they can contribute to the Council's decision making; and proper consideration of the different issues affecting parts of the Borough are important aspects of good governance and decision making. The Government is currently proposing to ensure that what they describe as effective neighbourhood governance is part of any new unitary council's in their English Devolution and Community Empowerment Bill governance demonstrating just how important local decision making is.
- 8.4 Seen through that lens, Area Committees being responsible for planning decisions in their area sounds reasonable and ensures local points are not lost in a centralised process. It ensures that those elected members with the best knowledge of the area make the most fully informed decision rather than those that might not be aware of a particular local issue (e.g. flood risk).
- 8.5 However, the planning function of a local authority is a quasi-judicial and regulatory function. Decisions must be made on that basis in compliance with planning law as well as local and national planning policy. Therefore, there is a strong case for decisions to be slightly more remote from the locality to ensure that they are made solely on a policy compliant basis.
- 8.6 It is also the case that the expectation is that the vast majority of planning application decisions should be made by officers under delegated authority.
- 8.7 Having multiple committees dealing with the same function creates the real risk of:
- 8.7.1 inconsistency of decision making; and
 - 8.7.2 contradictory precedents,
- especially where each Area Committee might have specific concerns or be subject to different local pressures. This could lead to two Area Committees considering broadly similar applications and one allowing the application and the other not. Planning decisions made at any of the committees are decisions of the Council and not just the relevant area. The most stark evidence of the inconsistency is the varying levels of call-in of applications to Area Committee, with the Nelson committee far exceeding the others (this may be linked to the dormer extension policy issue discussed elsewhere in this report). Inconsistent/contradictory approaches can create confusion for applicants (and the public generally) and may cause issues where the Council is subject to an appeal or a judicial review claim. To date the Council has not been subject to an appeal (where permission is refused) or judicial review (where a permission is granted) on this point, but such an appeal or judicial review in the future cannot be ruled out. As such the lack of an appeal or judicial review to date does not support retaining the current approach to planning decisions. Notwithstanding this, the Planning Officer's Report is drafted to present a consistent view of Planning Policy and the Planning Officer attends the Area Committee to ensure policies are applied consistently and to provide advice to that effect, irrespective of which Area Committee it is.

- 8.8 In addition, the Council's resources are limited. The MTFS considered by full Council in February 2025 referring to the medium term financial position as untenable and the budget for 25/26 has been balanced in part through use of reserves. In that context, servicing five planning committees has resource implications. The number of applications and reports will not be different. However, resources and additional cost are incurred to host five meetings (with certain Area Committee meetings incurring venue hire costs). Using reserves to balance the budget, however, is not unusual, if it is part of a strategy to achieve a balanced budget over the Medium Term. It is arguable that the position in respect of the MTFS is symptomatic of the significant underfunding at the Council which has suffered amongst the highest funding reductions in percentage terms of any Council in the Country. It is also arguable that not having Area Committees will not have any material impact on the MTFS. For officers (in particular planning), there is the impact of practically servicing multiple committees outside of normal working hours which has the potential to impact the ability to deal with the work outside of the committees (e.g. due to TOIL being used). Multiple committees also do not allow for legal officer attendance (as further discussed below). However, we do note above that Area Committees are not just planning committees. Removal of planning functions from these committees will not stop the Council incurring costs relating to the operation of the Area Committees.

Call in of decisions

- 8.9 It is right and proper that elected members should be able to call-in planning applications for consideration by committee. However, as the Government target and the Council's Development Management Guide demonstrate, this should be the exception rather than the norm.
- 8.10 Levels of call-in differ between Area Committees. However, there is no current requirement for elected members to give a reason for call-in. During our information gathering reference was made to call-ins on particularly controversial decisions, scenarios where officers had applied policy on a black and white basis where it was felt there was grey and generally where elected members considered there should be a fuller debate. Concern was raised about whether call-ins were for political reasons or as a result of a local request.
- 8.11 The call-in right also needs to be seen in the context of the Council's ability to meet the target timescales for dealing with applications. This might be jeopardised in scenarios where a matter that was anticipated to be dealt with by delegated decision making is then subject to call-in and potentially a subsequent referral to DMC. We understand that in certain cases, the Council must agree voluntary extensions of time with applicants including on permitted development notifications (which are subject to automatic approval once the timescale has elapsed).
- 8.12 As noted in paragraph 6 we do not have performance data that records decision timescales at a committee by committee level. We do note that in terms of timescales, the Council's performance data suggests it is exceeding targets overall.

Decisions contrary to policy

- 8.13 As we note above, the delegated authority to Area Committees is subject to decisions being within the Council's adopted policy. It is certainly the case that some interviewees considered decisions were being made outside of policy whereas others considered decisions were being made more flexibly within policy. It was also suggested that rather than matters being outside of policy explicitly, the policy was being interpreted in a particular way, especially if the policy lent itself to a degree of subjectivity or discretion.
- 8.14 A key repeat example of a decision "outside" of policy was dormer extension applications particularly in Nelson where there is a conservation area in place (Whitefield). As we note in paragraph 6 above, this is an area of policy that it would be advisable to review to ensure it remains current.
- 8.15 Given the nature of the planning function, it is inadvisable to have different interpretations of the same planning policy within the single authority and this links back to the weakness identified at paragraph 8.7 above.
- 8.16 Where decisions are in fact outside of policy then that is outside of the scope of the Area Committee's authority and so is technically ultra vires. Where a decision is to refuse outside of policy then the Council is at risk of an appeal and costs. Even if a decision is to allow outside of policy, planning decisions are subject to judicial review and so these decisions could also be challenged. That brings reputational and potential legal risk to the Council.

Elected member training

- 8.17 Our understanding is that training is made available to elected members on their first election and specific planning committee training is available annually. This is not mandatory and take-up is poor. Therefore, there are elected members making planning decisions who have not received the appropriate training. This potentially puts decision-making at risk.

Referral to DMC

- 8.18 The referral process from an Area Committee to the DMC is subject to a test but that test is not fully defined. Whether a proposed decision is a significant departure from policy or a significant risk of costs is left for individual planning officer judgement. Although we do note it is subject to oversight by the Head of Legal and Democratic Services.
- 8.19 Whilst it is, in practice, likely that officers are aware of the potential applications that might result in a referral there is still a need to form a view on this in the meeting, in public. It is clear that current planning officers are very experienced and although elected members sometime question the referral, it is not within the remit of the Committee to refuse for a matter to be referred. That decision rests with planning officers and the Section 151 officer..
- 8.20 We should also note, that in the course of interviews two relevant points were made:

- 8.20.1 Whether DMC always then follows planning policy on a referral – so is it actually a safety net; and
 - 8.20.2 Whether Area Committee members might use the referral process as a way to make a politically popular decision at Area Committee knowing it will be referred to DMC.
- 8.21 We do not have any particular evidence (beyond the anecdotal comments received) on these points but acknowledge they are a risk of the current system if in fact DMC is not operating as it should. This is an issue that would fall away if Area Committees no longer handled planning matters.

9. OPPORTUNITIES TO IMPROVE

What opportunities are there to improve the consistency, risks and efficiency?

Planning team resourcing

- 9.1 The planning team resourcing has increased since the last review in 2022, although its size has reduced by more than 50% since austerity started..
- 9.2 As set out in the organisational structure within the Constitution, the AD Planning has responsibility for planning policy, development management, building control, conservation, tree preservation, planning enforcement and licensing (taxi and legal). That is an extensive remit and not uncommon at assistant director level, particularly at a borough council. We should also note that from all those we spoke to, there was nothing but praise for the work the AD Planning does and the great skill and experience he brings.
- 9.3 However, the AD Planning still carries a day to day case load as well as supervision responsibilities meaning that he spends a substantial majority of his time on development management. This, understandably, has an impact upon his ability to focus on strategic matters at an assistant director level.

Officer training

- 9.4 The planning team have a training process in place. We do not have any particular recommendations on this. However, we did note that there does not appear to be particular committee training for planning officers or committee coordinators or a forum within which the respective Area Committee officers team could come together to share their experiences. Whilst Area Committees remain in place, we consider this could provide benefits to officers in pooling experience and expertise and contribute to ensuring consistency of approach across the Area Committees.

Legal support

- 9.5 The DMC does have a legal advisor present, particularly with regard to enforcement matters. Area Committees did previously have legal advisors but this is now not the case. Interviewees were happy to rely upon the experience and expertise of planning

officers and there was a question about whether legal officers would add materially to the officer team expertise at Area Committees.

- 9.6 We have no reason to doubt the capability of planning officers to deal with matters arising at committee, but were surprised to hear that there was not a legal advisor. That is, in our view, uncommon even with committees staffed by very experienced planning officers. Legal officers bring a different perspective and skill-set to complement, supplement and support the other officers. If a legal issue arose, legal officers being in attendance might reduce the likelihood of applications being adjourned to obtain legal advice (although it can never extinguish this risk).
- 9.7 We acknowledge that the number of planning committees means that a legal presence at each Area Committee is a substantial resource commitment.

10. RECOMMENDATIONS FOR THE FUTURE

What if any further recommendations should be made for the future generally and with a view to the changing legislative framework?

- 10.1 The recommendations set out below need to be considered in the context of the UK government's proposed changes to the planning system relating to decision making.

Recommendation 1: Implementation of mandatory training for elected members who sit on planning committees (see paragraph 8.17 above)

- 10.2 It is our recommendation that mandatory training for committee members be implemented as soon as reasonably practicable and that the Council's procedure rules be amended to ensure that committee members cannot sit as a member of an Area Committee or the DMC (or any successor planning committee(s)) until they have attended and completed the training.
- 10.3 This aligns with the government's proposal to require committee members to undertake mandatory training before they can take planning decisions.
- 10.4 Mandatory training delivered consistently to members would ensure that committee members are aware of their responsibilities as committee members and that decisions should only be made based on material planning grounds. The training requirement should be on initial appointment and at a regular frequency post appointment whilst a member is on the planning committee.

Recommendation 2: Attendance by a legal advisor at all committee meetings (see paragraphs 9.5 to 9.7 above)

- 10.5 It is our view that all Area Committee and DMC meetings should be attended by a legal advisor. Currently the area committees are attended by a committee co-ordinator, the planning officer and the committee/member services officer none of which are legally trained or qualified. The presence of a legal advisor will ensure that committee members are properly advised on any legal issues relating to members interests, committee

procedure and planning law and policy. It will also ensure that the decisions of the committees are legally robust and will withstand legal scrutiny.

10.6 The attendance of a legal advisor at Area Committee meetings will also ensure that greater guidance is provided to officers and committee members in relation to whether there is a significant departure from policy or whether there is a significant risk of costs justifying the referral of an application to DMC.

10.7 In making this recommendation, we recognise the resource implication for the Council.

Recommendation 3: Revision of the ‘call in’ criteria for planning applications (see paragraphs 8.9 to 8.12 above).

10.8 It is our recommendation that the criteria for calling in applications which would ordinarily be determined under delegated powers should be revised so that there is a clearly defined and strict criteria for calling in applications.

10.9 This will ensure:

10.9.1 that there are clear and justifiable reasons for calling in an application and that applications are not called in simply because a request has been received from a member of the relevant committee; and

10.9.2 greater consistency in relation to when applications are called in and will ensure that applications are only called in where there are material public law grounds justifying the determination of the application by an area committee.

10.10 It is our view that the implementation of a clear and strict criteria for calling in applications will ensure greater consistency in relation to decision making and will create greater efficiencies and reduce the resources required in relation to the preparation for and the attendance at committee if fewer applications were to be considered by members. Even if it did not radically reduce numbers in the short term, implementation of this recommendation would provide useful information about why matters were called in to inform officer/member engagement and greater transparency/probity around why matters are called in.

10.11 An alternative or complementary recommendation is to alter the way in which call-in works so that officers (either the AD Planning or the Monitoring Officer) make a determination as to whether there is a valid ground for call-in.

10.12 This recommendation should be seen in the light of the UK government’s proposals for a national scheme of delegation for planning decisions.

Recommendation 4: Greater clarification criteria for referrals to DMC (see paragraphs 8.18 to 8.21 above).

10.13 It is our recommendation that the criteria for referring applications to DMC is revised to provide greater clarity and certainty. Currently the criteria for referral to DMC is that there is a significant departure from policy or a significant risk of costs. It is our view that

guidance should be produced which clarifies when a departure from policy is likely to be considered significant.

10.14 It is also worth noting as stated in paragraph 9.6 above that the attendance of a legal advisor at area committee meetings will ensure that greater guidance is provided to officers and committee members in relation to whether there is a significant departure from policy or whether there is a significant risk of costs.

Recommendation 5: Review the resourcing requirements for the planning/development management team (see paragraphs 9.1 to 9.3 above).

10.15 In paragraph 9, we have set out our observations in respect of this recommendation. We recommend that the Council looks to ensure the AD Planning has a reduced case load to enable allocation of time to his other responsibilities.

Recommendation 6: Consider implementing regular joint training for planning officers and committee coordinators to ensure consistency of approach and the sharing of experience and expertise (see paragraph 9.4 above).

Recommendation 7: Consider reviewing the planning policy around dormer extension applications particularly in the Nelson area.

11. COMMITTEE STRUCTURE

11.1 We have not made any recommendation in this report regarding the committee structure. Whilst there may be advantages to changing how planning applications are considered by committees, it would be inadvisable to seek to make changes at this time. The Planning and Infrastructure Bill (as we note above) will likely result in a centrally mandated approach to how the Council's planning function is discharged and in particular the number of planning committees. The Council should continue to monitor the passage of the Bill and related Government announcements, before formulating an approach to comply with the new requirements. Restructuring now would only cause unnecessary disruption and any changes made may require further review and change once the Planning and Infrastructure Bill becomes law and the Secretary of State makes regulations relating to the composition of planning committees and the introduction of a national scheme of delegation.

11.2 It is also the case that such changes are unlikely to result in significant financial savings. With the prospect of Local Government Reorganisation on the near horizon, focussing on that process to ensure Pendle's position is protected as much as possible may be considered to be a better use of the Council's resources.

Anthony Collins

Date: 4 December 2025

Our Ref: 026720.0011 CW/ADL/MH

APPENDICES

APPENDIX 1 – DOCUMENTS AND DATA REQUESTED

APPENDIX 2 – EXTRACTS FROM THE CONSTITUTION

APPENDIX 3 – COMPOSITION OF COMMITTEES

APPENDIX 1 – DOCUMENTS AND DATA REQUESTED

Documents and Data Requested	Documents and Data Reviewed
	<p>The relevant provisions of the Council's Constitution being:</p> <p>Part 1 (Contents, Summary and Explanation)</p> <p>Part 2 (Articles) – Articles 2, 9, 11, 13 and 14</p> <p>Part 3 (Responsibility for Functions)</p>
A copy of any working documents concerning the operational and governance procedures of the planning function that are not contained within the Constitution.	<p>A Guide to Development Management in Pendle</p> <p>A Guide to Planning Enforcement</p>
<p>Data covering the twenty-four months to the end of January 2025 detailing:</p> <ul style="list-style-type: none"> ▪ The total number of planning applications submitted and determined (whether by the Council or on appeal) during that period (PAs); ▪ The total number of PAs determined by officers under delegated authority (regardless of whether appealed or not); ▪ The total number of PAs referred by officers to each area committee (not called-in); ▪ The total number of PAs called-in by each area committee; ▪ The total number of PAs determined by each area committee where the 	All received bar items 3 and 4 in the list.

<p>determination was contrary to the officer recommendation/advice.</p> <ul style="list-style-type: none"> ▪ The total number of PAs appealed broken down by whether they were determined by officers or an area committee (Appealed PAs). ▪ The total number Appealed PAs upheld and overturned – broken down to show those determined by officers or an area committee. ▪ The total number Appealed PAs upheld and overturned where the inspector has determined that the LPA has acted unreasonably and awarded either full or partial costs against the LPA. ▪ Where an Appealed PA was overturned the value of any award/costs to the applicant. 	
<p>Details of the training provided to area committee members including the scope of content (and whether this is the same for all area committees) and frequency that training is delivered. Clarification of whether the training is compulsory.</p>	<p>Detail obtained during the course of interviews</p>
	<p>External Auditor Annual Report (21/22 and 22/23), May 2024</p>
	<p>Castlerigg Consulting Development Management Diagnostic Review Report, 12 May 2022</p>
	<p>The Council's Action Plan regarding Castlerigg Consulting recommendations</p>
	<p>Full Council Report of the Head of Legal and Democratic Services dated 27 March 2025</p>

	– Overview and Scrutiny Review of the Implementation of the Member Code of Conduct (and appendices)
	Minutes of the full Council meeting on 27 March 2025
	Executive Report of the Director of Resources (Interim) dated 30 May 2024 – Performance Update Report: 1 st April – 31 st March 2024 and appendix
	Executive Report of the Director of Resources dated 29 May 2025 – Performance Update Report: 1 st April 2024 – 31 st March 2025 and appendix



APPENDIX 2 – EXTRACTS FROM THE CONSTITUTION

1. PART 1 (CONTENTS, SUMMARY AND EXPLANATION)

- 1.1 *“In order to give local citizens a greater say in council affairs, four Area Committees have been created. These cover: Barrowford and Western Parishes...Colne and District...Nelson, Brierfield and Reedley...West Craven”*

2. PART 2 (ARTICLES)

2.1 Article 2.01:

“Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer relations set out in Part 5 of this Constitution”

2.2 Article 9.03 (Area Committees):

“The area committees appointed by the Council will discharge the following regulatory functions...Development management.”

2.3 Article 9.04 (Development Management Committee):

“The Council will appoint a Development Management Committee to determine planning applications referred from Area Committees because:

a) the application straddles Area Committee boundaries; or

b) the Assistant Director Planning, Building Control and Regulatory Services has advised before the vote is taken that the decision that the Area Committee is minded to take would represent:

(i) a significant departure from policy; or

(ii) a significant risk of costs.

and the Head of Legal and Democratic Services (having also contacted the Chair (or in his or her absence the Vice Chair) of the relevant Committee has confirmed in writing that he/she agrees that view no later than 2 working days after the day of the relevant Committee.”

2.4 Article 11 (Area Committees):

“11.01 Form, composition and function

(a) Table of Area Committees

The Council will appoint the following Area Committees being satisfied that to do so will lead to improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The committees

will comprise the councillors representing the wards in the area and such non-voting co-optees as the committee will appoint:

Barrowford and Western Parishes

Colne and District

Nelson, Brierfield and Reedley

West Craven

(b) Delegations

Details of the functions delegated to Area Committees will be set out in Part 3 of this Constitution, showing which are executive and which are non-executive and any limitations on delegation.

11.02 Area Committees – Access to Information

Area Committees will comply with the Access to Information Rules in Part 4 of the Constitution.

Agendas for Area Committee meeting which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

11.03 Executive Members on Area Committees

A member of the Executive may serve on an Area Committee if otherwise eligible to do so.”

2.5 Article 13.06:

“Employees will comply with the Employee Code of Conduct and the Protocol on Employee/Member Relationships set out in Part 5 of this Constitution.”

2.6 Article 14.01 (Principles of decision making):

“All decisions of the Council will be made in accordance with the following principles:

(a) having regard to all relevant considerations and ignoring all irrelevant considerations;

(b) proportionality (i.e. the action must be proportionate to the desired outcome);

(c) due consultation and following the taking of professional advice from officers;

(d) respect for human rights;

(e) a presumption in favour of openness;

(f) clarity of aims and desired outcomes;

(g) with due explanation as to what options were considered and giving clear reasons for the decision”

2.7 Article 14.07 (Decision making by other committees established by the Council):

“The Council’s committees will follow the Procedure Rules set out in Part 4 of this Constitution.”

3. PART 3 (RESPONSIBILITY FOR FUNCTIONS)

3.1 Area Committees

“The Council will appoint the following area committees being satisfied that to do so will lead to improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The committees will comprise the councillors representing the wards in the area and such non-voting co-optees as the committee will appoint:-

Barrowford and Western Parishes

Nelson, Brierfield and Reedley

Colne and District

West Craven

A. NON-EXECUTIVE FUNCTIONS

Within the overall policy set, and resources allocated by the Council, and subject to the notes below, to deal with the following non-Executive matters within the area covered by the Area Committee –

Planning

- 1. To deal with applications for planning permission, advertisement consent, listed building consent etc., under the Town and Country Planning Acts and to approve Section 106 Agreements.*
- 2. To consider all enforcement and other action, including legal proceedings, under the Town and Country Planning Acts.*
- 3. To take action, including the institution of legal proceedings, for non-compliance with the Building Regulations.*
- 4. To take action, including the institution of legal proceedings, to secure compliance with notices served in respect of dangerous buildings under the Building Act 1989.*
- 5. To deal with all matters relating to tree preservation and protection of hedgerows, including the making of orders and the institution of legal proceedings.*
- 6. To make revocation, modification, completion and discontinuance orders in cases where no compensation is payable.*
- 7. To deal with all matters relating to designated conservation areas.*

N.B.

On a planning matter where the Assistant Director Planning, Building Control and Regulatory Services has advised before the vote is taken that the decision that the area committee is minded to take would represent:

- (a) a significant departure from policy;*
- (b) a significant risk of costs; or*
- (c) straddles Area Committee boundaries*

and the Head of Legal and Democratic Services (having also contacted the Chair (or in his or her absence the Vice Chair) of the relevant Committee) has confirmed in writing that he/she agrees with that view no later than 2 working days after the day of the relevant Committee, whether it is a decision relating to enforcement action or the determination of a planning application, then the matter will be determined by the Development Management Committee.

Public Rights of Way

8. To approve the making of orders for the creation, diversion and extinguishment of footpaths and bridleways.

9. To take action to protect public footpaths including the removal and licensing of obstructions and the institution of legal proceedings. 6

Public Spaces Protection Orders

10. To approve the making of Public Spaces Protection Orders under Section 59 of the Anti-Social behaviour, Crime and Policing Act 2014.

B. EXECUTIVE FUNCTIONS

Within the overall policy set, and resources allocated by the Council and subject to the overall direction of the Executive, to deal with the following Executive matters within the area covered by the Area Committee.

General

1. To assist the Overview and Scrutiny Committee in developing policy and scrutinising and reviewing service performances.

2. To advise the Executive in strategic issues relating to area committee services.

3. To advise the Executive on the management by the Pendle Leisure Trust of its facilities in the area.

4. To liaise and co-operate with local voluntary and other organisations.

5. To make appointments to local outside bodies.

6. To liaise with town and parish councils in the area.

7. To allocate and oversee the management of the area committee's budget.

Car Parking and Highways

8. To advise the Executive on the management of public car parks.

9. To advise on the provision of hackney carriage stands.

10. To advise on the making up and adoption of private street works.

11. To advise on street naming and numbering.

12. To advise on local traffic and highway issues and for them to be referred to Lancashire County Council.

Parks, Cemeteries and Outdoor Recreation

13. To advise the Executive on the management of parks and open spaces, including playing fields, pitches, bowling greens, tennis courts etc.

N.B.

Victoria Park is the responsibility of the Nelson, Brierfield and Reedley Committee but the Barrowford and Western Parishes Committee is to be consulted on issues of significance and, in the event of any conflict between the area committees the matter in dispute will be referred to the Executive for resolution.

14. To advise the Executive on the management of children's playgrounds.

15. To advise the Executive on the management of playing fields and pitches.

16. To advise the Executive on the operation of cemeteries.

Miscellaneous

17. To identify problems associated with litter and take appropriate action.

18. To consider matters relating to town centres, including town centre development and town centre premises improvement grants.

19. To monitor grot spots and problem sites and take appropriate action.

20. To advise the Executive on the handling of noise and other nuisance complaints of a local nature.

21. To advise the Executive on the operation of pest control services.

22. To advise the Executive on the enforcement of refuse collection and recycling matters.

23. To liaise within the Community Safety Partnership and its working groups.

Land

24. To oversee the maintenance of cenotaphs and war memorials.

Housing

30. To advise the Executive on unfit and vacant private sector houses, including making recommendations for compulsory purchase orders and other statutory action.

31. To advise the Executive on matters arising from the carrying out of renovation grant work."

3.2 Development Management Committee

"The Committee will determine planning applications:

- a) where the application straddles Area Committee boundaries;*
- b) where the application is for 60 or more housing units.*

They will also determine planning applications which have been referred from Area Committees because the Planning Officer has advised, before the vote is taken, that the decision the Area Committee is minded taking would represent:

- i) a significant departure from policy; or*
- ii) a significant risk of costs.*

Subject to agreement by the Head of Legal and Democratic Services.”

3.3 Officer Scheme of Delegation

“Delegations to the Assistant Director Planning, Building Control and Regulatory Services

Planning and Building Control Delegations

1. To determine all applications under the Planning Acts including, but not exclusively, the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Hazardous Substances Act 1990, the Town and Country (Tree Preservation Order) Regulations, the Town and Country Planning General Development Order and the Town and Country Planning (Control of Advertisements) Regulations in consultation with the Chair of the area committee in which the application is situated. Not where an application is:-

- The decision is made or deemed to be made by the Council;*
- The decision could give rise to claim for compensation or a purchase notice;*
- The application is made by a Councillor or officer of the Council;*
- An Environmental Impact Assessment required;*
- It is Intended to overrule the objections or support from 3 or more separate addresses made within the statutory neighbour consultation period;*
- Residential development for more than 0.5 hectares or 10 or more dwellings (excluding reserved matters and variation of conditions);*
- Non-residential development for 1000 sq. m. or more where the site is 1 hectare or more (excluding reserved matters and variation of conditions);*
- A Councillor, within 21 days of notification via the weekly list of the submission of the application, requests that it be determined by the Area Committee;*
- The application is called in to the Committee by the Chair of the Area Committee in which the application site is situated.*

2. To determine whether to accept planning applications under the Planning Acts when the Acts indicate the Council can decline to entertain them.

3. To determine whether it is expedient to issue Planning Enforcement Notices, Planning Contravention Notices, Breach of Condition Notices and Stop Notices in consultation with Ward Councillors in whose area the site lies and the Chair of the Area Committee. Not where a Councillor requests that the decision be determined by the Area Committee. Chair and Ward Councillors to be informed prior to service of Notices.

4. To serve Temporary Stop Notices when it is expedient to take immediate enforcement action.

- 5. To give an opinion whether a proposed development would be affected by the Environmental Impact Regulations.*
- 6. To serve requisitions for information and planning contravention notices.*
- 7. To remove or obliterate illegally placed placards or posters.*
- 8. To operate the building regulations systems, including the issue of all notices, certificates etc.*
- 9. To deal with dangerous buildings.*
- 10. To deal with complaints to the Council under Part 8 of the Anti-Social Behaviour Act 2003 (High Hedges) and Regulations made thereunder, including the issue and withdrawal, waiver or relaxation of the requirements of Remedial Notices.*
- 11. To authorise on his behalf the Council's Planning Enforcement Officer or Planning Officer to enter onto any land for the purpose of carrying out his/her duties.*
- 12. To authorise the Building Control Manager to issue Building Control decisions.*
- 13. To deal with any matters under the Health Act 2006.*
- 14. To issue Community Protection Warnings and Notices under Section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014 in consultation with Ward Councillors in whose area the site lies and the Chair of the Area Committee. Not where a Councillor requests that the decision be determined by the Area Committee. Chair and Ward Councillors to be informed prior to service of Notices.*
- 15. To carry out the Council's responsibilities under Part 4 Chapter 3 of the Localism Act in relation to Assets of Community Value."*

APPENDIX 3 – COMPOSITION OF COMMITTEES⁵

1. BARROWFORD AND WESTERN PARISHES AREA COMMITTEE

- 1.1 4 Elected Members (all ward members)
- 1.2 Non-voting co-optees from 7 parish councils – Baley-with-Wheatley Booth, Barrowford, Blacko, Goldshaw Booth, Higham-with-West Close Booth, Old Laund Booth and Roughlee Booth

2. COLNE AND DISTRICT AREA COMMITTEE

- 2.1 9 Elected Members (all ward members)
- 2.2 Non-voting co-optees from 3 parish councils – Colne Town, Foulridge, Laneshawbridge, Trawden Forest

3. NELSON , BRIERFIELD AND REEDLEY AREA COMMITTEE

- 3.1 14 Elected Members (all ward members)
- 3.2 Non-voting co-optees from 3 parish/town councils – Brierfield, Nelson and Reedley Hallows
- 3.3 Non-voting co-optee from Nelson Town Centre Partnership

4. WEST CRAVEN AREA COMMITTEE

- 4.1 5 Elected Members (all ward members)
- 4.2 Non-voting co-optees from 4 parish/town councils – Barnoldswick, Salterforth, Earby and Kelbrook and Sough

5. DEVELOPMENT MANAGEMENT COMMITTEE

- 5.1 11 Elected Members – politically balanced

⁵ Information taken from the Council's committee webpages as at 28 November 2025.