

Item No. 8	Classification: Open	Date: 8 July 2011	Meeting Name: Democracy Commission
Report title:		Planning at Community Councils	
Ward(s) or groups affected:		All	
From:		Strategic Director Communities Law & Governance	

RECOMMENDATION(S)

1. To consider the report on planning at community councils.
2. To consider evidence provided by witnesses at the meeting.
3. To consider drafting any recommendations based on the evidence considered in the report and at the meeting.

BACKGROUND INFORMATION

4. At the meeting of the commission held on 21 April 2011, members asked officers to prepare a paper on planning options, including the costs implications of deleting the function from community councils and some options for retaining some area based decision making on a sub-committee basis.
5. Currently community councils take planning decisions where the development proposed involves the creation of fewer than 50 housing units or less than 3500m². Community councils deal with a wide breadth of planning applications including majors, minors, and others. However, the large majority of applications heard by community councils fall into the minors and other categories of applications. The community councils also have consultative/non decision-making roles in areas such as s106 funding and conservation area adoption, as set out in the democracy commission information pack at pages 12-14.
6. 70 community council planning meetings were supported in 2010/11, 26 scheduled meetings were cancelled due to a lack of business and 1 meeting was inquorate. Meetings lasted between 30 minutes to 4 hours. Approximately 192 applications were considered by community councils in 2010/11.
7. In terms of officer support, planning at community councils is supported by the constitutional team (community councils), the planning division and legal services.

KEY ISSUES FOR CONSIDERATION

8. The Democracy Commission has been tasked with making recommendations on the role and powers of community councils with the aim of identifying savings of £344,000. In terms of the planning function there are options available for the commission to consider:

- retain the planning function at community councils
- delete the planning function at community councils
- develop another planning decision making model.

9. The financial impact of the options are set out in the table below, some will deliver no savings at all,

Potential savings		Retain planning at community councils	Delete planning from community councils	Sub-committee model 1 (11 meetings)	Sub committee models 2 or 3 (24 meetings)
Security Services (Van hire etc)	£16,610	✗	✓	✓	✓
Hire of rooms/halls	£5,885	✗	✓	✓	✓
Legal Services for planning	£30,200	✗	✓	Partially £25,670	Partially £19,932
Printing and postage	£14,740	✗	✓	Partially £12,300	Partially £9,951
Staffing costs	£48,000	✗	✓	✓	✗
Departmental support costs - planning	£71,000	✗	✓	Partially £60,350	Partially £46,860
Total Savings		£0	£186,435	£120,815	£92,238

Notes

- 1) The maximum saving would require the majority of decisions currently taken by community councils to be delegated to officers. The savings are based on the percentage reductions from 70 community council meetings to the suggested sub-committee cycles.
- 2) Model 1 – 1 strategic planning committee (existing) and 1 subcommittee (minor applications)
Model 2 - 1 strategic planning committee (existing) and 2 subcommittees with a fixed membership
Model 3 - 1 strategic planning committee (existing) and 2 subcommittees with a pooled membership
- 3) The table does not factor the level of Special Responsibility Allowances (SRA) to be paid to sub-committee chairs. This could significantly reduce the savings proposed from the sub-committee models depending on the level of SRA paid.

Retaining the planning function

10. No saving could be made by retaining the planning function at community councils. There are some advantages to taking planning decisions at community council level for example:

- Taking the decision making process closer to local people.
- Accountability of decisions by local councillors.
- Providing for member discussions on applications to be in the local community.

11. However, there are also difficulties:

- Planning decisions at community council level can sometimes be difficult for members when faced with strong local opinion which may contradict planning policy.
- As planning decisions are taken by a variety of committees planning policy is not always applied consistently
- Members are often faced with the decision as to whether to sit on the committee and take a decision or withdraw from a decision in order to represent the views of constituents, this can limit the ability of members to get involved in local campaigns on planning applications
- Scheduling community council planning meetings causes extra pressure on the council calendar due to the need to schedule meetings on a 4 week cycle.
- A number of applications which are considered by community council planning meetings are 'out of date' that is they are considered by community councils after the application expiry date and can be challenged for non-determination.

Delete the planning function at community councils

12. Deleting the planning function from community councils would allow a potential saving of £138,435 from the community council budget, as set out in page 10 of the information pack. This does involve £71,000 and £30,200 divisional payments to the planning and legal. However, although efficiencies could be made by planning and legal this is unlikely to amount the full level of the payments, unless the majority of decisions taken by community councils are delegated to officers. If the Commission is minded to recommend removal of the planning function from community councils officers will need to make further recommendations to Council, via the Constitutional Steering Panel, to ensure the correct constitutional arrangements are in place to ensure that the number of applications considered by the main planning committee does not increase significantly as a result. A review of the category of applications considered by members and the number of objections required for members to consider is recommended.

Impact on Staffing

13. There is a potential staff impact to deleting the planning function at community councils. With the current 8 community council areas a new staff structure could be introduced saving one constitutional officer post at Grade 10. This would save an estimated £48,000. This would bring the total estimated saving of deleting planning community council meetings to: £186,435 (delivering over 50% of the targeted savings). However, if this function is transferred to planning committee or a sub-committee models 2 and 3 then this would reduce significantly the opportunity to make savings from staffing. Any recommendations relating to staffing will need to be considered alongside the final recommendations of the Commission and issues relating to staff numbers are reserved to the chief executive and officers appointed by her.

Planning policy and community councils

14. If the decisions on applications were deleted from the role and functions of community councils this could be balanced with a more formal role in terms of strategic planning policy. Some community councils have been successfully involved in the development of area actions plan such as the Canada Water Area Action Plan and Aylesbury Area Action Plan. These roles are not defined in the constitution but this role could be developed giving community councils more

influence over the policy which determines how applications are determined in their local area.

Options if the planning function is removed from community councils

Officer delegation

15. If the planning function is removed from community councils then those decisions need to be taken elsewhere. The most cost effective approach would be to delegate those decisions to officers. These would not require any meetings and it is meetings which account for most of the community council budget on the constitutional side. The delegation of decisions to officers would also take away the representation issues that members sometimes face at community councils. However, delegating decisions to officers does take away the current accountability of decisions taken by members. This could be balanced by adding a note in the Part 3F of the constitution to allow a community council chair (with the support of at least two thirds of the members of the community council) to request that controversial applications or applications which attract significant local opposition in their community council area be considered by the planning committee. This means councillors would still have the ability to request that an item is considered by a committee of councillors rather than taken by officers.
16. Around 88-90% of applications are considered by officers through delegated powers, this compares favorably with the national average of 90-91% Government targets were previously set at 90%. Comparative levels from a sample of London Boroughs are set out in appendix 2. Between June 2010 and May 2011 approximately 76% of applications considered by community councils were over the application expiry date and could therefore be challenged for non-determination. An explanation of this is that the report cycle required to process applications differs from the monthly cycle of community council planning meetings (except in August)

Main planning committee

17. Decisions currently taken by community councils could be taken by the planning committee. This would involve revising the thresholds to increase the number of applications considered by planning committee. This would involve a direct transfer of decision making from community councils to the planning committee. The planning committee would consider approximately 192 additional applications a year. This would result in more frequent planning meetings which will have a cost implication. This has not been considered in the cost analysis as the cost implications would depend on how many more meetings would be required and the officer support required.
18. Set out in appendix 2 are the triggers that certain different boroughs employ for referring delegated cases to their committees. In every borough senior officers have the discretion to put delegated cases to committee. Beyond that the arrangements vary widely.

Sub-committee model (pooled membership of all councillors)

19. At the April meeting of the Democracy Commission members asked officers to produce some information on a sub-committee model for planning. One idea was to draw from a membership of all councillors to sit on a sub-committee. A sub-committee model would take away some of the difficulties faced by community councils in taking planning decisions at a local level.
20. If any sub-committee model was introduced the savings proposed by deleting the planning function at community councils would be reduced, as outlined in the

table at paragraph 9. The impact of this would vary depending on the model which was introduced and other factors such as SRAs.

21. A pooled membership, for consideration of planning applications, of all councillors as suggested at the April meeting would not be recommended, as it takes away the advantages of a fixed membership. A fixed membership not only provides for more consistent application of planning policy in decisions but also a consistency expectation of membership, which provides clear accountability.
22. Including 63 councillors in this process would create a lack of consistency in the decisions taken and application of planning policy which could leave the council open to challenge. There are also additional administrative costs associated with maintaining a pooled committee membership.
23. Councillors would need to open their calendars and liaise with committee clerks on their availability for meetings. This is resource intensive and impractical. Operating a pooled membership also impacts on the ability to summons quorate meetings to meet performance and legislative targets.
24. The Local Government and Housing Act 1989 requires all committees of the council (except cabinet) to be proportional to council. Sub-committees would need to be proportional ensuring each sub-committee meetings is proportional and quorate would be difficult and resource intensive. The Council could agree for an arrangement whereby the pool was proportionate but the individual membership of each sub-committee was not but this would require a constitutional amendment with no members voting against it. If one member votes against the proposal for sub-committee not to be proportional then each sub-committee summoned would need to be proportional, again this is also resource intensive and impractical.

Other sub-committee models

25. Another option would be to introduce a sub-committee model but with a limited pool of councillors. For example a model including 1 strategic planning committee and 2 subcommittees with a pooled membership meeting on a rotational basis. Further information on possible models is set out at appendix 1. These models do not take away all of the administrative difficulties created with a pool of all councillors.
26. Special Responsibility Allowances have not been factored into the cost analysis but members may wish to consider what type of allowances should be paid to sub-committee chairs. The level of SRAs paid will impact on the level of savings proposed and will reduce the savings that could be made if a sub-committee model was introduced.

Localism Bill and Neighbourhood Plans

27. The Localism Bill includes some significant changes to the national planning policy framework. Government aims to return decision making powers on planning to local councils.
28. Southwark is a neighbourhood planning 'front runner' (formerly 'vanguard') and plans are being prepared in Bermondsey and Bankside. The council has chosen to work with neighbourhood forums (who approached the council to apply for Vanguard status) to develop the neighbourhood plans. In the current front runner arrangements, the forums concerned are seeking to prepare plans for areas that do not coincide with ward boundaries nor, as a result, with community council

boundaries. The criteria for recognition as a qualifying body to prepare a neighbourhood plan are subject to further change during the course of the Localism Bill but it is unlikely that community councils will meet the criteria because, among other things, they do not have their own written constitution (for full details of criteria for qualifying bodies see Schedule 9 to the Localism Bill). Community councils could, however, have a very important role in the development of neighbourhood plans as a place for debating and exchanging information.

29. The Localism bill also seeks to clarify pre-determination issues by confirming the current case law position. Specific evidence of a closed mind will be required to justify a claim of unlawful determination, pre-determination will not be established just because the decision maker has previously indicated a view on the matter.

Policy implications

30. The Democracy Commission is being conducted within the context of current council policies, plans and strategies.

Community impact statement

31. The report is a discussion paper and any specific proposals will be included in the final report of the Democracy Commission

Resource implications

32. The task of the Commission is to make recommendations to deliver a saving of £344,000 across the community council budgets to take effect from 1 April 2012 as agreed in the council's Policy and Resources Strategy 2011-2014.
33. This report identifies a potential saving of £186,435 from the community council budget by deleting the planning function from community councils and explains these potential savings would be reduced to a large extent by introducing a sub-committee model.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Democracy Commission Information Pack	Constitutional Team 160 Tooley Street	Tim Murtagh Tim.murtagh@southwark.gov.uk 020 7525 7187

APPENDICES

No.	Title
Appendix 1	Possible sub-committee options
Appendix 2	Comparative Data on thresholds

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities Law & Governance	
Report Author	Stephen Douglass, Head of Community Engagement	
Version	Final	
Dated	30 June 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	No	No
Head of Planning and Transport	Yes	Yes
Head of Development Management	Yes	Yes
Cabinet Member	Yes/No	Yes/No
Date final report sent to Constitutional Team	30 June 2011	